

## **Chief Freedom of Information Act Officers Council Meeting**

### **Meeting Minutes – July 22, 2016**

The Chief FOIA Officers (CFO) Council Meeting convened at 2:00 p.m. on July 22, 2016, in Room 430 of the Eisenhower Executive Office Building at 1650 Pennsylvania Avenue, N.W., Washington DC 20502.

A livestream video of the meeting was also made available, and in accordance with 5 U.S.C. §552(6)(A), the meeting was open to the public. A video of the full meeting can be found at: [https://www.youtube.com/watch?v=vEqR\\_zbLS0o](https://www.youtube.com/watch?v=vEqR_zbLS0o).

The video and all meeting materials are also available on the Office of Information Policy's (OIP's) website at: <https://www.justice.gov/oip>.

#### **Speakers:**

Melanie Ann Pustay, Director, Office of Information Policy (OIP), Department of Justice (DOJ), Council Co-Chair

Nikki Gramian, Acting Director, Office of Government Information Services (OGIS), National Archives and Records Administration (NARA), Council Co-Chair

Andrew Mayock, Deputy Director for Management, Office of Management and Budget (OMB)

*A full list of attendees is included at the end of the minutes.*

#### **Welcome and Opening Remarks from Ms. Melanie Ann Pustay**

- Inaugural meeting called to order at 2:00 p.m. by Council Co-chair Melanie Ann Pustay.
- Ms. Pustay welcomed everyone and stated that the attendees were gathered to inaugurate the first meeting of the Chief FOIA Officers Council.

#### **Presentation on the Make-up and Responsibilities of the Council**

- Ms. Pustay discussed the common goals of the newly formed Chief FOIA Officers (CFO) Council to improve the FOIA, share experiences across agencies, and learn from one another. Ms. Pustay also highlighted the unique and important role CFOs play in FOIA administration.
- Ms. Pustay discussed the responsibilities outlined in the statute for agency CFOs, including the newly added emphasis on their role as a result of the FOIA Improvement Act of 2016.
- Ms. Pustay then discussed the make-up of the Council, which includes the Directors of OIP and OGIS as Co-Chairs, the Deputy Director for Management of OMB, and every agency Chief FOIA Officer.

## **Remarks from Mr. Andrew Mayock on OMB's Role within the Council**

- Mr. Mayock discussed OMB's role in the Council.
- Mr. Mayock identified the three ways OMB would be interacting and engaging with the Council. First, by January 1<sup>st</sup>, OMB would work with the Council, particularly DOJ, to help develop guidance regarding a "Release to One is a Release to All" presumptive standard. Second, OMB would keep working with DOJ and others to launch a consolidated request portal. And third, Mr. Mayock discussed the creation of a Cross Agency Priority (CAP) goal for FOIA.
- Mr. Mayock explained that in support of the CAP goal, OMB would provide senior-level leadership, and the co-goal leaders would be OMB, DOJ, and NARA. He explained that as to the CAP goal, in the near-term he wants to drive implementation on the recently passed amendments to the FOIA. In the longer-term he wants to work with the Council and with the CAP goal leaders to focus on the most difficult challenges agencies face in effectuating the FOIA. Mr. Mayock stated that he looked forward to further Council meetings and closed his remarks by thanking the Council.

## **Remarks from Ms. Nikki Gramian on OGIS and the FOIA Advisory Committee**

- Ms. Gramian introduced herself as acting Director of OGIS and discussed OGIS's role and the new provision of the FOIA that pertain to her Office.
- Ms. Gramian also explained that OGIS leads the FOIA Advisory Committee, which brings together requesters and agency FOIA professionals to recommend improvements to the administration of the FOIA and she provided background on the Committee. Ms. Gramian discussed the Committee deliberation that took place the day before the Council meeting in which members pointed to issues with funding, technology, the ever-increasing volume of records and requests, and awareness or commitment of agency officials as the most difficult issues in FOIA administration. Ms. Gramian also spoke about the Committee's discussion on the need to increase Proactive Disclosures and the current impediments agencies face in making more information available without the need to file FOIA requests.
- Ms. Gramian stated that additional information related to the Committee could be found at [www.ogis.archives.gov](http://www.ogis.archives.gov).
- Ms. Gramian closed her remarks by stating that she looked forward to discussing the Committee's progress with the Council, thanked the council, and stated that OGIS looked forward to working with Council members.

## **Proactive Disclosure Pilot**

- Ms. Pustay presented the first initiative for the Council to work on, which is implementing a "Release to One Release to All" presumption. Ms. Pustay explained that when President Obama signed the FOIA Improvement Act of 2016, he specifically

directed the Council to look at the “Release to One Release to All” policy to determine how this policy could be implemented broadly across the government through guidance issued by January of 2017. Before discussing OIP’s “Release to One Release to All” Pilot, Ms. Pustay reviewed several of the efforts OIP has taken since 2009 to encourage greater proactive disclosures across agencies, including requiring agencies to address the topic in their CFO Reports each year and by issuing guidance on the topic. Ms. Pustay also noted that DOJ’s longstanding “Rule of Three” related to frequently requested records had now been codified by the FOIA Improvement Act of 2016. Ms. Pustay stated that a logical extension of that practice was to post virtually every FOIA release online.

- Ms. Pustay described the six-month pilot that OIP began in July 2015, in which seven agencies volunteered to test the feasibility of a “Release to One Release to All” policy. She relayed that from the outset of the pilot, DOJ excluded records provided in response to first parties seeking access to their own records as such records would not be appropriate for posting due to privacy concerns. Ms. Pustay listed the pilot participants and thanked them for their efforts. She explained that throughout the pilot, participants shared metrics and information with OIP. OIP then conducted an [assessment of the Pilot](#) which is posted on OIP’s website.
- Next, Ms. Pustay briefed the Council on the seven findings of the pilot. These included the importance of leadership support, the need to have a plan to address compliance with Section 508 of the Rehabilitation Act, the need to remain flexible in implementation, and the inherent value in the policy. Ms. Pustay also referenced the survey conducted from the 2016 Chief FOIA Officer Reports in which 24 agencies indicated that their FOIA office had at least some involvement in preparing their records for posting, including coding documents for compliance with Section 508 of the Rehabilitation Act. Ms. Pustay reported that OIP could not draw any conclusions as to the impact of the policy on the number of FOIA requests or the number of visits to agency websites.
- Ms. Pustay noted that while none of the participants reported any impact on outside stakeholders, some journalists did express concerns with the policy because it could impact their ability to have the first access to any given set of records and thereby impact their ability to have a “scoop.” Lastly, Ms. Pustay noted that the pilot participants reported that they had experienced additional benefits to their programs as a result of their participation in the pilot. For example, through the pilot, participants developed closer working relationships with their Information Technology (IT) team, became more aware of material that was being posted at their agency, and found greater efficiencies in working with other offices.

### **Next Steps**

- Ms. Pustay referenced President Obama’s announcement when signing the FOIA Improvement Act of 2016 that directed the Council to look at how the “Release to One

Release to All” presumptive standard could be implemented across the government. Ms. Pustay stated that this is an excellent initiative for the Council to consider as CFOs are senior level officials who have broad oversight responsibility for FOIA within their agencies and so are uniquely positioned to assess the resource and staffing implications associated with implementation of the presumption.

- Ms. Pustay asked the CFOs to review OIP’s assessment and findings from its “Release to One Release to All” pilot and assess how their agencies could go about implementing the presumption. She asked that this review include an assessment of the resource and time demands that would be required to implement the presumption at their agencies..
- Ms. Pustay stated that OIP would be providing CFOs with a template to help facilitate the questions that would aid in their evaluation of the policy and would also help OIP compile agency feedback.
- Ms. Pustay advised the Council that at the next meeting OIP would invite members of the journalist community as well as members of the public and interested agency personnel to discuss the impact of the presumption on journalists and the potential impacts of building in a reasonable delay prior to posting.

## **Questions**

- Ms. Pustay then opened the floor to discussion. She responded to various questions regarding the pilot and future implementation of a "Release to One Release to All" presumption. Issues raised by members and addressed by Ms. Pustay included the impact of such a policy on the agency's legal requirement to post frequently requested records, the resource impact of such a policy, and the need for flexibility.

***Meeting concluded at 3:00 PM.***

A video of the full meeting is available at: [https://www.youtube.com/watch?v=vEqR\\_zbLS0o](https://www.youtube.com/watch?v=vEqR_zbLS0o).

**Chief FOIA Officers Council Meeting  
July 22, 2016  
Attendees**

<b>Last Name</b>	<b>First Name</b>	<b>Agency (if applicable)</b>
Abrams	Ruth	PRC
Agans	Autumn	FCA
Bartlett	Michael	FMCS
Barton	Lisa	USITC
Bishop-Green	Jacob	DOJ
Blaine	Casey	DNFSB
Cafaro	Cindy	DOI
Cantor	Jonathan	DHS
Chase	Michelle	PBGC
Chung	Joo	DOD
Dar	Mahala	CSOSA
Durocher	Joan	NCD
Ehmann	Claire	OMB
Elston	Michael	USPS
Everling	Jennifer	MSPB
Fina	Joan	CFTC
Flagg	Ronald	LSC
Flahavan	Richard	SSS
Franklin	Sharon	PCLOB
Garner	Stephanie	EEOC
Gonzalez	Anthony	OMB
Gramian	Nikki	NARA
Grimes	Justin	OMB
Hale	Linda	FMC
Hogan	James	DOD
Howard	Alexander	N/A
Johnson	John	USIP
Johnson	Mary	NMB
Kaleta	Judith	DOT
Kambhampaty	Ravi	IAF
Keats	Craig	STB
Kolb	Ingrid	Energy
Kurren	Amy	DOJ
Lambert	Joseph	CIA
Law	Ryan	Treasury
Lazier	Raynell	CFPB

<b>Last Name</b>	<b>First Name</b>	<b>Agency (if applicable)</b>
Leady	William	ABMC
Lee	David	FHFA
Levandusky	Whitney	USCO
Luecke	Matthew	FOMC
Lumpkin	Beverley	DOJ
Mackey	Sarah	FTC
Magere	Laura	SBA
Mancini	Nadine	OSHRC
Marshall	Adam	N/A
Mayock	Andrew	OMB
McGibbon	Shawne	ACUS
Mills	Alberta	CPSC
Morris	Alexander	Energy
Moser	Rebecca	EPA
Murguia	Sophia	N/A
Nicholas	Amy	NCD
Oliver	Linda	FCC
Oliver	Ramona	DOL
O'Neill	Barbara	NLRB
Orr	Martha	VA
Perry	Dorothy	PBGC
Perry	Nicole	DHS
Piccirilli	Rosanna	FFIEC
Pritzker	David	ACUS
Pustay	Melanie	DOJ
Raposa	Susan	CFA
Ritter	Alice	ASC
Roberts	Lindsay	DOJ
Sadurni	Luis Ferre	N/A
Santa	Angel	NTSB
Schuster	Loretta	ASC
Shanks	Margaret	FRB
Shirazi	Lubna	DOJ
Sillah	Alecia	USAID
Smiroldo	Charles	DOJ/ENRD
Smith	Gregory	ED
Smith	Mary	DOJ
Spencer	William	MSPB
Stein	Eric	State
Stern	Gary	NARA

<b>Last Name</b>	<b>First Name</b>	<b>Agency (if applicable)</b>
Styles	Kathleen	ED
Talebian	Bobak	DOJ
Teti	Catherine	HHS
Toland	Michael	DOC
Valvo	James	N/A
Veach	Kimberly	GSA
Veilleux	Diana	OGE
Wingo	Betty Lou	SSS
Winston	Lynn	USAID
Wright	Lauren	OMB
Yi	Charles	FDIC

*Attendees via Livestream*

<b>Last Name</b>	<b>First Name</b>	<b>Agency (if applicable)</b>
Pinkney	India	CFA
Weaver	David	NASA
Payton	Ravoyne	USDA