

# CHIEF FOIA OFFICERS COUNCIL



## **Annual Public Meeting**

**Thursday, April 29, 2021**

**9:30 am-11:30 am**

**Alina M. Semo and Bobak Talebian,  
Co-Chairs**

# CHIEF FOIA OFFICERS COUNCIL



## WELCOME - HOUSEKEEPING

# CHIEF FOIA OFFICERS COUNCIL

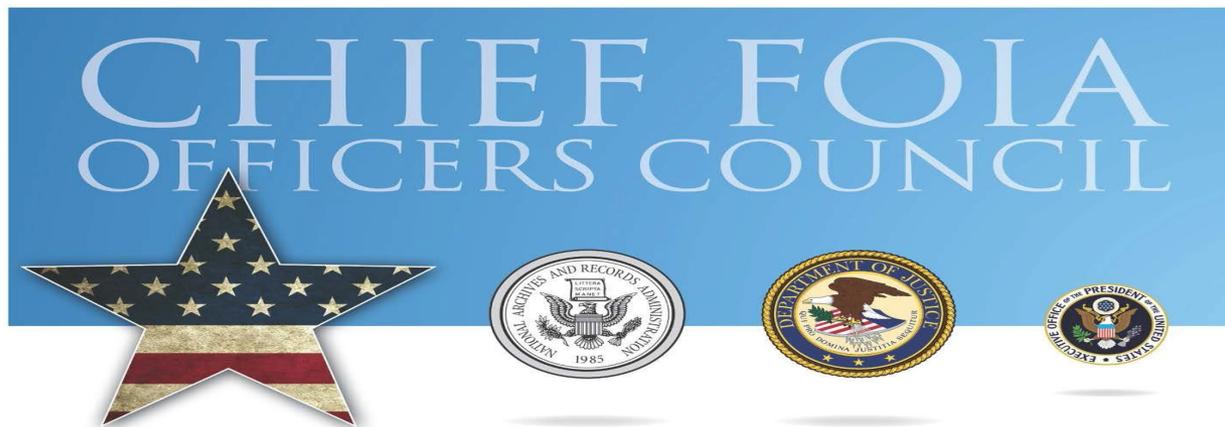


## WELCOMING REMARKS

# CHIEF FOIA OFFICERS COUNCIL



## Overview of the Chief FOIA Officers (CFO) Landscape for New CFOs

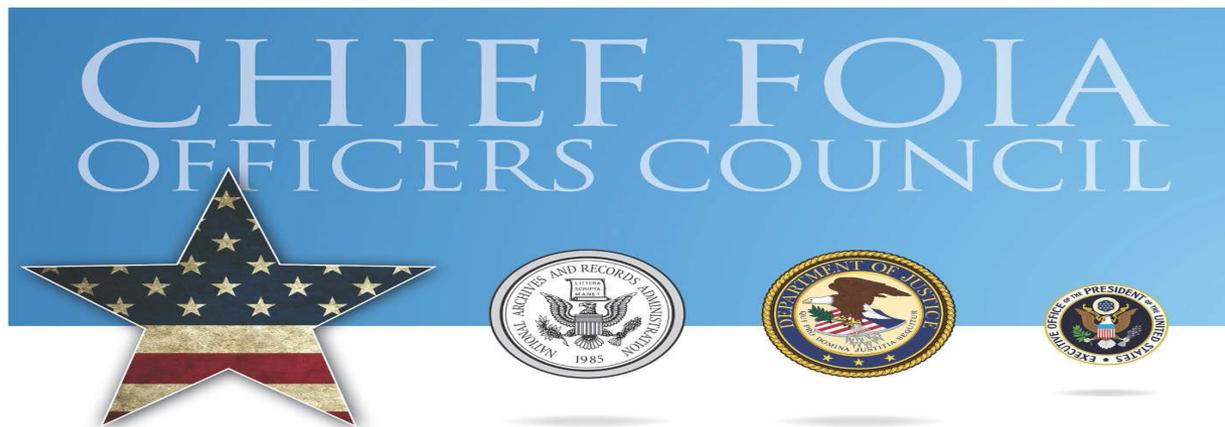


## The Agency Chief FOIA Officer

"Each agency shall designate a Chief FOIA Officer who shall be a senior official of such agency (at the Assistant Secretary or equivalent level)."

5 U.S.C. § 552(j)(1)

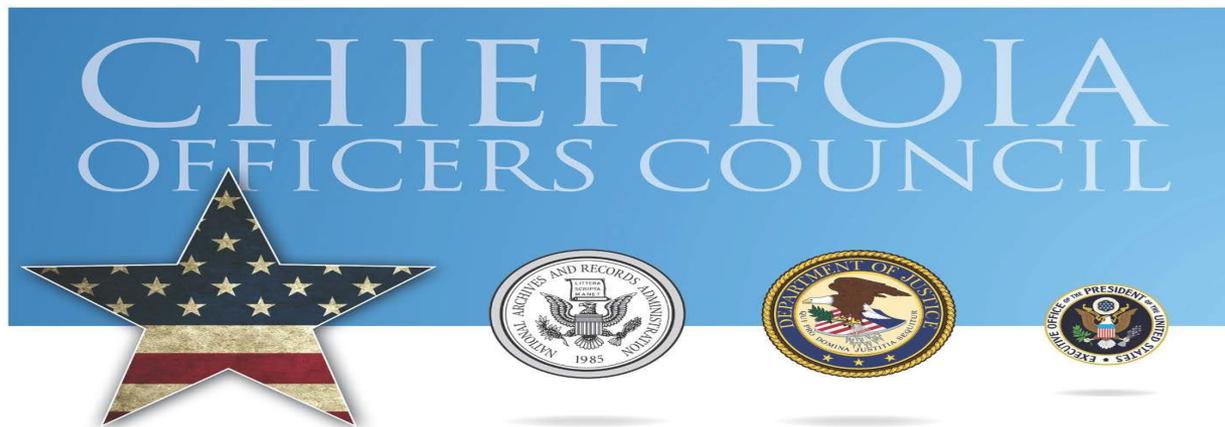
See [Memorandum from the Department of Justice to Agency General Counsels and Chief FOIA Officers regarding Chief FOIA Officer Designations](#)



# Responsibilities of Chief FOIA Officers

## Agency Chief FOIA Officers:

- ▶ Have agency-wide responsibility for efficient and appropriate compliance with FOIA;
- ▶ Monitor implementation of the FOIA throughout the agency and keep the head of the agency, the chief legal officer of the agency, and the Attorney General appropriately informed of the agency's performance in implementing FOIA;
- ▶ Recommend to the head of the agency such adjustments to agency practices, policies, personnel, and funding as may be necessary to improve its implementation of FOIA;
- ▶ Review and report to the Attorney General, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency's performance in implementing FOIA.



## Responsibilities of Chief FOIA Officers

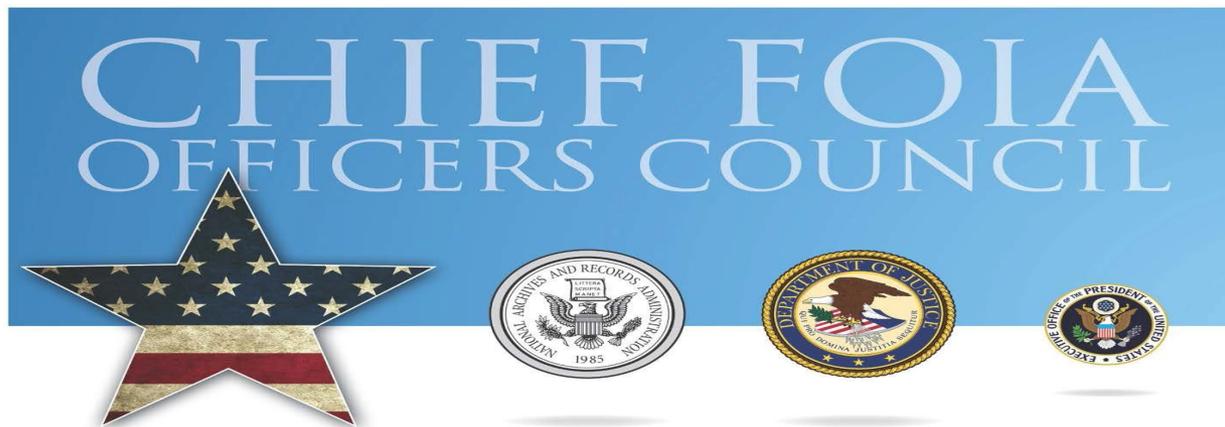
- ▶ Facilitate public understanding of the purposes of the FOIA's statutory exemptions by including concise descriptions of the exemptions in both the agency's handbook issued under subsection (g) of the FOIA, and the agency's annual FOIA report, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply;
- ▶ Offer training to agency staff regarding their responsibilities under the FOIA;
- ▶ Serve as the primary agency liaison with OGIS and OIP; and
- ▶ Designate one or more FOIA Public Liaisons.



## Responsibilities of Chief FOIA Officers

Chief FOIA Officers are also required to “review, not less frequently than annually, all aspects” of their agency’s administration of the FOIA, including:

- ▶ Agency regulations;
- ▶ Disclosure of records under paragraphs (a)(2) [proactive disclosure provision] and (a)(8) [foreseeable harm standard];
- ▶ Assessment of fees and fee waivers;
- ▶ Timely processing of requests;
- ▶ Use of exemptions; and
- ▶ Dispute resolution services with OGIS or the FOIA Public Liaison.



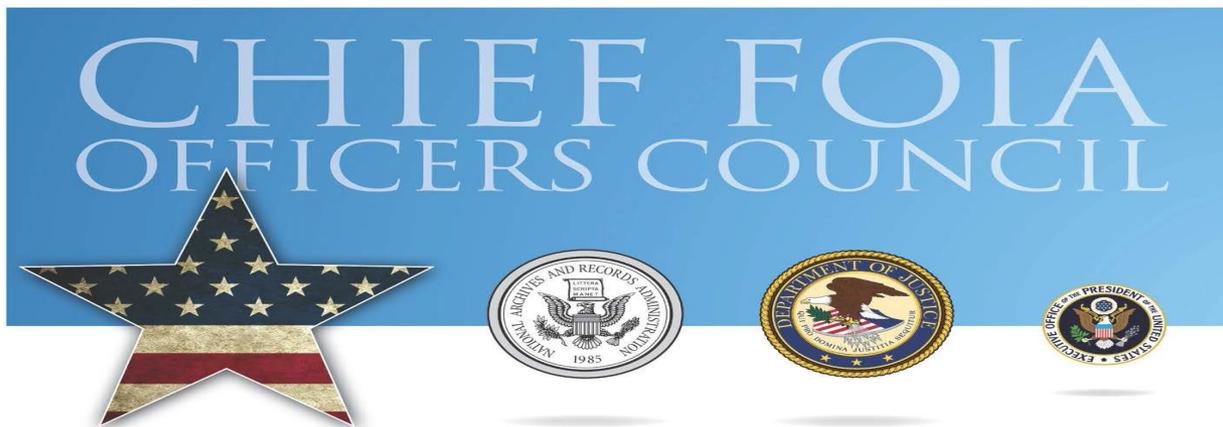
## Chief FOIA Officers Council Composition

### ▶ *Co-Chairs:*

- Director, Office of Information Policy at the Department of Justice
- Director, Office of Government Information Services, National Archives and Records Administration

### ▶ *Members:*

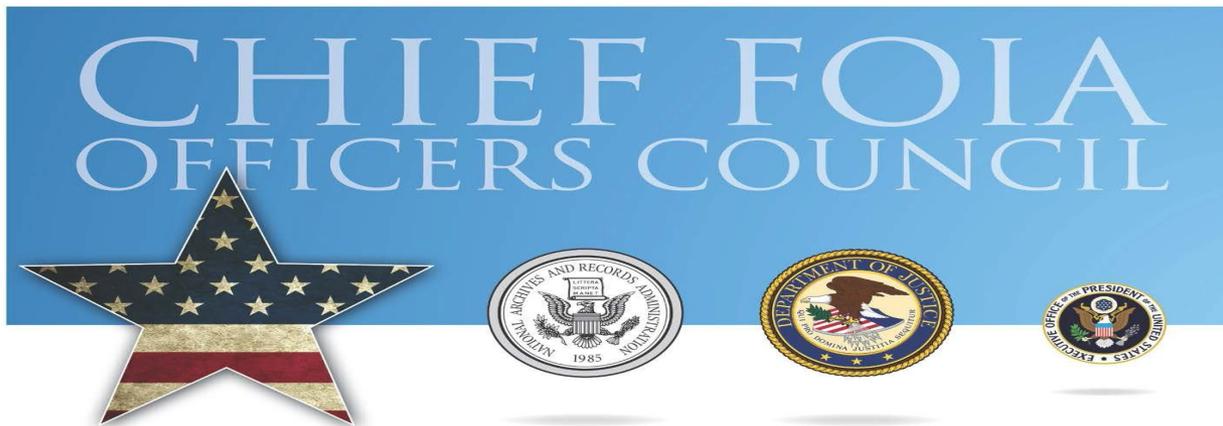
- Deputy Director of Management, Office of Management and Budget
- Chief FOIA Officers of all agencies
- Any other officer or employee of the United States as designated by the Co-Chairs



## Role of Chief FOIA Officers Council

The duties of the Council include the following:

- ▶ Develop recommendations for increasing FOIA compliance and efficiency.
- ▶ Disseminate information about agency experiences, ideas, best practices, and innovative approaches related to FOIA.
- ▶ Identify, develop, and coordinate initiatives to increase transparency and compliance with FOIA.
- ▶ Promote the development and use of common performance measures for agency compliance with FOIA.



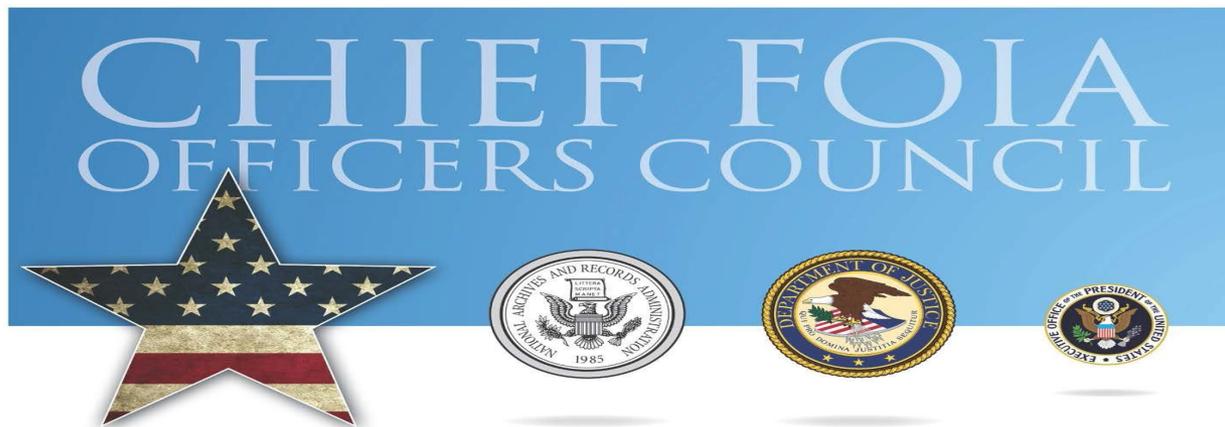
## Chief FOIA Officers Council

*The Council serves as an important resource in cross-agency collaboration and networking to advance FOIA administration*

▶ ***Past Council meetings have:***

- Highlighted new FOIA guidance
- Considered recommendations for improving FOIA administration from the FOIA Federal Advisory Committee
- Held panel discussions amongst Chief FOIA Officers, agency FOIA managers, and requesters on both general and specific topics and best practices

***Beginning to also work with other Federal Councils on overlapping interests***



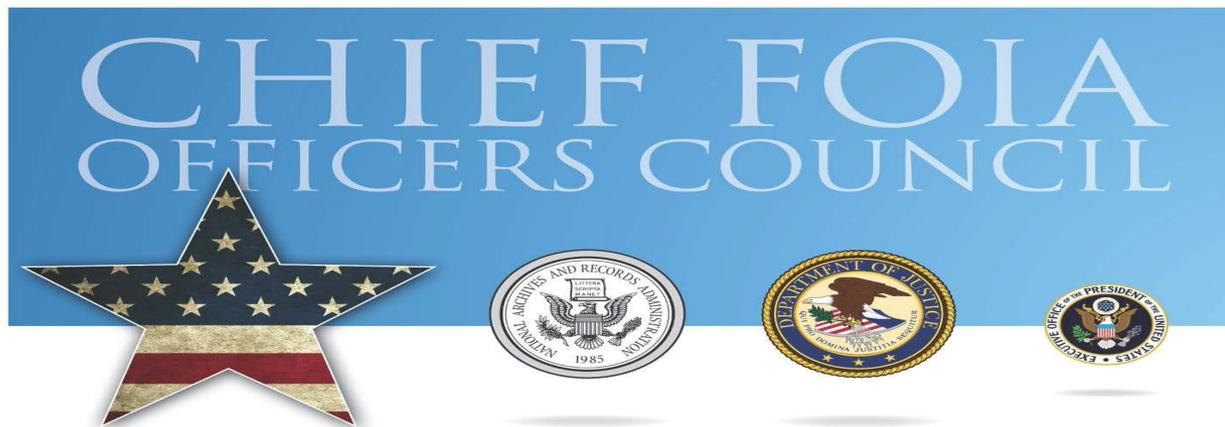
# Chief FOIA Officers Council Committees

## *Technology Committee*

- ▶ Studies the utilization and deployment of technology in FOIA programs across agencies, and identify best practices and recommendations that can be implemented across agencies.

## *Committee on Cross-Agency Collaboration and Innovation*

- ▶ Will research and propose cross-agency grant programs and funding sources, create federal career paths for FOIA professionals, and promote models to align agency resources with agency transparency.



## DOJ Office of Information Policy

The Office of Information Policy is responsible for:

- ▶ Encouraging agency compliance with the FOIA and the DOJ's FOIA Guidelines
- ▶ Overseeing Agency FOIA administration
- ▶ OIP carries out this mission by:
  - Issuing guidance
  - Sharing best practices
  - Providing training
  - Managing FOIA reporting
  - Advising agencies on FOIA matters through the FOIA Counselor Service



## DOJ Office of Information Policy

- ▶ OIP's website contains FOIA resources including:
  - FOIA policy guidance
  - DOJ Guide to the FOIA
  - Court decision summaries
  - The FOIA Post Blog
  - FOIA training resources
  - Self-Assessment Toolkit
- ▶ OIP also manages FOIA.gov, home of the National FOIA Portal.

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## The FOIA Ombudsman

Improving  
the FOIA  
Process



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[www.archives.gov/ogis](http://www.archives.gov/ogis)

[OGIS@nara.gov](mailto:OGIS@nara.gov)

(202) 741-5770

(877) 684-6448

Read/follow us on our blog:

[foia.blogs.archives.gov](http://foia.blogs.archives.gov)

And on Twitter:

@FOIA\_Ombuds

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## QUESTIONS???

National Archives Identifier: 515578

The Big Questions for '43



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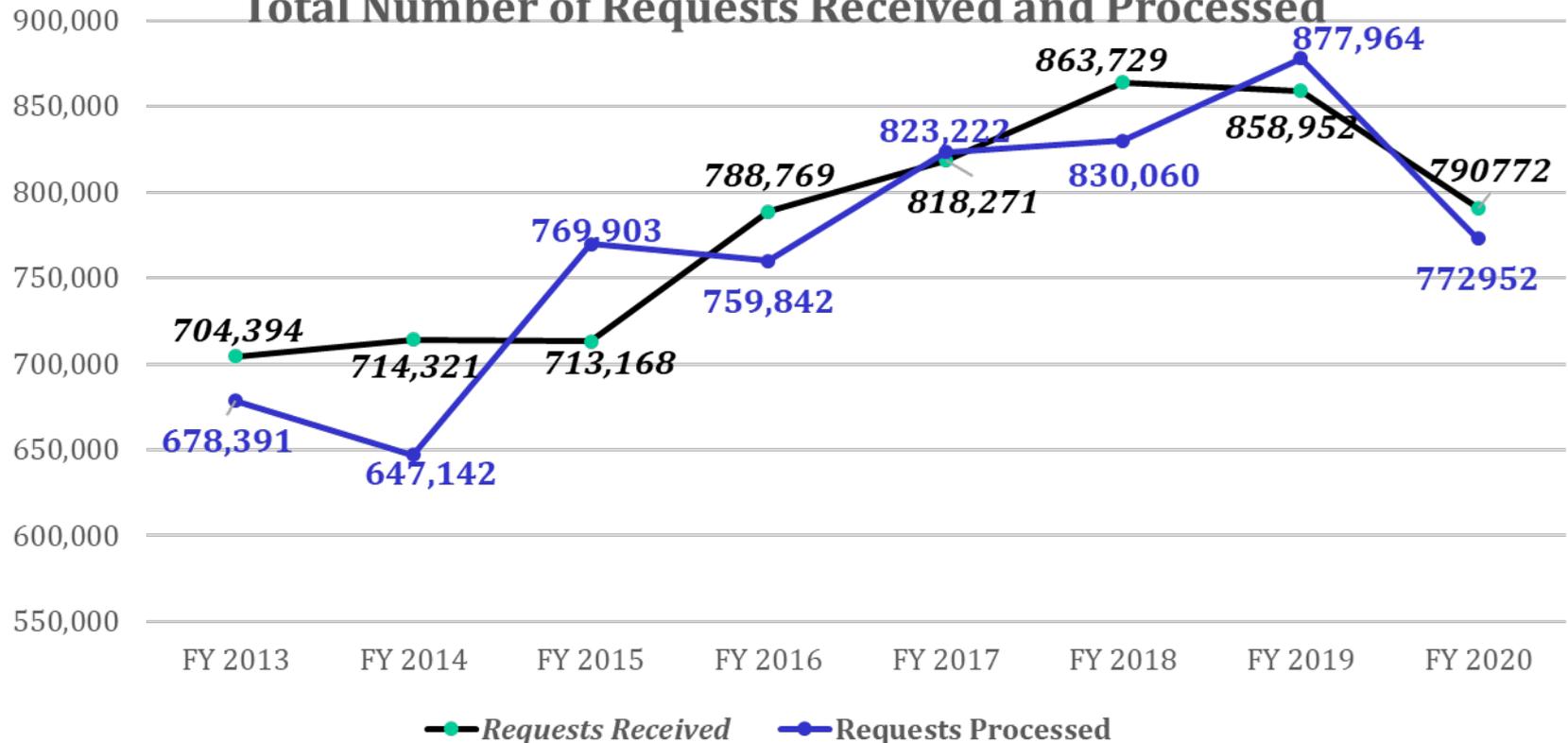
## Updates from the Department of Justice

## Office of Information Policy

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## Total Number of Requests Received and Processed



All agency Annual FOIA Report Data is available at [www.foia.gov/data.html](http://www.foia.gov/data.html).



## FOIA Reporting Updates

OIP looks forward to soon issuing:

- ▶ Summary of FY 2020 Annual FOIA Reports
- ▶ Summary and Assessment of Agencies' 2021 Chief FOIA Officer Reports and accompanying guidance

Stay tuned later this summer for updated CFO Report Guidelines, along with FOIA reporting deadlines.

Subscribe to FOIA Post for the latest updates at <https://www.justice.gov/oip/foia-post-1>.

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**FOIA.gov**

Thank you for visiting FOIA.gov, the government's central website for FOIA. We'll continue to make improvements to the site and look forward to your input. Please submit feedback to [National.FOIAPortal@usdoj.gov](mailto:National.FOIAPortal@usdoj.gov).

Learn about FOIA ▾ Before you request ▾ Create a request Agency FOIA data ▾ Agency login

**The basic function of the Freedom of Information Act is to ensure informed citizens, vital to the functioning of a democratic society.**

This site can help you determine if filing a FOIA request is the best option for you and help you create your request when you're ready.

[Tips for making a request](#) or [Start your request](#)

Do research and determine if you need to make a FOIA request, then get ready.

Do research before you request + Identify the right agency + What happens next +

- ▶ 2011: Launched as a “dashboard” for agencies’ Annual FOIA Report Data.
- ▶ 2018: National FOIA Portal released, allowing requesters to submit a request to any agency from a single site.
- ▶ 2019: DOJ/OMB issued guidance for achieving interoperability
- ▶ By end of 2021: Agencies will achieve full interoperability  
Summary of FY 2020 Annual FOIA Reports

# CHIEF FOIA OFFICERS COUNCIL



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

DEPARTMENT OF JUSTICE  
WASHINGTON, D.C. 20530  
February 12, 2019

M-19-10

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Margaret Weichert   
Deputy Director of Management  
Office of Management and Budget

Jesse Panuccio   
Principal Deputy Associate Attorney General  
Department of Justice

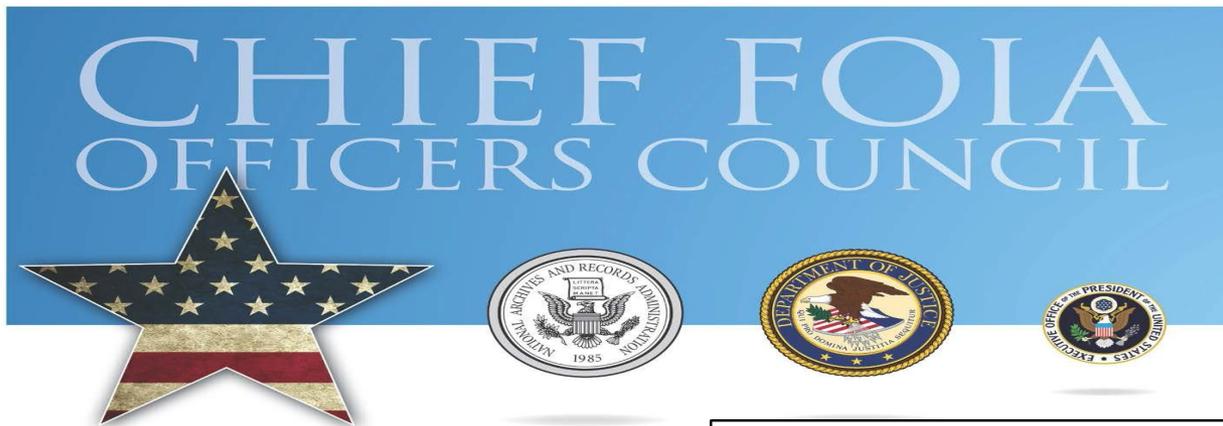
SUBJECT: Guidance for Achieving Interoperability with the National Freedom of Information Act (FOIA) Portal on FOIA.gov

1. **Purpose.** Transparency and openness are foundational principles underlying the FOIA. The FOIA Improvement Act of 2016 furthered these principles by enacting several meaningful improvements. One of the principal improvements in the 2016 amendments is the requirement to create a central, online request portal that allows a member of the public to submit a request for records under the FOIA to any Federal agency from a single website. Pursuant to the statute, the Office of Management and Budget (OMB) and the Department of Justice (DOJ) are required to ensure operation of a consolidated, online request portal and establish standards for interoperability between the new National FOIA Portal and agencies' current FOIA platforms.

- ▶ Agencies with automated case management systems are required to implement an API.
- ▶ Agencies with non-automated solutions are required to achieve full interoperability via structured email.
- ▶ Agencies must be interoperable by the end of FY21 (September 30, 2021) unless granted an exception.
- ▶ OIP actively working with agencies to achieve interoperability.

Guidance available at:

<https://www.justice.gov/oip/oip-guidance>



- ▶ Earlier this year, we released a redesigned Annual Report Data page at [www.foia.gov/data.html](http://www.foia.gov/data.html)
- ▶ The new page is mobile-friendly and combines legacy “Basic” and “Advanced” report features into a single interface.

### Create a Report

1. Select Agencies or Components ?

Agency or Component Name

+ [Add Another Agency or Component](#) [Select All Agencies](#)

2. Select Data Type(s) ?

Adding more than one data filter will return results that fit any one of the filters provided. For example, a search for exemption data with the filters "Ex. 5 is 0" + "Ex. 6 is 0" will return data that satisfy either criteria, rather than limiting the results to data that satisfy both criteria.

Data Type

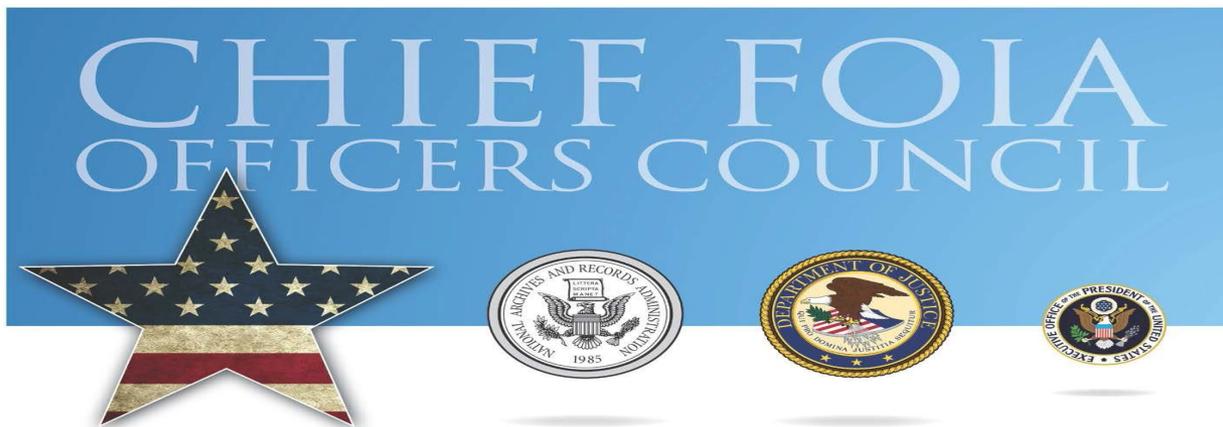
+ [Add Another Data Type](#)

3. Select Fiscal Years ?

<input type="checkbox"/> 2020	<input type="checkbox"/> 2019	<input type="checkbox"/> 2018	<input type="checkbox"/> 2017	<input type="checkbox"/> 2016	<input type="checkbox"/> 2015
<input type="checkbox"/> 2014	<input type="checkbox"/> 2013	<input type="checkbox"/> 2012	<input type="checkbox"/> 2011	<input type="checkbox"/> 2010	<input type="checkbox"/> 2009
<input type="checkbox"/> 2008					

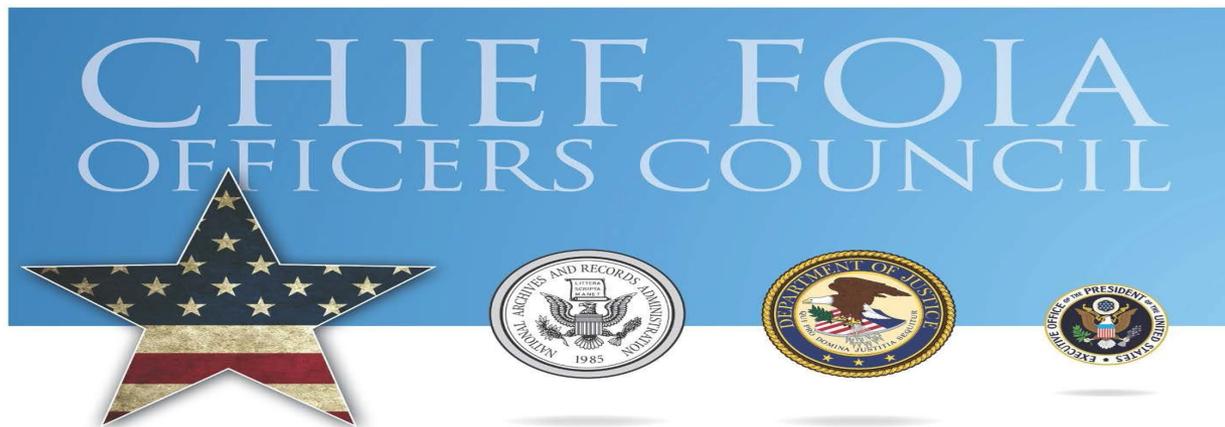
[Select All](#) | [Select None](#)

[View Report](#) [Download CSV](#) [Clear Search](#)



## FOIA.gov: 10x FOIA Libraries Project

- ▶ In 2020, 10x completed “Phase 1” of OIP’s 10x proposal to investigate a centralized search capability that would allow the public to search across agencies’ existing FOIA Libraries for posted documents.
- ▶ 10x approved the project for “Phase 2,” a more robust discovery phase, which is now underway.
- ▶ OIP will continue to work with 10x and consult with agencies and the public on this effort.



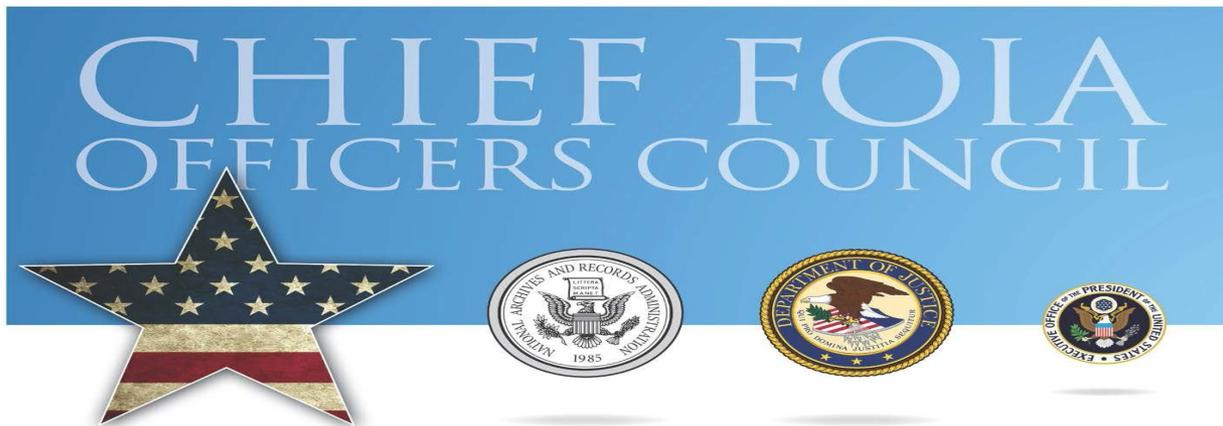
# FOIA.gov: Upcoming Initiatives

## *Quarterly Report Data*

- ▶ OIP looks forward to updating the Quarterly Report Data page, similar to the Annual Report data page, as well as making it easier for agencies to provide this data.

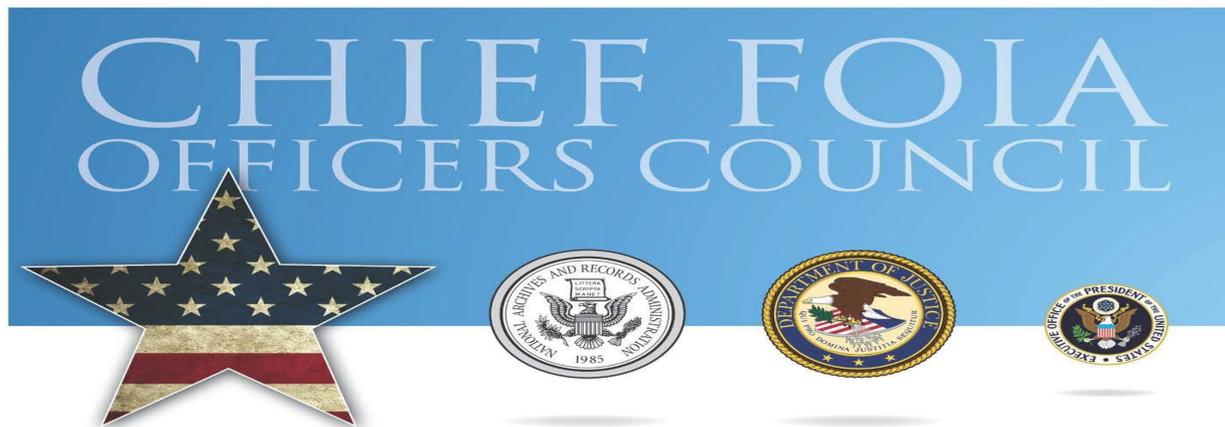
## *Upcoming Discovery*

- ▶ Planning to conduct additional discovery with agencies and the public to identify and prioritize further development efforts.



## FOIA Self-Assessment Toolkit

- ▶ To incorporate changes in FOIA law and policy, OIP looks forward to soon releasing an updated “Self-Assessment Toolkit” that covers FOIA administration from request intake to the maintenance of agency FOIA websites.
- ▶ The updated toolkit will:
  - Include new modules for proactive disclosures and administrative appeals.
  - Incorporate additional technology-related milestones.
  - Include a fillable version to more easily facilitate agency completion of each module.



## New Supreme Court Decision on Exemption 5

- ▶ On March 4, 2021, the Supreme Court issued a decision in U.S. Fish & Wildlife Serv. v. Sierra Club, 141 S. Ct. 777 (2021).
- ▶ The court held that “[t]he deliberative process privilege protects from disclosure under FOIA in-house draft biological opinions that are both predecisional and deliberative, even if the drafts reflect the agencies’ last views about a proposal.”
- ▶ Stay tuned for OIP guidance.

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## QUESTIONS???

National Archives Identifier: 515578

The Big Questions for '43



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## Office of Government Information Services (OGIS) Updates

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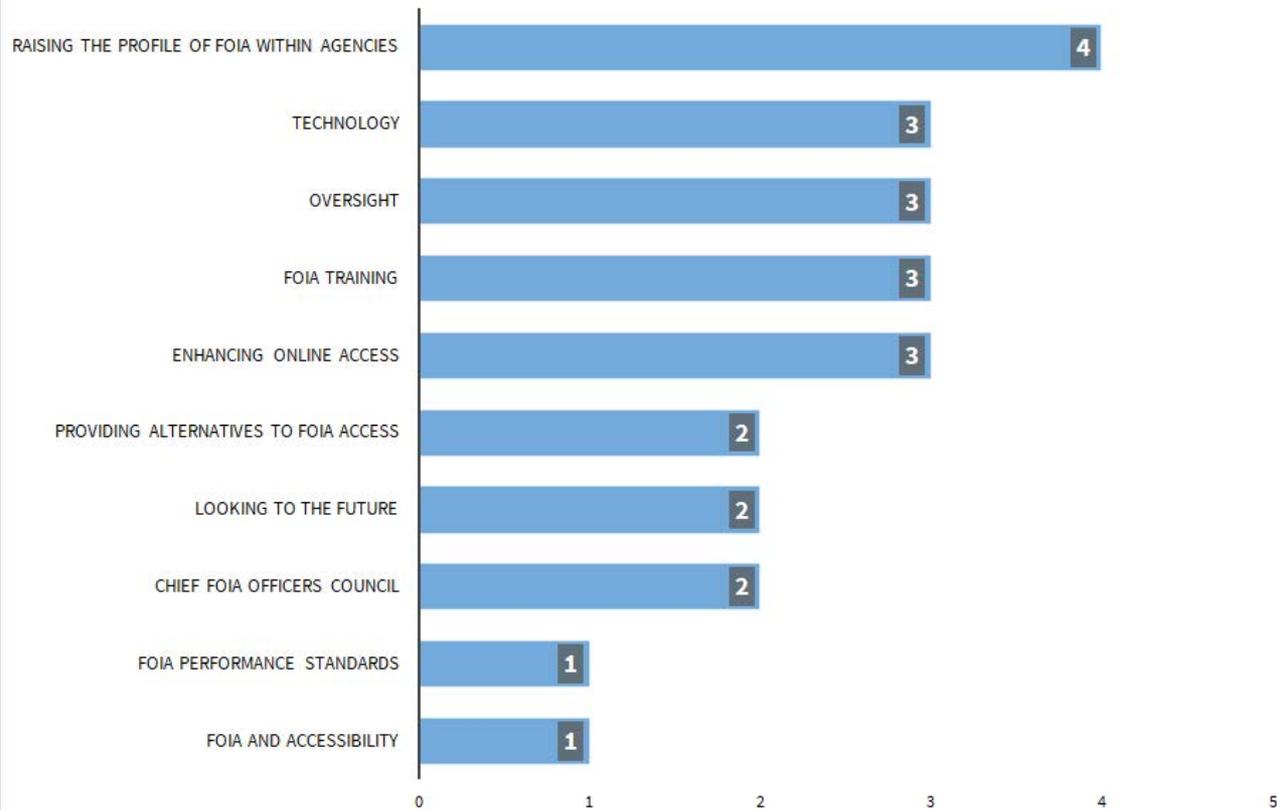
## FOIA ADVISORY COMMITTEE RECOMMENDATIONS DASHBOARD

<https://www.archives.gov/ogis/foia-advisory-committee/dashboard>

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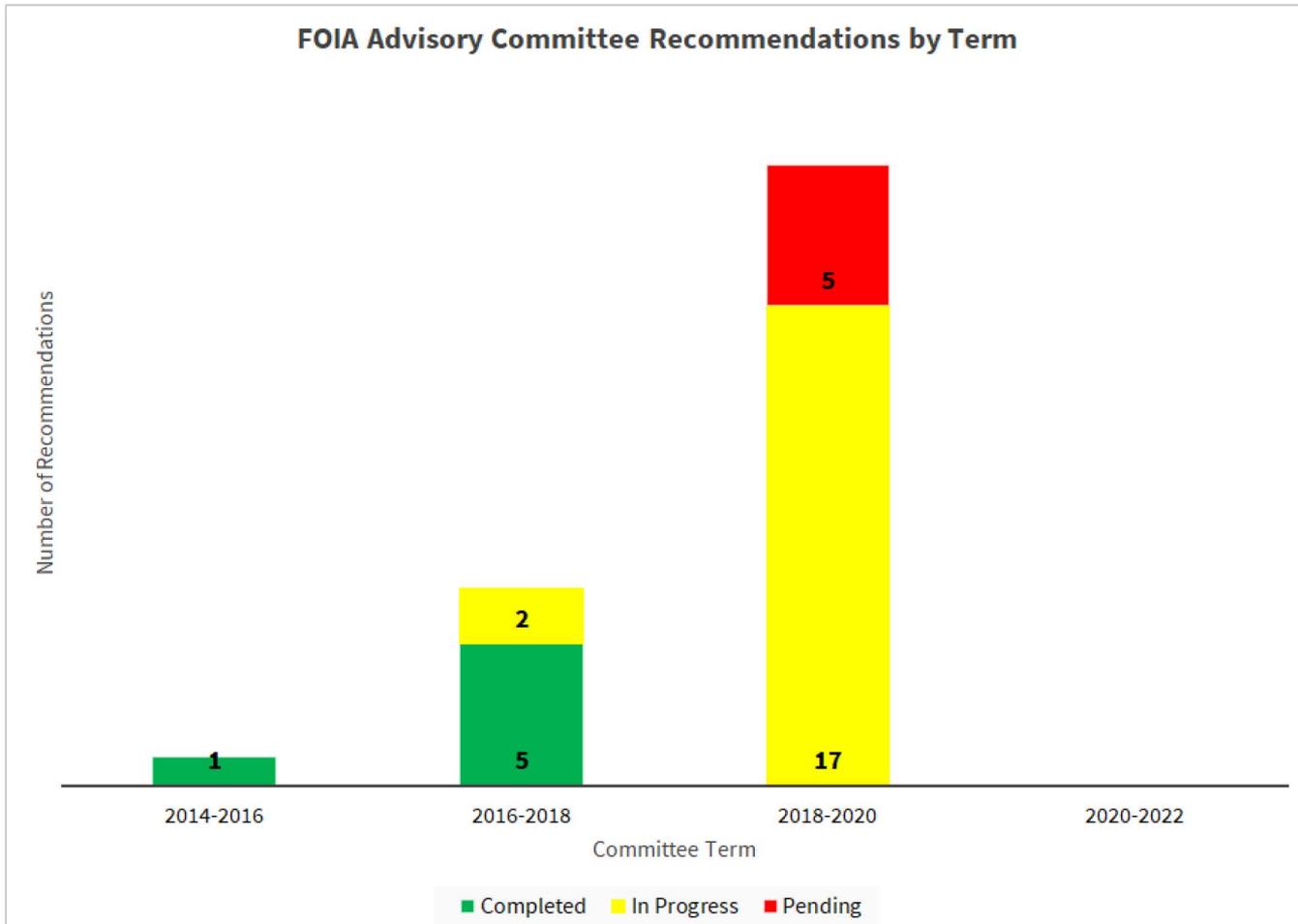
## FOIA Advisory Committee Pending and In Progress Recommendations by Category



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FOIA Advisory Committee Recommendations by Term



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## OGIS: Upcoming Events

- ▶ **Finding a Needle in a Haystack: Enterprise-wide FOIA Searches at CDC**
  - Thursday, May 6, 2021 - 9:30 a.m. to 11:30 a.m. (ET)
  - Registration Link: <https://ogis-cdc-webinar-may-6-2021.eventbrite.com>
  - YouTube Livestream Link: <https://youtu.be/0o5oKhARBN4>
  - Event Web Page: <https://www.archives.gov/ogis/outreach-events/2021-06-06>
  
- ▶ **OGIS Annual Open Meeting**
  - Tuesday, May 12, 2021 - 10 a.m. to Noon (ET)
  - *Registration to attend this virtual meeting is not yet open.*
  - Event Web Page: <https://www.archives.gov/ogis/outreach-events/annual-open-meeting>
  
- ▶ **FOIA Advisory Committee Meeting**
  - Thursday, June 10, 2021 - 10 a.m. to 1 p.m. (ET)
  - *Registration to attend this virtual meeting is not yet open.*
  - Event Web Page <https://www.archives.gov/ogis/foia-advisory-committee/2020-2022-term/meetings>

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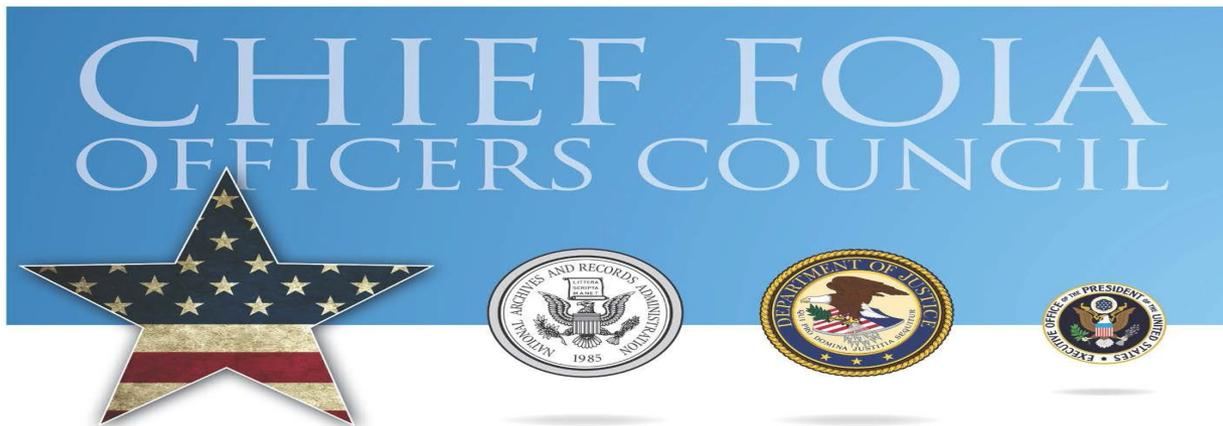
# CHIEF FOIA OFFICERS COUNCIL



## Chief FOIA Officers Council (CFOC) Technology Committee - Update for CFOC

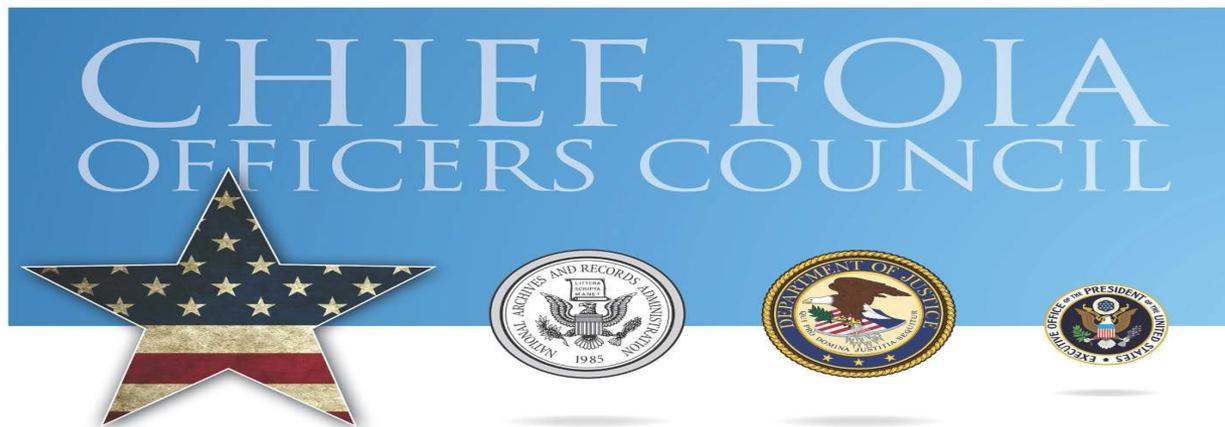
Co-Chairs:

Eric F. Stein, U.S. Department of State  
Michael Sarich, Veterans Health Administration  
April 29, 2021



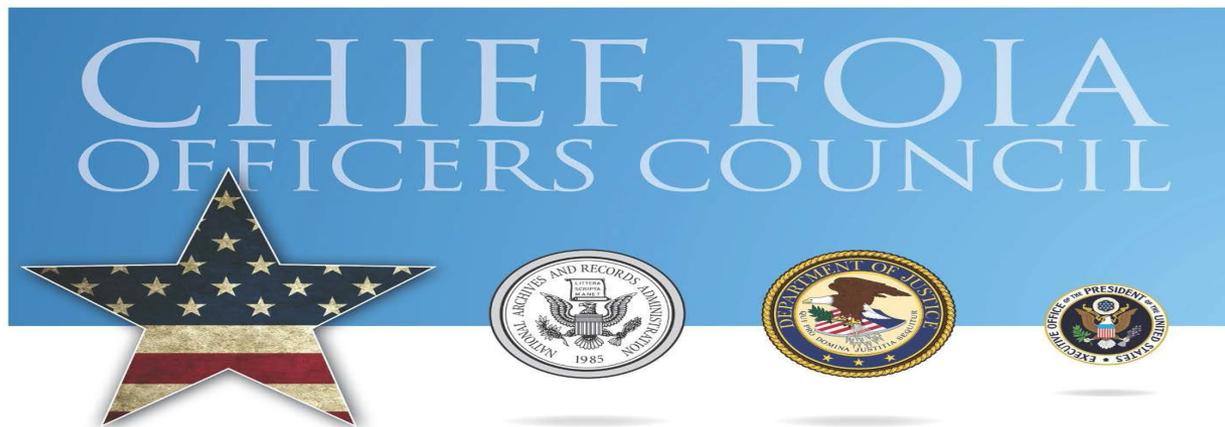
## About the Technology Committee

- ▶ In response to a recommendation of the 2016-2018 term of the Freedom of Information Act (FOIA) Advisory Committee, the Archivist of the United States proposed that the Chief FOIA Officers (CFO) Council seek to establish a technology subcommittee, in partnership with the Chief Information Officer (CIO) Council, to study the utilization and deployment of technology in FOIA programs across agencies, and identify best practices and recommendations that can be implemented across agencies.
- ▶ Membership:
  - We have over 40 members from at least 25 departments/agencies



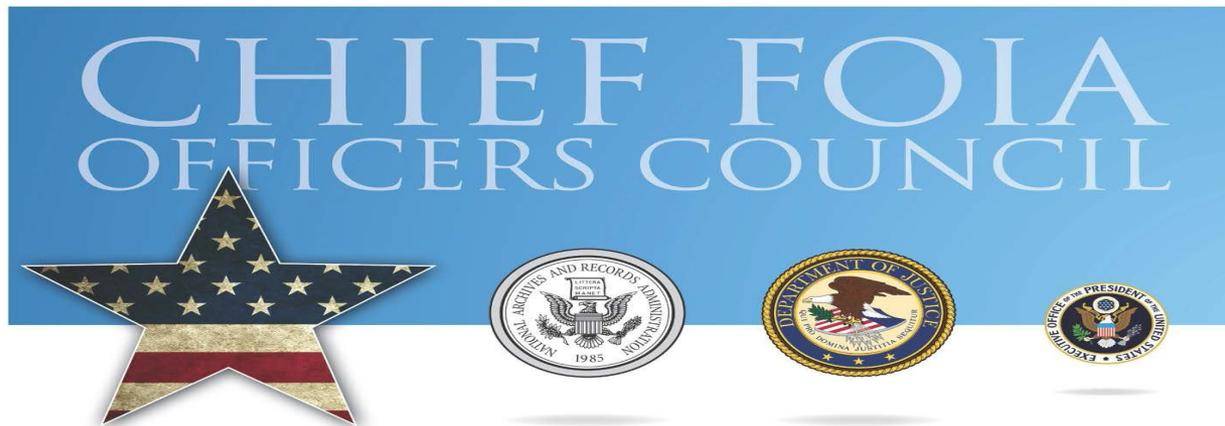
## About the Technology Committee

- ▶ We have seven Technology Committee Working Groups:
  - 1.FOIA Searches (of electronic records/using technology)
  - 2.FOIAxpress
  - 3.FOIA Online
  - 4.Artificial Intelligence (AI)
  - 5.508 Compliance and Collaborative Tools
  - 6.FOIA and Classified Information
  - 7.Video Redactions
  
- ▶ Each working group has a charter with the scope of its responsibilities and target milestones for its work.



# Technology Committee Accomplishments Since October 2020

- ▶ Since the CFOC Technology Committee briefed this group in October 2020:
- ▶ **November 2020**
  - November 5, 2020 - AI For FOIA Professionals (Virtual) Workshop
- ▶ **January 2021**
  - Finalized Working Group Charters and started research for deliverables in charters
- ▶ **February 2021**
  - Working Group Charters published online:  
<https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council/technology-committee>



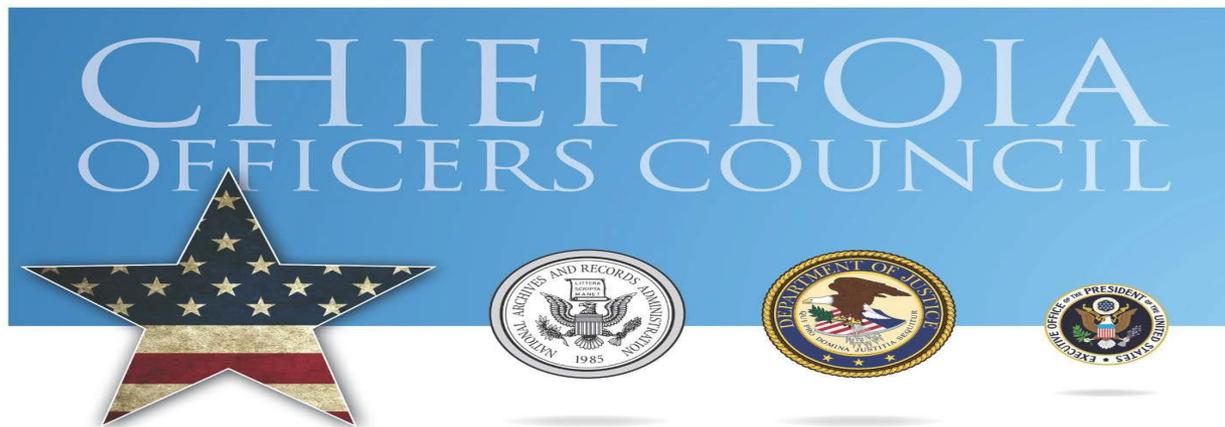
# Technology Committee Accomplishments Since October 2020

## ▶ March 2021

- Office of Information Policy (OIP) Best Practices Workshops
  - Intelligence Community Session (March 11, 2021)
  - Federal FOIA Community Session (March 30, 2021)

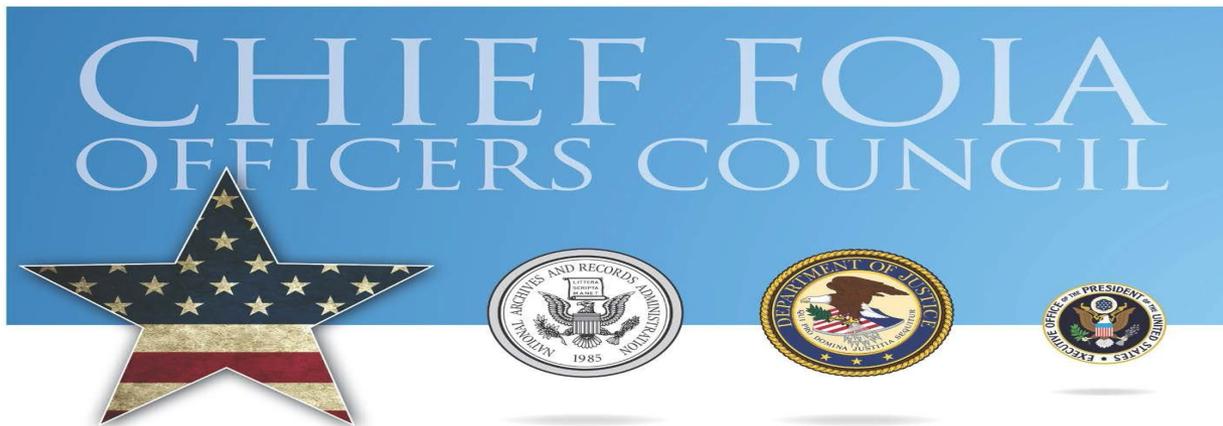
## ▶ April 2021

- Draft Video Redaction Paper Discussion
- Drafting Other Deliverables in Charters



## Technology Committee: Key Findings To Date

- ▶ Misconceptions about the ability of federal agencies to conduct searches of their electronic records for FOIA cases
- ▶ Video Redaction
- ▶ Search
- ▶ Classification (FOIA cases involving classified information)
- ▶ Artificial Intelligence
- ▶ How to prepare a virtual vendor/technology event that will be useful to the FOIA community



## Technology Committee: Next Steps

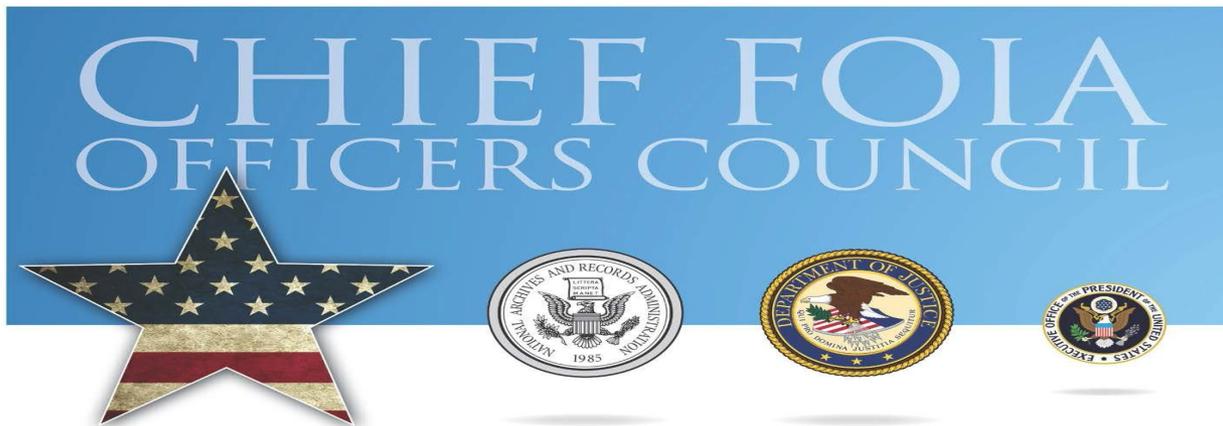
- ▶ Draft deliverables in charters
  - Deliverables will be posted to the public CFOC Technology Committee website upon completion
- ▶ Hold Workshops on FOIA Technology Issues for the FOIA Community
  - Follow up session: AI For FOIA Professionals (Virtual) Workshop
- ▶ Prepare for a Vendor Day this Fall 2021 to showcase technology options available to FOIA community
- ▶ Identify new areas/working groups for 2022
- ▶ Solicit feedback from FOIA Advisory Committee, Chief FOIA Officers Council, federal agencies, and the public on topics of interest or shared best practices

# CHIEF FOIA OFFICERS COUNCIL



## Questions & Contact Information

- ▶ Eric F. Stein, [SteinEF@state.gov](mailto:SteinEF@state.gov)
- ▶ Michael Sarich, [michael.sarich@va.gov](mailto:michael.sarich@va.gov)



## Appendix: 2020 Accomplishments (February - October)

- ▶ February:
  - Report of the Technology Committee of the Chief FOIA Officers (CFO) Council - Best Practices and Recommendations
- ▶ April:
  - OIP Best Practices Workshop: FOIA and Technology
  - Technology Committee added about 25 new members
- ▶ June-July:
  - Established Eight FOIA Technology Working Groups
- ▶ August-September:
  - Developing Working Group Charters
  - Briefed FOIA Advisory Committee
- ▶ October:
  - Briefed CFOC

# CHIEF FOIA OFFICERS COUNCIL

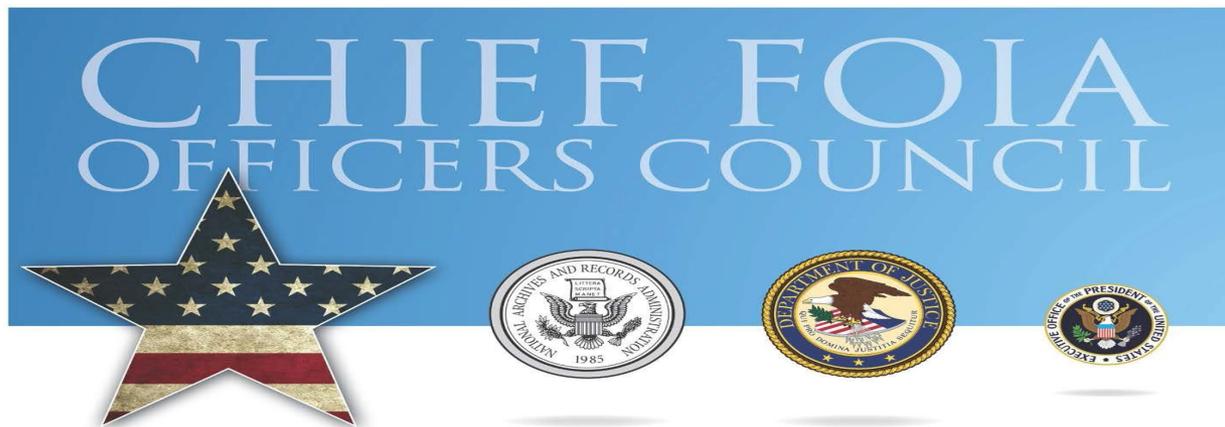


## Chief FOIA Officers Council (CFOC)

### Committee on Cross-Agency Collaboration and Innovation (COCACI)

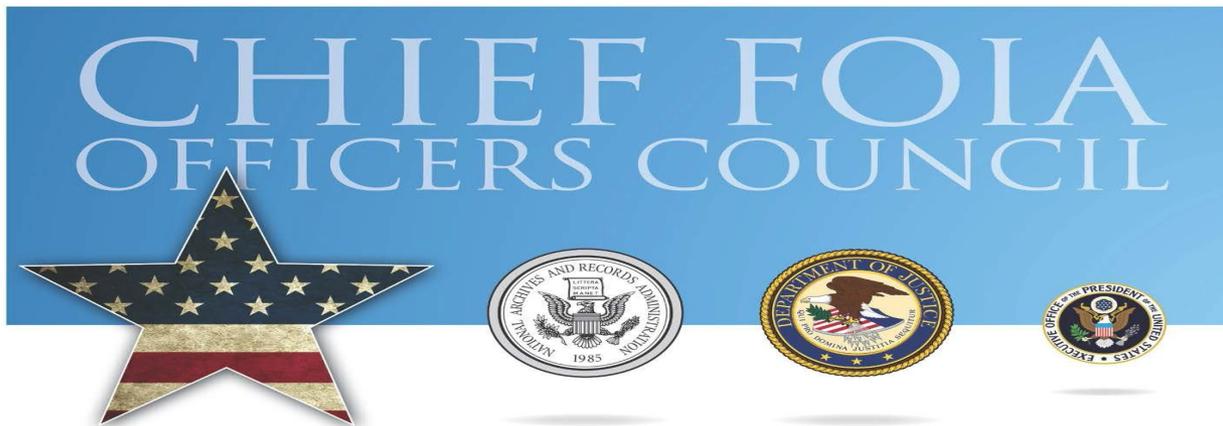
#### Co-Chairs:

Michael Bell, U.S. Department of Transportation  
Abioye Mosheim, U.S. Consumer Product Safety Commission  
April 29, 2021



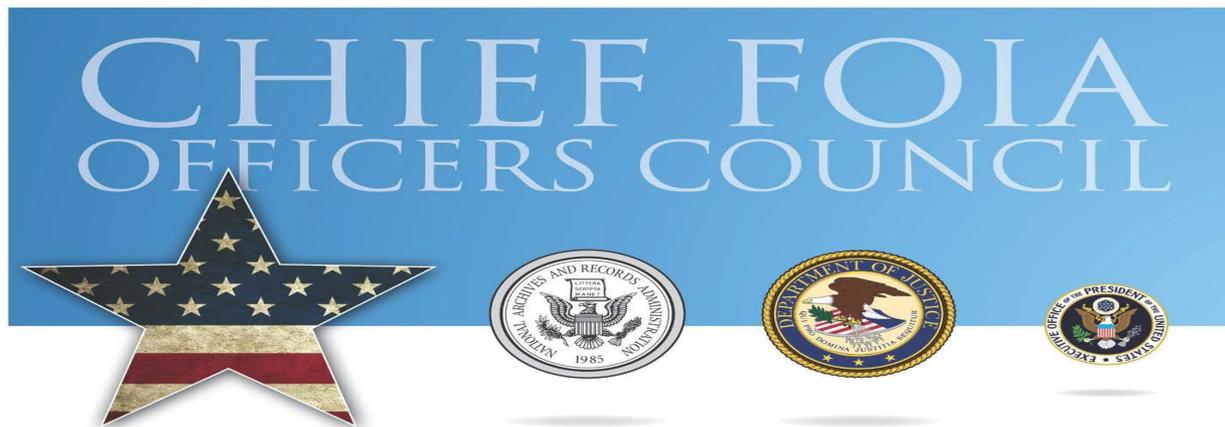
## COCACI: Origins

- ▶ In 2020, the Office of Government Information Services (OGIS) and the Department of Justice (DOJ) announced the creation of a new Chief FOIA Officers Council committee following Recommendation 16 of the 2018-2020 FOIA Advisory Committee's Final Report.



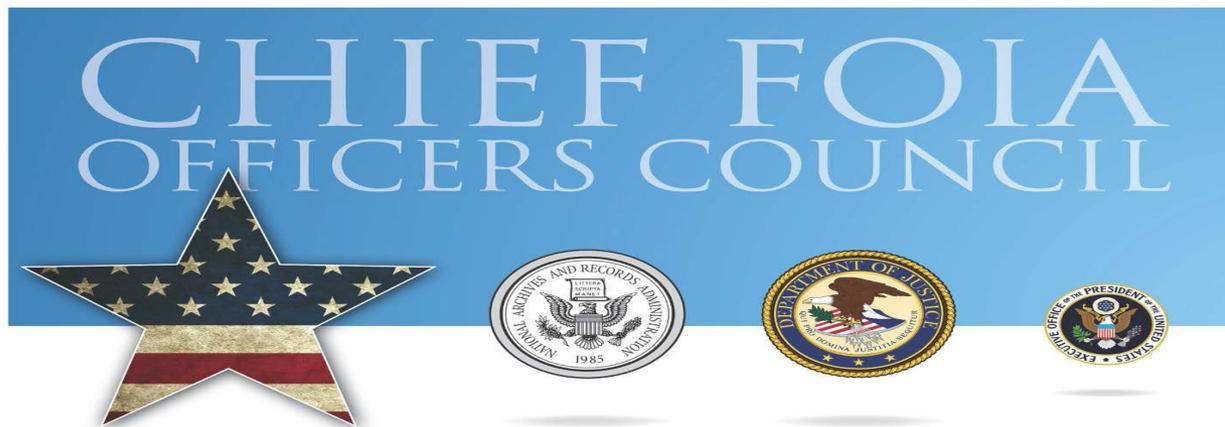
## COCACI: FOIA Advisory Committee Recommendation 2020-16

- ▶ [T]hat the Chief FOIA Officers Council create a committee for cross-agency collaboration and innovation to:
  - Research and propose a cross-agency grant program and other revenue resources for FOIA programs;
  - Review and promote initiatives for clear career trajectories for FOIA professionals, building on the Government Information Specialist job series and in coordination with existing agency efforts; and
  - Explore and recommend models to align agency resources with a commitment to agency transparency.



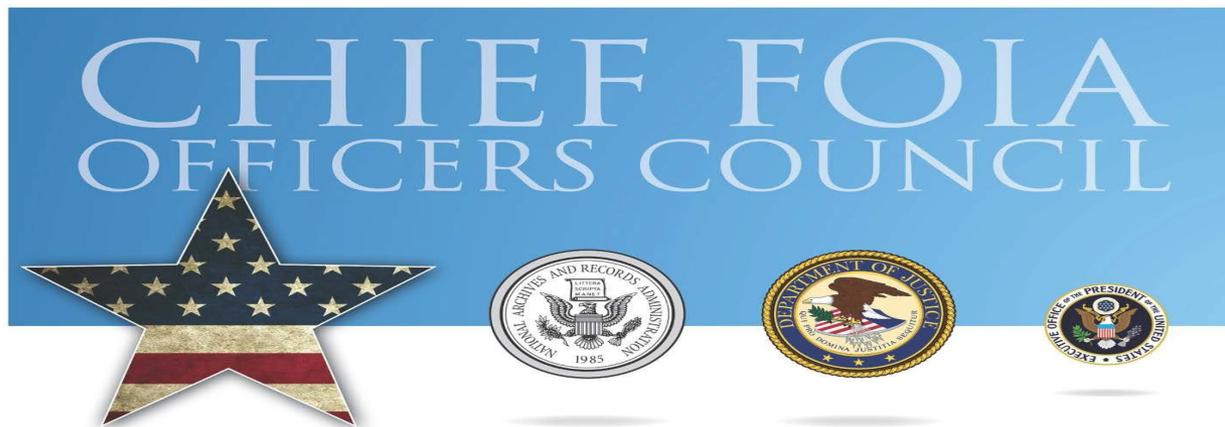
## COACI: Activities

- ▶ Inaugural meeting March 9, 2021
- ▶ Meet on monthly basis
- ▶ Established three subcommittees
  - Pandemic/Virtual FOIA Offices
  - Government Information Specialists Job Series
  - Standardizing Technology



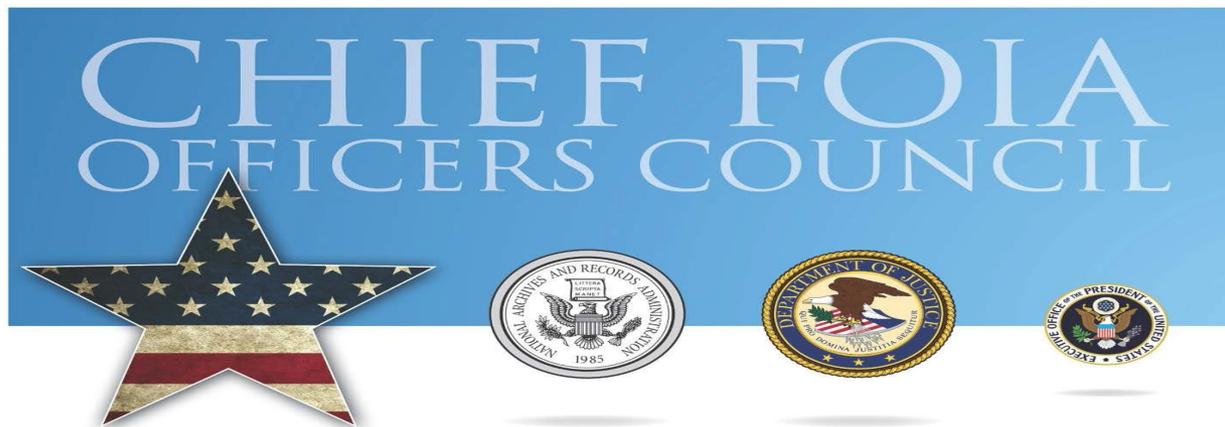
## COCACI: Pandemic/Virtual Offices Subcommittee

- ▶ Focusing on how to take lessons learned from the pandemic to transform FOIA Offices to thrive in a virtual environment.
  - FOIA Offices had to go virtual in March 2020 and a return to the old paper-centric process is unlikely.
- ▶ Subcommittee will examine best practices developed during the pandemic and recommend ways to apply new methods to a hybrid FOIA Office environment following the pandemic.



## COCACI: Government Information Specialist Job Series Subcommittee

- ▶ Review and promote initiatives for clear career trajectories for FOIA professionals, building on the Government Information Specialist job series and in coordination with existing agency efforts.
  - Recruiting
  - Career advertising
  - Uniformity in grades
- ▶ Creating cross/agency detail opportunities.
- ▶ Cross-training between agencies.



## COCACI: Standardizing Technology Subcommittee

- ▶ Explore and recommend models to align agency resources with a commitment to agency transparency.
  - Looking to complement, not overlap, CFO Council Technology Committee.
- ▶ Looking to ensure agencies are properly utilizing the technological solutions that are out there.
  - Collaboration between agencies will enable FOIA Offices to share how fellow FOIA professionals are getting the most out of technology.

# CHIEF FOIA OFFICERS COUNCIL



## Questions & Contact Information

- ▶ Abioye Mosheim, [AMosheim@cpssc.gov](mailto:AMosheim@cpssc.gov)
- ▶ Michael Bell, [Michael.bell1@dot.gov](mailto:Michael.bell1@dot.gov)

# CHIEF FOIA OFFICERS COUNCIL



## QUESTIONS???

National Archives Identifier: 515578

The Big Questions for '43





# CDO Council Overview



# CHIEF FOIA OFFICERS COUNCIL



## PUBLIC COMMENTS



# CHIEF FOIA OFFICERS COUNCIL



**See you this fall!**