

Implementation Subcommittee Update

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David Cuillier, co-chair

Catrina Pavlik-Keenan, co-chair

The Implementation Subcommittee's mission is to review the 51 recommendations from the four previous terms of the Federal FOIA Advisory Committee to evaluate the current status of their implementation and identify areas of work left to do. The subcommittee members are comprised of:

1. Jason Baron, University of Maryland
2. David Cuillier, co-chair, University of Arizona
3. Michael Heise, EEOC
4. Alex Howard, Digital Democracy Project
5. Luke Nichter, Chapman University
6. Katrina Pavlik-Keenan, co-chair, DHS
7. Tom Susman, American Bar Association
8. Eira Tansey, University of Cincinnati
9. Ben Tingo, AINS
10. Patricia Weth, EPA

The subcommittee has met nine times since October, formulating its mission and plan of action, and beginning review of the recommendations. It met Jan. 20 and Feb. 3 with Bobby Talebian, director of the Department of Justice's Office of Information Policy, to walk through the 17 recommendations related to OIP. The subcommittee then met Feb. 17 with the Office of Government Information Services staff members to discuss recommendations related to OGIS.

After reviewing 25 of the recommendations, with 26 left, it has become apparent to the subcommittee that follow-up by this term's committee likely will be necessary. Many of the recommendations urge an entity to issue guidance to agencies, urge agencies to take a certain actions, or recommend tracking of certain information regarding the FOIA process. While almost all of those recommendations are technically "complete," as per the committee [dashboard](#), in many cases we do not know if actions by agencies, Congress, or other entities were actually taken in response to the recommendations. An example:

Recommendation [2020-14](#) from the 2018-2020 term suggested OGIS and OIP help agencies explore and consider alternative, more efficient ways for requesters to access records about themselves (first-person requests). Indeed, OIP asked agencies in its 2021 Chief FOIA Officer Reports to describe any common categories of first-party requests and whether the agencies have explored establishing non-FOIA access to those records. OGIS published an assessment on Commonly Requested Categories of First-party Records in August 2021 that makes three recommendations, including that agencies explain, in plain language, on FOIA websites the steps requesters should take to obtain access to first-party records. So, we wonder, what happened as a result of this recommendation? Did agencies follow through? Did it make a difference? Is more work required to address this issue?

The subcommittee will continue during the next few months to work through the rest of the recommendations, and then likely gather information to figure out what recommendations require additional attention by the full committee.