

Chairman Chuck Grassley
U.S. Senate Committee on the Judiciary
Questions for the Record
Ms. Miriam Nisbet

Hearing: “FOIA at Fifty: Has the Sunshine Law’s Promise Been Fulfilled?”

1. How can we best ensure quality customer service in the FOIA process? Is this accomplished through earlier communication between requesters and agencies? Is this accomplished through better training of FOIA professionals? How else?

Answer:

A hallmark of quality customer service is communication between FOIA requesters and agency FOIA professionals. That communication begins with acknowledgement of a request that gives the requester a point of contact. That point of contact must provide a meaningful way for the requester to ask questions and to get answers at every stage of the FOIA process.

FOIA training—whether provided by the Office of Government Information Services (OGIS), the Department of Justice, the agencies or the American Society of Access Professionals—now often includes how to talk with requesters and emphasizes the importance of customer service. That kind of training needs to become standard. Additionally, conferences and roundtables that bring together requesters and agency FOIA professionals help to promote understanding of the frustrations and obstacles that exist inside and outside government.

A vital component of a healthy FOIA operation depends upon signals from agency leaders that good customer service will be rewarded. The FOIA Improvement Act of 2016 promotes that kind of leadership with its provisions concerning the responsibilities of the Chief FOIA Officers, including those that focus on dispute resolution as an integral part of an agency’s procedures.

2. What benefits of improved customer service in FOIA did you witness as Director of OGIS?

Answer:

OGIS early on initiated training for agency FOIA professionals in dispute resolution skills, particularly to help them feel more at ease with discussing a request and sometimes delivering a message that may not be what the requester wants to hear. It is not surprising that conversations between agency personnel and members of the public can be difficult. There may be distrust and mixed signals all along the way. But the change in the law in 2007 to codify the role of FOIA Public Liaisons, and to give them responsibility for resolving disputes, went a long way towards helping to

change the culture from adversarial to cooperative. The FOIA Improvement Act of 2016 will certainly build on that foundation. For example, I believe that the requirement for agencies to inform requesters that they have the right to seek assistance from the FOIA Public Liaison and OGIS at several stages will have a positive impact for agencies and requesters alike.

3. In your testimony, you mention the “perennial and vexing problems of over-classification and slow declassification,” which keeps historically important records in the dark.
 - a. What recommendations do you have for this Committee to better address these issues? Where do you recommend that we focus our attention to try and get more historically important information into the hands of the American people?

Answer:

The [Public Interest Declassification Board](#) is the best resource I know for recommendations to address these problems. For example, the PIDB recently released an excellent white paper, “The Importance of Technology in Classification and Declassification.”

4. Is there anything you wish to add to, or correct for, the record? If so, please take this opportunity to provide any additional remarks or commentary.

Answer:

I want to thank the Committee again for the opportunity to testify about the FOIA Improvement Act of 2016, which I believe will have significant and lasting benefits for the American public.

Submitted by Miriam Nisbet, mmnisbet@me.com
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