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Description of document: Department of Homeland Security (DHS) Meeting Agendas and Meeting Minutes - DHS FOIA Council FOIA Officers Conference Calls, Jan 2019 - Aug 2021

Requested date: 30-August-2021

Release date: 27-September-2024

Posted date: 03-February-2025

Source of document: FOIA Request
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Privacy Office, Mail Stop 0655

September 27, 2024

SENT VIA E-MAIL

Re: 2021-HQFO-01577

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated August 28, 2021. You are seeking a copy of the agendas and meeting minutes (meeting notes) from each FOIA Officer's Conference Call of the DHS FOIA Council, from January 1, 2019, through August 30, 2021.

This office received your request on, August 30, 2021.

A search of the DHS Privacy Office for documents responsive to your request produced a total of 28 pages. I have considered the foreseeable harm standard when reviewing the record set and have applied the FOIA exemptions as required by the statute and the Attorney General's guidance. Of those pages, I have determined that 14 pages of the records are releasable in their entirety and 14 pages are withheld in part pursuant to Title 5 U.S.C. § 552 (b)(5), (b)(7) and (b)(7)(C), FOIA Exemptions 5, 6, and 7(C).

Enclosed are 28 pages with certain information withheld as described below:

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I determined that portions of the responsive documents qualify for protection under the:

- **Deliberative Process Privilege**

The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the

expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. *The types of documents and/or information that we have withheld may consist of birth certificates, naturalization certificates, driver license, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal.* The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

Pursuant to DHS Instruction 262-11-004, FOIA Officers at DHS have been instructed to withhold personally identifiable information (PII) and sensitive personally identifiable information (SPII) of DHS personnel unless a determination is made that the disclosure does not raise security or privacy concerns, or if those concerns are outweighed by any public interest in that information. [This policy is available online.](#) Under this policy, the names of senior leaders, spokespersons, and political appointees are generally releasable. With respect to this FOIA request, DHS may have applied FOIA Exemption 6 to protect PII of DHS employees, including names and contact information. To the extent that has DHS withheld employee PII within these records, it has been determined that the employee(s) has/have substantial and legitimate privacy interests and that these interests are not outweighed by any public interest in the operations of the Department.

Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Privacy Office, Attn: FOIA Appeals, U.S. Department of Homeland Security, 2707 Martin Luther King Jr. Avenue, SE, Mail Stop 0655, Washington, D.C. 20528-0655, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.5(e)(2). Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at www.dhs.gov/foia.

Provisions of FOIA allow DHS to charge for processing fees, up to \$25, unless you seek a waiver of fees. In this instance, because the cost is below the \$25 minimum, there is no charge.

You may contact the DHS FOIA Public Liaison at 202-343-1743 for any further assistance and to discuss any aspect of your request. You may also contact OGIS at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you need to contact our office again about this matter, please refer to **2021-HQFO-01577**. This office can be reached at FOIA@HQ.DHS.GOV or call 202-343-1743 or toll free 1-866-431-0486.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory Bridges". The signature is fluid and cursive, with the first name "Gregory" and last name "Bridges" clearly distinguishable.

Gregory Bridges
Director, Disclosure
Department of Homeland Security, Privacy Office

Enclosure: Responsive documents, 28 pages



DHS FOIA Council Meeting

October 23, 2019

I. Roll Call

- | | |
|--------------------------------|--------------------------------|
| <input type="checkbox"/> CBP | <input type="checkbox"/> OIG |
| <input type="checkbox"/> CISA | <input type="checkbox"/> PRIV |
| <input type="checkbox"/> CRCL | <input type="checkbox"/> S&T |
| <input type="checkbox"/> FEMA | <input type="checkbox"/> TSA |
| <input type="checkbox"/> FLETC | <input type="checkbox"/> USCG |
| <input type="checkbox"/> I&A | <input type="checkbox"/> USCIS |
| <input type="checkbox"/> ICE | <input type="checkbox"/> USSS |
| <input type="checkbox"/> OBIM | |

II. Deputy Chief FOIA Officer

- a. House Homeland Security Oversight, Management and Accountability Subcommittee Hearing
- b. Employee Personally Identifiable Information Withholding Policy
- c. Requests for Non-Responsive Records
- d. Status of HQ FOIA Centralization Efforts
- e. Annual and Chief FOIA Officer Report Submissions

III. FOIA Council Committee Updates

- a. Backlog – Kevin Tyrrell, Chair
- b. Employee Development – Jill Eggleston, Chair
- c. Policy – Bradley White, Chair
- d. Technology – Katrina Pavlik-Keenan, Chair

IV. Open Discussion

V. Conclusion

VI. Next Meeting (in person) scheduled for September



DHS FOIA Council Meeting

Date: June 24, 2020

Location: Teams Meeting

I. Roll Call, Amy Bennett

- CBP - (b)(6),(b)(7)(C)
- CRCL - Rose
- FEMA - X
- FLETC
- I&A - X
- ICE - Fernando
- PRIV – Dena, James, Eric, Amy, Jimmy
- S&T
- TSA
- USCG - Kate
- USCIS – Jill Elliot
- USSS - Kevin

II. Chief FOIA Officer Updates, Dena Kozanas

- a. Meetings of Note
- b. Delegation
- c. PRIV Hiring
- d. PRIV Launch on Twitter – transparency; outside engagement -
- e. FOIA Council Survey Results – subcommittees – similar to Privacy – have plenty of work, will use more as-hoc to accomplish particular tasks; engagement – seem to be hitting target, is a priority; specific suggestions: notice and opt; on engagement – aware of burden – useful for us and part of her vision – goal is to make PRIV a partner that helps Components meet operational needs; also detail assignment or staff exchanges – committed to this to improve staffing – reach out to us if there are any opportunities – work as one FOIA family

III. Deputy Chief FOIA Officer Updates, James Holzer

- a. Compliance Instructions – Consultations and Employee Personally Identifiable Information (PII) – now delegation done, turning back to instructions; previously informally circulated – adjudicated Component and OGC comments – going through 221 – another oppty. Consults went forward and running – staggering review with PII – will follow similar pattern going forward – ensures meets your needs and our operations
- b. Departmental Backlog Reduction Plan Updates - continued Congressional interest – timelines and resources – key goal is to improve value to the Dept; will work with you to ensure – 4 key planks: service – metrics and 1 pager updates – ensure capturing work you do and the resources you need – will re-evaluate at the end of this year. Centralizing – allow employees to focus on mission-critical work; USCIS- ICE agreement – thanks to Jill and Fernando – this agreement is model for future; leveraging our resources – CBP complete, working with ICE, also helping TSA –



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happy to talk about how we can help; investments – resources page; quarterly training sessions; build on Sunshine Week; publish newsletter – big tickets: model PDS and performance plans – career path through the Dept – work with you; modernizing FOIA IT – long-term project – recognize USCIS investment; appreciate working group identifying requirements – working to find a contract – making progress on PAL and interoperability; future: shared services – would like to explore video and other forms of media – understand ICE is getting this capability; policies – will continue to work to identify opptys

- c. National FOIA Portal Interoperability Update – DHS pays for the majority of maintenance and development but does not benefit since not connected; DOJ asked for an update – DOJ and OMB memo requires FY 2021 – generates high interest from public and Congress – missing deadline will bring unwanted attention – if you will noit meet deadline, let us know
- d. COVID-19 Requests – PRIV coordinatimgg – 310 – stats – # of open taskers – Eric following up – encourage Components to return records, let us know if you have issues; adding released records to our website
- e. Protest-related Requests – not coordinatimgg, but are reviewing before it goes through one day process – Jimmy sent out a template for Components to use

IV. Chief of Staff (A), Roman Jankowski

- a. Public Access Link – IT working on final aspects of building out server; we expect the software to be up by mid-July – will enable requesters and allow us to send records directly – will be sending out invites to FOIA staff to walk through how it works, provide training; once PAL up, will work on interoperability – PAL allows but will have to work with IT on access issues and software updates

V. Open Discussion

CBP – none; James [redacted] (b)(5)

CRCL – none

ICE – video redaction software – [redacted] (b)(5)

[redacted] (b)(5)

PRIV – if have issues with the COVID taskers, please let us know so we can try to negotiate – expect litigation to continue to grow – thanks to Fernando for feedback on our ICE cases;

USCG – [redacted] (b)(5)

[redacted] (b)(5)

USCIS – [redacted] (b)(5)

[redacted] (b)(5)

USSS -



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VI. Conclusion



MEETING MINUTES DHS FOIA Council

The DHS FOIA Council convened at 10:00 a.m. on Wednesday, October 21, 2020, over Microsoft Teams.

Council Members Present:

- Dena Kozanas, Co-Chair, Privacy Office (PRIV)
- James Holzer, Co-Chair, PRIV
- (b)(6),(b)(7)(C) U.S. Customs and Border Protection (CBP)
- Rosemary Law, Office for Civil Rights and Civil Liberties (CRCL)
- Greg Bridges, Federal Emergency Management Administration (FEMA)
- Teresa Taylor, Cybersecurity and Infrastructure Security Agency (I&A)
- Jimmy Wolfrey, PRIV
- Teri Miller, Transportation Security Administration (TSA)
- Kathleen Claffie, United States Coast Guard (USCG)
- Jill Eggleston, U.S. Citizenship and Immigration Services (USCIS)

Members Not Present:

- (b)(6),(b)(7)(C) Federal Law Enforcement Training Centers (FLETC)
- Fernando Pinero, U.S. Immigration and Customs Enforcement (ICE)
- Erica Talley, Science and Technology Directorate (S&T)
- Kevin Tyrrell, United States Secret Service (USSS)

Additional Participants:

- Alex Wood, Office of General Counsel (OGC)
- Amy Bennett, PRIV
- Roman Jankowski, PRIV
- Bradley White, PRIV
- Eric Neuschaefer, PRIV
- (b)(6) TSA

Chief Privacy Officer/Chief FOIA Officer Updates

Ms. Kozanas kicked off the meeting by noting that her priority as the DHS Chief FOIA Officer is to ensure that PRIV is set up and properly organized to provide the Department and Component FOIA Officers with good customer service. As part of this work, she said, she recently put into place an updated organizational structure for PRIV. She explained that as part of the re-structuring the Deputy Chief FOIA Officer will now have two Senior Directors as direct reports, which mirrors the structure of the Privacy Division and will help ensure that the two Divisions are given equal importance and treated equitably. She added that she has also added a position as Senior Advisor to the Deputy Chief FOIA Officer to ensure that the Deputy is able to focus on management issues rather than serving as a subject matter expert on FOIA issues. She also reported that the two policy-focused teams in the Privacy Division were merged in the re-organization and that the change was made to ensure that PRIV has a deep bench of expertise to assist Components with issues and to eliminate single points of failure in the past organizational structure. Finally, she added that to further strengthen PRIV she hopes to soon announce chosen candidates for some of the office's key vacancies and that the management team is reviewing all



of PRIV's position descriptions, performance plans, and job titles to ensure that PRIV is operating at its peak.

Ms. Kozanas then gave an update on the memorandum she is providing the Acting Secretary regarding the Department's FOIA operations and backlog at the end of the Fiscal Year (FY) 2020. She began by noting that while the Department often is criticized for having the biggest backlog in the Federal government, DHS also has some of the biggest successes, including the large number of requests processed each year. She reported that in FY 2020, DHS received and processed about 400,000 requests, and that DHS ended the reporting period with a backlog of about 38,000 requests – an increase compared to FY 2019. She added that there were about 45,000 requests not logged in at the end of FY 2020 due to COVID-19 restrictions and technical limitations of DHS's primary FOIA processing solution. She said that her memorandum will provide the Acting Secretary with a snapshot of operations and highlight recent efforts to consolidate operations, which promotes efficiency and consistency in FOIA processing and PRIV's efforts to assist Components with their backlog reduction efforts. She also said that this year her memorandum will highlight the increasing litigation workload and note that additional support from the Office of General Counsel (OGC) may be necessary to meet increases in demand.

Ms. Kozanas wrapped up her updates by discussing progress on the Department's Backlog Reduction Plan. She noted that the plan was published about a week before her arrival at PRIV and thanked James and the Component FOIA Officers for all of their contributions to the strategy. She noted that she is particularly hopeful that the Department can leverage technology to improve and streamline the process. She noted PRIV's effort over the last year to centralize FOIA operations and noted the gains in efficiency and consistency. She also reported that a big ticket item accomplished over the last year was the re-establishment of the agreement enabling USCIS to process ICE equities in Alien Files, and thanked Mr. Pinero and Ms. Eggleston for their work to come to an agreement that promotes the efficient use of resources, improves coordination of future backlog reduction efforts, and improves service to the public. She ended by encouraging Component FOIA Officers to share any ideas with her about how to improve DHS FOIA operations.

Deputy Chief FOIA Officer Updates

Dr. Holzer began by thanking the Component FOIA Officers for their comments and suggestions on the new requirements for Component FOIA Officer performance plans. He reported that this feedback was incorporated and noted that this will be an iterative process. He also added that the Community of Interest (COI) will weigh in on the performance measures, and reported that they expect to send out a notice and agenda for the first meeting of the COI next week.

Dr. Holzer said that just before the end of the Fiscal Year PRIV launched the single sign on (SSO) capability and the Public Access Link (PAL) for all Components participating in PRIV's instance of FOIAXpress. He noted that these upgrades to the system improve the security of operations and substantially cut down on the administrative work associated with FOIA. He added that PRIV is also beginning to test interoperability with the National FOIA Portal via API using PAL, and reminded participants that all Components with electronic tracking systems are required to be compatible via API with the Portal by 2023.

Dr. Holzer then provided an update on PRIV's work on requests related to COVID-19 and civil unrest. He said that PRIV has logged in about 400 requests and highlighted that there are pending search taskers at Components for about half of these requests. He let Component FOIA Officers know that they should reach out to him if they need assistance getting records back from any program offices. He added that PRIV has also received about 100 requests and referrals related to civil unrest. He then stated that he expects the number of lawsuits related to both types



of requests to increase and that additional resources are likely to be directed to litigation to meet increases in demand.

Dr. Holzer ended his updates by reminding Component FOIA Officers of the need to provide PRIV with information to enable the compilation of the Annual FOIA Report and the Chief FOIA Report. He outlined the steps that Component Officers need to take to prepare data for the Annual Report and the deadlines to submit drafts. He also noted that the Department of Justice has released guidelines for the 2021 Chief FOIA Officer Report and that members should expect to receive an email detailing the information they must submit to PRIV.

Office of Personnel Management (OPM) Data Release Policy and DHS FOIA Processing

Mr. Wood began by outlining his update and explaining the sources and data included in OPM’s Enterprise Human Resources Integration (EHRI) database. He then explained OPM’s policy governing the release of civilian EHRI data in response to FOIA requests, saying that some data – including name, duty station, and salary – are generally released while other, more personal data, is withheld. He then added that OPM’s policy was updated to require that requests for data about Department of Defense (DOD) employees be referred to DOD and that additional information about employees of that work for agencies designated as “law enforcement/ sensitive” would be withheld.

Mr. Wood then told members that in the wake of specific threats to DHS employees due to controversial law enforcement responsibilities, DHS leadership decided that its employees needed additional protections. He said that DHS leadership decided to request that OPM designate all DHS employees as “law enforcement/ sensitive” and that ICE and CBP submitted additional requests to OPM to designate their employees as such. He explained that OPM rejected DHS’ request for a blanket designation, but granted CBP and ICE’s request. He also added that OPM’s response to ICE noted that the designation can change over time. OPM’s policy was updated in August 2020 to provide additional protections for ICE and CBP employees.

With respect to FOIA requests to DHS, Mr. Wood explained that FOIA analysts are still required to conduct the case-by-case public interest balancing test required under exemption 6 with respect to employee data. He recommended that (b)(5)

(b)(5)

(b)(5)

Mr. Wood ended his presentation by providing tips on the application of exemption 6 to employee information. He stressed that analysts are (b)(5)

(b)(5) He also said that analysts should (b)(5)

(b)(5)



Ms. Claffie from USCG requested [REDACTED] (b)(5) and Mr. Wood responded that he would give PRIV a copy of his presentation notes to share with the group.

Ms. Eggleston asked how the content of the briefing fits in with the employee personally identifiable information withholding policy proposed by PRIV. Dr. Holzer [REDACTED] (b)(5)

(b)(5)

Component Updates

[REDACTED] (b)(6),(b)(7)(C) from CBP reported that an issue with FOIAOnline prevented CBP from closing out several requests at the end of FY 2020. She also said that CBP [REDACTED] (b)(5) [REDACTED] (b)(5)

Mr. Bridges of FEMA said that their backlog at the end of FY 2020 is about 324 requests, which is lower than its initial projections.

[REDACTED] (b)(6) of I&A responded to a question from Mr. Holzer that she will follow up with her leadership regarding the status of a Memorandum of Understanding (MOU) concerning PRIV processing on behalf of I&A.

Ms. Miller of TSA shared that TSA succeeded in closing out all 2014 and 2015 requests before the end of FY 2020.

Ms. Claffie from USCG reported that they are already working on closing out their ten oldest requests and cleaning up their data. She also said that USCG is recruiting a new GS 13/14 FOIA analyst and that she will circulate the job announcement once it is released. She also expressed an interest in receiving a copy of Ms. Kozanas' memorandum to the Acting Secretary on FY 2020 FOIA performance.

Ms. Eggleston of USCIS said she would update Dr. Holzer regarding USCIS' experience with requester electronic submission. She also said USCIS is working to give ICE access to RAILS, which will give ICE additional insight into outstanding requests for Alien Files from ICE field locations. Finally, she said that USCIS is recruiting 25 new positions related to USCIS's processing of ICE records in Alien Files and added that these positions will be remote.

Closing

The meeting adjourned at 11:00 am.



Homeland Security

DHS FOIA Council Meeting Minutes

October 23, 2019

The Department of Homeland Security (DHS) Freedom of Information Act (FOIA) Council convened at 10:00 a.m. on Wednesday, October 23, 2019, in a conference room located at 650 Massachusetts Avenue, NW, Washington, DC 20001.

Council members present:

- Acting Co-Chair: DHS Privacy, Senior Director, FOIA Litigation, Appeals and Policy, Bradley White
- U.S. Customs and Border Protection (CBP): (b)(6),(b)(7)(C)
- Cybersecurity and Infrastructure Security Agency (CISA): (b)(6)
- Office of Civil Rights and Civil Liberties (CRCL): Rose Bird
- Office of Biometric Identity Management (OBIM): Aeron McGraw
- Office of Inspector General (OIG): (b)(6) on behalf of Avery Roselle
- Office of General Counsel: (b)(6)
- United States Coast Guard (USCG): (b)(6), on behalf of Robert Burns
- U.S. Citizenship and Immigration Services (USCIS): Jill Eggleston
- United States Secret Service: Kevin Tyrrell

Additional Participants:

- Amy Bennett, Council Secretary

Deputy Chief FOIA Officer Updates

House Homeland Security Oversight, Management, and Accountability Subcommittee

Mr. White reported that on October 17, 2019, Dr. James Holzer testified before the House Homeland Security Oversight, Management and Accountability Subcommittee regarding FOIA operations at the Department. He added that Tammy Meckley from USCIS, the Director of the Office of Government Information Services (OGIS), and a witness from the Government Accountability Office (GAO) also testified.

Mr. White explained that Dr. Holzer's testimony focused primarily on the DHS Privacy Office's oversight of DHS FOIA programs and the office's role in improving service to requesters and the agency, and that Dr. Holzer spoke about the office's work to create a sound regulatory framework, invest in the DHS FOIA workforce, and modernize the FOIA IT infrastructure. Mr. White continued to say that Ms. Meckley spoke to the development and deployment of FIRST, and the process improvements USCIS is seeing as a result.

Mr. White reported that there was a fair amount of discussion during the question portion of the hearing about how best to handle referrals in A-files, and that the DHS Privacy Office understands the processing of A-files is an ongoing concern for U.S. Immigration and Customs Enforcement (ICE), CBP, USCIS and the Privacy Office. He added that ICE suggested setting up a Department-led working group to flesh out these concerns and see if DHS Components can come to a mutually beneficial agreement that is in line with good government, and that USCIS indicated they are also eager to come to a solution.

Employee Personally Identifiable Information Withholding Policy

Mr. White noted that all of the Component FOIA Officers should have seen and helped provide comments on the draft Employee Personally Identifiable Information (PII) Withholding Policy. He said that the practical result of the policy is that DHS will be withholding the names of all employees who do not have a public-facing role. He continued to say that the DHS Privacy Office is currently adjudicating comments and will re-circulate the policy through the management directive process.

Mr. White also reported that on a related front, the DHS Privacy Office continues to have discussions with the Office of Personnel Management (OPM) regarding the regular release of employee employment information. He said that [REDACTED] (b)(5)

[REDACTED] (b)(5)

Requests for Nonresponsive Records

Mr. White noted that in two ongoing litigation cases plaintiffs have recently submitted a request for any records that DHS located in its initial search but determined were non-responsive to the request. Mr. White explained that the DHS Privacy Office is reaching out to the Department of Justice Office of Information Policy regarding guidance for handling these kinds of requests. Mr. White also explained that the DHS Privacy Office will discuss the issue with Records Management, and look at how the tools DHS is using to conduct Electronic Document Review (EDR) store records.

Status of HQ FOIA Centralization Efforts

Mr. White reported that OBIM FOIA operations have been partially realigned to the DHS Privacy Office and that complete alignment will occur once a budget is passed. He added that the DHS Privacy Office also signed an agreement with Science and Technology Directorate (S&T) to further centralize the FOIA operations, and is further centralizing FOIA at headquarters through pursuing Service Level Agreements and Memoranda of Understanding with the Cybersecurity and Infrastructure Security Agency (CISA), Office of Intelligence and Analysis (I&A) and Federal Protective Service (FPS). He continued to note that centralizing these

operations will allow for greater efficiencies and gives us an opportunity to build career paths within the DHS Privacy Office.

Annual and Chief FOIA Officer Report Submissions

Mr. White stated that Component FOIA Officers should have all received directions for the submission of material for the Chief FOIA Officer report. He added that Components not on the enterprise-wide FOIA tracking and processing solution should have received directions from their submissions, and that, similar to last year, the DHS Privacy Office will prepare the reports from Components on the enterprise-wide solution and provide Component FOIA Officers an opportunity to review and weigh in on these reports.

FOIA Council Committee Updates

The Chairs of the Backlog, Employee Engagement, and Policy Committees reported that they had suspended discussions to focus on end of year backlog reduction efforts, and that they would re-convene the Committees soon. Ms. Bennett said she would follow up with ICE to see if the new FOIA Officer would like to continue to chair the Technology Committee.

Open Discussion

Retirement at USCG

Mr. Aaron reported that Gaston Brewer, who has been with USCG FOIA for several years, has announced he is retiring soon.

Class Action Certification in DHS FOIA Litigation

Mr. White noted that a Court recently granted class certification in a lawsuit challenging what litigants charge is a pattern and practice on the part of DHS of not following FOIA's response deadlines when processing requests for Alien files (A-files). Ms. Eggleston reported that they are coordinating with the Assistant U.S. Attorney to discuss the possibility of appealing the decision to grant class certification. Ms. Eggleston noted that the suit also challenges the A-file referral process. Mr. Tyrrell noted that CBP had been involved in similar FOIA litigation involving a class action, but that the case had been settled. Mr. Tyrrell also noted that USSS is facing a pattern and practice lawsuit filed by Judicial Watch, and [REDACTED] (b)(5)

[REDACTED] (b)(5)

DHS Day on the Hill

Ms. Bennett reported that the DHS Privacy Office is participating in the October 24, 2019 DHS Day on the Hill. She said that the event will be in the Rayburn House Office Building Foyer from 11 am to 2 pm, and that the DHS Privacy Office will have a table with several copies of our most recent FOIA reports. She added that FOIA staff will also be at the table to discuss the DHS

FOIA program with Members and staff, and invited any Component FOIA Officers to visit the table and help DHS Privacy spread the word about the DHS FOIA program.

The Council adjourned. The next FOIA Council Meeting will be announced shortly.



Homeland Security

DHS FOIA Council Meeting Minutes

March 15, 2019

The Department of Homeland Security (DHS) Freedom of Information Act (FOIA) Council convened at 10:00 a.m. on Friday, March 15, 2019, in the 4th floor conference room located at 650 Massachusetts Avenue, NW, Washington, DC 20001.

Council members present:

- Chair: Acting Chief FOIA Officer Jonathan Cantor
- Co-Chair: Deputy Chief FOIA Officer James Holzer
- U.S. Customs and Border Protection (CBP): (b)(6),(b)(7)(C)
- Cybersecurity and Infrastructure Security Agency (CISA): (b)(6) on behalf of (b)(6)
- Office of Civil Rights and Civil Liberties (CRCL): Bradley White
- Federal Emergency Management Agency (FEMA): Maile Arthur, on behalf of Bill Holzerland
- U.S. Immigration and Customs Enforcement (ICE): Catrina Pavlik-Keenan
- DHS Privacy Office (PRIV): Jimmy Wolfrey
- Science and Technology Directorate (S&T): Erica Talley
- Transportation Security Administration (TSA): Teri Miller
- U.S. Citizenship and Immigration Services (USCIS): Jill Eggleston
- United States Secret Service (USSS): Kevin Tyrrell

Additional Participants:

- Amy Bennett, Council Secretary
- Roman Jankowski, DHS Privacy Office Senior Advisor
- Ruby Miller, DHS Privacy Office Chief of Staff

Introductory Remarks and Introductions:

Jonathan Cantor introduced himself and explained that he took over as the Acting Chief FOIA Officer after Sam Kaplan accepted another position in the Department in February 2019. Mr. Cantor added that he has served as the Acting Chief FOIA Officer on previous occasions, and that his background includes work both in FOIA and privacy. He added that he instituted a similar Privacy Council in 2018 and that the Privacy Council has been useful for gathering Component perspectives and enabling strategic discussions. Mr. Cantor excused himself to attend another meeting.

James Holzer then introduced Ruby Miller, PRIV Chief of Staff. He said that Ms. Miller previously served as the Acting Chief of Staff for PRIV, and that she has an extensive background in management.

Before beginning discussion, Mr. Holzer reminded Council members that Components can leverage PRIV's existing contract for processing services. Components must pay for cases to be processed.

Open Discussion

Council Charter

Mr. Holzer explained that the Council is an outgrowth of the monthly FOIA Officer calls, and that purpose of the creation and formalization of the Council is to elevate the discussion and make programmatic decisions, and to allow Component FOIA Officers to provide input on policy guidance and management advice. He added that the creation of FOIA as a line of business in the Department is an initiative pushed forward by former-Deputy Secretary Elaine Duke and is similar to other Departmental efforts. He also said that it is critical to have Component input and buy-in and participation on the council because each Component has an important impact on the size and/or age of the agency's FOIA backlog and day-to-day operations.

Mr. Holzer continued to note that the Office of Inspector General (OIG) has declined to participate in the Council to ensure its independence. He said that the meetings will be held quarterly and that in-person attendance is mandatory, though we will make allowances for FOIA Officers who are not located in Washington, D.C., and the DHS Privacy Office will work with Components to determine the best day to hold the meeting. He also explained that the agenda will be provided ahead of each meeting and that the Secretary would circulate minutes after each meeting.

Mr. Holzer explained that the Council Charter enables the creation of ad hoc committees, and that he is looking for Council members to be Committee Chairs. The Committees will be expected to provide reports and recommendations to the full Council that can be considered and voted on. Finally, Mr. Holzer explained while the Council Charter does allow FOIA Officers to send designees, FOIA Officers should make every effort to attend. He also added that the Council Charter provides that the Chair and Co-Chair do not have to consider feedback provided after the meeting.

Big Picture: Fixing FOIA at DHS

Mr. Holzer challenged Council members to think broadly and strategically about possible changes to the DHS FOIA program to improve implementation of the statute. He noted that an obvious starting point is to address open Government Accountability (GAO) recommendations:

The first open recommendation, included in GAO 15-82, is to improve reporting of direct costs. Mr. Holzer noted that Components have improved reporting and are capturing additional costs of the program, which is part of why the overall cost that DHS reports to the Department of Justice has increased. He continued to add that many Components do not control their budget or have much insight into what they receive each year. Mr. Holzer said that his oversight of costs at the DHS Privacy Office was improved by the creation of a line item for FOIA in the budget. Catrina Pavlik-Keenan noted that the ICE FOIA program recently lost its line item in the budget. The Council then discussed the risks and benefits associated with having FOIA consolidated with other types of offices.

The second recommendation discussed, also included in 15-82, is to determine the viability of re-establishing a service-level agreement between USCIS and ICE regarding the processing of Alien files (A-files). Mr. Holzer noted that the processing of A-files continues to be an issue each year between several Components, and the impact on staff of constantly trying to drive down the backlog at the end of the Fiscal Year. Council members also discussed the continued increase in demand on FOIA offices and issues with trying to control the backlog with contact staff, and noted that the kind of employee FOIA offices need has changed a great deal in the last decade.

The Council then discussed the last open recommendation from GAO 15-82: ensuring that the tracking systems used by USCIS and USCG are compliant with Section 508 of the Rehabilitation Act. Mr. Holzer noted that the USCG system should now be compatible and asked Jill Eggleston to please follow up regarding the status of the processing system that is rolling out at USCIS at the end of the month, FIRST.

The last open GAO recommendation discussed was that the Secretary develop a plan that fully addresses best practices with regards to backlog reduction. Mr. Holzer thanked the Council members for investing time into completing the Department of Justice FOIA Self-Assessments, which the DHS Privacy Office is using to develop the backlog plan for the Secretary. He added that the self-assessments did surface shared challenges for the Components, but they are mostly low-hanging fruit and that there are more systemic issues for DHS to address in order to control the backlog.

Roadmap Forward

Mr. Holzer outlined and the Council discussed issues that the Council should address.

The Council began its discussion by talking about policy updates or guidance that would be helpful for components. Mr. Holzer briefly described recent policies issued by the DHS Privacy Office and added that the DHS Privacy Office is developing guidance on consultations with the White House and a delegation of authority. Mr. Holzer explained the delegation is intended in part to help clarify and standardize the roles and responsibilities of Component FOIA Officers.

The Council also discussed varying risk tolerance at each Component, and how to determine proper staffing for each FOIA office.

The Council then discussed how to use technology on the front and backend to improve disclosure practices; this includes efforts to ensure disclosure is a consideration as DHS stands up new systems, and the need to easily share documents between Component FOIA offices. The Council also discussed the Request for Information (RFI) that the DHS Privacy Office recently issues regarding an enterprise-wide FOIA processing and tracking solution and the capabilities, including computer assisted review and deduplication that would benefit all Components.

The Council briefly discussed the need for updated FOIA response templates to ensure consistency and incorporate Plain Language before moving on to discuss DHS FOIA performance metrics and performance plans for staff. Mr. Holzer noted that the DHS FOIA performance metrics are intended to help establish a reasonable steady-state for the agency, and provide Component FOIA Officers with a tool to help advocate for needed resources. He added that the metrics will be included in the Secretary's backlog reduction plan. He also noted that the DHS Privacy Office is currently collecting Component performance plans for FOIA employees, and that our goal should be to standardize the structure of these plans. The Council also discussed the possibility of creating a mentorship or rotational program to recruit and retain talented employees within the DHS FOIA program.

The Council then moved on to discuss the need for additional FOIA training. Mr. Holzer said DHS needs more practical training resources that help employees understand how FOIA is implemented at DHS, and asked Components to send him any training products that may be useful to creating a collection of DHS-specific FOIA training products. Mr. Holzer also noted that the training products, along with performance plans and other resources discussed during today's meeting would be added to the online FOIA Community of Practice on DHSconnect.

Finally, the Council discussed possibilities for improving the DHS FOIA awards program.

Next Steps

The Council wrapped up the meeting by discussing the creation of working groups or ad hoc committees to address:

- **Technology** – interoperability, creation of systems and computer-assisted review
- **DHS FOIA Employee Development** – training, performance plans, community of practice and awards program
- **Policy** – Policy and templates
- **Backlog** – Backlog plan and DHS FOIA performance metrics

Mr. Holzer asked Council members to volunteer to lead the committees, and to think about employees from their staff that would be good additions to a committee.

The Council adjourned. The next FOIA Council Meeting will be held from 10:00 a.m. to 12:00 p.m. on June 7, 2019 in the 4th Floor conference room at 650 Massachusetts Avenue, NW.



MEETING MINUTES DHS FOIA Council

The DHS FOIA Council convened at 10:00 a.m. on Wednesday, June 24, 2020, over Microsoft Teams.

Council Members Present:

- Dena Kozanas, Co-Chair, FOIA Office (PRIV)
- James Holzer, Co-Chair, PRIV
- (b)(6), (b)(7)(C) U.S. Customs and Border Protection (CBP)
- Rose Bird, Office of Civil Rights and Civil Liberties (CRCL)
- Fernando Pinero, U.S. Immigration and Customs Enforcement (ICE)
- Jimmy Wolfrey, PRIV
- Kathleen Claffie, United States Coast Guard (USCG)
- Jill Eggleston, U.S. Citizenship and Immigration Services (USCIS)
- Kevin Tyrrell, United States Secret Service (USSS)

Members Not Present:

- Bill Holzerland, Federal Emergency Management Administration (FEMA)
- Alicia Mikuta, Federal Law Enforcement Training Centers (FLETC)
- Teresa Taylor, Cybersecurity and Infrastructure Security Agency (I&A)
- Erica Talley, Science and Technology Directorate (S&T)
- Teri Miller, Transportation Security Administration (TSA)

Additional Participants:

- Amy Bennett, PRIV
- Roman Jankowski, PRIV
- Eric Neuschaefer, PRIV
- Elliot Viker, USCIS

Chief Privacy Officer/Chief FOIA Officer Updates

Ms. Kozanas began the meeting by providing members with an update regarding relevant meetings she has had since the last Council meeting. She noted that one of her goals for her first 100 days in office is to put forward and share a vision for PRIV. She explained that she has accomplished this during meetings with several Component heads, Component FOIA Officers, and with her staff. She continued to explain that part of her vision is to create a culture where PRIV is viewed as a partner that help the agency complete its mission. She added that she has also met with Acting Secretary Wolf and has met a few times with the Senior Official Performing the Duties of the Deputy Secretary, Ken Cuccinelli, to explain her vision and ensure it aligns with their priorities for the Department.

With respect to external engagement, Ms. Kozanas said that she has met with House Homeland Security Chairman Bennie Thompson and with the House Homeland Security Oversight, Management and Accountability Subcommittee Chairwoman Xochitl Torres Small. She reported that during both meetings she was asked about DHS's FOIA operations and our backlog. She added that a meeting with the



Chairman of the Senate Homeland Security Committee, Senator Ron Johnson, is scheduled for later in the afternoon on June 24, and noted that this is the first meeting between the DHS Chief FOIA Officer and the the Chair of the Senate Homeland Security Committee in a number of years.

Ms. Kozanas then noted that the Acting Secretary signed an updated delegation for PRIV. She explained that previously PRIV assumed authorities that were outlined in statute or had limited authorities. She noted that the delegation was circulated to Council members and encouraged members to reach out if they have any specific questions. She continued to note that while Council members may not have agreed with all of the authorities in the delegation, having a comprehensive delegation will help FOIA offices throughout the Department complete their work.

Ms. Kozanas then announced a number of vacancies in PRIV, including the Deputy Chief Privacy Officer (DCPO), a Senior Director for Compliance, a GS-12 position on the Compliance Team, a GS 11/12 position on the Policy Team, Several position in the FOIA Division, and a GS-14 Public Affairs position. She also announced that PRIV launched a Twitter handle and explained that she is using the feed to provide transparency to PRIV's operations. She noted that she typically sends out tweets about FOIA operations on Fridays.

Ms. Kozanas ended her presentation by providing Council members with an overview of the results of a recent survey they were sent by PRIV. She explained that the survey was developed in part to help ensure PRIV is providing Council members with good customer service. She noted that Council members report being generally pleased with the Council's operations and added that the surveys also suggest that PRIV can do better. She said that as suggested by the results, Council members will be provided appropriate advance notice of meeting, and members will be able to provide input to the agenda. On meeting objectives, she reported that the lowest scores regarded the usefulness of subcommittees. She stated that she understands the subcommittees did not produce much during the last year and noted that many people are too busy to add extra meetings to their schedule. She said that these results were similar to results of a survey PRIV sent to DHS Privacy Council members and reported that moving forward subcommittees would be used ad-hoc for particular projects. She then added that PRIV had fairly strong scores with respect to our engagement and re-iterated her commitment to making PRIV a partner that assists members. Finally, she stated that the surveys included recommendations that PRIV needs to be more aware of the burden they place on Components and the creation of new detail of employee trade opportunities and reported that both of the suggestions are in line with her vision for PRIV.

Deputy Chief FOIA Officer Updates

Dr. Holzer began by letting members know that since the delegation is now signed, PRIV is turning its attention back to developing and issuing DHS-specific FOIA policies. He said that PRIV intends to go through the Department's formal 221 concurrence process for policies on consultations and referrals and the treatment of employee personally identifiable information (PII). He reminded members that these policies were circulated to Component FOIA Officers last year and said that PRIV has now adjudicated feedback from FOIA Officers and from the Office of General Counsel. The consultations and referrals policy is being reviewed by the Management Directive and will be sent to Components in a few weeks. He said that once PRIV receives comments on the consultation and referral policy, it will then send out the employee PII policy. He added that moving forward, PRIV will follow a similar pattern of collecting informal feedback before going through concurrence to help ensure FOIA policies meet Component needs and support operations.

Dr. Holzer then provided the group with a progress report on the Departmental FOIA Backlog Reduction Plan. He said that PRIV continues to see a high degree of interest in the report from Members of Congress and that he has been asked to update Congressional Committees on the plan's timelines and any



resources needed. He began by reminding members that the plan has four key planks: improving service to the Department and the public; investing in FOIA employees; modernizing the FOIA Information Technology (IT) infrastructure; and strengthening the regulatory and policy environment. On improving service, he noted that one big ticket item was the development of Component FOIA performance metrics and updates to the Monthly one-pager to track the metrics. He added that PRIV will re-evaluate and update the metrics at the end of the year to ensure that they capture the work the Component FOIA Offices do and the resources needed. He also noted that PRIV has centralized processing to enable program employees to focus efforts on mission-critical activities, and thanked Ms. Eggleston and Mr. Pinero for their work to re-establish an agreement that streamlines the processing of Alien Files (A-Files), calling the agreement a model for future Component cooperation. Additionally, he reported that PRIV continues to leverage its resources to support Component backlog reduction efforts at CBP, ICE and TSA, and said that he is always happy to discuss how PRIV can assist other offices. With respect to investing in employees, he noted that PRIV has created the DHS FOIA Employees resource page for easy access to DHS-specific training materials, launched a DHS FOIA Employee Newsletter, hosted training sessions for Components on a quarterly basis, and built on the Sunshine Week training and awards program. He added that PRIV still has a number of big-ticket items planned in this vein, including creating model position descriptions and performance plans, and expanding on the Government Information Specialist career series to build a FOIA career path across the Department. On modernizing the FOIA IT infrastructure, he recognized USCIS's investment in a new processing solution that significantly increased the efficiency of processing A-Files and thanked the members of the Technology Working Group for identifying scalable requirements for a new enterprise-wide system. He then reported that PRIV continues to work with the Office of the Chief Information Officer and procurement staff to purchase a new contract for a solution that fits these requirements. He then noted that in the future PRIV would like to expand the use of shared service. Finally, with respect to the regulatory and policy environment, he said PRIV would continue to work with members to identify opportunities.

Dr. Holzer told the Council that the Department of Justice (DOJ) recently asked PRIV for an update on the Department's efforts to become interoperable with the National FOIA Portal, foia.gov. He reminded members that DOJ and the Office of Management and Budget issued a memorandum requiring all electronic processing solutions to be interoperable with foia.gov using an Application Programming Interface (API) by the end of Fiscal Year (FY) 2021. He added that interoperability continues to be an item of great interest to Congress and in the requester community and that missing the deadline would bring the Department under scrutiny. He asked Components that are not on the enterprise-wide solution to please let PRIV know if they will not meet the deadline.

Dr. Holzer then reported that PRIV continues to coordinate the response to all requests for COVID-related requests. He said that PRIV has logged in 310 requests and referrals, and that 194 of these requests are tasked internally and to the Components for records and 61 requests have been closed. He added that Mr. Neuschaefer is following up regarding open search taskers and encouraged members to let PRIV know if they have issues receiving records. Additionally, he reported that PRIV is adding any COVID-19 related records released under FOIA to a page on its FOIA Library.

Dr. Holzer wrapped up his updates by noting that PRIV is reviewing all responses to requests for material related to the recent protests for Departmental equities before the release goes through the one day notification process. He noted that Mr. Wolfrey sent members a template to report these requests and releases.



Acting Chief of Staff Updates

Mr. Jankowski shared that IT is working on final aspects of building PRIV's server to enable installation of the FOIAXpress Public Access Link (PAL) and that the software should be operational by mid-July. He explained that PAL will enable the public to input requests directly to the enterprise-wide solution. He said that PRIV will provide training to staff on use of PAL, and that once PAL is operational IT will begin to set up interoperability with foia.gov.

Component Updates

(b)(6),(b)(7)(C) from CBP said she is noting to share with the group. Dr. Holzer praised recent significant reductions in the CBP backlog.

Mr. Pinero from ICE reported that they recently purchased video redaction software, and can schedule a demonstration with the vendor of the tool for Components that are looking for solutions. He also noted that the agreement with USCIS is working well and that it is an example of successful cooperation and collaboration.

Mr. Wolfrey from PRIV encouraged Components to let him know if there are any issues with search taskers for COVID-19 related records and said PRIV would be happy to negotiate with requesters on these requests. He also thanked Mr. Fernando for the specific feedback he is providing on PRIV's work to close backlogged ICE cases.

Ms. Claffie from USCG said they are seeing an increase in spam since PRIV increased the number of requests allowed per IP per day. She also asked for an update on the status of the consultation and referral policy, which should be sent to Components in the coming weeks.

Ms. Eggleston of USCIS seconded ICE's assessment of their agreement, and said she would follow up with Dr. Holzer regarding the potential furlough of USCIS staff.

Closing

The meeting adjourned at 11:00 am.



Homeland Security

DHS FOIA Council Meeting Minutes

June 7, 2019

The Department of Homeland Security (DHS) Freedom of Information Act (FOIA) Council convened at 10:00 a.m. on Friday, June 7, 2019, in the 4th floor conference room located at 650 Massachusetts Avenue, NW, Washington, DC 20001.

Council members present:

- Co-Chair: Deputy Chief FOIA Officer James Holzer
- U.S. Customs and Border Protection (CBP): (b)(6),(b)(7)(C)
- Federal Emergency Management Agency (FEMA): Bill Holzerland
- U.S. Immigration and Customs Enforcement (ICE): Catrina Pavlik-Keenan
- DHS Privacy Office (PRIV): Jimmy Wolfrey
- Science and Technology Directorate (S&T): Erica Talley
- Transportation Security Administration (TSA): Teri Miller
- United States Coast Guard (USCG): Kathleen Claffie, on behalf of Robert Burns
- U.S. Citizenship and Immigration Services (USCIS): Jill Eggleston

Additional Participants:

- Amy Bennett, Council Secretary
- Roman Jankowski, DHS Privacy Office Senior Advisor

Deputy Chief FOIA Officer Updates

Operations and Performance Metrics

Mr. Holzer explained that the monthly 1-pager tracks some of the FOIA performance metrics discussed by the Council earlier this year, including the number of requests processed, and the number of requests more than 200 days old. He added that the 1-pager also highlights the workload across the agency and the status of the 10 oldest cases reported in the DHS Annual Report.

Mr. Holzer noted that DHS is currently on track to close the same number of requests as in Fiscal Year (FY) 2018. He acknowledged that the 1-pager and metric do not take into account the government-shutdown and reminded Council members that Components were generally not at peak production in January and that some Components continued working of had contractors who continued working during the shutdown. He observed that DHS is on track primarily due to the large number of requests processed at USCIS, and said he would reach out to Components not meeting the metric to see how the DHS Privacy Office can be of assistance.

As a result of Council discussion, the DHS Privacy Office will work to incorporate the metric regarding pages released into the 1-pager, and will make some adjustments to the format to improve readability. Mr. Holzer stated that the DHS Privacy Office aims to circulate the 1-pager one to two weeks into the new month to ensure Component FOIA Officers have time to review before it is shared with Chiefs of Staff, and reminded participants that his ability to send out the 1-pager in a timely fashion is dependent on Components providing their monthly reports.

Site Visit Arranged by ICE

Mr. Holzer explained that Ms. Pavlik-Keenan assisted him in arranging a site visit to Orlando, Florida on June 3 – 4, 2019. He said that during the visit he was able to meet and engage with the ICE FOIA staff located in Orlando, and develop a better understanding of ICE operations. He added that the trip included a detention facility visit, a discussion about asylum proceedings and the FOIA impact with the ICE Office of the Principal Legal Advisor and the Assistant Chief Immigration Judge, and a briefing with ICE Homeland Security Investigations. He said that the goal of these kinds of site visits is better understand how we can help ease the FOIA burden and allow DHS personnel to focus on mission-critical activities, and expressed particular interest in setting up similar visits with CBP.

House Homeland Security Committee Briefing

Mr. Holzer explained that House Homeland Security Committee chair Bennie Thompson arranged for him to brief the Committee staff on June 5, 2019, and asked Mr. Wolfrey to provide an overview of the meeting. Mr. Wolfrey said that the briefing was regarding the DHS Privacy Office operations, and our responsibilities in administering FOIA. He added that the briefing covered the DHS Privacy Office's relationship to Components, backlog, authorities, and particular challenges and possible solutions. He noted that staff asked a variety of questions about the referral and consultation process and subsequent duplication of work and impact on reporting, and regarding the DHS Privacy Office's authorities and how they could be strengthened.

Mr. Holzer noted that many of the areas where Congress could grant the DHS Privacy Office additional authorities are addressed in the delegation being circulated through the concurrence process. He explained that the delegation addresses the need for the DHS Privacy Office to have some authority over the use of FOIA tracking and processing solutions, selection and retention of Component FOIA Officers, workforce planning and management, and policy. He added that legislative fixes are generally more severe than the solutions provided in the delegation, and that it would be much easier to make changes to a delegation than to a legislative fix.

Mr. Holzerland noted that one potential issue with the delegation is that Component FOIA Officers might be held accountable for decisions made by Component leadership that the Component FOIA Officer has no ability to influence. Mr. Holzer responded that this is why the

delegation also has pieces that give the DHS Privacy Office insight and some influence over funding and any changes to the placement of the FOIA office within the Component. He continued to say that once the delegation is in effect, he will begin working with Component FOIA Officers to ensure each FOIA program has its own delegation in place.

Withholding Names Policy for S1

Mr. Holzer explained that the DHS Privacy Office began working on a policy in response to concerns at ICE and that the work expanded because many Components face similar challenges. He explained that there is currently a memo outlining four policy options that have been discussed with the Office of General Counsel and that it is currently with the Acting Chief FOIA Officer, Jonathan Cantor, who will send it up for S1 or S2 to make a decision. He briefly explained that the four options are:

(b)(5)

Mr. Holzerland expressed: **(b)(5)**
(b)(5) Mr. Holzer acknowledged that there are more liberal release policies in place at some Components, including FEMA and USCIS. He said that he has outlined his concerns and the potentials risks of each decision during the creation of the memo, and noted that while the DHS Privacy Office could have developed and issued a policy, we are seeking leadership input because of the variety of opinions and the high-profile nature of any policy choice. He added that once leadership has made a decision, the DHS Privacy Office will work through the impact with each Component.

508 Undue Burden Exception

Mr. Holzer asked Ms. Bennett to update the Council on the DHS Privacy Office’s waiver allowing the posting of unremediated documents on the DHS FOIA Library. Ms. Bennett explained that the standards for accessibility under Section 508 of the Rehabilitation Act were recently updated, and that the update triggered a review of the DHS Privacy Office’s waiver. Ms. Bennett said she spoke with the DHS Office of Accessible Systems & Technology (OAST), which advised that the waiver process is no longer an option. She added that OAST told her that while the DHS Privacy Office can no longer have a waiver, there was an update to the language regarding an exception for undue burden that will cover the program. She explained that

programs can qualify for the undue burden exception if they can show that remediating records is an undue burden on the program's budget.

FOIAXpress Public Access Link (PAL)

Mr. Holzer explained that PAL installation will be a two to three step process, and that the servers need to be upgraded before we can install the upgraded version of FOIAXpress that includes PAL. He added that the servers will be down over the next two weekends to allow the upgrades and installations to occur. Mr. Holzer added that the DHS Privacy Office will send out a notice and guidance once the installation is complete, and will ensure that participating Components receive training. He also said that there are optional fields we can add to the request form on PAL, and that the goal of installing PAL is to free up staff from administrative duties involved with intake and delivering electronic records.

Compliance Assessment and Backlog Reduction Plan

Mr. Holzer noted that the compliance assessment based on results of the Department of Justice Self-Assessment Toolkit were recently circulated. He noted that while the assessment pointed to some of the Department's compliance issues, it did not provide a clear road path for next steps. He explained that the DHS Privacy Office is developing a backlog reduction plan, and added that it would include some of the things the Department is already doing and some additional long-term efforts. He also said that the intent of the plan is to take a holistic approach to reducing the backlog. In response to a question from Ms. Miller, he added that the DHS Privacy Office is looking at ways to ease the burden of responding to requests, particularly requests for first-party records; he noted that first-party requests are a particular issue at the high-volume immigration Components, but also reflect a large portion of the workload at mid-volume Components. Mr. Holzer continued to say that the focus on the backlog has prevented us from focusing on these more proactive measures, and that the DHS Privacy Office also sees the need to build FOIA considerations into the record-creation stage and to use metadata tagging that can enable automatic categorical withholding of certain types of information. He also said that the Component FOIA Officers have an important role to play in these discussions within their Components.

Inquiry Regarding Implementation of May 2017 USCG Internal Privacy Review Recommendations

Mr. Holzer noted that the DHS Privacy Office is awaiting a response from USCG regarding steps the program has taken to reach what its May 2017 Internal Review Report termed an "ideal state," and added that Components should expect the DHS Privacy Office to send out these kinds of compliance inquiries in the future. Ms. Claffie responded that she is working on the response regarding the Privacy recommendations and will follow-up regarding the status of a response to the FOIA inquiry.

FIRST Update

Mr. Holzer asked Ms. Eggleston to update the Council regarding the status of USCIS's new FOIA processing solution, FIRST. Ms. Eggleston said that in March and April they deployed functionality that provided processing efficiencies. She added that on June 17 they are scheduled to deploy the functionality that will allow requesters seeking their own records to directly input requests into the system, and that six weeks after the deployment they will add a functionality allowing requesters to directly input requests for policy records, and four to six weeks after the second deployment, they will turn on the functionality that allows requesters to directly input requests seeking records on behalf of another person.

Ms. Eggleston said that 70,000 users have already used myUSCIS to create accounts that will enable them to have digital documents delivered via a private reading room, and that they have already delivered about 10,000 documents using the private reading room. She also said that the productivity functionality has allowed their fastest processor to increase from an average of 50,000 pages to 70,000 pages per month. Ms. Eggleston also said that they have scheduled a public engagement with their requester community on June 25 in DC.

Ms. Pavlik-Keenan noted that ICE has not received any referrals from USCIS since May 9. Ms. Eggleston said she would check on that issue, and added that USCIS is beginning to have production issues due to the delay in shipping case files from ICE locations. Ms. Eggleston said she would provide a list of outstanding files, and provide statistics regarding average turn-around time. Mr. Holzer said that he would like to review FIRST in person in July.

Committee Updates

In the interest of time, Mr. Holzer said that we would hold Committee updates to the next Council meeting. Ms. Pavlik-Keenan briefly reported that the Technology Committee is meeting next week and intends to look specifically at treatment of requests for video. She asked Component FOIA Officers to let her know if they need the capacity to redact videos so that the Committee can explore whether we can pool resources. The goal of the effort, she said, is to save staff time on procurement, drive down licensing costs, and improve tech support for each

The Council adjourned. The next FOIA Council Meeting will be held in September in the 4th Floor conference room at 650 Massachusetts Avenue, NW.



DHS FOIA Council Meeting

March 15, 2019

- I. Roll Call
 - CBP OIG
 - CISA PRIV
 - CRCL S&T
 - FEMA TSA
 - FLETC USCG
 - I&A USCIS
 - ICE USSS

- II. Chief FOIA Officer
 - a. Introductory Remarks by Jonathan Cantor, Chief FOIA Officer (A)

- III. Chief of Staff, Privacy Office
 - a. Introduction

- IV. Deputy Chief FOIA Officer
 - a. FOIA Council Charter

- V. Open Discussion

- VI. Conclusion

- VII. Next Meeting (in person) scheduled for June 7, 2019.



DHS FOIA Council Meeting

October 21, 2020

I. Roll Call

- | | |
|--------------------------------|--------------------------------|
| <input type="checkbox"/> CBP | <input type="checkbox"/> PRIV |
| <input type="checkbox"/> CRCL | <input type="checkbox"/> S&T |
| <input type="checkbox"/> FEMA | <input type="checkbox"/> TSA |
| <input type="checkbox"/> FLETC | <input type="checkbox"/> USCG |
| <input type="checkbox"/> I&A | <input type="checkbox"/> USCIS |
| <input type="checkbox"/> ICE | <input type="checkbox"/> USSS |
| <input type="checkbox"/> OIG | |

II. Chief FOIA Officer Updates

- a. Meetings of Note
- b. AS1 Memo on Fiscal Year 2020 Backlog
- c. Backlog Reduction Strategy Update

III. Deputy Chief FOIA Officer

- a. FOIA Officer Performance Plans
- b. FOIAXpress PAL and Single Sign-On (SSO)
- c. COVID-19 and Civil Unrest Requests
- d. Annual Report and Chief FOIA Officer Report Reminders

IV. Items of Interest

- a. Office of Personnel Management (OPM) Proactive Disclosure Policy and FOIA – Alexander Wood, Office of General Counsel

V. Open Discussion

VI. Conclusion

VII. Next Council meeting scheduled for December