



ASAP National Training Conference (Virtual)

May 25-27, 2021

DAY ONE – TUESDAY, MAY 25 (Times are in EDT)

Please note – Timing may be slightly adjusted to allow for actual run times

11:00 am	Training Site Opens – Access to Individual Sessions will be available FIVE minutes before start time.	
11:15 am	Welcoming Remarks and Introductions – ASAP President Ryan Mulvey	
11:20 am	Session 1.01 – Plenary Session Keynote Address - U.S. Senator Chuck Grassley (R-IA)	
11:50 am	BREAK	
	TRACK ONE	TRACK TWO
12:00-1:15 pm	Session 1.02 FOIA Procedural Overview: Key Elements Instructors will discuss the key procedural elements of the statute including those under the FOIA Improvement Act of 2016. This session will provide a strong foundation for growth and is perfect for newcomers, those seeking a refresher.	Session 1.03 What to Expect in FOIA Litigation What happens once a FOIA lawsuit is filed? How do you even learn that your agency has been sued? What are your duties and obligations? The instructors will detail what needs to be done, how to do it and when to do it. You will come away with an understanding of administrative remedies, discovery, Vaughn indices, declarations, duty to segregate, waiver of exemptions in litigation, attorney fees, and more.
	<i>Camille Aponte-Rossini, Office of Personnel Management</i>	<i>Anne Weismann, Outside Counsel</i>
		<i>Scott Hodes, Dept. of Homeland Security, USCIS</i>
1:15-1:30 pm	BREAK	BREAK
1:30-2:45 pm	Session 1.04 FOIA Exemptions Overview: One – Nine What do the FOIA's nine exemptions cover and how are they applied? This session provides an overview understanding of each exemption and whether you can use discretion in its application. It is a perfect foundation course that is complemented by other sessions that delve into the specific exemptions.	Session 1.05 Resources for FOIA Program Managers Knowing about and using resources wisely can make the difference in the success of a FOIA program and the staff utilization. There are products out there that can be leveraged for different purposes. Learn some of the tricks to utilizing available, free resources, including agency toolkits, training materials and informational blogs. Panelists will walk you through some of these excellent resources to familiarize you with them. Make sure you bookmark them!
	<i>Martha Murphy, National Archives and Records Administration, OGIS</i>	<i>Michael Sarich, Dept. of Veterans Affairs</i>
	<i>Ramona Branch Oliver, Dept. of Labor</i>	<i>Jimmy Wolfrey, Dept. of Homeland Security</i>
2:45-3:00 pm	BREAK	BREAK

3:00-4:15 pm	Session 1.06	Session 1.07
	The Privacy Act of 1974 Overview: Scope, Disclosure and Requirements	Exemption 4: It's Proprietary
	During Watergate, allegations of governmental abuse led Congress to pass the Privacy Act of 1974. The Act's purpose is to balance the Government's need to maintain information about individuals with protecting the rights of those individuals from unwarranted invasion of privacy. This session will cover the Act's basic policy objectives; compliance; an overview of disclosure of records with and without consent; and agency requirements including civil remedies and criminal penalties. This session is a great basic, foundation course and a perfect refresher.	Exemption 4 is one of the most burdensome and complicated of all of the FOIA Exemptions. There are many moving parts to processing these requests with a lot at stake for the businesses involved. Agency considerations and obligations in handling data submitted by business and government contractors will be covered in great detail. Learn how to recognize trade secret and confidential, commercial information. This session will also focus on submitter notice under Executive Order 12600 and contracts.
	<i>Ramona Branch Oliver, Dept. of Labor</i>	<i>Bill Holzerland, Dept. of the Interior</i>
		<i>Ginger McCall, Demand Progress</i>
4:15 pm	Daily Sessions End	Daily Sessions End

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DAY TWO – WEDNESDAY, MAY 26 (Times are in EDT)

11:15 am	Site Opens for Logins	
11:25 am	Welcoming Remarks – ASAP President Ryan Mulvey	
	TRACK ONE	TRACK TWO
11:30-12:45 pm	Session 2.01	Session 2.02
	Exemption 1	What is a Federal Record?
	Protecting classified national security information has been a newsmaker in recent months. Public interest continues to increase, and that translates into complex FOIA requests. In this session you will gain an understanding of how a disclosure statute—FOIA—also protects classified national security information. An overview of the Mandatory Declassification Review process, which differs from the FOIA de-class process, also will be covered.	What is a federal record and what is “records management?” Explore the life cycle of a record and gain an understanding of how to treat drafts, emails, and other matters including disposition schedules and understanding the definition of a record in the Federal Records Act versus the FOIA.
	<i>Brent Evitt, Defense Intelligence Agency</i>	<i>Hannah Bergman, National Archives and Records Administration</i>
	<i>Nate Jones, The Washington Post</i>	
12:45-1:00 pm	BREAK	BREAK
1:00-2:15 pm	Session 2.03 – Plenary Session	
	The Requesters	
	Always a popular session, requesters share their perspectives, motivations and stories on how FOIA makes a positive difference.	
	<i>Moderator: Adam Marshall, Reporters Committee for Freedom of the Press</i>	
	<i>Kimbriell Kelly, Los Angeles Times</i>	
	<i>Patrick Eddington, Cato Institute</i>	

2:15-2:30 pm	BREAK	BREAK
2:30-3:45 pm	Session 2.04	Session 2.05
	Exemptions 6 & 7 (C): The Privacy Interest	Shaping your FOIA Request and Records Searches for Success
	Exemptions 6 and 7(C) are the FOIA’s key privacy exemptions, and the most used exemptions government-wide. In this session, you will learn about the protections provided for personal information in general government and investigative files. It will help you understand what is considered private information in your agency’s records, and the factors for balancing it with the public interest. You will also learn about categorical withholding and segregation.	This session has applicability to Intra-agency, Inter-agency and Requesters, alike! Understanding how the structure of archival versus the common SQL database records differs will help you be successful in your request or search for responsive records. The organizational structure of the two systems could yield different results in information and record gathering. The presenters will layout the systems’ organization, how the age of a record matters and, why it matters to YOU. They will also walk through a real-life scenario of the initial search, appeal, litigation and why the second search differed from the initial search.
	<i>Matthew Pollack, Dept. of Homeland Security, CBP</i>	<i>Christopher Carr, National Security Agency</i>
	<i>Marianne Manheim, Dept. of Health and Human Services, NIH</i>	<i>Sarah Wycoff, National Security Agency</i>
3:45-4:00 pm	BREAK	BREAK
4:00-5:15 pm	Session 2.06	Session 2.07
	Privacy Act – Individual Access to Records	Exemption 3
	Now that you have a Privacy Act request, what can you release? This session will help you understand an individual’s authorization.	Exemption 3 concerns records that are exempt from disclosure by another statute, so long as that statute either “leaves no discretion” with respect to withholding, provides the “particular criteria” for withholding, or addresses the “particular types of matters to be withheld.” But what does this all mean in “plain” English? What are the most common statutes invoked with Exemption 3? What even qualifies as a “statute”? This session will explore the basics of Exemption 3, while also delving into more advanced topics, such how courts consider whether a statute qualifies for use, as well as the constitutional implications of the OPEN FOIA Act of 2009 for the design of future withholding statutes.
	<i>Tracy Rogers, Dept. of Defense</i>	<i>Victoria Baranetsky, The Center for Investigative Reporting</i>
	<i>Kellie Robinson, Dept. of State</i>	<i>Andrew Langreich, Dept. of Homeland Security, CBP</i>
5:15 pm	Daily Sessions End	Daily Sessions End

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DAY THREE – THURSDAY, MAY 27 (Times are in EDT)

11:15 am	Site Opens for Logins	
11:25 am	Welcoming Remarks – ASAP President Ryan Mulvey	
	TRACK ONE	TRACK TWO
11:30-12:45 pm	Session 3.01	Session 3.02
	Exemption 5: It's a Privilege	Innovations in State Laws
	Instructors will help you understand the Exemption's complexities, particularly the need to articulate the potential harm of release. They also will discuss the elements and privileges incorporated in the Exemption including threshold requirements, deliberative process, and the attorney-client and work product privileges.	State and local governments process requests for public records under statutes that are often modeled on, but not exact matches to, the federal FOIA. Presenters will discuss how various state and local laws are similar to and different from federal FOIA and share their insights into trends that are emerging in access laws at the state and local level.
	<i>Dione Stearns, Federal Trade Commission</i>	<i>Michael Morisy, Muckrock</i>
	<i>Ginger McCall, Demand Progress</i>	<i>Niquelle Allen, DC Office of Open Government</i>
12:45-1:00 pm	BREAK	BREAK
1:00-2:15 pm	Session 3.03 – Plenary Session	
	FOIA in the COVID Environment	
	It's been just over a year since we experienced the wide-spread desertion of the office environment. Agencies had to scramble to accommodate employees working from home. IT teams had to ensure remote connectivity and put in new security measures. Virtual environments proliferated, and everyone began doing business in a new way. But how did that affect FOIA processing and what actions did agencies take to protect the integrity of the process? Learn from the experts as they share best practices on doing business in this new normal.	
	<i>Moderator: Ginger McCall, Demand Progress (formerly with FEMA)</i>	
	<i>Gorka Garcia-Malene, Department of Health and Human Services, NIH</i>	
	<i>Roger Andoh, Department of Health and Human Services, CDC</i>	
	<i>Gregory Bridges, Department of Homeland Security, FEMA</i>	
2:15-2:30 pm	BREAK	BREAK

2:30-3:45 pm	Session 3.04	Session 3.05
	Exemption 7	Affirmative Disclosures
	Exemption 7 is a law enforcement tool dealing with records or information compiled for law enforcement purposes – literally a matter of life or death in some cases. Instructors will delve into the “how-to” of processing for this exemption.	Federal agencies have disclosure obligations under the lesser-known subsections (a)(1) and (a)(2) of the FOIA that require proactive disclosure of certain agency information independent of any FOIA request. Presenters will review these requirements and their importance; discuss the <u>practical</u> considerations (e.g., Section 508 of the Rehabilitation Act, “rule of three,” identifying records that are likely to be of public interest, etc.) and delve into requester concerns, including the D.C. Circuit’s ruling to limit the sort of relief it is willing to provide in an (a)(2) lawsuit.
	<i>Alina Semo, National Archives and Records Administration, OGIS</i>	<i>Kirsten Mitchell, National Archives and Records Administration, OGIS</i>
	<i>Shari Suzuki, Dept. of Homeland Security, CBP</i>	<i>Mia Woodard, CREW</i>
3:45-4:00 pm	BREAK	BREAK
4:00-5:15 pm	Session 3.06	Session 3.07
	FOIA and Privacy Act Interface	Fees, Categories and New Schedule
	While there are many similarities between the two Acts, the differences are distinct. This session compares the two Acts including processing time limits, appeal rights, fees, exemptions, litigation and more. Instructors will also present various scenarios that will help you think through the processing of each Act.	Fee categories and fee waivers confuse even the most seasoned FOIA requesters and processors. Learn the criteria for determining fee categories, i.e., where do bloggers fit in, and factors in deciding fee waiver requests. A recent court case may even change the way agencies consider one type of requester. You will also learn administrative tips on how to keep the process moving and what to do as you wait for other agencies’ offices to respond.
	<i>Ramona Branch Oliver, Dept. of Labor</i>	<i>Dick Huff, Consultant</i>
		<i>Lee Steven, Americans for Prosperity Foundation</i>
5:15 pm	NTC Sessions End – Please Complete Survey	NTC Sessions End – Please Complete Survey