

**AN ABSTRACT OF THE DISSERTATION
FOR THE DEGREE DOCTOR OF PHILOSOPHY IN THE
SCHOOL OF LIBRARY AND INFORMATION MANAGEMENT**

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Presented on: April 7, 2015

Title: *In the Beginning was the Request: A Street-level Perspective on the FOIA Process*

Abstract approved: _____

Dr. Gwen Alexander, Chair

The United Nations has identified freedom of access to information as a basic human right. In the United States (US) that right is codified by the Freedom of Information Act (FOIA). Although the FOIA constitutes a major component of US government information policy, the problem is that little is known about how the process actually works. This grounded-theory study examined how the characteristics of incoming requests impact the FOIA process from the street-level bureaucrat's perspective.

A preliminary literature review identified several request characteristics as potentially impacting the process, including wording, scope, subject, requester identity, organizational constraints, and interpersonal relationships. As the study progressed, additional literature was reviewed in response to themes and patterns that emerged from coding the interview results.

Focused interviews were conducted with a convenience sampling of 10 FOIA officers from federal agencies across the US. Two additional participants provided written answers. The interviews yielded 32 focused codes, which included records

management, conflicting rule sets, requester motivation, and organizational culture. Ultimately, six thematic codes were identified and used to develop an information environment model. The thematic codes are the request as stimulus, emotional response, internal information environment, external information environment, requester feedback, and the FOIA professional's skillset.

The study indicates that although a request's characteristics can impact the FOIA process, the results originate out of interactions between the request and a FOIA professional who is operating within a larger information environment. Practice implications for FOIA requesters, senior agency officials, and legislators are discussed, and recommendations and suggestions for future research are offered.

Keywords: Freedom of Information Act, FOIA, open records, transparency, government information, Privacy Act, Rehabilitation Act, Section 508, information behavior, street-level bureaucracy, organizational behavior, organizational constraints, government information, system theory, information environment

**IN THE BEGINNING WAS THE REQUEST:
A STREET-LEVEL PERSPECTIVE ON THE FOIA PROCESS**

By

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Emporia, Kansas

April 2015

A Dissertation

Presented to

EMPORIA STATE UNIVERSITY

In Partial Fulfillment

Of the Requirements for the Degree

Doctor of Philosophy

The School of Library and Information Management

Dr. Gwen Alexander, Dean of the School of
Library and Information Management

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Acknowledgements

The doctoral process is the ultimate exemplar of Isaac Newton's aphorism that one sees further by standing on the shoulder of giants. I would like to pause now to thank some of the giants who have helped me see further during my doctoral journey into the FOIA black box.

To Dr. Gwen Alexander, my committee chair, thank you for your advice and support throughout the entire PhD process. I could not have done it without you. I also want to thank Dr. Andrew Smith and Dr. Shelley Kimball for their time and effort in serving on my committee.

To my study participants who must remain nameless, thank you for you for taking time out of your busy FOIA lives to provide honest and in-depth answers to my questions. Without you this study would not have been possible.

To my NPS supervisors Andrea Quick, John R. Snyder, Carol Simpson, Janette Wesley, and Edie Ramey thank you for your understanding over the past eight years when the needs of my doctoral program competed with the needs of my job. To my NPS colleagues and friends Abel, Alvin, Annette, Brandon, Catherine, Christopher, Jack, June, Kerrie, Kevin, Marianne, Michelle, Nancy, Patty and Ramona, thank you for serving as my sounding board over these past years as I vented my frustrations and fleshed out my ideas.

To my 2007 PhD cohort colleagues Dr. Lori Fairfield, Dr. Melissa Caste-Brede, Dr. Kathy Fatkin, and Dr. Peggy Kaney, I would not have made it without you. Having you shout your encouragement after you had crossed the finish line has kept me going.

To my SLIM-CO IV colleague Thomas Powell, your constant pushing and questioning helped me focus, clarify, and refine my ideas throughout the process. I'll be there to do the same for you when you decide to climb the PhD mountain.

To Chuck, Nancy, Michael, Lisa, Shane, Jeff and the rest of my ballooning friends, may the winds continue to welcome you with softness and the sun bless you with its warm hands. I'm looking forward to crewing and flying with you again.

To Dr. Roger Greer and Dr. Ranulph Glanville, thank you for reminding me that learning can still be fun, even when it involves hard work. At some of my lowest points, you kept me from giving up. I'm only sorry that you are not here to celebrate with me.

To the ARMA Educational Foundation, thank you for your generous financial support and for inviting me to do a poster presentation at the 2013 ARMA Conference in Las Vegas. To the Association of Access Professionals, thank you for your assistance in recruiting volunteers to participate in my study.

To my sister, Dorcas, words cannot begin to express how much your unwavering encouragement and support has meant to me. And lastly to my beloved mother, this dissertation is dedicated to you. Thank you for instilling in me a life-long love of learning. I miss you more than words can say.

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Chapter One: Overview and Background

The United Nations, the International Federation of Library Associations, and others have declared freedom of information to be a fundamental human right (Birkinshaw, 2006, Bishop, 2009; Byrne, 2003; Copeland, 2012; United Nations, 1946). The United States (U.S.) congress codified that right when it passed the Freedom of Information Act (1966), which was signed into law by President Johnson on July 4, 1966 (Blanton, 2006; Kennedy, 1978; McWeeney, 1982). The Freedom of Information Act (FOIA) allows individuals to petition the federal government for copies of records that are in the possession and control of Executive Branch agencies (Motta, 2009). Their petitions, which are called FOIA requests, are processed by government employees who serve as gatekeepers controlling access to government information. See Appendix A for the complete text of the FOIA.

Although FOIA is a major element of U.S. government information policy (Bushkin & Yurow, 1980; Halstuk, 1999; Liu & Cheng, 2007), it is considered by many to be under-researched (Cuillier, 2010; Glover, Holsen, MacDonald, Rahman & Simpson, 2006; Hazell, Worthy & Glover, 2010; Kimball, 2001, 2012; Piotrowski, 2007). That lack of research led Carr (2007) and others to describe the FOIA process as a black box (Lee, 2001; Riley, 2009; Yildiz, 2007).

Ashby (1956), while working as an electrical engineer during World War II, developed the black-box model to describe complex missile-guidance systems. Birkland (2011) used the black-box model to describe political systems with unclear or unobservable inner workings. One of the best descriptions of the black-box model is found in the following short poem penned by the economist Kenneth Boulding (1964):

A system is a big black box
Of which we can't unlock the locks,
And all we can find out about
Is what goes in and what comes out.

Perceiving input-output pairs,
Related by parameters,
Permit us, sometimes, to relate
An input, output, and a state.
If this relation's good and stable
Then to predict we may be able,
But if this fails us—heaven forbid!
We'll be compelled to force the lid! (p. 39).

Statement of the Problem

As noted earlier many consider FOIA to be under-researched. Consequently little is known about how the government employees tasked with processing FOIA requests act as gatekeepers (Lewin, 1943) mediating access to government information and, by doing so, exert a form of censorship (Barzilai-Nahon, 2005, 2008a, 2008b).

Thus, from the requester's perspective, submitting a FOIA request is akin to pressing the start button on a mysterious black box. Requesters know when and where they submitted their request; however, they often do not know who received their request or who is processing it. This is further complicated by requesters being unable to observe

or understand the thoughts, decisions, and actions of the government employees tasked with processing their request.

The U.S. government produces more information than any other organization in the world (Association of Research Libraries, 2009; McClure, Herson & Relyea, 1989; Peled, 2014, U.S. Office of Management and Budget, 2000). In addition to FOIA, the U.S. government has established a variety of policies designed to control access to and dissemination of government information including the Privacy Act (1974) and the Depository Library Act (1962). The Privacy Act (PA) establishes rules for the management of and access to information about individuals that is collected and held by Executive Branch agencies. The Depository Library Act established the Federal Depository Library Program (FDLP), which provides the public with free access to U.S. government information at libraries throughout the country. However, the actual implementation of these policies at the street level is left up to professional government employees more commonly known as bureaucrats (Weber, 1952, 2009). This means that street-level bureaucrats (Lipsky, 1969, 1980, 2010) tasked with implementing U.S. government information policies, such as FOIA, are placed in a position where they control information, which is a primary function of a bureaucracy (Phillips, 1973; Weber, 1952, 2009).

Such control runs counter to the intentions of its creators that FOIA shine light on the activities of the government (*DOJ v Reporters Committee*, 1989). FOIA's supporters argue that people must have the ability to acquire information (Cuillier, 2011; Emerson, 1970, 1976; Mason, Mason & Culnan, 1995; McAndrew, 2001) if American democracy is to flourish because what people don't know can hurt them (Griffin, 2008;

Wilson, 1977). Doyle (2001) and Meiklejohn (1961) asserted that access to information about the government's actions is required for citizens to fulfill their oversight responsibilities as the dominant branch of government although future Supreme Court Justice Antonin Scalia (1982) declared the idea of "do-it-yourself oversight by the public" to be naïve (p. 19).

The democratic ideal of a free and open exchange of ideas and information is the foundation for FOIA (Emerson, 1970, 1976; Mason, Mason & Culnan, 1995). The free flow of information is vital to open social systems, because closed systems that are unable to adapt or respond to changes in their environments eventually fail (Cleveland, 1985; Milakovich & Gordon, 2008; Parsons, 1951, Wheatley, 2006). The free flow of ideas and information is also fundamental to an information-based economy (Bushkin & Yurow, 1980; Hiltzik, 2012; Moyer, 2012). It can therefore be argued that freedom of information is not only necessary for a healthy democracy (Obama, 2009), but also for a healthy economy and society.

While neither the U.S. Constitution nor the Bill of Rights expressly established the public's right to know it has been argued that the right to know is implicitly granted by the First Amendment (Emerson, 1976; O'Brien, 1981). Proponents of this view assert that it is unrealistic to assume that the Founding Fathers would guarantee the right to a free press while denying that same press the right to access government information (Cross, 1953; Emerson, 1970; Uhm, 2000).

Researchers have examined FOIA from both a historical perspective (Archibald, 1979, 1993; Halstuk, 1999; Kennedy, 1978; Kostyu, 1990) and a records management perspective (Glover et al., 2006; Kozinets, 2011; Whitmore, 2012). Others (Cramer,

2009; Hazell, et al., 2010; Piotrowski, 2007) have studied how FOIA interacts with and is impacted by a variety of federal laws and management programs.

Although library and information science (LIS) researchers have studied FOIA, very little of that research has examined how the FOIA process actually works. Maret (2002) linked FOIA to the broader concepts of secrecy and transparency, while McCrann (2007) provided an overview of the social and political conditions leading up to FOIA's passage. Snead (2009) discussed the impacts of FOIA guidance published on U.S. government agency websites, on the accessibility and usability of similar guidance on the Privacy Act while Whitmore (2012) examined ways in which social media could be harnessed to analyze data obtained through FOIA requests.

Only two researchers, Roth (1993) and Snyder (1998), have examined how the FOIA process works. Both researchers, who approached their studies from an LIS perspective, focused on technology's impacts on the FOIA process and both studies relied on data gathered prior to the passage of the Electronic Freedom of Information Act (E-FOIA) in 1996. Given the legal, social, and technological changes that have taken place in the almost two decades¹ since Roth and Snyder conducted their research, it is likely that their results no longer accurately represent how the FOIA process works.

Purpose of Research and Research Question

This study examined, from the perspective of the street-level bureaucrat, how the FOIA process works. The primary research question was “do the characteristics of the incoming FOIA request impact the outcomes of the response process and, if so, in what

¹ Due to an administrative oversight Snyder's dissertation was not published until 1998. Snyder's research, however, was conducted in 1993 and his dissertation was completed and defended in 1994. (H. Snyder, personal communication, August 16, 2011).

ways?” The goal of this research was to examine, from the FOIA professional’s perspective, how and in what ways the FOIA request itself impacts the FOIA process.

Significance

The current study is significant because it is the first to be conducted by a researcher with experience working as a FOIA professional. Additionally, it was one of the few to take a LIS approach to a FOIA investigation.

Butler (1933) asserted that knowledge garners significance only through injection into a society’s communal life. Study results will not only be shared with my FOIA colleagues within the National Park Service (NPS), where I currently work, but also within the Department of Interior (DOI). Findings will also be disseminated within the larger FOIA community through presentations at various American Society of Access Professionals (ASAP) conferences. ASAP is a professional society whose membership is comprised of members of the FOIA requester community and government employees whose jobs involve FOIA duties. Research findings will also be prepared for publication in peer-reviewed journals such as *Government Information Quarterly*.

Theoretical Foundation

This study is theoretically located within the LIS field, which is concerned with the ways in which individuals and societies create, disseminate, and utilize information (Greer, Grover & Fowler, 2007). LIS has adapted and developed a wide-variety of meta-theories or paradigms to explicate information behaviors (Case, 2012; Fisher, Erdelez & McKechnie, 2005). As Kuhn (1970) and Merton (1982) noted, researchers’ paradigms influence the questions they ask and the topics they research. Gatekeeping theory,

which guided the development of this research, is concerned with the ways in which access to information is controlled (Shoemaker & Vos, 2009).

Lewin (1943) developed gatekeeping theory as a means to explain how distribution channels and housewives' decisions impact the acceptance and use of specific foods. Gatekeeping theory has subsequently been applied to a variety of fields, including communication, management, political science, and LIS (Barzilai-Nahon, 2005). While traditional gatekeeping theory examined the control of information entering systems, it has been expanded to study the flow of information *through* gates or filters (Barzilai-Nahon, 2008a, 2008b). The focus of this study is to examine, from the FOIA professionals' perspective, how and in what ways the attributes of incoming FOIA requests impact the flow of government information throughout the FOIA process.

Conceptual Framework

The preliminary conceptual framework for this study is shown in Figure 1. The conceptual framework contrasts the ideal FOIA process with what many consider to be the reality of FOIA as a black-box process. During the ideal process, a request is received, a search is conducted, documents are reviewed, a response is prepared, and the requester receives the desired records. However, from a black-box perspective a request is submitted and one or more outcomes can occur. The requester can receive no response at all or the request can be denied in full. The requester might also receive a partial response, in which portions of documents are redacted or some documents are withheld while others are released, while in other cases requesters may receive everything they requested. From a black-box perspective the outcome of the process cannot be predicted at the time the request is submitted.

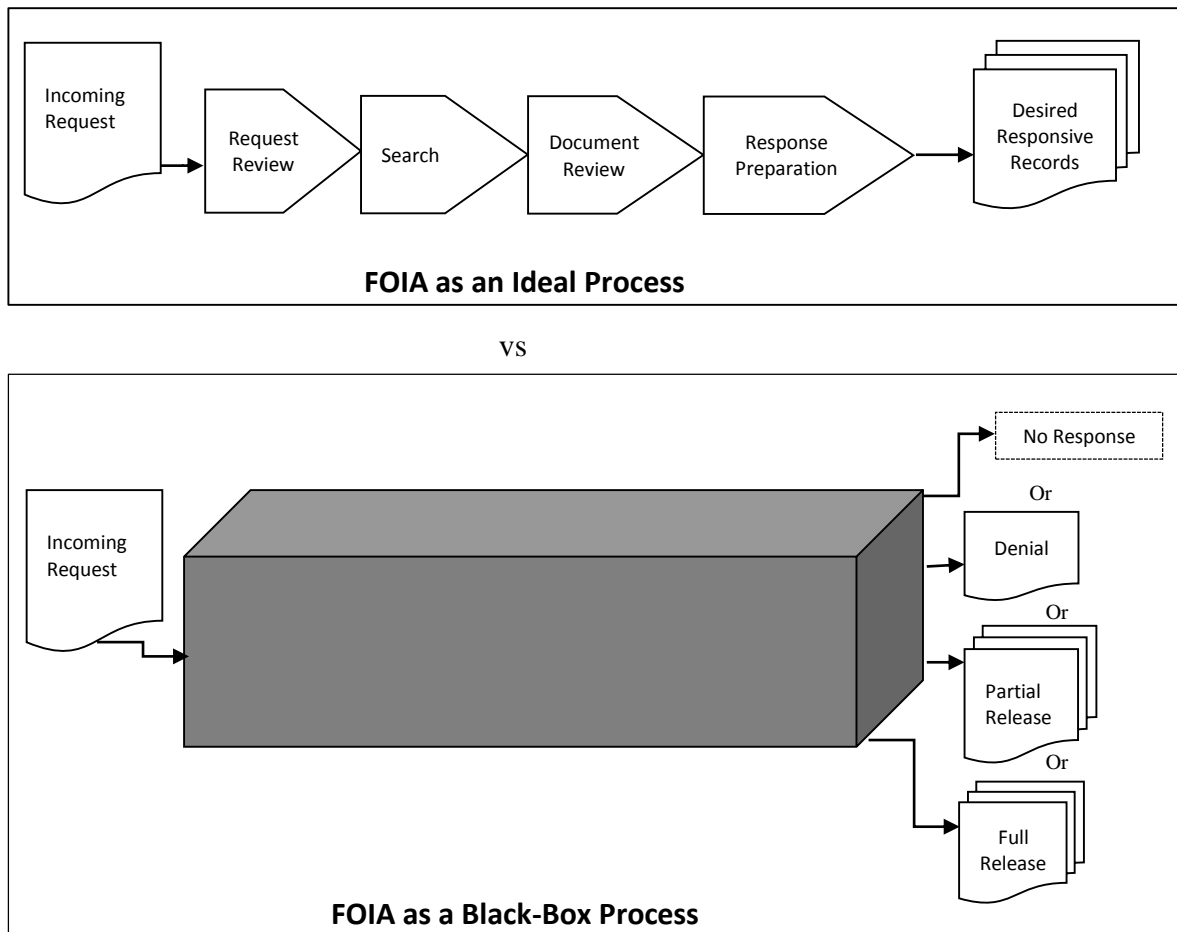


Figure 1. Preliminary conceptual framework contrasting the ideal FOIA process with FOIA as a black-box process. Developed by author specifically for this study.

Overview of Method

The FOIA is a complex process with inner workings that are difficult to observe or measure. The black-box nature of the process combined with the lack of prior FOIA research means that the dependent and independent variables required for a quantitative study cannot be easily or satisfactorily identified. It is therefore necessary to conduct a qualitative study.

A qualitative approach was used because it afforded an opportunity to explore or explain a given phenomenon (Kratwohl, 2009). This study used the constructivist grounded theory (CGT) method (Charmaz, 2006). Charmaz, who worked with both Glaser and Strauss as a graduate student at the University of California, developed CGT in response to their advice in *The Discovery of Grounded Theory* (1967) that researchers should use grounded theory flexibly and in their own way. Grounded theory has previously been identified as one of the best methods for studying complex processes (Creswell, 2003, 2013). It is also an accepted research methodology within the LIS field (Connaway & Powell, 2010; Fisher et al., 2005; González-Teruel & Abad-García, 2012).

Originally developed in 1967, grounded theory is a qualitative methodology used to study complex phenomena in order to develop a theory that explains the specific phenomenon under study (Glaser & Strauss, 2007). Grounded theory is an iterative process where information is collected from a variety of sources and then broken down into chunks, which are subsequently assigned descriptive labels (Locke, 2001) or codes (Charmaz, 2006). As the data analysis continues, codes are constantly compared and are grouped into types, classes, or categories (Kelle, 2007). According to Glaser (1992), as the researcher analyzes the categories and their properties, a theoretical framework will

begin to emerge from the data. Glaser (1999) asserted that data emergence will occur only after the researcher has made conceptual sense of the data.

When a preliminary theory is identified, the researcher begins to validate it by gathering new data. The researcher collects additional new data because independent verification requires fresh data (Dey, 2007). The new data is coded and reviewed to determine if it supports the initial theory. If it does not, then the researcher modifies the theory to take the new data into account. The data collection, analysis, and testing processes are repeated until data saturation is reached, which occurs when new data “no longer sparks theoretical insights” (Charmaz, 2006, p. 113).

Chapter One placed the proposed research into the larger context of freedom of information as a human right, while the mediation of access to information by street-level bureaucrats processing FOIA requests is identified as an issue of both gatekeeping and censorship. This chapter also provided a brief overview of the proposed methodology.

Chapter Two provides an overview of the existing research related to FOIA. The research design and methodological approach that is used in this study is discussed in Chapter Three. Chapter Four provides an overview of the participant interviews, while Chapter Five presents the results of the interview data analysis. Chapter Six places the study results within the larger context of systems theory and provides both procedural and future research recommendations.

Chapter Two: Review of Literature

This chapter examines the existing FOIA literature, especially as it relates to how attributes of the incoming request may impact the FOIA process. The literature review was conducted using a systematic protocol (Booth, Papioannou & Sutton, 2012; Jesson, Matheson & Lacey, 2011), which is shown in Appendix C.

Overview

Potential impacts the incoming request may have on the FOIA process are identified within the literature. These included the wording, scope, and subject of the request as well as the skills, abilities, and background of the FOIA professional. A review of the literature also identified possible issues related to the treatment and handling of incoming requests, including the identity of the requester, organizational constraints, and inter-personal relationships.

Request Attributes

Although FOIA requests are unpredictable (Snell, 2002), with each one being different (Citizens for Responsibility and Ethics in Washington [CREW], 2010) and coming in many forms (Snyder, 1998), the existing literature points to several request attributes that may be influencing the FOIA process. These attributes include the wording, scope, clarity, and subject of the request itself.

Wording. Cuillier (2010) found that the tone or language used to request the records was a factor in the outcome of the request process. During the initial phase of his study, Cuillier submitted 106 requests for use-of-force reports from every law enforcement agency within the state of Arizona. Although the records being requested

were the same, the request letters varied in the tone of the language used. Law enforcement contacts were randomly chosen to receive either a friendly letter or a more threatening letter written in legalistic language. Cuillier found that 67% of the agencies that received threatening letters (n = 53) responded, while only 49% of the agencies that received friendly letters (n = 53) responded.

Cuillier (2010) subsequently worked with the same journalist in an attempt to replicate and verify the initial study results. During the second phase of the study the journalist submitted requests for copies of the superintendents' and football coaches' contracts from every school district in the state (n = 219). Although each request sought the same information, they again varied in their wording. Cuillier randomly chose districts to receive a request written in a friendly, threatening, or neutral tone. As with the initial study each group was of equal size (n = 73) and the threatening letters had the highest response rate at 58% as compared to 51% for the friendly letters and 50% for the neutral letters.

Cuillier (2010) speculated that the threatening letters received a higher response rate because the legalistic language reminded the recipients that they were legally required to respond to the request. However, he went on to theorize that the differences could also be due to unknown internal processes, such as requiring attorneys or senior staff to handle requests written in a legalistic tone. Because Cuillier examined the compliance of a local government agency with the Arizona Open Records Law, it is unclear how or whether his findings apply to the FOIA. However, Cuillier and Davis (2011) speculated that the findings might not be applicable to the FOIA process because FOIA professionals are accustomed to receiving requests written in a legalistic tone.

Submittal method. After requesters have prepared their FOIA request, they must submit it to an agency; however, the process of submitting or filing a request can be confusing, due in part to agency decentralization (U.S. Office of Government Information Services, n.d.) as it is not always clear which office or offices will have the responsive records. While FOIA requires that requests be in writing, they can be submitted in a variety of ways, including mail, fax, and e-mail, although not all agencies accept e-mail requests (Feinberg, 2004). In addition, some agencies allow requesters to submit their request via an online form (U.S. Department of Justice, n.d.).

Kimball (2003) utilized participant observation and interviews to examine the open records processes of Florida law enforcement agencies and found that requests submitted via the mail were often set aside for later processing, while requests made in person were generally handled at the time they occurred. The Florida open records statute allows requests to be submitted verbally (Kimball, 2003), while FOIA requests must be submitted in writing (U.S. Department of Justice, 2011).

It is also unclear if or how the submittal method impacts the FOIA process. Metcalf (2011) cautioned that submitting requests through the mail could delay the agency's receipt of the request due in large part to post-9/11 security measures, which require all incoming mail sent to U.S. government offices in the Washington, D.C. metro area be treated at an offsite irradiation facility in order to kill potential toxins such as anthrax. It is unclear if similar delays occur if requests are mailed to offices outside the Washington, D.C. area.

While respondents in the CREW (2010) study mentioned they occasionally received requests electronically, it was unclear what impact such electronic routing had

on the request process. Although John (2007) noted that in some cases requests submitted via e-mail were often routed for processing via e-mail, it is not known if this always occurs and, if so, how such routing influences the outcome of the FOIA process.

Although several of the CREW (2010) participants mentioned receiving rerouted requests after the legally mandated due date for a response had passed, it was unclear from the data provided whether the delayed requests had been mailed in, submitted via e-mail, or sent in via another method such as an online form or a fax.

Scope and clarity. Koontz (2006) stated that requests go through a review process; however, she did not specify exactly how or when such reviews occur. Feinberg (1986, 1989) noted that requests were being reviewed by more people, including senior officials. Neither Koontz (2006) nor Feinberg (1986, 1989) specified exactly what is involved in the review process. The FOIA literature indicated that the review process may involve evaluating the scope and clarity of incoming requests.

Several researchers have raised the issue of overly broad or vague requests (CREW, 2010; Cuillier, 2010; Kimball, 2003; McWeeney, 1982). Attorney General Clark (1967) asserted that Congress had never intended for FOIA to be used to conduct “fishing expeditions”; however, this phrase continues to be used to describe overly-broad or vague requests (CREW, 2010; Fajans, 1984; Giannella, 1970).

Cuillier and Davis (2011) declared that overly broad or vague requests slow the FOIA process down; however, they did not explain exactly how or why such requests cause delays. Glover, et al. (2006) argued that broad requests introduced additional “moving parts” (p. 47) into the FOIA process, while Kimball (2003) and John (2007) found that broad or vague requests often meant that those processing the requests had to

spend time asking questions of the requesters or themselves about the meaning of the request before they could begin the actual processing of a request.

While it is unclear exactly how broad or vague language may impact the receipt and review of an incoming FOIA request, utilizing regression analysis Kwon (2012) found when agencies classified requests as complex, the requester was significantly more likely to receive a delayed response ($\beta = 0.341$). Kwon noted that both his analyses, which were based on agencies' annual reports to Congress, and his subsequent findings would have been strengthened if agencies had been required to provide data on their reasons for classifying requests as complex. Piotrowski (2003) also noted that agency annual reports, which consist of congressionally mandated data that include the number of requests received and processed, failed to adequately document or measure the complexity of the FOIA process because it was not accounted for in the data.

Broad and vague requests, which FOIA professionals repeatedly identified as an issue with the process (CREW, 2010), have been blamed on a lack of knowledge and understanding on the part of the requesters (CREW, 2010; Giannella, 1970). This position appears to be supported by Koch (1972) and Cuillier and Davis (2011) who asserted a thorough understanding of an agency's organizational structure and functions is required in order to craft an effective request.

John (2007) found, however, requesters sometimes deliberately used broad or vague requests as a means to an end—opening dialog with the agency. Koch (1972) and Fajans (1984) noted that broader requests could be used to gain an understanding of the larger picture, which could explain why researchers often submit requests that are wider

in scope. Roth (1993), on the other hand, speculated that sophisticated special interest and commercial requesters could deliberately be submitting broad, complex requests in order to exploit procedural discrepancies that can occur when multiple offices or multiple FOIA professionals must process the large volume of records that result from complex and broad requests. These procedural discrepancies can sometimes result in a release of information that might otherwise have been identified and withheld during the processing of a narrower request by a single office.

In addition to the issue of overly broad or vague requests, poorly written or unclear requests have also been identified within the literature as a potentially adverse factor in the FOIA process. Cuillier and Davis (2011) suggested that poorly written requests could be interpreted either too broadly, resulting in the requester receiving too much information, or too narrowly, resulting in the requester receiving too little information.

The issue of an overly narrow or literal interpretation of a request was also discussed by Archibald (1993), who argued that poorly written requests were often used by those processing them to practice what he termed “*secrecy by description*” (p. 730). Because the FOIA requires records to be reasonably described, Snyder (1998) noted some agencies denied requests for records when the requesters fail to describe the records in the same terms used by the agency.

Kreimer (2008) noted that precisely or clearly worded requests were more likely to be correctly processed and also resulted in lower *signal-to-noise* costs on the part of

the requester. This meant that requesters would have to spend less time sorting through the materials they received in order to find the information they needed.

Powell (2006), in his anthropological study of Poland's open records law and press freedom, asserted that previous studies had failed to present a full or accurate picture of the complex nature of the open records process. He argued that prior researchers had failed to understand that subtle differences in the appearance and form of a request could result in vastly different outcomes, both in terms of the quality and quantity of the information released.

Subject. In addition to the issues of wording, scope, and clarity, the literature indicated that the nature or subject of the records being requested may also impact the FOIA process. Because FOIA allows people to request access to any record created or received in the normal course of doing business the agency possesses (U.S. Department of Justice, 2013), the subject and types of records being requested in any given FOIA request can vary widely (McWeeney, 1982).

Koch (1972), an attorney for the Federal Trade Commission, noted that government officials were often reluctant to expend agencies' limited resources processing requests for records that did not directly relate to an agency's primary functions. Noh (2011) found that even when requests related to an agency's functions, conflicting agency goals and often contradictory guidance could impact the FOIA process.

Kimball (2001, 2003) declared that law enforcement records were one of the most difficult types of records to gain access to, in part because those processing the requests

were concerned that releasing information might not only impair an ongoing investigation but also directly harm the individuals named in the files. Cuillier and Davis (2011), however, argued that record custodians withheld records out of a fear of being severely punished for improperly releasing privacy-related information, rather than because they were concerned for the privacy of those whose names appeared in the files.

Records containing information about individuals are not always maintained in Privacy Act Systems of Records, where records are retrieved by the individual's name or other identifying information such as a social security number. As a result requests for information related to individuals often must be processed under both the PA and FOIA (Snead, 2009). Congress crafted the two laws in such a way that agencies have to process requests for information about individuals under both statutes; however, requesters do not always understand the process and so may either reference only one statute, or fearing their request will be denied if they don't reference the correct statute, many requesters will cite both when submitting requests (Zarek, 2011).

Snead (2009) found, however, that there is little information available to explain how the two laws are applied in practice. In his multi-method study, which included policy analysis and a website usability study, Snead evaluated the scope and effectiveness of PA guidance published on U.S. government agency websites and found that PA guidance was often either non-existent or buried within an agency's FOIA guidance. Moreover, he found that because most agencies lacked any specific PA request process that could be used by requesters to obtain copies of records relating to themselves, requesters were forced to use the FOIA process instead.

John (2009) noted, however, that because decisions related to identifying and handling personal information are complex, people often tend to consider any information related to individuals to be personal. Kimball (2003) found that when Florida record custodians were not secure in their knowledge and understanding of the legal requirements of that state's open records law, they often "used their sympathetic feelings to guide their behavior" (p. 135). It is unclear if FOIA administrators processing requests for records related to individuals would exhibit the same behaviors Kimball noticed because Florida does not have a law that specifically governs access to privacy-related records.

In addition to issues related to requests for law enforcement and privacy records, the literature revealed that other issues related to the subjects of requests may also impact the FOIA process. John (2009) found those processing requests for records related to scientific studies expressed concerns that the requesters were attempting to "cherry pick" (p. 75) other researchers' work. Oltmann (2012, 2013, 2015) found that access to and distribution of scientific information was frequently restricted on the basis of the ideological beliefs of those holding the records or for economic reasons.

Issa (2011a) criticized politically-appointed employees at the U.S. Department of Homeland Security (DHS) for interfering in the processing of requests for records related to politically sensitive issues. The issue of political interference within the FOIA process is discussed below in relation to the larger issue of organizational culture.

The literature suggested the subject of the request can impact the FOIA process. However, there was little information provided as to exactly how, why, or when such impacts occur.

Requester Identity

In addition to the request attributes the literature indicated that the identity of the requester may also impact the FOIA process. The FOIA requires agencies to process requests for records regardless of who asks for them (Banisar, 2004; Department of Justice, 2013; Doyle, 2001; Issa, 2011a); however, the literature indicates that open records processes, such as FOIA, are often not “applicant blind” (McDonagh and Paterson, 2010, p. 506). Giannella (1970) declared that FOIA requesters were not treated equally because access decisions were made on the basis of whether a given decision could “withstand justification” (p. 240). Justification-based access decisions under FOIA were therefore likely to be discriminatory (Banisar, 2004). As Bowker and Star (2000) cautioned, distributing benefits or sanctions based upon the classification of individuals has serious real-world consequences. It is therefore important to understand how the classification of requesters during the FOIA process impacts their real-world access to government information.

Roberts (2002) analyzed over 2000 requests submitted to a single department of the Canadian government over a two-year period, and found that the identity of the requester impacted the outcome of the request process, with requests from media or those affiliated with political parties resulting in longer processing times. The average response time for all requests was 53.1 days, while requests from members of the media took on average 63.2 days to process. Requests from politically affiliated requesters took

on average 69.2 days to process. Although the volume of records released decreased when the requester was affiliated with a political party, Roberts did not find the same reduction in the volume of records being released to media requesters. Roberts' findings are similar to those of the Open Society Justice Initiative (2004, 2006), which found that government officials were more likely to filter information based on the identity of the requester than the nature of the information itself. Other researchers have also noted the tendency of those processing requests to take the identity of the requester into account when processing requests (Glover, et al, 2006; Kimball, 2001, 2003; Lewis, 1982).

In 1986 Congress amended the FOIA and established specific fee rates and fee waiver criteria, both of which are to be based on the requester's intended use of the information, e.g. media, educational, or commercial (U.S. Department of Justice, 1986). Prior to the 1986 FOIA amendments, the fees agencies charged for processing FOIA requests varied widely across agencies (Giannella, 1970). Roth (1993) discovered that for the three agencies in her study, rather than resolving the fee issues, as Congress had intended, the establishment of the fee categories and fee waiver criteria actually made the FOIA process more complex.

Roth (1993) utilized a series of structured interviews with FOIA administrators at the U.S. Department of Health and Human Services (HHS), the U.S. Security and Exchange Commission (SEC), and the U.S. Environmental Protection Agency (EPA), Roth (1993) and found that a lack of clear fee-related guidance left the fee categorization up to the discretion of the FOIA administrators. Feinberg (1986, 1989) expressed concerns that leaving the categorization of requesters up to the FOIA administrators meant the decisions were more likely to be made on the basis of whether requesters were

properly and directly concerned with the information being requested, which was tantamount to having a need-to-know policy. Giannella (1970) and others (Feinberg, 1986, 1989; Glover et al., 2006; Lamdan, 2012; Open Society Justice Initiative, 2006; Powell, 2006) also noted that FOIA decisions were often based on value judgments of a requester's identity and qualifications; however, the literature was unclear as to exactly how such decisions are made. There was also little information within the literature discussing how the process of classifying requesters impacts the FOIA process.

Although respondents in the CREW (2010) study raised the favored requester issue, they provided little information on exactly what constituted a favored requester. However, data collected via the narrative response survey indicated that frequent requesters who are known or thought to be politically well-connected are more likely to receive a response to their requests (CREW, 2010). Roth (1993) and Snyder (1998), both of whom interviewed FOIA administrators as part of their studies, noted that FOIA administrators frequently work to develop and maintain good relations with "politically valuable requesters" (Roth, 1993, p. 133) or those with "political influence" (Snyder, 1998, p. 127), to avoid negative publicity or lawsuits.

While the CREW (2010) study as well as Roth (1993), and Snyder (1998) felt that political influence was more likely to result in a favorable outcome in the FOIA process, Roberts (2002) found that a political or media affiliation had a negative impact on the FOIA process. Roberts (2009) reviewed data from more than 15,000 requests, which had been processed over a four-year period by the British Ministry of Defense, and found that although political requesters were the most likely to have requests for expedited processing granted, it took on average six days longer for political requesters to receive

responsive documents. He also found that media requesters, who were the least likely to have requests for expedited processing granted, received their responses eight days later than the average requester.

Roberts (2002, 2009) noted that, although the data showed that political and media requesters were more likely to receive delayed responses to their requests, the data was unable to explain *why* such delays occurred. He indicated that further studies, including qualitative research involving FOIA administrators, were needed in order to fully understand the ways in which a requester's identity may impact the FOIA process.

Organizational Constraints

In addition to potential impacts that requester identity can have on the FOIA process, the literature also indicated that organizational constraints can impact the FOIA process. Organizational constraints can relate to public affairs concerns, as well as the allocation of limited agency resources and the need to balance the demands of multiple and sometimes conflicting legal mandates, all of which are discussed in this section.

Roberts (2003) theorized that a desire on the part of senior agency employees to control the ways in which the public perceives the information contained in records related to controversial or politically sensitive issues results in delayed responses to requests from political and media requesters. Snell (2002) noted that freedom of information compliance suffers when an agency's information management program focuses on what he terms "contentious issue management" (p. 192), while Lidberg (2009), found that the countries with higher "spin scores," as calculated from a series of questions measuring the level of variance between freedom of information laws as

concepts or ideals and freedom of information practices, had lower overall freedom of information index scores.

While Roberts (2003), Snell (2002), and Lidberg (2009) all identified the desire of politically-appointed, senior agency employees to control how the requested records were perceived by the public as a possible factor in the implementation of open records programs, Lewis and Wood (2011, 2012) sought to measure the effects of politicization on the FOIA process. In the initial phase they submitted 226 identical FOIA requests, requesting a copy of the agency's FOIA log for the previous year, to 264 government agencies. They analyzed response times and found that agencies with higher numbers of politically appointed employees were statistically less likely ($p = -0.15$) to respond to requests within the required 20-workday time frame. They noted that other hidden or unknown organizational constraints such as the FOIA administrator's workload and the agency's other legally mandated responsibilities could also be impacting the FOIA response times.

Lewis, Selin, and Wood (2013) examined FOIA performance in relation to the number of congressionally delegated responsibilities an agency had been assigned. Building on the requests for FOIA-related data that had been sent to agencies in January 2011 by the House Oversight and Government Reform Committee (Issa, 2011a), they submitted identical FOIA requests asking for any communications with the house members who had signed the committee's request letter. They found that the agencies with the greatest number of congressionally mandated responsibilities, as calculated by counting the titles within the United States Code (U.S.C.) that specifically mentioned an agency by name, most frequently failed to respond to their request within the required 20-

workday response period. They also noted that the response times were even longer for the committee's requests that had asked for substantially more information than just a copy of the agency's FOIA log (Issa, 2011b). The committee's requests required 180 agencies to process more than 100,000 pages of responsive material (Lipton, 2012), which would have made it all but impossible for the larger agencies to respond within the fifteen workdays requested by the committee. Lewis, Selin, and Wood (2013) cautioned against interpreting their findings too broadly, however because it was possible that some unknown factor or factors, such as agency workloads, might have also impacted the agencies' FOIA responses.

Cuillier and Davis (2011) noted that resource issues such as staffing and funding can have a profound effect on an agency's FOIA performance. A lack of resources places FOIA administrators in the position of being forced to manage for efficiency over their desire to comply with FOIA and transparency goals (Cuillier and Davis, 2011; Piotrowski; 2003). Geha (2008) noted that a lack of FOIA resources required balancing practice against principles.

Ward-Hunt (2014) theorized that intelligence agencies, which are by their very nature secretive, would be less likely to respond to FOIA requests. He submitted identical requests to six intelligence agencies for: (a) copies of agency records management policies and procedures; (b) copies of policies relating the management of Controlled Unclassified Information (CUI); and (c) copies of the FOIA log for the previous year. Identical requests submitted to ten non-intelligence agencies served as a control group for the study. Ward-Hunt found that while the intelligence agencies were not more likely to withhold information than the control group agencies, the intelligence

agencies were generally slower to respond to requests. He also found that the intelligence agencies scored lower on customer service measures than did the non-intelligence agencies.

The literature also showed that an agency's FOIA mindset (Kaminer, 2010) can influence the organizational constraints placed on the FOIA program. Such organizational constraints can either restrict (Cuillier & Davis, 2010; Deverell & Burnett, 2012; Feinberg, 1986; Kimball, 2003, 2012; Noh, 2011; Powell, 2006) or support (Cramer, 2009; Deverell & Burnett, 2012; Giannella, 1970; Kaminer, 2010; Kimball, 2011; Open Society Justice Initiative, 2006) an agency's FOIA program. Studies have also indicated that organizational constraints can adversely affect the FOIA process; however, existing research fails to specify exactly how and when such impacts occur.

FOIA Professionals and Their Relationships

Cuillier and Davis (2011) asserted that it is impossible to understand the FOIA process without understanding more about those working inside the process. Similarly, Bush (1999) noted that the outcomes of the FOIA process depend on the behavior of those tasked with processing requests. The literature showed that not only can the backgrounds, skills, and abilities of each FOIA professional impact the FOIA process but also the internal and external relationships they have with the requesters and those within their organization who actually hold the records.

Individuals often become FOIA professionals by happenstance when tasked with processing FOIA requests as a collateral duty (Cuillier & Davis, 2010; Hornsby, 2008; Kimball, 2001, 2012; Lee, 2001; Piotrowski, 2003; Reynolds, 2011). This means the

employees tasked with FOIA duties often have another duty as their primary job (Cuillier & Davis, 2010; Kimball, 2001). Their primary duties can include administration, human resources, public relations, legal, library science, and records management (Kimball, 2001; Relyea, 2009; Reynolds, 2011; Snyder, 1998). Hornsby (2008) found the collateral duty nature of the open-records process meant that it was often perceived by agency management as having a negative impact on both the employee's and agency's ability to perform their primary duties. Yet, as Snell (2002) noted, very little of the literature has focused on those who actually do FOIA work, even though their varied work backgrounds, orientations, and philosophies can have a significant impact on the FOIA process (Aftergood, 2009).

Reynolds (2011) found that not only did the work experiences of FOIA administrators vary widely but also their educational backgrounds, with some FOIA administrators having law or doctoral degrees while others had no degrees. Reynolds' (2011) findings are similar to not only those of Williams (1972), who found that most of the FOIA administrators in his study had higher degrees, but also to Kimball (2001, 2003) who noted that most of her study subjects were low-level clerical employees. It is unclear if this variation in employment backgrounds is due to the lack of an established FOIA career path (CREW, 2010; Piotrowski, 2003; Reynolds, 2011; Snyder, 1998) or if it is an unintended consequence of FOIA duties being placed within what the agency sees as the most cost-efficient location within an organization (McWeeney, 1982).

Although the background and education of FOIA professionals varied, Lamdan (2012) compared their duties to those of librarians, in that they both received and responded to requests for information. However, while most libraries offer patrons the

option of serving themselves by using online catalogs and self-service retrieval, the FOIA administrator is forced to act as a gatekeeper (Kimball, 2003) because there are no options available to requesters to locate and retrieve the information themselves. As gatekeepers, FOIA professionals must balance the needs and demands of the requesters with the needs and demands of those who hold the records (John, 2009; Roberts, 1998).

The literature shows that irrespective of whether the external relationship was described as adversarial (CREW, 2010; Kimball, 2011, 2012; Piotrowski, 2003; Roberts, 1998), friendly (John, 2009), happy (John, 2009), or cooperative (Gellman, 1997), the relationship between the FOIA professional and the requester was a dynamic one (Powell, 2006). Regardless of the ways in which the relationship between the requester and the FOIA professional is described, those relationships were identified as a fundamental element of the FOIA process (John, 2007, 2009; Snell, 2002).

Reynolds (2011) declared that the ability to build relationships is a vital skill for FOIA professionals to have; however, the members of the FOIA profession who Reynolds interviewed also identified the ability to be analytical, flexible, sensitive, and self-motivated as skills that were vital to their job. Research and investigation skills have also been identified as a fundamental skill set required of the FOIA professional, particularly when it comes to tracking down responsive information within the organization (John, 2009; Reynolds, 2011).

Summary

Although the existing literature offers some clues as to factors that may be influencing the FOIA process, including the request, the requester's identity,

organizational constraints, and the FOIA professional's skills and experiences, the literature does not provide a clear understanding as to how these factors work together to create what requesters perceive as the open records or FOIA process. This is, in part, due to the fact that few previous studies have focused on the process from the perspective of those inside the black-box, with the exceptions of Hornsby (2008), John (2009), Kimball (2003), Reynolds (2011), Roth (1993), and Snyder (1998).

Chapter Three: Study Methodology

The purpose of this study was to examine, from the FOIA professionals' perspective, how and in what ways the receipt and review of incoming requests impacts the FOIA process because FOIA is a fundamental element of U.S. information policy. In much the same way as dark matter serves as a hidden force responsible for the functioning of the physical universe, information policies area fundamental, if often invisible, element responsible for the functioning of the governmental information state (Braman, 2006). The goal of this research was to identify the dark matter that impacts or influences the decisions and actions of street-level bureaucrats during the FOIA process because their actions, interactions, and decisions serve to socially create the FOIA process.

Constructivism and Grounded Theory

As a theory, constructivism originated from of the work of Berger and Luckmann (1967) and Schutz and Luckmann (1973) who posited that people make sense of the world around them by subjectively assigning meaning to elements of the world in which they live and work. Their resulting actions, which are based on their understandings, serve to create and maintain society's structure through a process Giddens (2013) called structuration. When applied to research, constructivism requires researchers to view the environment they are studying through the participants' eyes (Creswell, 2007, 2009), which is both an outcome of and an influence upon the participants' actions, while at the same time remaining sensitive to their own participation and influence on the research process and outcomes (Charmaz, 2000).

While a phenomenological research approach is most commonly associated with constructivism (Given, 2008), grounded theory was used for this study because it allowed the researcher to go beyond a basic examination and description of a phenomenon in order to develop a model that helps to explain or make sense out of the FOIA black box (Charmaz, 2006; Creswell, 2007). Grounded theory, which has been identified as an effective research technique for studying complex processes (Creswell, 2003, 2009, 2013), also fits with Merton's (1996) suggestion that social scientists should strive to develop practical theories of the middle range. Grounded theory has not only become a widely accepted research method within the social sciences but has also been widely used within LIS, and is particularly effective when conducting exploratory studies (Mansourian, 2006).

Glaser and Strauss (1967, 2007) originally developed grounded theory as a way to formalize qualitative research, in part to address criticisms that discounted qualitative research as being unverifiable. Following the publication of Strauss and Corbin's (1990) text, grounded theory split into two camps, Glaserian and Straussian (Kelle, 2007), based on fundamental disagreements over procedural differences between the two approaches (Mansourian, 2006). Glaser (1992) declared that the Straussian version of grounded theory was too rigid and prescriptive because the use of the pre-established coding categories recommended by Strauss and Corbin forced the data and thus prevented the theory from developing out of the data.

Concerned that both Glaserian and Straussian grounded theory remained too firmly rooted in positivism, Charmaz (2006) developed CGT, which she grounded within the interpretivist paradigm. Charmaz asserted that a grounded theory develops through

the researchers' interactions with the participants and the data, while noting that the researchers are at the same time influenced by their own experiences and philosophical background. Charmaz' recommendation that CGT researchers make themselves open and transparent to their subjects and their readers echoes an underlying tenet of FOIA—transparency. Charmaz' (2006) CGT has therefore been chosen for this research.

CGT has not only been used to conduct studies related to health care (Harper, 2013; Leslie, 2012), it has also been used to research education (Berry, 2013; Simmons, 2012; Tillapaugh, 2012; Tyler, 2011), management science (Jennings, 2013; Pender, 2011), environmental science (Goralnik, 2011; Washburn, 2009), and political science (Gewurtz, 2011; Shields, 2007).

Researchers within the LIS field have also used CGT. Cunningham (2012) found that community college librarians utilized a play framework to balance their competing roles as both librarians and educators. Hamerly (2009) discovered that webcast and chat mediators utilized a variety of techniques to ensure participants stayed within the session's boundaries in a process he called minding the verge, a term modeled on a landscaping element used to set off a boundary between a road and a sidewalk or a garden and a lawn.

Jennings (2011) utilized CGT to develop the Data Wisdom Transformation Model (DWTM) to explain the transformative power of human interactions in the transfer and dissemination of knowledge. Minarik (2008) studied business executives' sense-making processes and found that they used a variety of techniques, including interpersonal interactions and thinking out loud, as scaffolds when adding new knowledge onto their existing knowledge structure.

Moeller (2008) examined the acceptance and enjoyment of graphic novels among high school students and found that while students of both genders enjoyed reading the graphic novels included in her study, the female students felt that reading graphic novels “hindered the imaginative and analytical skills” they needed to read what they described as “real books” (p. 111). She also found while both boys and girls felt a social stigma was attached to graphic novels, both groups felt that in the right situation graphic novels could be useful in an educational setting.

Naumer (2012) examined the use of frames and praxis or feedback in the sense-making process. Naumer found that throughout the sense-making process new information is measured against existing conceptual frames, which results in the new knowledge being either rejected or accepted. He also found that acceptance can result in the destruction of existing frames, followed by the construction of a new replacement frames.

Since its introduction in 1967, grounded theory has proven to be a popular and widely accepted qualitative research methodology in a wide variety of fields including library and information science. The three types of grounded theory: Glaserian, Straussian, and constructivist are all valid qualitative research methodologies, and the choice of which one to use depends on the researcher’s epistemological framework (Mills, Bonner & Francis, 2006b).

CGT, which is grounded within the interpretive paradigm, acknowledges that the theory cannot exist independent of the researcher because the researcher is a co-constructor (Mills, Bonner & Fisher, 2006b), co-producer (Charmaz, 2006), or participant-partner (Mills, Bonner & Francis, 2006a) in the theory development process. The choice of CGT also allowed me, as the researcher, to interact with my study’s participants and data, while reflecting on my knowledge, experiences, and potential biases in order to explore both the

visible and hidden “positions, networks, situations, and relationships” (Charmaz, 2006, p. 130) embedded within the FOIA process. Choosing CGT has allowed me to shine a little light on the inner workings of the FOIA black-box.

Research design

This study is based on in-depth interviews with FOIA professionals that were focused on the initial receipt and review of incoming FOIA requests. Interviews are a primary means of data collection in grounded theory studies (Creswell, 2007), especially when it is neither convenient nor feasible to observe the participants (Creswell, 2003). In the case of this study, participant observation was not a viable methodological option because the FOIA process takes place in geographically distributed locations over a period of several weeks, months, or years.

Focused interviews. Focused interviews (Merton, Fiske & Kendall, 1990) were used in this study. Questions moved from general open-ended questions, to more specific or narrowed questions based on themes that emerged during the interview session. In the case of this study, experience processing FOIA requests and overseeing a FOIA program equipped me with the requisite degree of familiarity with the subject. The initial, open-ended interview questions are shown in Appendix G.

Participant selection and sampling. Interview participants were initially recruited from a list of executive branch agency and bureau FOIA contacts. Employees of NPS, DOI and other DOI bureaus were excluded from the interview process in order to avoid any potential conflict of interest or bias, which could result from interviewing people with whom the researcher has a working relationship (Creswell, 2007).

Purposive sampling. This study initially utilized purposive sampling to select participants. Purposive or convenience sampling is often utilized in grounded theory research because it allows the selection of participants based on their familiarity with the phenomena being studied (Morse, 2007). For this study, participants were initially recruited from a master list of agency and bureau FOIA contacts that is maintained on the Department of Justice's FOIA.gov website. Potential participants were identified based on the number of requests that had been reported to the Department of Justice in their annual reports, which was posted on the FOIA.gov website.

Twenty-one individuals were invited to participate. Initial invitations were sent via regular mail using the agency contact information on the FOIA.gov website. A copy of the invitation letter is shown in Appendix E. Two of the invitations were returned as undeliverable. No other responses were received within ten workdays, so the remaining 19 invitees were contacted by phone and invited to participate. The person answering the phone at three of the numbers indicated the person I invited was either no longer with the agency or was no longer acting as the agency FOIA contact. Voice mail messages, explaining that I was following up on the invitation that had been previously mailed to them and requesting they contact me, were left for the remaining 16 potential participants. After receiving no return calls within the next ten workdays, a second round of phone calls was made, which resulted in two potential participants declining my invitation. Another voice mail message was left for the remaining 14 potential participants, none of which were returned.

Convenience sampling. After receiving no replies to the second round of voice-mail messages, the decision was made to switch to a convenience sampling methodology

in order to recruit participants. Purposeful (Creswell, 2007; Morse, 2007) or directed (Emmel, 2013) convenience sampling is frequently utilized in grounded theory research as a means of locating participants who have both experienced the phenomena being studied and are willing to participate.

A request for assistance in recruiting potential participants was sent to the American Society of Access Professionals (ASAP), a non-profit professional organization whose membership comprises federal government employees and private citizens who regularly work with and utilize FOIA. After reviewing the proposed interview questions, the informed consent form, and the approval documentation from the Institutional Review Board, the ASAP Board of Directors agreed to pass along my request for participants to their 407 members, of which 399 are government employees (C. Shanley, personal communication, July 15, 2014). See Appendix H.

Sample size. A specific sample size was not determined in advance because project termination or conclusion in grounded theory studies is determined by saturation rather than conducting a pre-determined number of interviews (Bryman, 2012; Charmaz, 2006; Glaser & Strauss, 1967, 2007). Guest, Bunce, and Johnson (2006) found that researchers could reach data saturation in as few as six interviews. This study was based on interviews with 10 participants and written answers provided by two additional participants who declined to be interviewed.

Twenty-two people initially replied to the ASAP message indicating that they would be interested in participating in the study. Of those, one was excluded because his official, government duties did not involve the processing of FOIA requests and another

four were excluded after they failed to return their signed, informed consent form. Two participants provided written answers to the interview questions in lieu of participating in an interview, while acceptable interview scheduling arrangements could not be made with another five potential participants. Interviews were conducted with the remaining ten individuals.

Of the final 12 participants, seven were male and five were female. Participants had between eight to more than 40 years of FOIA experience. The lowest-level FOIA employee interviewed was a GS-11, while the highest was a GS-15. All the participants had at least a four-year degree with academic backgrounds in fields such as law, biology, accounting, and business administration. Participants were also geographically distributed.

Interview Protocols and Transcription

Interviews lasting between 30 and 60 minutes were conducted over the phone using Skype and recorded using Pamela for Skype. Permission to record the interviews was obtained from the participants in advance, via the informed consent form, and was reconfirmed at the time of the interview. The interviewees were provided with information in advance regarding the purposes and goals of the study and were offered an opportunity to ask the researcher any follow-up questions they had regarding the research.

Each interview was transcribed using Nuance's Dragon Naturally Speaking voice-to-text software and Transcribe by Wreally.com, which is a plug-in application for the Chrome web browser that provides an integrated audio player and text editor. Participants were provided a copy of their interview transcript and provided an

opportunity to review it for accuracy and completeness. Only one participant responded with any feedback on his transcript.

That participant stated he might have answered several questions differently if he had realized that the recording was going to be used to create a verbatim transcript. He expressed concern that some of his answers had been informal and “off-the-cuff” and as such did not represent the official position of his agency. He concerns were satisfied after receiving assurances that any quotations used would be anonymized in order to protect his identity.

Each participant was offered an opportunity to review and comment on his or her transcript. This participant review not only ensured the accuracy of the transcripts that served as the foundation of this research, but also offered participants an opportunity to provide additional information that may not have occurred to them during the initial interview.

Data Analysis

The purpose or function of the data analysis phase in grounded theory research is to establish connections and identify patterns and begin to draw conclusions from the data (Miles & Huberman, 1997). Qualitative researchers do not generally follow what is often thought of as the traditional, linear research process of hypotheses development, testing, data collection and data analysis; instead they progress through an iterative process wherein they consistently interact with their data (Lichtman, 2010). In the case of grounded theory, this iterative process is referred to as *constant comparison* (Charmaz, 2006; Glaser, 1992; Glaser & Strauss, 1967; Kelle, 2007).

Constant comparison means analysis and reflection takes place throughout the data collection and not just afterwards. The requirement for constant comparison also meant that each interview was transcribed and analyzed soon after it was completed so it could be compared with previous interviews. This allowed each interview to inform or influence each subsequent interview. This constant comparison is completed through a process of coding and memoing.

Coding. Each transcript was printed, reviewed, and coded. During the initial coding phase the data was broken into small sections so that it could be distilled (Charmaz, 2006) and a code or label could be assigned that described its essence (Creswell, 2007).

Gerund forms of verbs were used as codes, which grounded the codes onto the actions described within the data. *In vivo* codes developed from participants' exact words (Charmaz, 2006; Creswell, 2009) were also used, while versus codes were used to identify data relating to "strong conflicts or competing goals" (Saldaña, 2014, p. 115). Annotations for each code were written to the right of the relevant portion of the text on the hard-copy transcripts. A total of 868 initial codes were identified.

During the focused or second-cycle coding phase each initial code was entered into a spreadsheet along with a notation for its corresponding interviewee and transcript line number. The initial codes were further analyzed in order to identify appropriate focused or conceptual codes that described the linkages or connections between the initial codes within that category. A total of 32 focused or conceptual codes were identified.

During the theoretical coding phase focused or conceptual codes were sorted into new groups and were assigned a theoretical code or label based on patterns, connections,

or linkages between the focused or conceptual codes. A total of six theoretical codes or categories were identified. See Appendix J.

The coding was not a linear process. Instead, the data was constantly compared after each interview and throughout the coding process. Additionally, the original interview recordings were reviewed in order to ensure that the researcher was correctly interpreting both the content and context of the interview, especially when coding for emotional codes. The constant comparative process continued until newly gathered data no longer provided new understandings or no longer sparked theoretical insights.

Memoing. Three types of memos were utilized during this study – interview notes, code notes, and theoretical notes. Interview notes were used to record thoughts related to the data collection, interviewing, and transcription process. Code notes were used to document interactions with my data during coding, while theoretical notes were used to help weave together and flesh out the emerging theory and model while also serving as a “pivotal intermediate step between data collection and writing drafts” (Charmaz, 2006, p. 72).

Validity and Reliability

Before research results are accepted as valid and representative of the truth, they must be evaluated for credibility (Keller & Casadevall-Keller, 2010). Creswell (2003, 2007, 2013) identified eight strategies that can be used to help ensure the quality of a qualitative research project. The three that were used for this study were triangulation, member checking, and clarifying potential researcher bias.

Triangulation. Triangulation has traditionally been defined as collecting data using multiple methodologies. Miles, Huberman, and Saldaña (2014) indicated that

triangulation can also be achieved by collecting data using multiple researchers or by collecting data from varied data sources, such as different people in different places. During this study data interviews were conducted with participants who worked for different agencies in different geographical locations. Participants also had varied work and life experiences, as well as differing levels and types of FOIA experience.

Member checking. Participants were offered an opportunity to review and comment on their interview transcript. Qualitative researchers often have study participants review their findings in order to ensure that their conclusions accurately represent the reality of the phenomena being studied. Creswell and Plano Clark (2012) noted that this process is a widely accepted qualitative research technique.

Researcher bias. Creswell (2007) asserted that it important for researchers to clarify or disclose their backgrounds early in the study, including any potential biases they may have. By openly discussing my library science, records management, and employment history as a FOIA officer in following sections, the reader is being provided an opportunity to decide for themselves what significance they will give the study's findings. This process is similar to the legal process for admitting a witness' testimony as expert testimony, in that the jury is informed about the qualifications of the witness so that they can determine how much weight they will give that person's testimony.

Tabula rasa. Traditional grounded theory has been criticized for Glaser's (1992) *tabula rasa* or clean slate requirement on the basis that it is unrealistic or naïve to expect the researcher to forget everything they know when researchers begin a grounded theory study (Gustavsson, 2007). However, the *tabula rasa* approach is not intended to imply

that researchers have no biases, but instead serves to remind researchers that they should not develop or posit preliminary explanations for the phenomena under study prior to conducting their research (Kelle, 2007).

Constructivist grounded theory, however, treats prior knowledge as a starting point rather than a stopping point (Charmaz, 2006). For this study my personal experiences with FOIA and prior knowledge of FOIA served as “sensitizing concepts” (Blumer, 1954) that facilitated the identification and categorization of codes and categories necessary for the development of the final theory. Concepts from the LIS field, including gatekeeping theory and information utilization also helped me identify areas for analysis rather than serving as instructions for what to see (Blumer, 1954).

Researcher reflexivity and subjectivity. It is not possible for researchers to approach their research *tabula rasa* by completely divorcing themselves from their previous knowledge and personal experiences, thus each study is influenced by the researcher's personal identity, values, and experiences (Magnusson & Marecek, 2012). Throughout the research process I used journal entries as an opportunity to reflect on how my personal engagement in the process and interactions with the participants and data informed and shaped the research process.

Research topic selection. A fundamental area where my personal background and experiences influenced this study is in the choice of my topic. Geddes (2003) argued that an effective research question often begins with an “intense but unfocused curiosity about why some event or process occurred” (p. 29) and that is certainly true in this case. While working as a records manager and FOIA officer for over ten years, has afforded me a detailed understanding of how the FOIA process is *supposed* to work, I am still

regularly surprised and even confounded by what I consider to be unexpected outcomes of the FOIA request process, which inspired my choice of a research topic. Additionally, my choice to examine the FOIA process as an LIS problem related to the creation, dissemination, and utilization of information was inspired by my interest and experiences in the LIS field.

Ethical Concerns

Every research project, particularly those involving human subjects, raises ethical issues (Roberts, 2010; Smith, 2000); however, every effort was made to minimize or eliminate any negative impacts on study participants. Participant identities were concealed when discussing or quoting specific comments in this dissertation. Agency-specific details were also removed or changed when quoting from interviews to reduce the chances that a given comment could be traced back to a specific person.

In accordance with Emporia State University's (2012) *Guidelines for Research, Demonstration and Related Activities Involving Human Subjects*, all research protocols were reviewed and approved by Emporia State University's Institutional Review Board (See Appendix I). The NPS Ethics Office also confirmed that this research would not violate any agency ethics rules. (See Appendix D).

Interview recordings are retained by the researcher until the dissertation is finalized and approved. At that time the original recordings will be destroyed; however, interview transcripts will be retained indefinitely. Completed informed-consent forms will be retained by the researcher for three years. See Appendix F.

Study limitations. While traditional quantitative studies utilize sampling strategies, such as large participant numbers and rigid participant selection protocols, in

an effort to obtain results that can be treated as representative and statistically significant (Krathwohl, 2009; Miles & Huberman, 1997), qualitative studies have as their primary goal the in-depth study of a specific phenomenon.

For that reason this study utilized purposeful sampling methods (Creswell, 2007, 2013; Wood, 2007). Purposeful sampling, which is also known as judgment sampling (Bernard, 2003, 2005) or theoretical sampling (Charmaz, 2006), allows the researcher to listen to and follow the story that the data tells, rather than trying to force the data into different sized boxes based on rigid statistical requirements such as population or group sizes. For this study purposeful sampling refers to participants chosen specifically because they worked inside the FOIA black-box. However, the study groups was a sample of convenience because it consisted only of individuals who agreed to be interviewed or to provide written answers to the interview questions. Relying on purposeful and convenience sampling methods means that my study population, all of whom are members of ASAP, may not be truly or fully representative of the entire population of FOIA professionals, since not all government employees who work with FOIA are members of ASAP. Additionally, because the study relied primarily on data gathered during interviews and did not include observational data, findings are based on my interpretations of participants' experiences and impressions, and it is possible that this study's findings may not fully or accurately represent how the FOIA process works elsewhere. Finally, because this research will be focused on how the U.S. FOIA process works the findings may not be applicable to open records processes at the state or international level.

Although reliance upon purposeful and convenience sampling techniques means that research findings are not generalizable in the same way as the results of a more traditional quantitative study might be, the benefits of such techniques far outweigh their weaknesses. The power of purposeful sampling comes from “selecting *information-rich* [emphasis in original] cases in depth,” which offer the researcher both “insights and in-depth understanding” (Patton, 2004, p. 230). Such insights cannot be obtained through empirically rigid statistical methodologies.

I am also aware that the act of conducting and recording the interviews that served as the foundation for this study could have impacted my data and by extension my findings. As the Hawthorn experiments showed, participants’ actions can vary or change simply because they understand that they are being studied (Roethlisberger, 1982). In many ways this issue is similar to the physics concept of Schrödinger’s cat, which posits that the act of observation changes the condition of the environment being studied, such that the cat or sub-atomic particle being studied, is no longer a potentiality but is instead found to be either alive or dead (Harré, 2009).

Study feasibility. In addition to the described limitations relating to generalizability, issues related to the potential feasibility of the proposed study also exist. These include access and time limitations. Access can be an unexpected research obstacle; however, it is a vital element of any successful research project (Feldman, Bell & Berger, 2003) especially one such as this that relied upon interviews as the primary data source. Although other FOIA researchers (Kwon, 2012; Reynolds, 2011) have noted difficulties in gaining access to FOIA professionals, none of them were completely turned away. Although the initial requests for participants in the current study were

unsuccessful, my experience working as a FOIA professional helped me build a rapport with ASAP, which ultimately allowed me to gain the necessary levels of access and study participation. My experience also helped alleviate issues or concerns participants had with regard to my motivation for conducting the study.

Conclusion

The selection of constructivist grounded theory as the methodology for this study has been supported with a discussion of the strengths and weaknesses of existing methodological options. While this study research was influenced by the work of Kimball (2001), John (2009), Snyder (1998), Roth (1993) and others, it was not intended to replicate any of these past studies. This study is the first examination of the FOIA process to be conducted by someone with experience working inside the FOIA black-box and thus provides unique insights into the FOIA process.

Chapter Four: Interviews

As discussed in Chapter Three, a total of 11 people participated in the study. Ten agreed to be interviewed and to have those interviews recorded, while another two declined to be interviewed but submitted written answers to the initial open-ended questions. Interviews were conducted over a period of two months. Open-ended questions afforded participants an opportunity to express themselves freely, which provided in-depth information for analysis. A summary of the interviews and written responses is provided in this chapter. Pseudonyms have been used and specific agency details omitted in order to protect the confidentiality of the participants (Lee & Hume-Pratuch, 2013).

Participant One: “Bob”

“Bob” has over 35 years of FOIA experience. After graduating from college he struggled to find a job. Eventually after having sent out more than 200 resumes he got a job processing FOIA requests. Over the years he rose through the ranks based in part on his management and training skills.

Bob feels that one of the major issues with FOIA is that Congress continues to revise and modify it without having any real understanding of how the process actually works or what its impacts are on either the requesters or the FOIA professionals. Although Congressional staffers may solicit input from agency personnel on proposed changes to FOIA, Bob is concerned that the answers they are getting are not coming from the street-level FOIA professionals. He explained that in many cases senior agency employees will respond without ever consulting their FOIA staff. And even when agency FOIA staff are asked to comment on proposed legislative changes to FOIA their

responses are filtered through official channels. This results in the FOIA professional's answers being reviewed and wordsmithed by senior agency officials and agency attorneys.

Bob described FOIA as a living, breathing organic process. As such it is constantly changing and responding to outside pressures placed on it by members of Congress, judges, and requesters.

Over his years of working with FOIA Bob has seen the process become increasingly complicated. That increased complexity has resulted in the creation of a cottage industry of professional FOIA requesters who act as information brokers for people and organizations that are unwilling or unable to take their own time to work through the FOIA process. From Bob's experience most of these professional FOIA requesters are acting as fronts for commercial firms who are using FOIA as a tool of industrial espionage.

Although Bob was glad to see Congress begin to take FOIA work seriously with their passage of the 2007 OPEN Government Act, which instructed the Office of Personnel Management (OPM) to create a FOIA job series. However, he expressed concern that OPM created that series without any serious input from FOIA professionals. He noted that the answers he had submitted to his agency in response to OPM's request for feedback about the proposed new job series were not the same answers that were ultimately submitted to OPM. Additionally, Bob is concerned that the new job series starts at the GS-9 level, which means it does not allow for or provide FOIA jobs for entry

level government employees. The new job series also does not apply to government employees for whom FOIA is a collateral duty.

Bob also expressed concerns regarding the total lack of any government-wide, standardized training. Even though Congress, as part of the 2007 OPEN Government Act, had recommended such training as an outcome of the creation of the FOIA job series, OPM issued a determination that such training was best left up to the individual agencies.

Because his agency has a decentralized FOIA program, Bob indicated that when a request is initially received it must first be reviewed in order to determine which office or offices might have responsive records. In some cases the outcome of that review process is a determination that the requester submitted the request to the wrong government office. When a request is incorrectly submitted to his office his staff must either route the request to the correct bureau within his agency, or inform requesters that they have no records and suggest the agency or agencies that might have the information they are looking for. If the review process indicates that the request has been submitted to the correct office it is electronically routed to the office or offices that might have responsive records.

Based upon his experience Bob noted that requesters were increasingly submitting broad and vague requests because they incorrectly assumed that his agency maintained copies of every document their agency had ever produced in a centralized, electronic, records management system. Because his agency had no such system it was left up to individual employees to manage and retain their own records including their e-mail.

Concurrently it was also difficult to search for and retrieve the potentially responsive records needed to respond to FOIA requests.

Bob also noted that Section 508 requirements, which are intended to provide equal access to government information to disabled individuals (U.S. Access Board, n.d.), have had the unintended consequence of restricting his agency's ability to proactively make information available on its website. Unfortunately for his agency and many others as well, they were unable to post records on their website because the costs to ensure that the documents met the stringent 508 compliance standards were cost prohibitive. For example, the cost to make one 22 volume set of frequently-requested records 508 compliant came to \$90,000. This meant that rather than being able to make the materials available online, the agency had been forced to burn multiple copies of the records onto compact discs, which had to be mailed out every time that record was requested.

Lastly, Bob explained that the large administrative costs associated with managing the FOIA program were a major roadblock to the successful and efficient implementation of FOIA within his agency. Without specific and directed funding from Congress FOIA successful FOIA implementation will continue to be restricted by resource limitations decisions made by senior agency staff, which too often see FOIA as an unwanted and unnecessary set of overhead expenses.

Participant Two: "Sally"

Like Bob, Sally started working for the federal government in the early 1980s shortly after graduating from college, where she worked on the night shift processing

applications. A short while later she saw an advertisement for a FOIA job that paid more and offered the opportunity for advancement, which her first job did not. She applied and got the position, which required that she move to Washington, DC.

When she arrived in Washington, she learned that she would be working in a former vault that was in the process of being converted to offices. Even after the renovations the office was an unpleasant place to work because it was cold in the winter and hot in the summer. Sally commented that in addition to the unpleasant office temperatures, the working conditions were socially unpleasant as well, due in part to the fact that the agency frequently used the FOIA office as a dumping ground for employees with performance issues. As a result neither the FOIA process nor the FOIA staff were well respected within the agency. Sally noted that from her perspective and experience she was glad to see that things had improved for FOIA, due in part to an increased emphasis on the process on the part of Congress and outside public-interest groups.

Sally also feels that the FOIA job series that was created as a result of the 2007 OPEN Government Act is also beginning to have a positive effect on the perception of FOIA work has improved because both their coworkers and the public now have a better understanding of what a FOIA professional does. The new job series is also ensuring that people being hired for FOIA positions have a standardized skill set and meet a minimum level of qualification.

Sally explained that her first action upon receiving a request is to determine whether or not her agency might have responsive records. If so, she determines which offices will need to conduct a search for potentially responsive records. Sally noted that

approximately 30% of the time requests are too broad or vague, which means she has to contact requesters to clarify what they are asking for. Sally noted that such requests are not usually submitted by their regular requesters who are already familiar with how her agency works and as a result usually know exactly what records they want.

Sally mentioned that the FOIA office of an agency for which she had previously worked made it a general practice to give staff in the public affairs office a heads up when a potentially sensitive request came in. However, at her current agency the FOIA office is specifically tasked with preparing a list of newly received FOIA requests, which is distributed to the agency's legal and public affairs offices because senior agency staff realized that FOIA requests often signaled potential litigation or pending media attention.

Sally indicated that requesters frequently ask for information that does not in fact exist, particularly statistical data, because they think the agency would or should collect that type of information. Sally noted that even though electronic records have become ubiquitous within her agency, she and her staff still regularly receive requests for records that were created and are still stored in hardcopy formats, such as onion-skin copies, oversized drawings, and even old facsimile printouts. However, because requesters have the right to demand that copies of responsive records be provided to them electronically, Sally and her FOIA staff spend a considerable amount of time having to convert materials hardcopy originals to electronic file formats such as PDF and then ensuring that the electronic files are Section 508 compliant.

Sally also lamented the increasing discrepancy between the public's expectation of and the reality of her agency's records management capability. Many of the requesters

she deals with think that with just a few keystrokes Sally and her staff have full and immediate access to all her agency's records. However, in reality her agency does not have a centralized electronic records and document management system. As a result employees are responsible for managing their own records.

Sally also discussed the difficulties she experiences when she has to deal with requesters whose requests stem from or result from underlying emotional or mental health issues. These have included processing requests filed by family members who are grieving the loss of a family member and feel that the agency is hiding information about the death of their loved one. At a former agency Sally had to process requests from a requester who told her the government had put a tracking device in his shoe and another who was positive that the government was using a satellite to track his every movement.

In addition to issues related to requester expectations, Sally also discussed the difficulties she has in getting record holders to give her copies of potentially responsive records. She also noted that some of the most frequently requested documents are created and maintained by the busiest staff, such as the director of her agency. These employees are the least able to interrupt their activities to search for potentially responsive records.

Lastly Sally described how, over the more than 30 years of FOIA work she has performed, e-mail has significantly increased the complexity and volume of her workload. Due to the ease with which e-mails can be duplicated and distributed she has seen an exponential growth in the volume of potentially responsive records that are returned from each records search. She noted that for one recent request she had to

review approximately 6,000 potentially responsive e-mails and many of the e-mails were duplicates that had been sent to multiple employees. However, in many cases the messages were only partially duplicated, especially when the original message resulted in the creation of multiple, different conversation threads.

Sally pointed out that the informal nature of e-mail communication means that information relating to multiple and sometimes unrelated topics are intermingled in the same e-mail chain. She has also pointed out that employees are also more likely to intermix personal and business communications within e-mails. Sally noted that both of these situations would have been unlikely to have occurred when memos were created and distributed in hardcopy formats.

Participant Three: “Evelyn”

Evelyn has been working with FOIA for approximately eight years. After having served as an intelligence analyst in the military for 20 years, she found a job as a contractor performing mandatory declassification reviews. When the FOIA officer for her office passed away Evelyn inherited her FOIA responsibilities. Eventually her contractor job was converted to a civil-service position and FOIA became her full-time job.

Evelyn indicated that based on her experience the main issue FOIA professionals deal with is finding the requested information, which means the first thing she has to do when she gets a new request is determine exactly what the requester is asking for. She needs to know what information the requester is looking for in order to be able to determine what offices or staff might have responsive records. However, even when she

knows who has the information it can be difficult to get the record holder to provide her copies of potentially responsive records. This occurs because the people who have potentially responsive records may be reluctant to release them.

Evelyn feels that within her agency the level of FOIA reluctance or resistance is starting to change as younger people are being hired. She feels the decreased level of resistance to releasing information under FOIA is an unexpected outcome of hiring younger people to replace recent retirees many of whom worked for the agency in the pre-FOIA era. She feels that the younger people are more accepting of the concept and practice of transparency because they have grown up in a digital culture where a high level of information accessibility has become the standard.

Evelyn has noticed that within the last five years or so, especially following the creation of the 0306 job series, the FOIA field is becoming increasingly professionalized. Within her agency, new staff are coming into the FOIA process who have a high level of military and legal experience, rather than just a general clerical or administrative background. Her agency has also hired FOIA staff with extensive amounts of records management experience. However, she is concerned that there is still no government wide, standardized FOIA training. Instead it is being left up to each agency or office to develop and provide its own FOIA training. As a result training is being provided in a haphazard or on-the-job fashion, which too often can result in each FOIA person or office processing FOIA requests inconsistently.

Evelyn indicated that they receive requests through multiple channels, although the majority of the requests she receives come in via her agency's online form. She also

noted that since her office works closely with their agency's library staff, they also get requests forwarded to them that were originally submitted to the librarians as reference questions. Due to the decentralized nature of her agency, she also regularly receives requests that were incorrectly submitted to another branch or unit of her agency and have subsequently been rerouted to her office for processing.

Evelyn noted even though Congress has established FOIA as a law, her agency does not have enough money in its FOIA budget to hire the number of people needed handle the actual workload. This is particularly true for her agency because they receive FOIA requests for classified material. Whenever potentially responsive records are classified each record must also undergo a mandatory declassification review, which means her office must perform an additional level of review as part of processing FOIA requests that is not required of agencies processing requests for unclassified information.

Evelyn also pointed out that even on the rare occasions they are able to charge and collect fees for processing requests; those fees don't actually help her agency defray their FOIA processing costs because the agency does not get to keep the fee money. Instead the funds have to be turned over to the Department of the Treasury where they are put into the general fund. As a result Evelyn noted that many people within her agency view FOIA as an unfunded mandate.

Evelyn indicated that she does her best to make materials that her office releases available online because doing so means future requesters can be referred to the website to download the materials themselves. Having material available for self-serve access can reduce the workload on her and her staff. However, because she does not have

enough staff to perform either the mandatory Section 508 compliance work or the actual website maintenance, she is forced to rely on her agency's information technology (IT) staff to carry that portion of the workload. She must also depend on the IT staff to upgrade documents to newer formats or to update document links when the website structure is modified.

Evelyn indicated that she feels that her agency may have a more cautious or conservative approach to releasing information under FOIA because of their national security related mission. Evelyn described a situation, which occurred shortly after she started doing FOIA full time, where she had released some information as part of working with her agency's legal department to respond to a FOIA lawsuit that had been filed by a reporter for a major newspaper. Shortly after the documents were released the reporter published an article and Evelyn received a call from a politically-appointed, senior agency official who demanded to know how the reporter got classified information. Evelyn revealed she initially feared that she was going to lose her job. However, Evelyn was eventually vindicated in the eyes of the senior official after an investigation revealed that staff within the official's own division had properly reviewed and declassified the documents and provided them to Evelyn's unit for release in response to the FOIA.

Evelyn commented her office regularly processes requests for information that is covered by the PA, which means the requests must be processed under both the FOIA and PA. For example, she has received requests from family members searching for information on what their father or grandfather did during WWII. Evelyn indicated that it is not uncommon for her office to receive requests for information that does not exist

but which the requester mistakenly believes does and that her office would have it. These situations have included requests for information relating to UFOs and requests for specific unit administrative histories.

Evelyn noted that even when they successfully issue a response, including providing responsive documents, requesters may not be satisfied because they did not get what they actually wanted. She noted that requesters sometimes submit a series of questions rather than requests for specific documents because they incorrectly assume that her staff will do the research necessary to answer those questions. As a result requesters view the FOIA process as being unsuccessful because they received copies of records and not answers to their specific questions.

Participant Four: “Kate”

Kate has been a federal employee for more than 30 years and has been working with FOIA for more than 20 years. After completing law school, where her focus was on corporate law, she began looking for work in the investment or finance fields. However, she was only able to find short-term contract positions so she decided to apply for a full-time job working in a government contracting office. She eventually got that entry-level job, which included processing FOIA requests as one of its duties. Later while working as a contracting officer at another agency, she successfully established a small FOIA shop that handled all the requests their office received for records relating to a multi-million dollar, high-profile program their agency had recently implemented. A couple of years later she was asked to serve on a detail helping another program office clean up its FOIA backlog, where she successfully established a program that processed FOIA requests for 13 offices nationwide. That short-term detail turned into a full-time FOIA job. Since

then she has held FOIA positions at several other agencies. Her current position involves supervisory responsibilities, which requires her to attend a lot of meetings. However, she still spends approximately 30% to 50% of her time processing FOIA requests.

Kate explained that in her experience the best FOIA officers are people who are detail oriented because FOIA work requires being aware of and responding to small nuances. In addition to people with a legal background, like hers, Kate has worked with FOIA officers whose backgrounds have varied from biology and languages to mathematics and library science.

Kate has one employee whose primary job is to perform the initial review of all incoming requests. That employee is responsible for determining if the request is a legitimate FOIA request and ensuring that the correct program office issues a response. In other cases if it is determined that more than one program office would have responsive records, Kate's office will be responsible for issuing a response. In those cases the intake specialist is responsible for coordinating the collection of potentially responsive records from the various program offices. If the intake specialist determines that an incoming request is a PA request, which is when people requests records about themselves, rather than a FOIA request, it is rerouted to their Privacy Office for processing.

When the intake determines that a request is not a valid FOIA or PA request, such as when someone writes in complaining about an agency decision or action, the intake specialists may refer the request to that program office for follow-up or they may refer

the request to their General Counsel's office to issue a response, especially if it appears that the requester may be mentally unstable.

The intake specialists are responsible for entering a request into the agency's tracking system, assigning it a tracking number and sending out the initial acknowledgement letter. They are also responsible for working with the requester to resolve any issues relating to fees and clarifying any questions regarding the scope of the request. They also handle negotiations with the requesters for processing time extensions for voluminous or complex requests. As time allows the intake specialist may also help assist other staff in the office with processing responsive records.

Kate explained that every agency has its own FOIA policy and that differences between those policies and the ways in which they are implemented can be confusing. This can be particularly problematic when requesters ask for the same information from different agencies. She also noted that a change in an agency's senior management's view on FOIA can have a significant impact on how the employees within that agency handle FOIA requests. Kate described a situation at a previous agency where a new secretary was appointed who implemented an open-door and transparency policy, which resulted in the agency releasing information that six months to a year earlier they would have withheld. However, after that secretary left several years later many within the agency reverted back to the more restrictive approach.

Kate indicated that her agency has an online portal that requesters can use to submit requests. Overall she estimates that 90% of their requests either come in through that portal or are submitted via e-mail. However, they still receive requests for

information via fax or regular mail because some requesters either do not have e-mail or do not feel comfortable using the online system.

Kate indicated that they do their best to post materials online so that people do not have to FOIA them. However, due to several constraints her office has not been able to post as many materials online as they would like. Firstly they cannot afford the costs of converting the documents to Section 508 compliant formats. Additionally the types of information her agency deals with includes a lot of personally identifiable information (PII), which is protected under the PA and, therefore, cannot be released.

In other situations they are unable to proactively post information that has been identified as public, such as a list of their employees and their salaries because employees and their unions filed objections with senior agency officials over its release. So she and her staff are put in the position of having to process multiple requests for that information because they have been barred from proactively posting it, even though requesters, including various newspapers, can and do get the information from other sources and proactively post it on their websites.

Kate discussed issues she has with processing requests for e-mail records. First because their agency's e-mail system is not set up to allow her staff or the individual users to easily search for and extract potentially responsive records, she is forced to rely on the IT staff to conduct such searches. The IT office is understaffed and has its hands full with performing the day-to-day maintenance and upkeep on the agency's e-mail system. As a result it can take months for her office to get e-mail search results back from IT.

Kate also discussed issues relating to how words and terms within requests were interpreted. For example, her office has received pushback from agency staff as to whether or not a request for “correspondence” would include e-mails. While Kate and her staff argue that e-mail is a type of correspondence. Record holders and IT staff within her agency have argued that correspondence only applies to hardcopy letters with wet signatures, which has put her staff in the position of having to clarify with the requester what they wanted. Kate tells her staff that if there is a question as to meaning of a word or phrase in a request they should give the requester the benefit of the doubt and interpret it based on the most common usage of the term. She feels this benefit of the doubt approach is necessary because requesters may not know or be aware of agency specific usage of a term like correspondence, which in her agency means correspondence sent to senior agency officials that requires both a formal response and tracking.

Participant Five: “Darcy”

Darcy has been working with FOIA for approximately 17 years, and prior to that she worked as a writer in her former agency’s public affairs office. In the late 1990s her office went through a period of severe staff cutbacks. As a result Darcy was asked to help handle the FOIA workload in her office. She realized she enjoyed doing FOIA work and has been doing it ever since.

Darcy indicated that from her perspective the outcome of each FOIA request depends on how well or poorly the initial review process is handled. As a result she makes it a practice to contact the requester to obtain clarification regarding scope any time it is not absolutely clear to her what the requester is asking for. She estimates that she contacts requesters at least once on 50% of the requests she processes.

Darcy described a recent case where she received a request where the initial portion asked for a list of a certain type of contracts that had been awarded over a designated period. However, the subsequent paragraph asked for any and all records relating to each of those contracts. She contacted the requester and explained that the two elements of his request provided conflicting information as to the scope of his request. She was also able to help him understand that if her office had to provide copies of every document that related in any way to each of those contracts it would not only take a significant amount of time to process but would also incur a large processing fee. Ultimately she was able to work with the requester to clarify that in addition to the basic information on each of the contracts he wanted some additional metadata for each contract. Because she contacted the requester to clarify what he was actually looking for, her office was able to not only provide the requester with the information they needed but to also do so within the required time frame.

Darcy commented that because of the stricture against asking requesters why they need the information it can be difficult to obtain information that can help narrow the scope of a vague or broad request. So when she needs to ask questions regarding why the information is needed or what the requester intends to do with the information, she prefaces her scope questions by informing requesters that they are not required to answer her questions but that doing so may improve their ability to effectively process their request including improving their chances of completing the response within the required 20 workday period. She described one recent request where her office was able to turn the response around in a couple of days after the requester was able to identify the three things he wanted to know, because all the information was included the initial

application, whereas she had estimated that processing the original request for any and all records relating to that award would have taken several weeks.

Darcy noted that while some requesters will provide additional information to clarify their request, others will continue to insist they want any and all documents relating to their topic. She indicated that many of the any-and-all requests she receives are from people or businesses who want the government employee to do their research for them. In many of those cases Darcy has found that it can be helpful to provide the requester with preliminary information she feels is responsive and let them know that if they want additional information they should contact her after they have had a chance to review the information she had provided. She noted that in most cases the requester does not request additional information.

Darcy described a situation that occurred several years before the study interview. Her office had received multiple media requests for information relating to allegations of fraud against a firm that had received a grant from her agency. All but one of the requesters demanded to receive any and all information relating to the grant, which consisted of nearly 50 boxes of records. However, another reporter agreed to narrow his request to several specific items. Her office processed the narrowed request first, which still took almost nine months. She then provided copies of those same materials to the other reporters and advised them to let her know if they wanted additional information. None of the other reporters asked for any additional information, which enabled her to close out their requests.

Darcy explained that she frequently has to clarify requesters' expectations because they incorrectly assume that everything they want is in a single, centralized file. She notes that in some ways this perception has become even more prevalent for electronic records and emails, because requesters assume everything is stored in a large, centralized database that she can pull responsive records from. However the reality is quite different. Instead of being stored in a centralized file room records are held by multiple people and offices within her agency. Additionally, her agency does not have a centralized records management system to manage their e-mails so it is up to each individual employee to search for and provide copies of potentially responsive e-mails.

Participant Six: "Jack"

Jack has worked in FOIA for approximately 10 years. After earning a degree in biology he worked as a contractor for a firm doing contracted research relating to diseases in fish hatcheries. After the contract was unexpectedly cancelled by the issuing agency, he began submitting applications to a variety of jobs including a position that had both records management and FOIA responsibilities. Although he had not worked with FOIA before, he did have several years of experience in records management having worked part-time during college working with medical records. He got the job and moved to a new city where he worked in a government records management facility in a cave processing FOIA requests for personal records.

The facility operated three-shifts and employees received hands on FOIA and PA training. They would initially be assigned simple cases, which they processed under a high degree of supervision. As they gained skills employees were gradually assigned more complex cases and given higher levels of discretion in their processing. Jack

eventually gained enough experience to get a job with another smaller agency as their national FOIA officer, which provided him with more experience that helped him qualify for his current position working as a senior FOIA analyst at a large agency.

Based on his experience, Jack notes that the type of information that an agency considered to be sensitive, which can result in a reluctance to release the information, varies depending on the nature of their mission and the types of records they create. Agencies that work with a high volume of PII are more likely to be concerned about incorrectly releasing information that could result in civil or criminal penalties under the PA. Whereas agencies that are more science based may be more concerned about releasing research data, while agencies that work with information obtained from commercial firms are more concerned about releasing information that could result in criminal penalties under the Trade Secrets Act.

Jack also reported that the background of the FOIA employees may vary depending upon the nature of the performed by the respective agency. Agencies that deal with a higher number of lawsuits may be more likely to employ FOIA officers with backgrounds in law and legal analysis, while agencies with missions that are more science based are more likely to employ FOIA officers with backgrounds in the sciences such as biology and medicine.

Jack also remarked on how each agency has its own flavor of FOIA. The variety in processes between agencies is influenced, in part, by the FOIA workload that agency handles. For agencies processing thousands of requests each year, they are more likely to

use form letters when issuing acknowledgements and responses, while an agency with a smaller workload is more likely to prepare customized response letters.

Jack lamented the fact that with his current and previous agencies posting information on their FOIA websites had not resulted in a reduction of the FOIA request volume. He felt that due to the nature of the agency's work requesters needed the most current information, which meant that by the time the information was released in response to a FOIA request and run through the mandatory Section 508 process and posted on the agency's website the information had become outdated. Jack indicated that based on his experiences requesters felt that the information that had been posted on the agency's FOIA website was worthless because it was outdated. As a result unless requesters need historical or background information on a particular issue they will be unlikely to use the agency's FOIA library.

Jack expressed concerns over several Congressional proposals that would require every document released in response to a FOIA request be made available online. Not only was he concerned about the costs associated with ensuring that all posted material was in compliance with Section 508 standards, but he was also concerned about potential copyright issues. As he pointed out there is little chance of harm to a copyright holder when releasing a single copy of a copyrighted work in response to a request for records that federal employees has used in making an agency decision. However, posting copies of those same copyrighted materials online could result in a significant decrease in revenue for copyright holders. When such materials are derived from expensive, scientific journals, such publishers could lose revenue if individuals started obtaining

articles through the FOIA process rather than pay subscription or single article access right costs.

Jack explained that employees at many agencies work with requesters before they file actual requests in order to help the requester get a better understanding of the types of records their agency creates and retains. This is because it can be easier in the long-run to spend a bit of time holding someone's hand through the initial phases of developing or preparing a request, than it is to have to process a request that is overly broad or vague because the requester doesn't have an accurate understanding of the agency's mission or records.

Jack indicated that from his perspective the current state of records management within the Federal government is a disaster and the FOIA process is negatively impacted because of poor or non-existent records management. He is particularly concerned that the rate at which e-mail and electronic records are created is out pacing the government's ability to effectively manage the information. Records management is being left up to individual employees and the average government employee has no concept of records management.

Some employees store too little information because they consider electronic information to be transitory in nature, while others store too much material because electronic information is essentially invisible and storage is considered inexpensive. Even when a series of records is identified for long term retention, such as when a litigation hold is established, there is often little enforcement of the hold. Jack pointed out that not only can the loss of those records negatively impact specific litigation; their

loss also denies current and future generations access to and an understanding of the actions and decisions of their own government.

Participant Seven: “Rachel”

After earning her law degree in the early 1980s Rachel served as an attorney in the Navy’s Judge Advocate General (JAG) office. Rachel served several tours in Iraq and Afghanistan where her assignments included working with local governments to establish democratic legal systems. After leaving the military she took a position as attorney-advisor with the federal government. After nearly thirty years as an attorney she accepted a position as a FOIA officer because it offered her the option of running her own office. She has been doing FOIA work for more than six years and processes over 300 requests a year. She also performs the records management and privacy officer duties for her office.

Rachel explained that when she receives a request she reviews it to make sure that she understands exactly what the requester wants. During this review process she identifies specific date ranges for the requested materials and verifies that the documents and records are adequately described. If she determines that any information is missing she works with the requester to clarify the scope of the request and resolve any fee issues. Only then will she notify program offices that they need to search for responsive records.

Even though she works with her IT staff to post a copy of every document that has been released more than twice under FOIA, Rachel indicated that her FOIA workload has increased each year. Rachel determined that the materials are almost out of date by the time they are posted and are therefore of little use to most of her requesters. Rachel

lamented that her ability to post information proactively was severely limited. She is the only FOIA person for her agency and does not have time to work on the website. As a result the work of posting documents to the FOIA reading room has to be done by the agency's IT staff.

Rachel noted that a large number of her FOIAs include requests for e-mails. Because her office has a centralized e-mail system searches can be performed fairly easily. However, that centralization means that each search returns a voluminous amount of potentially responsive records all of which she has to review. She explained that once the e-mail search is completed, the messages are extracted and sent to her. She then has to manually review each message to determine if any portion of it is actually responsive to the request. If she determines that a message is responsive she must then examine it to determine if any portion of the e-mail needs to be withheld. Rachel pointed out that while processing a recent request, which had a very narrow scope, she reviewed more than 4,000 pages of potentially responsive e-mails.

Participant Eight: "David"

David earned his bachelor's degree in human resources and health-services management more than twenty years ago. His first job with the government was as an employee and labor relations specialist. His problem-solving skills were recognized, and he was asked to organize and lead a team that would be responsible for coordinating the relocation of the agency's headquarters staff while maintaining agency operations at the same time. After successfully completing the relocation project he was asked by a senior agency official, who had worked with David during the relocation project, to take over the agency's FOIA program. The program had recently come to the attention of

members of Congress, public interest groups, and the media because of its significant FOIA backlog.

David quickly discovered that one of the major factors contributing to the backlog was that everything was done in hardcopy and by hand. Requests to program offices for responsive records were sent via regular mail. Copies of responsive records were then mailed back to the FOIA office. FOIA analysts would propose redactions with a highlighter before sending paper copies over to the legal department for review. Once the attorney approved the proposed redactions the FOIA analyst would use a thick black marker to cover the highlighted areas. Those blacked out documents would then be recopied in order to prevent the requester from using light variances to read the blacked out text. The new copies would then be sent to the requester.

David, who by that time was working on his master's degree in Applied Management, realized that unless their agency began utilizing technological tools, such as Adobe's new PDF redaction program, to maximize their program efficiency they would be unable to significantly reduce the backlog. He was able to leverage the Electronic Freedom of Information Act (EFOIA), which Congress had recently passed, in order to obtain management approval of his technology plan.

The FOIA staff were initially unwilling to adopt the new technology. However, David took advantage of an employee's retirement and hired a young woman Adobe system experience who rapidly began outperforming the other FOIA analysts. As a result, several of the other analysts in the office asked if they could have access to those

same tools. Others, who remained adamantly opposed to technology, eventually moved on. After two years the agency was able to virtually eliminate their FOIA backlog.

David has since successfully helped two other agencies successfully modernize their FOIA programs. As recently as the mid-2000s, his former agency did not have any way to track their FOIA requests. David successfully implemented an electronic system that tracks each request throughout the processing lifecycle. David uses metrics from that system to monitor and manage a nationwide FOIA program involving more than a dozen offices that processed more than 30,000 requests annually.

David explained that in addition to having set up the workflow system he established FOIA teams. The intake team was responsible for handling the initial review of the request, including any necessary coordination with the requester, and the collection of responsive documents. When the search process was completed, the request was transferred to the processing team, which performed the page-by-page document review. The processing team also prepared and issued the agency responses. A third team handled issues relating to appeals.

David noted that he has not been at his current agency for very long but has noticed they have some of the same issues as his previous agency. He is working to implement some similar tracking, workflow, and process improvements at his new agency.

David indicated that one of the major issues he has seen with the FOIA program at almost every agency he has worked at is that the agencies do not have effective records

management programs. As a result record searches often have to be performed manually rather than being able to perform a quick search of a records management database.

David described a request he process at his previous agency where one office took three years to issue a no records response. When Mark inquired why it took so long to tell the requester they had no responsive records, the program office explained they had to search through thousands and thousands of boxes by hand in order to verify that they had no records.

In another case David received a call from a program manager in response to a document search request he had sent out. The program manager was calling him to tell him they could not possibly conduct a search of their records within the required twenty day period. When David asked for more details the program manager explained that because they had limited office storage space the program's employees had been paying for years to rent space at a local storage facility. As a result they had almost 100 years of records they needed to search through for responsive records. That case resulted in litigation, which the agency lost.

Although records management is not one of David's official duties, other than properly managing the FOIA program's records, he does his best to work with the agency's records and IT staff to help ensure that the agency manages their records in compliance with the Federal Records Act, while also remaining sensitive to the agency's need to comply with FOIA.

David also discussed his concerns regarding the exponential growth in e-mail records. At both his previous and current agencies he has made the case that they need to

invest in software that will allow for the centralized storage, search, and retrieval of e-mails, which would help the agency comply with the Federal Records Act, while at the same time reducing the volume of duplicated electronic records his FOIA staff have to review.

Due to ongoing budgetary constraints neither his former or current agency have opted to purchase the costly software necessary to establish a centralized document management system. As a result, employees are forced to manage their electronic records within storage limits that are established by the agencies' IT departments. For David, this means frequently moving e-mails into archive files stored locally before purging them from the main server.

David noted that based on his experience proactively posting records on the agency websites has not reduced the volume of FOIA requests. Instead the volume of requests has proven to be inversely proportional to the amount of information on the website. David feels the increased volume of FOIA requests occurs because requesters want to know more about the information being posted on the website.

Although his program has not incurred the same amount of Section 508 compliance costs that some of his colleagues have incurred, in part because the documents they post are fairly small and easy to convert. However, David feels that Congress needs to do a better job of resolving or addressing the conflict between the Section 508 requirements and the mandate to proactively make information available online. David feels that Congress either needs to establish a Section 508 waiver for documents released under FOIA, similar to the way the FOIA documents are exempt

from the Data Quality Act or they need to adequately fund Section 508 compliance.

David expressed his concern that because of Section 508 issues the public is being denied information because the agencies cannot make it available online, which means that only those who know enough to ask get access to the information.

David indicated that when he sees the phrase “any and all records” in a request it tells him that requesters don’t know what they are looking for. When that occurs he will usually contact requesters and try to get more information as to exactly what it is the requesters want. This information can include date ranges, personnel names, or program issues that help him determine which offices might have responsive records.

David stated that one of the biggest internal issues he sees with FOIA process is that the FOIA program managers do not have enough data to adequately measure or monitor their programs. They may know how many requests they have but they don’t know where they are in the process. They also do not have any means to measure the actual volume of records that have to be handled to create a response. Since there is a vast difference in workload between a request for ten specific documents and 10,000 e-mail messages there is no way to measure or identify “bottle necks” or problem areas within the process. As David noted, if you can’t measure your FOIA processes you can’t manage them.

Participant Nine: “Brad”

Brad spent more than two decades in the military as a paralegal, where one of his duties was processing FOIA and PA requests. After leaving the military he got a job working as FOIA and PA officer in Washington, D.C. After several years, an

opportunity for a FOIA position in the western United States opened up. He applied for it and was able get away from his previous job and move away from the DC metro area.

In his current job Brad processes both FOIA and PA requests. The first thing he does when a request comes in is determine whether it is a request for PA records, in which case he has to process it under both FOIA and PA. If it is not a PA request then it is processed solely under FOIA. The next thing he determines is which office or offices within his organization might have responsive records. He must then determine whether those offices are within his organization, if they are not then he has to route the request to the correct division or office for further processing.

Although his entire organization uses the same tracking system, Brad explained that each request can end up being assigned multiple requests numbers. Rather than a request being assigned a single, unique number that stays with it through its processing life, similar to the way a social security number is assigned to a single person, each office and unit within his organization assigns a number to their portion of the request. So if five different offices have to search for and provide records responsive to a single request, that request will be assigned at least five different tracking numbers.

Brad went on to explain that because each office can only release their own records, the FOIA staff within his agency must regularly refer records located in one units files to another unit because the unit that found the records was not the unit that created them. So if each of the five offices in the example searched and found records in their files that they had to refer to one other unit, that original request could end up being assigned 10 or more different tracking numbers.

Brad also noted that some particularly savvy requesters have begun exploiting this multi-number system by filing the same request with each office that might have responsive records. By filing multiple requests for the same information, each of which may have pieces of the request handled by multiple offices, the requesters are hoping to get more information by obtaining multiple copies of the same information, each copy of which may have been processed and redacted differently.

Brad noted that the practice in his office is to only assign tracking numbers to requests that are ready for processing. So if he receives a request that is overly broad or vague, he will send the request a letter or email letting them know that they need to clarify their request. Until they do, he does not enter the request into the system and if they fail to provide the needed clarification within the specified time frame he closes the file on their request.

Brad explained that one of the most memorable requests he processed came from a graduate student looking for several years' worth of data on suicides and how the agency had handled the subsequent investigations. It took several years to complete the processing on the request as Brad had to review a voluminous amount of records all of which contained PII that had to be redacted. For Brad the part that made it memorable was getting to see how she used the statistical data she extracted from the records to not only complete her dissertation but also to improve conditions within his agency. This happened because after she completed her doctoral research she got a job as a social worker and now works on the same complex as Brad.

Brad also discussed how a recent Lean Six Sigma quality and process improvement project within his organization, which resulted in a completely new big bucket retention schedule, had negatively impacted his ability to process FOIA requests. Prior to the project the agency had a very large records retention schedule that was tied to the agency's file codes, which were in turn linked to the various agency regulation numbers. As a result, if requesters knew which regulation number they wanted to know about, Brad could use that regulation number to search for responsive records.

However, after the project was completed the records were no longer linked to the regulations. So under the new big bucket system Brad's FOIA case files are filed in the same administrative records category as boat navigational records. Although the Lean Six Sigma group created a crosswalk that was intended to link the old file codes to the new buckets, Brad has determined that a large number of file codes were not included in the crosswalk. As a result it is not always possible to identify which category records are now filed under, which makes searching for responsive records difficult if not impossible.

Brad indicated that his office has had limited success in reducing its FOIA workload by posting materials online. Brad explained that although his organization successfully reduced the volume of FOIA requests relating to a controversial expansion project that the agency had proposed by proactively releasing records online, over all posting materials online had not decreased his workload. Brad noted that part of that stems from the fact that most of his requests are one-offs because he does not typically receive multiple requests for the same records. Therefore each request he receives is for records that have not been requested or released previously and as a result the requested

materials would not already be available online because they would not qualify for posting on the website as frequently requested documents.

Brad also pointed out that his workload has increased significantly over the past several years even though the number of requests has remained fairly steady. The increased workload is the result of the exponential growth in the number of potentially responsive documents that are being located during e-mail searches.

Brad revealed that he increasingly has to deal with requesters who incorrectly assume that because they are asking for electronic records that Brad can simply type a search into a computer and pull up all the responsive records. Requesters who have become used to the speed and capabilities of search engines like Google have come to expect similar instantaneous results from the FOIA process.

Brad described getting push back from record holders when he sends them a FOIA request and asks them to search for responsive records. The first thing they want to know is what is the requester going to do with the information? Brad mentioned that as a result he spends a significant amount of his time explaining to the record holders that under FOIA the requester has the right to ask for anything and that the government does not have the right to base their release decisions on whether or not the requester has a need to know.

Brad explained that within his organization there are a limited number of offices that have what he called denial authority. Brad's office, for example, does not have denial authority, so if he determines that information has to be withheld he has to mark his proposed redactions and send the response package to the attorney's office for review

and approval. If the attorney approves then the request is sent to a higher office for final approval and only that higher office has the authority to sign and issue a response to a request when information is being denied. Higher office approval is required even if the information being withheld is something standard like PII. The denial authority process ultimately creates what Brad described as catfish pools, which are areas where the flow of the process becomes becalmed or bottle necked.

Brad does FOIA and PA work full time. However, many of his colleagues in other division offices are assigned FOIA as a collateral duty. As a result they often receive only minimal FOIA training. They must also multi-task between their regular job and their FOIA duties. Brad is concerned that both of these situations result in an increased number of errors, such as improperly releasing information that should have been withheld. Brad feels that requesters are aware of this issue, which is another reason they will file the same request with multiple offices.

Participant 10: “Jeff”

Jeff has been working with FOIA for a little over six years. After graduating from law school he applied for a paralegal position with a government contractor who had been hired to help a government agency reduce its FOIA backlog. That was his first experience with FOIA. After the contract ended Jeff applied for a supervisory position within an agency’s FOIA group and he has been working in that position for several years now. During the time he has worked for the agency he has seen the volume of both requests and potentially responsive records increase.

His agency receives more than 2,600 requests per week. That number has steadily increased since he started working for the agency. Jeff feels that the increase is due to the ease with which requesters can file requests now. He explained that in the past requesters would have to prepare a written request, print it out, and mail it, which discouraged many potential requesters. However, now filing a request is as easy as sending an e-mail to his agency's FOIA office.

He also remarked on the increased number of requests his office receives from members of the public for records relating to high-profile news stories. So that now instead of getting a few extra requests for information from other reporters, his office gets requests from numerous individuals asking for information relating to the smallest details of issues that are mentioned in news stories.

Jeff also explained that since he began working with FOIA he has seen the volume of records that have to be processed for each request increase from 100s of pages to 1000s of pages. He attributes a large part of this increase to the increasing reliance on e-mails to conduct business within his agency.

Jeff noted, however, that even though the volume of requests and responsive records has increased since he started his current job, there has not been a corresponding increase in staffing. As a result the FOIA staff within his office must handle every phase of the FOIA process from analyzing requests when they come in to reviewing responsive documents. Although he informally tries to assign requests based on the subject matter expertise of his staff, he cannot rely solely on that when assigning FOIA work.

Jeff explained that his agency regularly has to deal with requests that are covered under both the PA and FOIA. Because the record types that are requested under the PA are fairly similar his agency uses a team approach to process those requests. The team approach means that one group handles the initial request intake, while another handles responsive document review, while a third group handles the final document preparation and response process. His office handles requests for records relating to agency operations rather than individuals. So they take a cradle-to-grave approach to processing, which means the same person handles intake, document review, and response processes.

Jeff also pointed out that requesters frequently assume that responsive records are just laying around where they can be easily accessed. However, the sheer volume of records within his agency and the decentralized way in which his agency works means that the exact opposite is true. As a result when a new request is received one of the first things the FOIA staff must do, after determining whether it is a PA or FOIA request, is try to determine which agency offices might have responsive records. Jeff pointed out that even when FOIA staff can determine which office or unit within his agency should have records it can still be difficult to get copies of the records due to limitations within the agency's records management program.

Jeff explained that his agency has a very limited number of staff whose duties are solely related to performing records management functions. As a result his office has to rely on agency personnel whose primary duties involve performing work that directly relates to his agency's functions to take time away from their regular duties to search for records that might be responsive to a FOIA request. The sheer volume of information within the agency also makes it difficult to locate records. Jeff pointed out that his office

alone has more than an estimated 20 million records and he notes that his office is small when compared to the size of the overall agency.

Written Answers: “Carl”

Although Carl declined to be interviewed, he did agree to provide written answers to the initial open ended questions. Carl was first exposed to FOIA while working on an archives project while he was in college. As part of that project he would file FOIA requests to obtain documents that filled in gaps within the collection.

Carl’s background is in the sciences. He feels that his scientific research background provides him with a set of analytical skills that work well when performing FOIA work, which requires a high level of attention to detail. Carl indicated that the first thing he asks himself when reviewing a new request is, “who might have responsive records?”

Carl wrote that one of his most memorable requests involved looking for records about the requester’s late father, who had indicated to the requester that he had been involved in the response to a famous nuclear accident in the 1950s. After searching its files the agency could find no records that supported that claim. However, in order to try and soften the blow of the no records response Carl contacted former agency employees to ask them if they remembered the requester’s father, as well as tracking down footage from the various local news agencies. Unfortunately, none of the information Carl was able to locate supported the father’s claim.

Carl indicated that based on his experience requesters should know requests with a courteous tone tend to get processed faster than rude requests. Carl also pointed out

that requesters need to understand that the government does not have everything stored in some huge, centralized warehouse like the one at the end of Raiders of the Lost Ark. So it takes time to search for records.

Written Answers: “James”

James also chose to provide written answers. James’ background is in law and he applied for his first FOIA job because the position required a lot of the same skills he used while working as a paralegal. James stated that the first thing he looks at when reviewing a new request is the identity of the requester, which is required since he processes a large number of PA requests.

James described working with a requester who originally wanted to find out what the process was for getting new identity documents after her sex change operation was completed. He was able to provide her with the requested information. Several years later he worked with her again, although by that time the requester was a he and he had filed a request to learn why his request for new identity documents had not been correctly processed.

James indicated that requesters should know that based on his experience requests with a courteous tone tend to get processed faster than rude requests. James also pointed out that requesters need to understand that the government does not have everything stored in some huge, centralized warehouse like the one at the end of Raiders of the Lost Ark. So it takes time to search for records.

James believed that requesters needed to understand that FOIA professionals try to release as much information as they can. However, in some cases the law simply will not allow them to give requesters everything they asked for.

Summary

This chapter summarized each of the interviews or set of written answers. The data analysis results are discussed in the following chapter. That discussion includes a comparison with findings of previous studies, which were initially discussed in the literature review.

Chapter Five: Findings

The purpose of this study was to examine, from the FOIA professionals' perspective, how and in what ways the receipt and review of incoming requests impacts the FOIA process. An initial review of the existing literature identified several possible request attributes that could be impacting the FOIA process, including wording, submittal method, subject, and the scope or clarity of the request. The literature also indicated that the requester's identity, organizational constraints, and street-level FOIA professionals were impacting the FOIA process through their interactions with requesters. Although the research data revealed the attributes of the request vary in how and to what degree they impact the outcome of the FOIA process, the data did not provide enough information to predict how a single attribute or combination of attributes would impact a specific FOIA request. For example, although Roberts (2003) found that requests from reporters and politically affiliated requesters were statistically more likely to have longer response times, the data from this study indicates that such delays may not be due solely to the identity of the requesters.

Instead the longer response times for processing requests from journalists or politically affiliated requesters may result from the interaction between a request's scope and the larger information environment that the request is being processed within. During the analysis of the data, six interconnected, thematic categories were identified, which were used to develop a FOIA information environment model. The information environment model is shown in Figure 2.

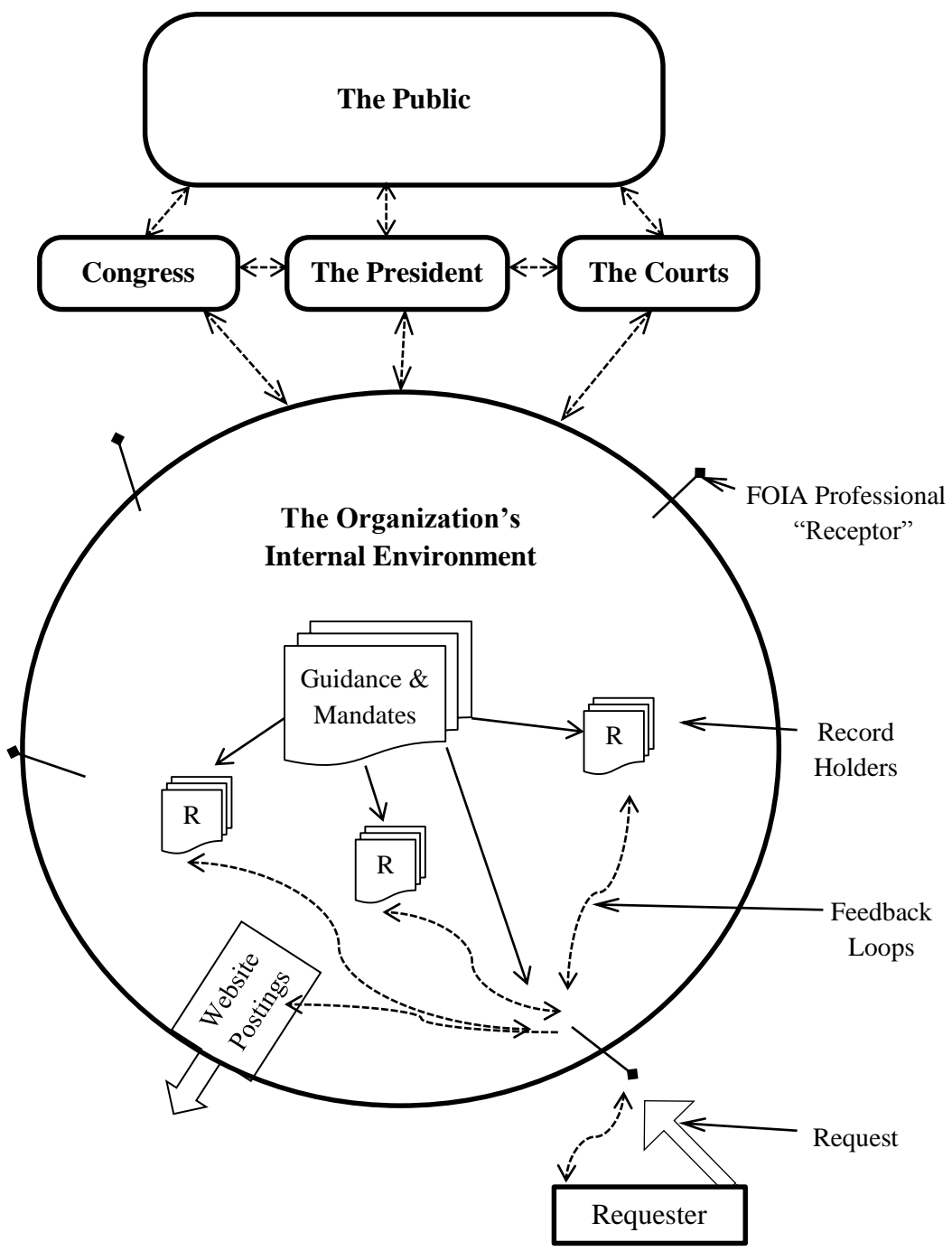


Figure 2. This figure illustrates the FOIA information environment model developed in the current research. Record holders are staff or offices holding potentially responsive records and are represented by the “R” icon.

Request as Stimulus

An analysis of the data revealed that the incoming FOIA request acts as a stimulus that prompts a response within the agency. Within that context, the street-level FOIA professional functions as an information receptor for the agency in much the same way as a receptor protein on the outside of a cellular membrane functions to receive chemical signals from outside a cell's environment, through a process known as binding, that allows the cell to respond to changes within its environment (Pandit, 2007). The FOIA request binds with the FOIA receptor during the receipt process, which subsequently prompts a reaction within the organization.

Input methods. During the initial receipt process the FOIA professional must first receive the request. The research revealed that there are several ways in which requesters transmit their request, including e-mail, fax, and hardcopy. Each of those methods impacts the FOIA process differently.

Participants noted that electronic requests can shorten the time frame between transmission and receipt, especially when compared to requests sent via regular mail. This is especially true when sending to FOIA contacts within the Washington, D.C. area, because e-mails do not have to go through the irradiation process that is required for all mail sent to government offices within the District of Columbia (U.S. Government Accountability Office, 2008). Although Metcalf (2011) raised the irradiation issue as part of the reason for delays in getting requests via regular mail, several requesters outside the Washington, D.C. area also noted that they receive e-mail requests faster than they do requests sent through the mail. Respondents indicated that regardless of where their office was geographically located, mailed materials were often delayed several days

as the letters worked their way through various government mailrooms. Delays regularly occurred when a request for records held by a sub-unit were originally mailed to the parent agency's FOIA office.

Study participants reported that electronic requests are easier to route and reroute than hardcopy requests. Additionally, some agencies have online forms with a workflow component that notifies the FOIA professional when a request is received or is routed directly to the FOIA program's mailbox, while hardcopy requests can be delayed by the required radiation treatment and mailroom processing. Misdirected requests received via e-mail can easily and quickly be rerouted, while hardcopy requests have to be scanned if they are going to be forwarded electronically; if they are rerouted in hardcopy format they have to be put into another envelope and mailed or rerouted via inter-office mail.

Electronic requests for records held by more than one office can be easily and quickly forwarded to multiple component offices in order to initiate record searches. However, hardcopy requests have to be manually scanned or copied before they can be routed to component offices.

This is similar to Kimball's (2001, 2003) finding that processing of requests received either in-person or telephonically usually began at the time the request was received, while hardcopy requests were put aside for later handling. It should be noted, however, that in Florida, where Kimball's study took place, requests for copies of reports from local police offices could be submitted verbally, while FOIA requests must be submitted in writing. John (2009) also found that requests submitted electronically were

routed and rerouted electronically, while hardcopy requests required additional labor before they could be routed to the appropriate office.

Submitting FOIA requests by e-mail was generally viewed to have a positive impact on the overall FOIA process for the reasons noted above. However, Evelyn expressed concern over the use of firewalls to protect the IT infrastructure of her agency because she never “knows what is going to get through.”

A lack of confidence or trust in e-mail communications on the requester’s part could explain why several respondents indicated that some requesters would submit multiple copies of the same request. Darcy remarked, “...they’ll send it to me in an e-mail. They’ll fill out the form, and they’ll send me a FedEx paper copy.” She went on to speculate that the requesters wanted to make sure they covered all their bases. It did not appear that these duplicative submissions had any impact on the process as they were easily identified by the FOIA professionals as being duplicates.

Aboutness. After a request is received it goes through an intake or triage process where it is first reviewed to determine if it is actually even a “proper” or “real” FOIA request. Participants noted that while the FOIA only requires that an agency respond to requests for copies of records that are in their possession and control, they regularly receive and must deal with requests that do not meet that standard. These include requests that only ask questions or are a general “statement of unhappiness” with, or “complaint” about, something that the agency has done or not done.

Because these complaints or questions were submitted as FOIA requests, the FOIA professionals cannot simply disregard or ignore them. Participants indicated that

they may try and answer the questions or they may route the request to the public affairs staff for a response. Other participants indicated that they may try and locate other sources of information for the requester in an attempt to “make sure they’re in the right channel.”

After a FOIA request has been determined to be a proper submission, it is reviewed for its “aboutness” (O’Connor, 1996; Wilson, 1968). During this process, the FOIA professional reads “between the lines” in order to attempt to understand not only “what they want” but also “where they [the requester] are going.” This requires that they identify not only the subject of the request but also the “knowledge state” (O’Connor, 1996, p. 156) of the requester that prompted the request. Processing requests without a clear understanding the requesters’ actual information needs can result in requesters receiving records or documents they don’t need or want.

Vagueness and scope. However, participants noted that often they cannot determine exactly what the requester wants because the request is “ambiguous,” “poorly written,” or “vague.” When this happens most participants indicated that they would “contact the requester” to “discuss” or “clarify” the scope of the request, including getting information about why the requester needs the information. These findings are similar to those of Kimball (2003) and John (2007), both of whom noted that vague or poorly worded requests required additional time and effort on the part of the FOIA professional to determine what information was being requested.

Participants in this study reported that getting requesters to tell them why they need or want the information can be problematic because the Freedom of Information Act

(2007) itself states that the FOIA process is “based not upon the need to know but upon the fundamental right to know,” which means “those seeking information are no longer required to show a need for the information.” (Committee on Oversight and Government Reform, 2012, p. 1.) Therefore, FOIA professionals are trained not to ask the requester why they want or need the information. However, knowing why someone wants the information can mean the difference between requesters getting the *records* they asked for and getting the *information* they really needed. To circumvent the “don’t ask” mandate participants indicated that they often prefaced any “need-to-know” question by telling the requester that I am “really not supposed to ask you.” Brad noted that sometimes when he is able to engage the requester in a dialog, “a lot of them end up spilling it out to me anyway.”

Participants indicated that some requesters would be willing to tell them why they need the information. However, others would not. Sometimes, particularly in the case of requests filed by an intermediary such as a paralegal or an information broker, requesters may not know or be willing to say why their clients needs the information. Or a reporter, who is seeking information for an expose, may not want to prematurely reveal exactly what he or she is investigating.

Wording and vocabulary. Participants also indicated that differences between an agency’s specialized vocabulary or argot (Saldaña, 2015) and a requester’s more colloquial usage could impair their ability to determine what the requester was asking for. For example, a request for “correspondence” might be interpreted by the agency as referring to only those records maintained in the agency’s “controlled correspondence” files. Controlled correspondence files contain copies of correspondence, usually

addressed to senior agency staff, that have been formally received, tracked, and managed within some type of correspondence management system. As such, the system does not typically include copies of e-mail messages or correspondence that did not require a formal response. Several of the respondents indicated that they generally attempted to clarify any language discrepancy with the requester before processing a request.

Others indicated that sometimes a request was processed based on the narrowest or most “strict” interpretation of the request. A strict interpretation might be recommended by an agency attorney concerned about possible litigation. Kate indicated that she took a narrower approach to requests that might require a search of her agency’s e-mail system because their IT staff was “already stretched really thinly” and e-mail searches were “taxing on them.”

The findings relating to interpretation of words and language issues are in line with what Archibald (1993) labeled “secrecy by description” (p. 730). Ward-Hunt (2014) noted that:

...a request to ‘Provide information about records management’ might be received differently than a request to ‘Provide Records Managements Schedules and Instructions.’ This places a burden on requesters to have knowledge of the existence and proper description of the records. (p. 135)

These concerns influenced the wording of the requests he submitted during his research. When requesting information for the first round of his study, he requested, “agency specific instructions or directives for the management and disposition of records” but went on to provide four examples of possible responsive records, including, “Records

Disposition Schedules.” (Ward-Hunt, 2014, p. 178.) However, as Higham and Rich (2014) pointed out, agencies may extract or repackage some of the information under a different name. In such situations, neither the FOIA professional nor the requester may be aware of the change, which indicates that further research is needed into how record holders interpret requests when searching for records that may be responsive to a FOIA request.

Another issue identified during the current research, related to what Evelyn described as “weasel words,” which refers to phrases such as “any and all” and “including but not limited to.” Study respondents indicated that the use of these terms signaled that the requester did not “know what they're looking for,” were on a “fishing expedition,” or were more likely to sue the agency if they didn’t receive the exact records they were expecting. This is similar to John’s (2007) finding that requesters would, on occasion, use broad or vague requests deliberately as a means to open a dialog with the agency during the review and clarification process.

Respondents revealed that at the same time they are reviewing a request for its subject matter they are also evaluating where potentially responsive records might be located and how much responsive material might be located. For example, respondents noted that the presence of weasel words in a request indicated that it was likely to necessitate searching for a voluminous amount of potentially responsive records. As Brad explained, when he sees the phrase “any and all,” he knows that what they are asking for what amounts to a “trench in the ocean from the surface to the bottom,” while the requester is “thinking it's just a farm pond.”

Records management. The FOIA professional must parse each request through a records management lens in order to compile a list of the people or offices that might have responsive records. The FOIA professional is in the position of knowing the “rules of the game” because of their familiarity with the “organization, structure, associations, and specific peculiarities of the files.” (Taylor, 1968, p. 186.) During the search phase of the FOIA process the request will need to be routed each of those people and offices in order to meet the requirement for conducting a reasonable search (Department of Justice, 2013). As Sally stated it “is always a discovery process for us.” To be effective, a FOIA professional must have a thorough understanding of the agency’s functions and organizational structure, as well as having a general understanding of their records management systems.

Requests that require a search of multiple offices are frequently classified as complex, which would explain Kwon’s (2012) finding that complex requests took significantly longer to process. The finding in this current study that FOIA professionals must parse requests in order to determine where responsive records might be located also support’s Cuillier and Davis’ (2011) assertion that understanding an agency’s organizational structure and functions can help craft a more effective FOIA request.

For this reason, several of the respondents expressed concerns over changes to the FOIA process that were included in the recently proposed FOIA Act (HR 1211, 2014), which would require the creation and use of a single, government-wide portal system for submitting and tracking requests. Respondents noted that it can be difficult enough for an employee familiar with an agency’s functions and records systems to make determinations relating to possible search locations. As Bob put it, “I can’t figure out

how it is workable?” He continued, “how will somebody for the entire government know where records are?” These findings contradict Ward-Hunt’s (2014) assertion that adoption of a centralized system such as FOIAonline.gov would “help improve FOIA service performance” (p. 154).

As discussed earlier, the findings of this study indicate that FOIA requests act as a stimulus that causes a reaction within the respective agency. When a request is received by the street-level FOIA professional, it is initially reviewed to determine whether or not it is a valid FOIA request. If it is a valid request, additional review is conducted to identify what records are being requested and where within the agency potentially responsive records may be located, which may also include consulting with the requester to clarify the scope of the request. The interviews also indicated that there can be emotional component to this initial intake process, which is discussed in the next section.

Emotional Response

The language and tone of the participants’ responses during the interviews indicated that many of the interviewees experienced an emotional reaction to incoming requests. Emotions serve to prepare the body to react to a stimulus (Goleman, 2006; Maturana & Varela, 1992). The emotional reactions of street-level FOIA professionals to incoming requests appear to serve a similar function in that they prepare the agency to react to an incoming FOIA request.

An analysis of the interview data revealed that a fear of litigation caused some respondents to evaluate every incoming request to determine how likely it was that the requester would file a lawsuit against the agency. Respondents spoke of being “on

guard” or “going on the defensive” after having “been burned” during litigation, especially when the request was written in such a way as to convey that the requester was familiar with their rights under the FOIA. This finding also provides a potential explanation for Cuillier’s (2010) findings that requests written in a legalistic tone received a better response rate. It might also explain Roberts’ (2006) findings that requests from members of the media and those from various political affiliations took longer to process. If FOIA professionals feel that they have been “burned” by a requester or the organization they are affiliated with, they may take extra time to make sure that they get everything right before releasing any materials in order to avoid a potentially negative reaction on the part of the requester.

Several respondents expressed concern over personal liability for inadvertently releasing information during the FOIA process that is protected by the other statutes, such as the Privacy Act (1974) and the Trade Secrets Act (1985), because both statutes carry the potential for civil penalties. One participant noted that the government would not provide him with liability insurance and that he could not afford to pay for such coverage himself; another stated that she feared losing her job after senior agency officials adversely reacted to the release of records they considered sensitive, to a media requester during a FOIA lawsuit, even though their release had been approved by agency attorneys as part of the litigation settlement. These findings are similar to Kimball’s (2001) findings, which indicated the records custodians were likely to err on the side of withholding information rather than risk being penalized for improperly releasing information.

Participants indicated that they had become frustrated by having to “play psychiatrist” to requesters, some of whom they felt had serious mental health issues, in addition to spending a lot of their time calming the “front office down.” Other respondents described feeling “burned out” from constantly having to “walk a fine line” while “balancing” requester demands and agency workloads. Others indicated that they sometimes became frustrated from dealing with requesters “who complained a lot” and record holders who argued that they were “too busy” to search for records.

Although requests can trigger negative emotions, respondents indicated that there are times when FOIA work can be a pleasant experience. Darcy remarked “some of us really enjoy it.” Darcy explained that she really likes helping requesters and became melancholy when she discussed “going into the sunset” after she retires.

Although the analysis indicates that an incoming request can trigger negative emotions within the FOIA professional, the data did not provide enough specific evidence to support a claim that those emotional reactions change the final outcome of the process. Rather it appears that FOIA professionals go out of their way to avoid letting those emotions color their judgment. Darcy remarked, “I don't let my personal perceptions get in the way of it.” Evelyn firmly stated that regardless of how frustrating the process becomes, “you can't challenge” the requester and she added that ultimately it was easier to “just do the job” and process the request.

As noted earlier, the record custodians in Kimball's (2001) study had discussed their fears over being held personally liable for improperly releasing information. Kimball's participants were tasked with both managing the records and processing

requests for those records under Florida's Public Records Law. Within the federal government, the FOIA professionals are not usually the same people who have custody of or responsibility for managing potentially responsive records. They must route the request to other people and offices within the organization and ask them to search their files for responsive records. While reviewing incoming FOIA requests, the FOIA professional takes into account the fact that the success or failure of the FOIA process depends on the search process. The search process, which occurs within the internal information environment, is discussed in more detail in the next section.

Internal Information Environment

As discussed earlier, while reviewing an incoming request the FOIA professional parses the request in order to begin compiling a list both of potentially responsive records and record locations. This requires that they be aware of and take into account the organization's internal information environment, which encompasses areas such as records management, organizational culture, organizational structure, rule set conflicts, resource allocation, and FOIA process administration.

Records management. Participants indicated that record management plays a crucial role in the FOIA process. The process of reviewing an incoming request involves parsing the request into its constituent elements and analyzing a variety of records management issues in order to identify locations where potentially responsive records might be located. FOIA professionals must analyze records management issues during the initial review process including record series, types, and formats as well as storage and retrieval capabilities.

A *record series* is a “conceptual population of records” (Choksy, 2006, p. 188) that serve a similar function within an organization and are grouped together by function for the purpose of determining retention periods. For example, the document type “invoices” might be found within either the accounts payable or the accounts receivable records series, depending on whether it was an incoming document from an outside vendor or had been transmitted by the organization to an outside entity. Because record series is determined by the functional use of the records, the FOIA professional must have a basic understanding of the inputs and outputs of an agency’s functional units.

The term *record format* refers to not only the physical characteristics of the records, e.g. electronic or paper, but also to the “architecture or structure” (Choksy, 2006, p. 188) that is used to store or manage a particular record series. For example, within the record series FOIA Files the term “format” refers to not only hardcopy records, which might be stored in a physical file folder located in the FOIA professional’s office, but also to related e-mails stored on a central mail server. It would also include other types of electronic files such as scanned copies of responsive hardcopy originals being stored on a network drive, the FOIA professional’s laptop, or a batch of CDs or thumb drives in the FOIA professional’s desk. As Jack explained, “If you’re doing FOIA, you’re doing records management.” In other words in order to be able to efficiently and accurately parse incoming requests, the FOIA professional needs to be aware of, and stay up-to-date on, their agency’s record storage locations, formats, and retention policies.

Storage locations. As noted earlier, FOIA professionals must parse requests in order to determine where potentially responsive records might be located, because there is “no magic database or file cabinet or warehouse” where all the records are stored. As

Brad explained, “Once it’s been clarified and I know exactly what record they are looking for I then have to determine how many people am I dealing with. Are they right here or they all the way across post or are they deployed right now?” Sally remarked, “It is always a discovery process for us. We have to find the people who would have the information. It is not just a push button kind of thing.”

The age of the requested records can also impact the location of responsive records. While discussing a particularly memorable request she had processed, Sally noted that in some cases, “The material they were asking for, some of it was at the archives already.” Evelyn explained that many of their older records were only available on microfilm. David described almost falling out of his chair after learning that some of the agency’s staff had gotten together and been renting a storage space at an offsite location because they did not want to give up having ready access to over 100 years of scientific data because “science is always evolving.”

In other cases, even when records are being actively managed, it can be hard for the FOIA professional to know where responsive records might be located. David discussed how difficult it had become to locate or retrieve potentially responsive records after a restructuring of the agency’s filing system as part of a Lean Six Sigma project. The agency had gone from having hundreds of file codes, many of which corresponded with their relevant regulation numbers, down to just 12 file codes. As a result FOIA request case files were now filed under the same code as records relating to boat navigation. Sally described having to “talk to about ten people before I found someone who knew that there had been this inadvertent destruction of a small group of [agency] records in the 1980s.”

Another issue that impacts the location of potentially responsive records is the changing nature of the Executive branch itself. It is not uncommon for entire agencies, bureaus, or offices to be eliminated, restructured, or renamed. As Kate put it, “Determining where things [requests] go can be a problem because of various past reorganizations that have taken place or closures of certain program offices.” Jack described how the agency he had been working at had been “broken up” and become part of Homeland Security after the events of 9/11, while Bob noted the recent attempt by Senators Tom Coburn and Claire McCaskill to eliminate the National Technical Information Service (NTIS), which has served as a clearinghouse for government, scientific reports since 1950 (Brown, 2014), through the Let Me Google That For You Act (S. 2206, 2014).

Format. In addition to knowing where potentially responsive records might be stored, the FOIA professional needs to be cognizant of issues that can arise out of different formats in which the records are stored. Participants indicated that this is especially true for electronic records.

Technology allows people to “create information so much faster now” remarked one participant, while another participant stated, “there’s more records to find.” As Sally explained, “There’s so many of them. People often mix personal with business in e-mails.” Rachel noted that because “people love to chat” and e-mail communication is so informal, searches for e-mail messages tended to result in a larger volume of material to review than would the corresponding amount of hardcopy correspondence. As David remarked:

E-mail is an absolute nightmare just because, you know, when an e-mail goes from Point A to Point B, and then Point B sends it to Point C and C sends it to D, E, and F. And you know, of course people try to keep everybody informed, so it becomes exponential.

He continued to explain that, due to budget constraints, his office had not been allowed to purchase software to deduplicate e-mail. As a result his staff had to search through and review a voluminous amount of e-mail, much of which was potentially duplicative.

Another e-mail management issue that impacted how FOIA professionals analyzed incoming requests, related to the capabilities and limitations of the agency's e-mail storage system. Some participants indicated that their agencies managed the storage and retrieval of e-mail through the use of large, centralized document management systems. However, others stated that within their agencies it was up to each individual user to determine what records were retained. As David explained, "They're making this determination to allow all users so many megabytes of space, so really it is up to the user to manage their own [e-mail]."

Jack noted the potential pitfalls of leaving electronic records management up to users, "...nobody was paying attention to electronic records. People were just throwing them." As a result the records were unavailable to FOIA requesters. However, as Jack went on to point out, poor records management practices within his agency had almost allowed a large company to walk away from a multi-million dollar judgment because two employees had failed to, "follow the litigation hold to the T like they needed to." Leaving electronic records management up to the individual employees also means that

when employees begin “retiring like leaves falling off the trees in autumn” there is no system in place to ensure that their records will be available either to the agency itself or to “future generations” of FOIA requesters.

In addition to having the potential for exponential growth in the volume of materials, electronic records can also make it difficult to search for records. Sally explained,

It’s just that when you do your electronic search, because you’re trying to really find what they are looking for you are going to use sort of, you know, simple terms that are going to be in the e-mails and you get a lot.

As a result FOIA professionals can spend a great deal of time reviewing the request in order to identify potentially useful search parameters. However, as Sally pointed out, even if you have identified search parameters, “you have to go through a whole lot more to find what you're looking for” because it so easy to find words in e-mails since the system finds a lot more messages that contain your search terms. Because the search terms may be used in other contexts, each and every message identified using the search terms has to be reviewed to determine if it actually relates to the subject of the request. The search could have returned false positive results.

For example, responding to a FOIA request for information relating to cats would appear to require a search of the e-mail system using the search term “cat.” Such a search would return as false positives messages relating to categorical exclusions under the National Environmental Policy Act (1970), because the phrase *categorical exclusion* is often referred to as “Cat X.” The search might also return messages relating to the

purchase of Category 5 and 6 patch cables because those types of cables are often referred to as Cat 5 or Cat 6 cables.

Records retention. Rachel indicated that she felt that within her agency records were not being prematurely destroyed saying, “It [premature destruction] shouldn’t happen. Everything’s in a schedule when it rolls into destruction.” However, other respondents indicated that they regularly experienced difficulty in locating potentially responsive records because they had been prematurely destroyed or there was no specific requirement that they be saved. While discussing the management and retention of draft documents after the publication of the final or official record copy, Bob asked, “Of what value are those background documents? So there’s no requirement to save them.” Bob explained that he typically disposed of draft copies once the final document was approved. As a result when a requester asks for such a record, “They don’t exist because there was no requirement to keep it.”

The issue of what forms of agency communications are considered to be agency records, and retained in accordance with agency record schedules, has become a major issue recently as FOIA requesters have begun requesting copies of text or chat messages. Dinian (2014) noted that, although, “both written and electronic federal agency records are required to be preserved” text messages such as e-mails are not always “deemed to be a record.” The Washington Times reported that a recent survey it had conducted showed “most [agencies] don’t have a policy governing whether employees should be preserving and storing those kinds of electronic communications” (Dinian, 2014). As one participant succinctly commented, “Social media is going to kill us.”

As noted earlier FOIA professionals within federal agencies are not typically the same individuals who are responsible for managing an agency's records. However, if they are to do their job effectively they have to be familiar with their agency's records management program. Jack, who had recently moved to a position at a new agency, felt so strongly about the "hand-in-hand" connection between a successful FOIA program and records management, that one of the first things he did after starting his new job was to introduce himself to the agency's records manager. He did so because he believes that without an effective records management program in place his FOIA job would only get more difficult.

Organizational culture. In addition to records management, another element of the agency's internal environment that can impact the FOIA process is an agency's organizational culture. An organization's culture is defined by the "basic assumptions and beliefs that are shared by members of an organization" and "define in a basic 'taken-for-granted' fashion an organization's view of itself and its environment" (Schein, 1985, p. 6).

Ward-Hunt (2014) did not find a significant difference between the type or number of redactions made by intelligence agencies and those that did not have a security related mandate for the records request in his study. However, participants felt that there were some differences, especially those who had worked for more than one agency over their careers.

After having only done FOIA at his previous organization, Jack noticed such differences after he moved to a position at a new agency, saying "It was still FOIA but it

was their flavor of it.” Evelyn described the organizational culture at one of her previous employers as having been more “cautious” than her current agency. “They’re very conservative in their [pause] in the way they approach things. So they’re not going to give any information away unless they’re forced to do it,” she went on to explain.

Schein (1985) argued that an organization’s leaders can have a profound impact on the organization’s culture because, “leaders create cultures” (p. 313). The results of this study support Schein’s argument. Kate mentioned that the atmosphere within the agency, under a previous agency director, had been very closed-up and as a result access to information was rigidly controlled. After a new agency director took over “and opened up her front doors, it was no longer the Bastille” and the agency began disclosing a lot more information.

Sally explained that at a former agency she had found it extremely difficult to do her job effectively after the FOIA office was moved into an office managed by a senior agency staffer who knew absolutely “nothing about FOIA.” Sally reported that, in contrast, at her new agency her ability to perform her FOIA duties was improving because “higher management” was paying more attention to it.

Organizational structure. In addition to talking about the impacts that organizational culture and senior management have on the FOIA process, participants noted that an agency’s organizational structure could have a significant impact on the FOIA process, especially whether it was centralized or decentralized.

Decentralized organizations created, managed, and stored records in multiple locations. Offices and functions can be distributed throughout not only the headquarters

building but also geographically. Jack, who worked in an agency with offices located throughout the United States, explained that when a new request was received one of the first things he had to determine was, “what geographical and specialized interest section of [the agency] does the request go to?” He went on to explain that the geographic location of potentially responsive records determined whether he needed to be the one to “work” the request or if it needed to be assigned to someone else.

Bob noted that within some agencies the issue of which office has responsibility for handling a FOIA request is determined by the subject of the request. For example, a request relating to vegetables might be handled by a different office than a request for records relating to fruit. However, the agency’s subject-oriented organizational structure meant that a request for information relating to tomatoes might require both offices to search for responsive records, because tomatoes were sometimes classified as fruits and at other times classified as a vegetable.

Rule set conflicts. Moldoveanu (2005) defined organizations as “systems of rules and rule-based interactions among multiple agents” that are following locally “specified rules” (p. 282). This research indicated that there are times when the FOIA rule set may conflict with other rule sets operating within the agency.

One such rule set conflict arises out of the fact that Congress allowed each agency to establish its own regulations and policies for implementing the law within their agency when it passed the FOIA. Bob noted that at one agency he had worked for the agency’s regulations had last been updated in the 1980s. As a result, that agency’s regulations

were no longer in synch with FOIA, because FOIA had been updated three times since that agency's regulations had come out.

According to Serbu (2014) while there is only one FOIA law, "the 99 agencies that are subject to FOIA each have their own rules that dictate how they handle public demands for information." According to The National Security Archive (2014), almost half of federal agencies have not updated their regulations to bring them into compliance with the changes to the FOIA that originated out of the 2007 OPEN Government Act.

In an attempt to resolve the issue, the Department of Justice's Office of Information Policy (OIP) has begun work to develop a set of standardized regulations; however, it could take several years to complete the process (Department of Justice, 2014). Bob expressed concern that the proposed changes were being made without input from the FOIA people at the street-level. "If OMB or DOJ were to issue a call for opinions, I might or might not see it" because it would go to the Secretary's office, "where they might refer it to legislative affairs" and "they might involve me, they might not." He was also concerned that even if DOJ were to ask for his opinion, any statement he made would be "watered down" or quashed entirely by senior agency staff. Evelyn thought that even if OIP were to develop a standardized set of FOIA regulations it would be "a heavy lift" to implement them because they do not have the authority to make them mandatory, so at best they would remain a model or recommendation.

In addition to rule-set conflicts between the FOIA statute and an agency's FOIA regulations, participants noted that there are frequently conflicts between an agency's mission or statutory charge and FOIA. As David explained, FOIA is usually seen as an

“administrative burden” and as such is given a lower priority because FOIA is not “mission related.” Another participant, whose full time job was doing FOIA work, lamented that other people, for whom FOIA was a collateral duty, did not have the luxury of being able to spend the time answering the requester’s questions about the process because they had to focus their efforts on their primary or regular job since that was the focus of their annual performance evaluations. This finding is comparable to Noh’s (2011) results that indicated that conflicts between agency mission goals and FOIA goals impacted the FOIA process.

An analysis of the data indicates that when there is a rule set conflict between an agency’s mission and FOIA work, the mission-related work will generally be given a higher priority. This finding is consistent with those of Lewis, Selin, and Wood (2013) who found that agencies with more legally mandated functions or responsibilities, as determined by the number of times the agency was mentioned by name in the United States Code, tended to respond to FOIA requests more slowly. It is also consistent with Piotrowski’s (2007) findings that agencies tasked with meeting the Clinton administration’s National Performance Review (NPR) goals did not make FOIA a priority because it was considered by many to be an impediment to the NPR process. In addition, it is in accordance with Roth’s (1993) findings that the FOIA policy is frequently impacted by the establishment of new policies that have developed out of “competing sources.” (p. 196).

Resource allocation. The need to balance FOIA compliance with the agency’s mission forces agency management to make choices regarding the allocation of limited staff and funding. An analysis of the interview data reveals that the way an organization

allocates its limited resources directly impacts the FOIA professional's ability to evaluate and respond to incoming requests.

David explained that it is "rare" for FOIA programs to have their own budgets. As a result they usually have to fight for funding against programs with similar information management goals such as public affairs. Evelyn stated that she didn't have enough "time, technology, and money" to run her FOIA program effectively.

Participants expressed concerns that increased FOIA workloads and a general lack of funding and staffing had created a "make it work" atmosphere, particularly for those whose FOIA operations were "a one-man shop." Participants discussed how the need to make it work often resulted in FOIA being assigned to staff as a collateral duty because there was not enough money to hire full-time FOIA staff. As a result many of the participants described being forced to multitask.

Kate stated that she was "wearing many hats," while Brad noted that FOIA was just "one piece" of his job "pie." Rachel explained that she had to rely on IT staff to update her FOIA website because she could not put that "rock into my ruck." Other participants described being stretched really thin. Brad warned that FOIA was "going to get more and more multitaskers" because of continuing agency cuts in both funding and staffing.

Recent research has shown that multitasking has some serious physical and mental impacts. Multitasking or switch-tasking has been found to cause stress, which reduces an individual's ability to think effectively, creatively, or deeply (Carr, 2010;

Levitin, 2014; Pang, 2013). Multitasking has also been found to reduce efficiency, which increases both task completion time and error rates (Crenshaw, 2013).

Although this study did not specifically examine the impacts of multitasking on FOIA professionals, it is reasonable to assume that being forced to multi-task limits the FOIA professional's ability to effectively review incoming requests. As a colleague of mine recently described it, "there are times where I feel like a racquet ball being smacked around from task to task. I feel like I can't keep up. I find myself getting confused and distracted and I start making mistakes."

Process administration. As discussed earlier FOIA professionals do not review each new request within a vacuum. Rather they are influenced and impacted by their environment, including the necessity of managing the ongoing processing of earlier requests. Although most agencies process requests in the order they arrive, they do so through the use of multiple processing queues. The use of different processing queues is designed to prevent a requester who is seeking a single document, such as a copy of a motor vehicle accident report, from having to wait until the agency completes processing of an earlier request that involved collecting and reviewing five years' worth of e-mail. However, as Ward-Hunt (2014) found, there is no standardized guidance on when or how to assign requests specific processing queues.

The findings of this study offer some insights into some of the procedural issues that influence the assignment of a new request to a particular processing queue. The agency's existing workload was one consideration. However, several participants

mentioned that their ability accurately measure and balance their FOIA workload was impacted by the systems used to track requests.

Those with robust electronic document management systems have access to real time information on their current and expected workloads. This allows them to “draw out data” in order to identify potential “catfish pools” or “choke points” that could delay the processing of the request they are reviewing. However, most respondents indicated the systems they use to track requests have limited capabilities, such as using an Excel spreadsheet to keep track of basic information about each request, including date received, requester name, and the subject of the request. As a result, they were limited in their ability to actively monitor the current state of their FOIA workload.

Several respondents indicated that although the FOIA, as amended by the OPEN Government Act of 2007, required them to assign a tracking number to any request that was expected to take longer than ten days to process, their agencies lacked the ability to assign a single, unique ID to each request that would stay with it throughout the process. Instead a request could end up being assigned multiple tracking numbers because each office within the agency assigned the request a number that was unique to that office. As a result processing a request requiring the collection and review of records from multiple offices meant spending additional time cross-referencing other office’s numbers to the request number their office was using. In some cases this occurred even when the agency was using the same tracking system because each office used it differently. As Brad described it, “every time I get that piece back it’s with a new FOIA number.”

Others indicated that the assignment to a particular processing queue was based on their estimate of the volume and types of records that might be responsive. They also take into consideration how difficult it will be to search and retrieve those records. Some participants indicated that they have access to workflow software that allows them to track requests statuses in real-time through the use of workflows. However, others noted that they lacked any kind of tracking system or database and were reduced to using Excel to track their requests, which severely limited their ability to assess the current state of their workload or estimate the potential impacts that a new request might have on that workload.

Other respondents indicated that their determination regarding the assignment of processing queues was also influenced by the subject of the request. A review of the subject matter might indicate that the potentially responsive records would require numerous “internal reviews” involving multiple meetings to “strategize on handling” the request, including getting the response reviewed and approved by senior agency officials. Brad explained that “dependent on what the level of impact or interest is” the subject “can affect how that thing moves because of who it has to go through.”

The subject matter might indicate to the FOIA professional that the agency will need to consult with outside agencies or offices before responding. A request for financial information could require the agency to consult with the firm that originally submitted the information. Because the FOIA professional knows that such reviews will increase the time needed to process the request, they may decide to place such requests into the complex processing queue.

External Information Environment

In addition to being influenced by their organization's internal information environment, FOIA professionals are also affected by the agency's external information environment. The external information environment encompasses Congress, the general public, and requester. It also contains conflicts between rule and value sets, as well as information that the agency has chosen to disseminate by posting it on agency websites.

Congress. As discussed earlier, FOIA developed out of a power struggle between the Executive branch of the government and the public, as represented by their members of Congress and the media, over the control of government information. The ongoing nature of that struggle means that from the FOIA professional's perspective "the law is constantly changing." Several participants in this study expressed concerns that Congress continues to modify the law while operating in a vacuum. Additionally, several participants noted that rulings by Federal District Courts and the Supreme Court during FOIA litigation also serve to change the law, through their sometimes radically different interpretations of the FOIA statute. Because Congress exempted itself from the law they cannot fully understand or anticipate the impact of proposed changes on either the FOIA process or FOIA professionals. Bob remarked, "Congress is passing laws left and right and with all good intentions, but when they overlap did anybody take that into account?"

Additionally, FOIA professionals as lower-level agency employees are not generally allowed to provide feedback or input directly to members of Congress. As Bob pointed out, any feedback he wanted to provide to Congress regarding FOIA would have to be reviewed and cleared by his agency's senior management and legislative affairs office, most of whom are not familiar with FOIA. Bob declared, "I will give you one

sentence on how to cure every single problem in the FOIA government-wide. Make Congress subject to FOIA.” He went on to add “they have to experience it firsthand.”

Conflicting rule and value sets. Another way in which Congress affects the external information environment is by passing laws that can either complement or compete with FOIA. The conflicting mandates or rule-sets that arise within the agency have their roots in the actions and interactions of both official and unofficial actors during the legislative process, many of whom hold different and sometimes competing sets of beliefs or values (Birkland, 2011).

FOIA developed out the struggle between those who subscribed to the values of government secrecy and those who believed in transparency and accountability, while a similar struggle between advocates for transparency and supporters of the right to privacy in the late 1960s and early 1970s resulted in the passage of the Privacy Act in 1974, in part as a reaction to the Watergate scandal (Schudson, 1993). Section 508 of the Rehabilitation Act (1973), which requires agencies to make federal government information and systems accessible to disabled users, arose out of the disabilities rights movement (Albrecht, 2006). Participants in this study indicated that conflicts between the requirements established within laws such as the Privacy Act and the Rehabilitation Act regularly impact the FOIA process.

Several of the participants discussed the issue of being responsible for processing not only FOIA requests but also Privacy Act requests, which frequently requires them to spend time educating both requesters and their co-workers within the agency on the differences between the FOIA and the Privacy Act. The Privacy Act applies only to

records about a person that are stored in a Privacy Act system of records, which means that the records are retrieved by a name or other personal identifier such as a social security number. However, not all records that contain PII are maintained in systems of records.

Because most requesters do not understand or care about these subtle differences, they frequently submit requests for any and all records the agency holds that contain their name, which is why the U.S. Department of Justice (2012) recommends processing such requests under both Acts. However, FOIA professionals also have to respond to requests from third parties seeking records about other people for “derivative uses” (Hoefges, Halstuk, & Chamberlin, 2003), which are processed only under FOIA even if the responsive records are maintained in a system of records.

“We seem to have one group of people in our [region name] that like to make requests about each other, explained Sally. She added that it is not uncommon for unsuccessful job applicants to, “write in asking about the selection of a candidate.”

As a result the FOIA professional must analyze an incoming request to determine if any of the records being requested would contain PII. If the records contain PII the FOIA professional must then determine whether the records are maintained in a Privacy Act system of records. If they are then the FOIA professional must determine whether the requester is the individual named in the records or a third party. The outcome of that analysis determines whether a request will be processed under both FOIA and PA or just FOIA. Additionally, the Department of Justice (2012) recommends processing PA requests under both laws, in order to afford the requester the highest degree of access

possible. The informational and procedural overlap between FOIA requests and Privacy Act requests helps explain Snead's (2009) finding that most agencies had intermingled their FOIA and Privacy Act guidance on their websites.

While the Privacy Act is intended to restrict or limit access to PII, Section 508 of the Rehabilitation Act (1973) requires federal agencies to make their electronic records accessible to the disabled in order to provide comparable access to the information contained in the records. However, this requirement makes it difficult for the FOIA professional to comply with FOIA's mandate that agencies post copies of any record that has been released more than twice on their website. Several of the participants indicated that making documents compliant with Section 508 was a "very, very expensive process" both in terms of money and time. The prohibitive costs of making records section 508 compliant mean that information is not being posted online because agencies cannot afford to make the documents Section 508 compliant. David declared, "because of the 508 limitations, there's a lot of data and information that is not making it out to the public domain." As Bob remarked, "I could put a ton more online. A ton more." Bob went on to say:

So how am I supposed to put everything up when in point of fact I can't remediate it? And if I do that then I can be sued under the ADA. And I can't afford to remediate that because the budget's not large enough and realistically not everybody wants it. We're trying to get waivers on some of our documents but we have not been successful.

Bob went on to describe being unable to post a large, frequently requested set of documents because he could not afford the \$90,000 cost to remediate the more than 22,000 pages. As a result his office was forced to burn the material onto CDs and “flip them out to everybody, like a Frisbee on the beach.”

Based on the interview data it appears that the remediation requirements may be causing an “information vacuum” because non-508 compliant information is not being posted on the web, so that “it is never evident to those outside the government” (Martin, 1995, p. 66). However, it is unclear to what degree remediation requirements are impacting access to government information. A Federal Advisory Committee established in 2014 to study the FOIA process and provide recommendations to the Office of Government Information Services (OGIS) for improving the FOIA process is currently examining whether the remediation mandates need to be modified in order to allow more information to be made available to the public (Harper, 2014).

Participants in this study perceive Congress’s lack of funding for the FOIA process as negatively impacting FOIA professionals. Because Congress did not “earmark” funds for FOIA implementation the responsibility and burden of financing FOIA administrative costs must be borne by individual agencies. As a result FOIA is considered by many to be an “unfunded mandate.” Additionally, because Congress has failed to establish any funding mechanism for FOIA, agencies consider it to be a non-essential service, which is why during the October 2013 government shutdown FOIA officers, like government librarians, were furloughed (Chant, 2013; Grannis, 2013).

Website dissemination. As discussed earlier the FOIA requires that any record that has been released more than twice be made available online in order to make the materials available to the general public and not just the original requesters. However, in addition to the Section 508 issues discussed in the previous section, a review of the data indicates that the requirement to transmit government information to the public through the reading room process impacts the FOIA professional in several ways.

Several participants indicated that rather than decreasing the number of requests they receive, posting documents online had actually increased the volume of incoming requests. Jack stated that posting materials online had not reduced his FOIA workload because, “people want current information... If the information is two or three or four years old, they’re not interested in that.”

Several participants commented on the extra workload involved in maintaining their reading room websites. Evelyn explained:

People think that once it is posted on the website that’s the end of it. No, because they are constantly upgrading the software. And then all the URLs change and you have to go back and change all the links. It’s a constant thing.

Rachel explained that she constantly needed to update her website to make sure that old contract documents that had “been overcome by events” were removed. Bob’s agency, which had posted more than two million pages of records online, described a conversation with an information broker who was a frequent requester. She told him “you’ve got so much stuff on there it takes so darn long to find anything or it can be so difficult to slog through the volume of stuff” that her customers will pay her to locate the

records they need. Another participant noted that their office had no way to track usage statistics for individual documents, so she had no way of knowing which, if any, of the documents posted on their reading room website were actually being used. In addition to the issues of organization, volume, and potential datedness identified by the FOIA professionals, Shuler, Jaeger, and Bertot (2014) and Vicente (2014), among others, have discussed the risks of relying on the government to ensure long term access to government information through agency websites.

Because the Copyright Act (1976) does not specifically exempt the release of copyrighted materials under FOIA, it does not qualify as an Exemption 3 statute. This places the FOIA professional in the position of determining whether the release of the potentially responsive material would cause the copyright holder a substantial competitive harm (U.S. Department of Justice, 1983). Releasing a copy of a copyrighted article to a single requester or a law firm might not result in substantial competitive harm. However, because FOIA is based on a release-to-one-release-to-all standard, digitizing a copy of a copyrighted work and posting it online could result in substantial competitive harm. Jack expressed his concerns regarding the potential for copyright violations from digitizing and posting material online.

It's one thing if you're going to send a CD to a requester and maybe you've got, I don't know, say, an article from Time Magazine that was part of the responsive records, then you're sending it to a law firm in Florida. You can feel pretty confident that they're not going to turn around and publish that article and charge people money for it. It's quite a different situation if you post those responsive records and the articles in Time Magazine is in there and anybody on the planet

can log into the Web and have a free copy of that article that was originally something that the magazine charged for. It may or may not be an issue after everything is said and done, but it just strikes me as something I see coming down the road.

Dryden (2014) found that similar concerns among archival staff impacted their decisions when selecting materials from their collections for digitization.

Requester expectations versus actual information needs. As discussed earlier the requester is an element of the external environment. Every FOIA request arises out of the requester's identification of an information need. The FOIA professional, acting as an organizational information receptor, receives and reviews the request and then notifies the organization what action is needed. An analysis of the interview data indicates, that in addition to the information need that is expressed within the request itself, there are two other factors that can impact the FOIA professional's ability to review an incoming request: the requester's expectations and their actual information need.

One of the most common issues FOIA professionals deal with are requesters who have unreasonable or unrealistic expectations that the FOIA professionals are "all knowing" and have ready and instantaneous access to responsive records in some "giant database." As Brad put it, "they don't understand why there is no way that most government agencies can't kick it as quickly as Google does."

Participants indicated that they regularly have to manage requester's unreasonable Googlized expectations of the FOIA process. The impact of Google and similar online information resources, such as Wikipedia, is not surprising given that Google has not

only raised our expectations for information accessibility but has also changed the physical structure of our brains (Carr, 2010; Vaidhyathan, 2011). Connaway and Radford (2011) noticed that reference service customers often held similar expectations for their library reference service interactions. They found that “users bring a set of expectations to the reference experience that reflect their experiences in a consumer-focused, retail economy, especially in the fast-food “McDonald’s-ized” emphasis on quick service” (Connaway & Radford, 2011, p. 20).

Participants noted that one way in which they manage the requester’s Googlized expectations is to provide information about how the government stores their records. Contrary to many requesters’ expectations, electronic government information is not stored in some enormous database nor are physical records stored in some vast “Raiders of the Lost Ark” warehouse. Instead the government’s information and records are disbursed and scattered throughout the organization in numerous databases, file cabinets, archives, CDs, thumb drives, network servers, employee PCs and laptops.

As discussed earlier, knowing why someone needs the information they are requesting can assist the FOIA professional in identifying where responsive records might be located. However, requesters are not required to reveal why they are asking for the information. During the interviews participants indicated that because agencies are required to conduct reasonable searches, there are put in the put in a position of having to satisfy or make decisions that are “good enough” (Simon, 2000, p. 119) when a requester does not or will not “give [them] a heads up what they’re looking for.”

Because they are forced to make a determination as to potential search locations without an accurate understanding of the requester's information need, FOIA professionals may rely on rules of thumb or simple heuristics when deciding what information would be responsive to the request and where those records might be located, which can result in their making erroneous decisions. Those erroneous decisions may ultimately result in the requester either getting too much information or not getting the information they actually needed.

For example, when a requester does not provide or refuses to provide clarification for a request that includes the phrase "any and all," the FOIA professionals are forced to interpret requests broadly in order to avoid the chance of overlooking a responsive record. As Evelyn explained, "A lot of times the people who are requesting it don't realize that they weren't specific enough. We get some rambling letters sometimes and you just go, wait a minute what are we looking for here?"

Participants indicated that these broad, "fishing expedition" requests can either signal that the requester doesn't know what they want or that they intend to sue the agency if they don't get the information they expect. Brad explained that fishing expedition requests make him uncomfortable because he is concerned that the requester is "trying to catch somebody unaware or off that particular day so they slip up and give them a piece of the puzzle." This finding supports Roth's (1993) assertion that requesters used broad and vague requests in order to exploit procedural differences between different offices, especially for those agencies where FOIA processing was handled in a decentralized manner.

The findings relating to the complexity involved in reviewing incoming requests in order to identify possible responsive record locations are similar to those of Powell (2006), who argued that most researchers fail to understand how seemingly minor differences in the appearance and form of a request can have a significant impact on the FOIA process. The findings of this study also supports Kreimer's (2008) conclusion that clearly worded requests were processed correctly and resulted in lower signal-to-noise costs on the part of the requester.

Darcy discussed her idea that requesters who submit overly broad or vague requests are expecting the FOIA staff to do their research work for them. Both of these reactions can result in the requester receiving a voluminous amount of material due to the FOIA professional interpreting the request in an overly broad manner, even if the requester's original information need may not be met. Additionally the need to review a voluminous amount of potentially responsive records can delay an agency's response, which also helps explain Kwon's (2012) finding that requests that were classified as complex were statistically likely to take longer to process.

At other times when FOIA professionals lack information about the requester's actual information need, they may make decisions regarding the scope of potentially responsive records based on what they perceive to be the requester's motivation. For example, a request for commercial information submitted on a business' letterhead that does not provide any information relating to the requester's intended use of the information may be considered an attempt at industrial espionage. This perception may result in the potentially responsive records receiving extra scrutiny before their release in order to avoid causing substantial competitive harm to the firm that originally submitted

the information. Additionally, requests that are perceived as having been written by someone who is “angry at the government” or “protesting” may require that the FOIA professional have the materials and the response reviewed by the agency’s public affairs staff.

Requester Feedback

In order to bridge or eliminate any gap between the request as written and the requester’s actual information needs, participants indicated that they regularly communicate with requesters. These communications serve as a form of feedback between the organization and its external environment. This feedback can serve several purposes, including negotiating with the requester, managing requester expectations, and providing general customer service.

Negotiating with the requester. One of the most common ways in which feedback is used within the initial FOIA review process is to clarify issues relating to scope. This can include opening a dialog with the requester in order to understand or diagnose what their actual information need is, especially when a request is “all over the place.” Even though FOIA professionals are discouraged from asking people why they want the information, in order to avoid creating the appearance that the request is being processed using some type of need-to-know standard, participants revealed that they frequently ask requesters what they need the records for. Darcy explained that she usually prefaces such questions with a statement such as, “I’m really not supposed to ask you.” Jack described the information need diagnosis or scope negotiation process as a “dance” because you are “not allowed to sit there and grill them.”

Participants also indicated that FOIA professionals regularly find themselves acting as an “arbiter” or intermediary during negotiations between the organization’s record holders and the requester. While acting as an arbiter the FOIA professional may negotiate a starting point for the search or they may work to identify or clarify search parameters such as date ranges or keywords in order, in much the same way as a librarian uses the reference interview to interpret or restructure the request in order to make it work with or fit within the organization’s files (Taylor, 1968). As David remarked the negotiation process involves asking the requester to “help us help you.”

Managing requester expectations. FOIA professionals revealed that providing feedback also allows them to manage the requester’s expectations. This type of feedback involves discussing the differences between what the requester sees as the potential difficulty level of their request and the actual impacts a request will have on an agency’s workload. As Brad described it, “I’m talking a trench in the ocean of volume from the surface to the bottom and they’re thinking it’s just a farm pond.” Evelyn explained that if requesters “don’t get what they want right away they consider that to be no response” because they fail to understand that, “there’s a difference between a response and people getting what they want.”

In addition to helping narrow the scope of and setting requester expectations for requests that have already been submitted, the FOIA professional reported that they regularly work with potential requesters to provide customer service. Many participants indicated that providing customer service before a request is even submitted can oftentimes avoid having the need to process an actual request.

Providing customer service. Participants indicated that in addition to working with requesters to clarify and resolve issues relating requests that had already been filed; they also regularly went beyond what was legally required in order to “give a little more customer service. Most of us really try to be that way.”

Because a FOIA request is technically a request for copies of records, FOIA professionals are not required to answer or respond to questions. However, many of the participants indicated that they do so in order to provide good customer service. As Kate noted, a large part of her job is “educating the public” not only about the FOIA process but also about her agency. Other participants indicated that when working with people who had questions rather than actual record requests they would try and help them “find their way” or make sure that they are “put into the proper channels.” Jack indicated that he tries to help people with questions by taking them “by the hand” and guiding them as close to an answer or a source for an answer as he can.

Participants also indicated that when working with someone who was preparing a FOIA request for submittal they would try to “help them phrase it” or try to provide the “right terminology.” Kate explained that she tries to put herself in her customers’ shoes because she realizes that “there but for the grace of God go I.” Jack discussed the difference, from a customer service perspective, of using individually written letters or e-mails to respond to people rather than form letters.

Reitz (2004) indicated that the reference interview is an “interpersonal communication that occurs between a reference librarian and a library user to determine the person's specific information need(s), which may turn out to be different than the

reference question as initially posed.” An analysis of the interview data indicates that the feedback that occurs between the FOIA professional and the requester serves many of the same functions as a reference interview because the FOIA professional has to take the time to negotiate with requesters who may be reluctant to share information about their underlying information needs.

Although similar to the reference interview process, there are some fundamental differences between the two. For example, during the reference interview both the patron and the librarian are active participants in the question negotiation process (Taylor, 1968). However, during the FOIA feedback process the need to avoid the appearance of a need-to-know attitude can hamper or limit the FOIA professional’s ability to ask questions about a requester’s “objective and motivation” or their “personal characteristics” (Taylor, 1968, p. 183), which can limit their ability to accurately or effectively match the requesters’ information needs with the agency’s records. Additionally, the right-to-know standard means that the FOIA requester is neither obligated nor expected to participate in the negotiation process in the same way library patrons seeking reference services are.

FOIA Skillset

FOIA professionals must frequently balance a workload they have no control over, while dealing with limited resources and inconsistent and sometimes competing guidance and mandates. Lipsky (2010) determined that these types of working conditions are an inherent part of street-level bureaucratic work. An analysis of the interview data identified four categories or areas relating to the abilities, skills, and

training that participants felt government employees need to succeed when performing FOIA work. These were natural aptitude, work experience, education, and training.

Participants noted that effective FOIA professionals have a natural ability for “dealing with details” and picking “up on the minutia.” They are also good problem solvers who enjoy solving puzzles and have the ability to rapidly get to the core of an issue, think logically, communicate effectively, and work well with people. These same skills are also traditionally associated with librarians and researchers (Permenter, 2004).

It is therefore not surprising that some participants compared their jobs to those of records managers and librarians, because both jobs involve providing access to information. The FOIA professional’s work involves identifying the requester’s information needs and using that information to search for and provide potentially responsive materials—in this case government records, which Greer, Grover, and Fowler (2007) have defined as the functions of an information professional.

The creation of the 0306 job series in 2013 by the Office of Personnel Management (OPM) was intended to professionalize FOIA work and standardize what had previously been a “patchwork” approach to classifying, describing, and assigning FOIA work (U.S. Office of Governmental Information Services, 2013). However, participants expressed doubts and concerns about its effectiveness because it does not apply to grades that are lower than a GS-9. This means that lower-level government employees do not have a clear or specific career path into FOIA. Because the new job series does not consider FOIA to be “entry level work,” FOIA professionals must still be

recruited from other fields and job series, which is problematic because there are limited options for FOIA training.

Participants agreed that FOIA professionals will continue to be drawn from a variety of professional backgrounds in much the same way as librarians who have backgrounds in accounting, law, management, information management, human resources, military, and the sciences (Lowe-Wincentsen, 2011). As a result FOIA professionals will likely continue to luck into or stumble into FOIA work, because “there is no clear path at this time into the FOIA career field” (Reynolds, 2011, p. 31).

The ad-hoc nature of FOIA professional’s pre-FOIA careers means that it is vital that current and future FOIA professionals receive standardized FOIA training. However, participants lamented the lack of standardized training requirements or opportunities, which is similar to Kimball’s (2011) findings.

Participants indicated that even today with the new job series, training for FOIA work is usually limited to on-the-job training because there are no options for formal programs of study at the college or university level like there are for the records management and library science fields. Some participants described being lucky enough in their careers to have had an opportunity to work with and learn from a mentor; however, those same employees expressed concerns that most people who are assigned FOIA as an additional duty have no such option. Other participants described being thrust into FOIA after a previous FOIA officer had taken another position, retired, or died and having received training on a “catch-as-catch-can” basis. Participants outside the Washington, D.C. area noted that their training options were even more limited because

the training offered by DOJ and ASAP were only available to those in the DC area or to those individuals whose agencies were willing and able to send them to DC for training.

Participants reported that, contrary to the guidance issued by OPM at the time the 0306 job series was issued (U.S. Office of Government Information Services, 2013), agencies had not done the required analysis to classify either their positions or those of their colleagues within the new series. Rather the change had been made by having someone in the HR office cross out their old job titles and series.

Some participants expressed concerns that there were limits to the impacts or benefits that the new job series would have on the FOIA process. Some felt that having a FOIA job series meant that other employees now viewed their FOIA job as more professional, while others felt that it had given their FOIA work “more visibility.” Several of the participants with managerial responsibilities felt that the new series would benefit the FOIA process in the future, once they could begin creating and classifying new FOIA jobs, in part because it would allow them to recruit more technologically skilled employees specifically for FOIA work, especially as older employees retired. Several participants indicated that as a result of the increased visibility FOIA is no longer being viewed as a job “where people were sent” or banished as a form of punishment, or being assigned as busy work for staff “that just couldn’t function anywhere else in the agency.”

Summary

This chapter discussed each of the six thematic elements of the information environment that emerged during the data analysis. The FOIA request serves as a

stimulus. It is reviewed by the FOIA professional who parses it in order to identify which parts of the organization will need to search for potentially responsive records.

At the same time they are parsing new requests, the FOIA professionals are also balancing competing demands from both inside and outside the agency. In order to accomplish that balancing act, the FOIA professional has to rely on their own skills and abilities as well as their educational background, employment experiences, and any FOIA training they have received, especially when they are acting as an arbiter between requesters and record holders.

The FOIA Information Environment model illustrates the iterative or cybernetic nature of the FOIA process. It also places the FOIA professional and the requester within the context of the larger information environment, in particular the influence of feedback throughout the process.

Chapter Six: Discussion and Recommendations

Researchers' paradigms guide the types of research questions they ask and the subjects they study (Kuhn, 1970; Merton, 1982). Gatekeeping theory (Lewin, 1943) guided the development of this study and as a result the initial study framework viewed the FOIA professional as a gatekeeper whose work involved censoring access to information. This research shows that although the FOIA professional may serve in the *position* of a gatekeeper, in so far as they are the person responsible for receiving and reviewing the initial request, they do not have the sole responsibility for or authority to make gatekeeping or access decisions because their decisions and actions are influenced by and constrained by elements of the larger information environment in which they work.

In this chapter a new theoretical framework for understanding the FOIA process is discussed, as well as ways in which the research findings can be applied to the practice of FOIA work. Suggestions for future FOIA research are also offered.

Systems Theory

The information environment model presented in the previous chapter can be placed within the larger theoretical framework of systems theory, which is an interdisciplinary paradigm encompassing a variety of complementary fields such as cybernetics, information theory, biology, and sociology (Arnold, 2014; Capra, 1996; Glanville, 2014; Klir, 2001). Although Bertalanffy (1969) is traditionally considered the father of systems theory, the origins of the field have been traced as far back as Aristotle, who declared that the whole was greater than the sum of its parts (Hanson, 1995; Klir, 2001).

Klir (2001) proposed the formula $S = (T, R)$ for a system, within which T represents a set of things and R represents the relationships between the things. Systems theory is concerned with the ways in which the relationships between the things that make up interact and through those interactions create a whole. Systems theory also seeks to understand the way in which information flows within a system (Glanville, 2014).

There are two types of systems. Closed systems are sealed in or surrounded by some type of impermeable membrane, which allows them to send energy or heat into their surrounding environment but does not allow them to take in matter or energy from their environment. As a result they are unsustainable and eventually fail (Bailey, 2005; Capra & Luisi, 2014; Wheatley, 2006). Open systems, in contrast, are self-regulating systems that can take in the matter or energy needed to sustain themselves, while at the same time excluding matter and energy that would threaten their well-being (Bailey, 2005). A social system is a type of open system that takes in information or knowledge from its environment and converts it into “utterances” (Luhmann, 1995) or “communications” (Boulding, 1956) that it uses to regulate and sustain itself.

Within the information environment model, the organization is a social system. The FOIA request serves as an informational input into the system. During the initial review process the FOIA professional converts the request inputs into utterances or communications that are used to initiate and regulate the records search process. The records search process in turn creates an utterance or communication, in the form of responsive records or a negative result response, which the FOIA professional converts into a FOIA response or output.

Practice Implications

This research has a variety of implications for FOIA requesters, FOIA professionals, and others who are involved in or concerned about the FOIA process. This section will provide recommendations for applying the results of this study to the practice of FOIA.

FOIA requesters. The first recommendation for FOIA requesters is that they learn more about the agency's functions, organization, and record types prior to submitting a request. Familiarity with agency record types will enable requesters to craft requests that will reduce the need for the FOIA professional to make assumptions about the types of information the requesters are seeking. This will not only help reduce response turnaround time but it will also increase the likelihood that requester will receive not just requested records but also needed and useful information.

Requesters should also verify which government agency or agencies have responsibility for the issue of interest, to ensure that their request is submitted to the correct agency. For example, automatically submitting all requests for information relating to national monuments to the National Park Service (NPS) could delay the processing of the request if it turns out that the national monument the requester wants records about is one that NPS does not manage. This is because in addition to NPS, national monuments are managed by a variety of agencies, including the Bureau of Land Management (BLM), the US Forest Service (USFS), the Fish and Wildlife Service (FWS), and in some cases even state governments (Hardy & Baldwin, 2004).

Requesters should visit an agency's website to learn more about the agency's functions and organizational structure. Most agency websites have an About Us section, which describes what the agency's responsibilities and authorities are. Additionally, many of the larger agencies have a library that requesters can contact to learn more about the agency. Requesters can also get more information from their local library, especially if that library participates in the FDLP program.

To learn more about the types of records that each agency creates and maintains, requesters should visit the National Archives and Records Administration (NARA) site. NARA provides access to agency record retention schedules that have been approved by the Archivist of the United States at <http://www.archives.gov/records-mgmt/rcs/>. NARA also provides a guide to federal records <http://www.archives.gov/research/guide-fed-records/>.

Requesters can learn more about an agency's information technology (IT) assets and the types of information they contain by reviewing Exhibit 53 and Exhibit 300 forms. The Office of Management and Budget (OMB) requires agencies to submit Exhibit 53 and 300 forms to document the business cases for IT system investments. These also include information on the types of information that each system will collect and maintain, which can be helpful in specifying record sources or search parameters when submitting a FOIA request. Additionally the Sunshine Foundation is expected to publish a list of agencies' Enterprise Data Inventories (EDI) in early 2015 (Clark, 2015).

Requesters can also search agency websites to locate and review information that may already be available on the subject of interest. Many agencies offer a search feature

directly on their website. Additionally requesters can use the “site:” search delimiter followed by a specific domain name when searching Google. For example, entering the following search string into Google:

“feral cats” site:nps.gov

would return only those documents from the National Park Service’s website that contained the phrase “feral cats.” Additional information on using search operators in Google is available at <https://support.google.com/websearch/answer/2466433?rd=1>.

Once requesters have determined the agency or agency unit that might have the records they want, requesters need to develop their request. The findings indicate that submitting clear, specific, and well-written requests can help facilitate the FOIA process. Requesters should not combine requests for unrelated information into the same request. For example, a requester seeking information from NPS on feral cats as well as historic preservation tax credits should submit two separate requests, rather than combining them into a single request. This is because the functional unit responsible for managing the historic preservation tax credit program is not the same unit that would be responsible for managing issues related to feral cat populations.

Well written requests make it easier for FOIA professionals to interpret what information is being requested, which in turn makes it easier to determine where responsive records might be located, which makes it easier to process requests. One way that can be accomplished is to present requests in itemized lists, where each item is limited to a specific type of record or record location.

Long, narrative requests, where record types are lumped together in a single paragraph, requires the FOIA professional to spend time dissecting or parsing the request in order to determine exactly what information is being requested and which offices might have responsive records. For example, submitting a request to NPS “for all records relating to, describing, or referring to the management, oversight, analysis of, and/or decisions and actions taken by NPS staff, volunteers, or partners relating to feral cats” would make it difficult for the FOIA professional reviewing the request to determine what records might be responsive and which of more than 400 NPS units or offices might have responsive records.

In contrast a request that asked for:

- 1) Guidance issued by or approved by the NPS Director or NPS Policy Office relating to the management of feral cats on NPS lands;
- 2) Records documenting the proposed removal of feral cat colonies from the Plum Beach area of Gateway National Recreation area; and
- 3) Copies of public comments submitted via the Regulations.gov website during the NEPA compliance review of the proposed regulation A106 relating to the management of feral cats on NPS lands.

clearly indicates that responsive records would most likely be located in the Director’s Office, the Policy Office, Golden Gate National Recreation Area, and the Regulation office.

Requesters should also specify a time frame for the information they are requesting. If the time frame is the same for each item, then they should include that information in an introductory paragraph before the list. If the time frame is different for each item in the list, then each item in the list needs to specify a date range.

Requesters should also include an introductory paragraph describing the records types they are seeking, e.g. e-mails, reports, timesheets, if the items are the same for each part of the request rather than prefacing each item in the list with the same descriptive phrase. This will make it easier for the FOIA professional to quickly analyze the listed items, without having to decipher each item in the list.

Senior agency officials. The findings in this current study indicate that to be successful an agency's FOIA program not only needs to be adequately staffed with skilled FOIA professionals, but the agency also needs to have an effective and comprehensive records management program. Consequently if senior agency officials are serious about improving the performance of their agency's FOIA program they must evaluate not only their current FOIA and records management staffing levels but also their future staffing needs. This research also indicates that both the volume of requests and the volume of potentially responsive records that must be processed for each request are rising. It is therefore vital that both FOIA and records management staff be provided with tools and resources that will enable them to process requests in the most efficient manner. This includes providing needed resources such as centralized electronic record systems to manage the retention and search of e-mail and other electronic records.

Agency management also needs to explore implementing standardized tracking systems that include workflow management components. Such systems can reduce or eliminate duplicate processing efforts, while also allowing FOIA managers to more effectively monitor their FOIA program's performance in order to eliminate or reduce bottlenecks or delays due to workload or staffing bottlenecks.

Congress. This research indicates that Congress has made and continues to make changes to the FOIA process without soliciting adequate input from the FOIA professionals who are tasked with its implementation. As a result, the FOIA contains certain procedural deficiencies that Congress should eliminate if it wants FOIA to work more effectively. These include establishing standardized, government-wide FOIA regulations and fee rates, which should be updated regularly. Additionally, Congress should establish a means of directly funding FOIA programs rather than forcing agencies to choose between funding FOIA programs and programs that carry out what are perceived to be the agency's primary functions. Lastly, when considering any change to the FOIA, Congress must work to get open, honest, and uncensored feedback on the proposed changes directly from FOIA personnel at the street-level rather than relying solely on feedback provided to them by senior agency leaders or the agency's congressional and legislative affairs staff.

Future Research Suggestions

As discussed previously, the goal of this research was to examine the ways in which the attributes of the incoming FOIA request impact the FOIA process. The findings show that the incoming request acts as a stimulus that prompts reactions within the agency, but that the ability of the organization to react to the FOIA stimulus are

influenced and limited by the larger information environment. A review of the findings also provides insights into areas for future research.

Records management. Although participants indicated that their agency's records management (RM) programs were a major factor that influenced how they reviewed incoming FOIA requests, further study is needed to understand the dynamics of the FOIA-RM dynamic. Such studies could include examining how the outcomes of the FOIA process differ between agencies with strong RM programs and those with weaker RM programs. It is also unclear how the government's "Cloud First" (Kundra, 2011) strategy is impacting the FOIA process. Additional research is also needed to understand how and in what ways the use of e-mail, chat, texting, and social media technologies are impacting the outcome of the FOIA process.

Section 508 and FOIA libraries. Participants indicated that in many cases they had been unable to make materials available online in agency FOIA reading rooms because they could not afford to pay to have the records made Section 508 compliant. Further research is needed to understand exactly what impacts the Section 508 compliance requirement has on the FOIA process. Future research could examine how much information is kept from public access because of budgetary restraints as well as how decisions are made to determine which records will be posted.

Participants' varied in their assessments of the effectiveness of FOIA libraries. Some participants indicated that their workload increased after posting material in their agency's FOIA websites, while others felt that posting the materials had no effect. Additional research is needed to understand how and in what ways agency FOIA libraries

are utilized by both the public in general and the visually-impaired in order to be able to perform a cost-benefit analysis of Section 508 compliance.

FOIA training. Participants expressed their concerns over what they considered to be a lack of FOIA training opportunities. They also discussed the need for a government-wide training program to help ensure that employees who were new to the FOIA process received a certain minimum of FOIA training. However, before such a program could be developed further information is needed to understand how and in what ways the current decentralized and unstandardized FOIA training impacts the FOIA process.

Government information specialist job series. Although some participants expressed their opinion that the creation of the new 0306 FOIA job series had a positive impact on their FOIA work, there is not enough information to determine how or if the implementation of that series has impacted the FOIA process. Further research is needed to understand how it is being applied in different agencies. It is also unclear how the new job series is being utilized in the employee recruitment process.

FOIA libraries and proactive disclosures. Some participants expressed concerns regarding the temporal nature of the information contained in the records released in response to FOIA requests including information that was being posted or proactively released in compliance with FOIA. Additional research is needed to determine the efficacy of FOIA libraries, including examining how and if requesters use them. Such research is needed in order to understand whether FOIA libraries are “digital

junkyards” (Christensen & Cheney, 2015; Rolland, 2006) or effective and vital components of the external information environment.

Conclusion

This dissertation contributes to the understanding of the FOIA process from the perspective of the street-level employees tasked with its implementation. Analysis of the interview data revealed that the FOIA professional serves as a type of information receptor by converting the incoming FOIA request into a set of stimuli that serve to prompt reactions within the agency. Those reactions ultimately result in the final FOIA response. The findings show that the FOIA professional’s ability to convert the FOIA request into internal stimuli is impacted by and influenced by a variety of elements within the larger FOIA information environment. The research resulted in recommendations for requestors, FOIA administrators and policy makers as well as suggestions for future research that can expand the contribution made by this research.

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Appendices

Appendix A: Freedom of Information Act

5 USC §552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register;

(C) administrative staff manuals and instructions to staff that affect a member of the public;

(D) copies of all records, regardless of form or format, which have been released to any person under paragraph (3) and which because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records; and

(E) a general index of the records referred to under subparagraph (D);

unless the materials are promptly published and copies offered for sale. For records created on or after November 1, 1996, within one year after such date, each agency shall make such records available, including by computer telecommunications or, if computer telecommunications means have not been established by the agency, by other electronic means. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, staff manual, instruction, or copies of records referred to in subparagraph (D). However, in each case

the justification for the deletion shall be explained fully in writing, and the extent of such deletion shall be indicated on the portion of the record which is made available or published, unless including that indication would harm an interest protected by the exemption in subsection (b) under which the deletion is made. If technically feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. Each agency shall make the index referred to in subparagraph (E) available by computer telecommunications by December 31, 1999. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

- (i) it has been indexed and either made available or published as provided by this paragraph; or
- (ii) the party has actual and timely notice of the terms thereof.

(3)(A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, and except as provided in subparagraph (E), each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(B) In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

(C) In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information system.

(D) For purposes of this paragraph, the term “search” means to review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a request.

(E) An agency, or part of an agency, that is an element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) shall not make any record available under this paragraph to—

- (i) any government entity, other than a State, territory, commonwealth, or district of the United States, or any subdivision thereof; or
- (ii) a representative of a government entity described in clause (i).

(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

(ii) Such agency regulations shall provide that—

(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

In this clause, the term “a representative of the news media” means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term “news” means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of “news”) who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.

(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section—

(I) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

(II) for any request described in clause (ii) (II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed \$250.

(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo: *Provided*, That the court's review of the matter shall be limited to the record before the agency.

(viii) An agency shall not assess search fees (or in the case of a requester described under clause (ii)(II), duplication fees) under this subparagraph if the agency fails to comply with any time limit under paragraph (6), if no unusual or exceptional circumstances (as those terms are defined for purposes of paragraphs (6)(B) and (C), respectively) apply to the processing of the request.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action. In addition to any other matters to which a court accords substantial weight, a court shall accord substantial weight to an affidavit of an agency concerning the agency's determination as to technical feasibility under paragraph (2)(C) and subsection (b) and reproducibility under paragraph (3)(B).

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

[(D) Repealed. Pub. L. 98-620, title IV, §402(2), Nov. 8, 1984, 98 Stat. 3357.]

(E)(i) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(ii) For purposes of this subparagraph, a complainant has substantially prevailed if the complainant has obtained relief through either—

(I) a judicial order, or an enforceable written agreement or consent decree; or

(II) a voluntary or unilateral change in position by the agency, if the complainant's claim is not insubstantial.

(F)(i) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.

(ii) The Attorney General shall—

(I) notify the Special Counsel of each civil action described under the first sentence of clause (i); and

(II) annually submit a report to Congress on the number of such civil actions in the preceding year.

(iii) The Special Counsel shall annually submit a report to Congress on the actions taken by the Special Counsel under clause (i).

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

The 20-day period under clause (i) shall commence on the date on which the request is first received by the appropriate component of the agency, but in any event not later than ten days after the request is first received by any component of the agency that is designated in the agency's regulations under this section to receive requests under this section. The 20-day period shall not be tolled by the agency except—

(I) that the agency may make one request to the requester for information and toll the 20-day period while it is awaiting such information that it has reasonably requested from the requester under this section; or

(II) if necessary to clarify with the requester issues regarding fee assessment. In either case, the agency's receipt of the requester's response to the agency's request for information or clarification ends the tolling period.

(B)(i) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the unusual circumstances for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days, except as provided in clause (ii) of this subparagraph.

(ii) With respect to a request for which a written notice under clause (i) extends the time limits prescribed under clause (i) of subparagraph (A), the agency shall notify the person making the request if the request cannot be processed within the time limit specified in that clause and shall provide the person an opportunity to limit the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request. To aid the requester, each agency shall make available its FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and the agency. Refusal by the person to reasonably modify the request or arrange such an alternative time frame shall be considered as a factor in determining whether exceptional circumstances exist for purposes of subparagraph (C).

(iii) As used in this subparagraph, “unusual circumstances” means, but only to the extent reasonably necessary to the proper processing of the particular requests—

(I) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(II) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(III) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(iv) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for the aggregation of certain requests by the same requestor, or by a group of requestors acting in concert, if the agency reasonably believes that such requests actually constitute a single request, which would otherwise satisfy the unusual circumstances specified in this subparagraph, and the requests involve clearly related matters. Multiple requests involving unrelated matters shall not be aggregated.

(C)(i) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(ii) For purposes of this subparagraph, the term “exceptional circumstances” does not include a delay that results from a predictable agency workload of requests under this section, unless the agency demonstrates reasonable progress in reducing its backlog of pending requests.

(iii) Refusal by a person to reasonably modify the scope of a request or arrange an alternative time frame for processing a request (or a modified request) under clause (ii) after being given an opportunity to do so by the agency to whom the person made the request shall be considered as a factor in determining whether exceptional circumstances exist for purposes of this subparagraph.

(D)(i) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for multitrack processing of requests for records based on the amount of work or time (or both) involved in processing requests.

(ii) Regulations under this subparagraph may provide a person making a request that does not qualify for the fastest multitrack processing an opportunity to limit the scope of the request in order to qualify for faster processing.

(iii) This subparagraph shall not be considered to affect the requirement under subparagraph (C) to exercise due diligence.

(E)(i) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, providing for expedited processing of requests for records—

(I) in cases in which the person requesting the records demonstrates a compelling need; and

(II) in other cases determined by the agency.

(ii) Notwithstanding clause (i), regulations under this subparagraph must ensure—

(I) that a determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request; and

(II) expeditious consideration of administrative appeals of such determinations of whether to provide expedited processing.

(iii) An agency shall process as soon as practicable any request for records to which the agency has granted expedited processing under this subparagraph. Agency action to deny or affirm denial of a request for expedited processing pursuant to this subparagraph, and failure by an agency to respond in a timely manner to such a request shall be subject to judicial review under paragraph (4), except that the judicial review shall be based on the record before the agency at the time of the determination.

(iv) A district court of the United States shall not have jurisdiction to review an agency denial of expedited processing of a request for records after the agency has provided a complete response to the request.

(v) For purposes of this subparagraph, the term “compelling need” means—

(I) that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(II) with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

(vi) A demonstration of a compelling need by a person making a request for expedited processing shall be made by a statement certified by such person to be true and correct to the best of such person's knowledge and belief.

(F) In denying a request for records, in whole or in part, an agency shall make a reasonable effort to estimate the volume of any requested matter the provision of which is denied, and shall provide any such estimate to the person making the request, unless providing such estimate would harm an interest protected by the exemption in subsection (b) pursuant to which the denial is made.

(7) Each agency shall—

(A) establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request; and

(B) establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including—

(i) the date on which the agency originally received the request; and

(ii) an estimated date on which the agency will complete action on the request.

(b) This section does not apply to matters that are—

(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute (other than section 552b of this title), if that statute—

(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and

(B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection. The amount of information deleted, and the exemption under which the deletion is made, shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made. If technically feasible, the amount of the information deleted, and the exemption under which the deletion is made, shall be indicated at the place in the record where such deletion is made.

(c)(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and—

(A) the investigation or proceeding involves a possible violation of criminal law; and

(B) there is reason to believe that (i) the subject of the investigation or proceeding is not aware of its pendency, and (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings,

the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

(d) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(e)(1) On or before February 1 of each year, each agency shall submit to the Attorney General of the United States a report which shall cover the preceding fiscal year and which shall include—

(A) the number of determinations made by the agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(B)(i) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information; and

(ii) a complete list of all statutes that the agency relies upon to authorize the agency to withhold information under subsection (b)(3), the number of occasions on which each statute was relied upon, a description of whether a court has upheld the decision of the agency to withhold information under each such statute, and a concise description of the scope of any information withheld;

(C) the number of requests for records pending before the agency as of September 30 of the preceding year, and the median and average number of days that such requests had been pending before the agency as of that date;

(D) the number of requests for records received by the agency and the number of requests which the agency processed;

(E) the median number of days taken by the agency to process different types of requests, based on the date on which the requests were received by the agency;

(F) the average number of days for the agency to respond to a request beginning on the date on which the request was received by the agency, the median number of days for the agency to respond to such requests, and the range in number of days for the agency to respond to such requests;

(G) based on the number of business days that have elapsed since each request was originally received by the agency—

(i) the number of requests for records to which the agency has responded with a determination within a period up to and including 20 days, and in 20-day increments up to and including 200 days;

(ii) the number of requests for records to which the agency has responded with a determination within a period greater than 200 days and less than 301 days;

(iii) the number of requests for records to which the agency has responded with a determination within a period greater than 300 days and less than 401 days; and

(iv) the number of requests for records to which the agency has responded with a determination within a period greater than 400 days;

(H) the average number of days for the agency to provide the granted information beginning on the date on which the request was originally filed, the median number of days for the agency to provide the granted information, and the range in number of days for the agency to provide the granted information;

(I) the median and average number of days for the agency to respond to administrative appeals based on the date on which the appeals originally were received by the agency, the highest number of business days taken by the agency to respond to an administrative appeal, and the lowest number of business days taken by the agency to respond to an administrative appeal;

(J) data on the 10 active requests with the earliest filing dates pending at each agency, including the amount of time that has elapsed since each request was originally received by the agency;

(K) data on the 10 active administrative appeals with the earliest filing dates pending before the agency as of September 30 of the preceding year, including the number of business days that have elapsed since the requests were originally received by the agency;

(L) the number of expedited review requests that are granted and denied, the average and median number of days for adjudicating expedited review requests, and the number adjudicated within the required 10 days;

(M) the number of fee waiver requests that are granted and denied, and the average and median number of days for adjudicating fee waiver determinations;

(N) the total amount of fees collected by the agency for processing requests; and

(O) the number of full-time staff of the agency devoted to processing requests for records under this section, and the total amount expended by the agency for processing such requests.

(2) Information in each report submitted under paragraph (1) shall be expressed in terms of each principal component of the agency and for the agency overall.

(3) Each agency shall make each such report available to the public including by computer telecommunications, or if computer telecommunications means have not been established by the agency, by other electronic means. In addition, each agency shall make the raw statistical data used in its reports available electronically to the public upon request.

(4) The Attorney General of the United States shall make each report which has been made available by electronic means available at a single electronic access point. The Attorney General of the United States shall notify the Chairman and ranking minority member of the Committee on Government Reform and Oversight of the House of Representatives and the Chairman and ranking minority member of the Committees on Governmental Affairs and the Judiciary of the Senate, no later than April 1 of the year in which each such report is issued, that such reports are available by electronic means.

(5) The Attorney General of the United States, in consultation with the Director of the Office of Management and Budget, shall develop reporting and performance guidelines in connection with reports required by this subsection by October 1, 1997, and may establish additional requirements for such reports as the Attorney General determines may be useful.

(6) The Attorney General of the United States shall submit an annual report on or before April 1 of each calendar year which shall include for the prior calendar year a listing of the number of

cases arising under this section, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed under subparagraphs (E), (F), and (G) of subsection (a)(4). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(f) For purposes of this section, the term—

(1) “agency” as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

(2) “record” and any other term used in this section in reference to information includes—

(A) any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format; and

(B) any information described under subparagraph (A) that is maintained for an agency by an entity under Government contract, for the purposes of records management.

(g) The head of each agency shall prepare and make publicly available upon request, reference material or a guide for requesting records or information from the agency, subject to the exemptions in subsection (b), including—

(1) an index of all major information systems of the agency;

(2) a description of major information and record locator systems maintained by the agency; and

(3) a handbook for obtaining various types and categories of public information from the agency pursuant to chapter 35 of title 44, and under this section.

(h)(1) There is established the Office of Government Information Services within the National Archives and Records Administration.

(2) The Office of Government Information Services shall—

(A) review policies and procedures of administrative agencies under this section;

(B) review compliance with this section by administrative agencies; and

(C) recommend policy changes to Congress and the President to improve the administration of this section.

(3) The Office of Government Information Services shall offer mediation services to resolve disputes between persons making requests under this section and administrative agencies as a non-exclusive alternative to litigation and, at the discretion of the Office, may issue advisory opinions if mediation has not resolved the dispute.

(i) The Government Accountability Office shall conduct audits of administrative agencies on the implementation of this section and issue reports detailing the results of such audits.

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

(k) The Chief FOIA Officer of each agency shall, subject to the authority of the head of the agency—

(1) have agency-wide responsibility for efficient and appropriate compliance with this section;

- (2) monitor implementation of this section 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 this section;
- (3) 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 this section;
- (4) 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 this section;
- (5) facilitate public understanding of the purposes of the statutory exemptions of this section by including concise descriptions of the exemptions in both the agency's handbook issued under subsection (g), and the agency's annual report on this section, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply; and
- (6) designate one or more FOIA Public Liaisons.
 - (l) FOIA Public Liaisons shall report to the agency Chief FOIA Officer and shall serve as supervisory officials to whom a requester under this section can raise concerns about the service the requester has received from the FOIA Requester Center, following an initial response from the FOIA Requester Center Staff. FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 383; Pub. L. 90-23, §1, June 5, 1967, 81 Stat. 54; Pub. L. 93-502, §§1-3, Nov. 21, 1974, 88 Stat. 1561-1564; Pub. L. 94-409, §5(b), Sept. 13, 1976, 90 Stat. 1247; Pub. L. 95-454, title IX, §906(a)(10), Oct. 13, 1978, 92 Stat. 1225; Pub. L. 98-620, title IV, §402(2), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 99-570, title I, §§1802, 1803, Oct. 27, 1986, 100 Stat. 3207-48, 3207-49; Pub. L. 104-231, §§3-11, Oct. 2, 1996, 110 Stat. 3049-3054; Pub. L. 107-306, title III, §312, Nov. 27, 2002, 116 Stat. 2390; Pub. L. 110-175, §§3, 4(a), 5, 6(a)(1), (b)(1), 7(a), 8-10(a), 12, Dec. 31, 2007, 121 Stat. 2525-2530; Pub. L. 111-83, title V, §564(b), Oct. 28, 2009, 123 Stat. 2184.)

Appendix B: Copyright Permissions

Campbell, Brenton - Hoboken


From: Safdar, Sheik - Hoboken
Sent: Wednesday, November 28, 2012 4:26 PM
To: Campbell, Brenton - Hoboken
Subject: FW: Reprint Permission Request

Categories: Permissions

Hi Brent,

A dissertation request for you to process.

Thanks

PERMISSION GRANTED
 BY: 
 Global Rights Dept., John Wiley & Sons, Inc.

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WILEY

Sheik Safdar | Permissions Coordinator | P: 201-748-6512 | F: 201-748-6008
 John Wiley & Sons, Inc. | 111 River Street | Hoboken, NJ | 07030 | Mailstop: 4-02

From: Charis [mailto:shewolf925@yahoo.com]
Sent: Saturday, November 17, 2012 9:47 AM
To: Permissions - US
Subject: Reprint Permission Request

Hello,

I am writing to request permission to reprint a poem, as an epigraph in my PhD proposal and dissertation, that was originally published in a book published by your firm.

I am a PhD student at the School of Library and Information Management (SLIM) through Emporia State University in Kansas. My dissertation will be an examination of the Freedom of Information Act and my conceptual framework is based on FOIA as a black box, which is why I feel Dr. Boulding's poem would make such an excellent epigraph.

The book is:

Views on General Systems Theory
 Edited by Mihajlo D. Mesarovic
 Copyright 1964

The poem I would like to reprint was written by Kenneth Boulding and is printed on page 39. It is untitled.

A system is a big black box
 Of which we can't unlock the locks,
 And all we can find out about
 Is what goes in and what comes out.

Perceiving input-output pairs,
 Related by parameters,
 Permit us, sometimes, to relate
 An input, output, and a state.
 If this relation's good and stable
 Then to predict we may be able,
 But if this fails us--heaven forbid!
 We'll be compelled to force the lid!

Sincerely,

Charis Wilson
 Lakewood, CO

Appendix C: Literature Review Protocol

Objectives:

The initial objective of this literature review will be to survey and map existing FOIA research including identifying research related to the FOIA process. The second objective will be to perform a detailed analysis of all research located during the mapping phase, which relates to the inner workings of the FOIA process in order to identify potential impacts that the initial processing of new request might have on the FOIA process. The primary research question guiding this literature review process will be, “What information does existing FOIA literature provide regarding possible impacts of the initial request on the FOIA process?”

Inclusion / Exclusion Criteria

Scholarly documents relating to the United States Freedom of Information Act will be the primary focus of this literature review, although literature relating to foreign right-to-know legislation and state open records laws will be included if it is determined that there is not a large enough body of FOIA literature.

Grey literature and government documents will be included if it is determined they relate to the inner workings of the FOIA process. Reference documents such as the Department of Justice’s (2013) *Guide to the Freedom of Information Act* and articles from law review journals will not be included as they contain case law analysis rather than information on the FOIA process itself.

Search Strategy

A variety of electronic databases will be searched including ProQuest Dissertation & Theses (PQDT), Serials Solutions; Library and Information Science Abstracts (LISA);

Library, Information Science & Technology Abstracts (LISTA); WilsonWeb and CQ Researcher and Electronic Library. Additional searches will be conducted in ProQuest; the Social Science Research Network (SSRN), Google Scholar, and WorldCat systems.

The primary search terms will be the “Freedom of Information Act” and “FOIA.” Secondary search terms will include “freedom of information,” “open records,” “right-to-know,” and “transparency.”

Backward chaining or footnote chasing (Ellis, 1989, 1993; Thomas, Crow & Franklin, 2011; Wilson, 1992) and forward chaining (Thomas, Crow & Franklin, 2011) will be conducted in order to locate additional relevant literature. Social Science Citation Index and Google Scholar will be utilized for this search method, in addition to following any “cited by” links, which are provided in some electronic databases.

Expert Contacts

Subscriptions have been set up for various subject matter related listservs and blogs including FOI-L (listserv@listserv.syr.edu), which is the mailing list for the National Freedom of Information Coalition, and ITS RN-L (https://email.rutgers.edu/mailman/listinfo/itsrn_1), which is the International Transparency and Secrecy Research Network’s listserv. Individuals concerned with FOIA and transparency issues regularly post links to recently published articles on these listservs.

FOIA-related blogs will also be reviewed in order to identify potentially relevant literature. These include the FOIA Blog (<http://thefoiablog.typepad.com/>), which is written an attorney who used to work for the Office of Information Policy (OIP), which is the Department of Justice agency tasked with providing legal guidance on FOIA to

Executive Branch agencies. The FOIA Ombudsman (<http://blogs.archives.gov/foiablog/>), is written by Office of Governmental Information Services (OGIS) staff. OGIS was established by Congress and is responsible evaluating agency FOIA processes and providing recommendations for FOIA improvements to Congress. A Google search alert has also been set up to provide weekly updates on FOIA-related blogs and news stories.

Selection Procedures

Electronic research results will be initially narrowed by reviewing titles. For those materials where the title does not provide enough information to allow a determination of relevance, the abstracts will be reviewed. Only materials with relevant titles or abstracts will be downloaded, checked out of the library, obtained through inter-library loan, or purchased for inclusion in literature review.

Assessment and Review Procedures

After potentially relevant literature has been identified, it will be reviewed in order to draw out key themes related to potential impacts the request has on the FOIA process. In addition recording thematic elements, details regarding methodologies, core research questions, study results, conclusions, and suggestions for further research will be recorded in a review matrix.

Timeline

The initial review will begin in July 2011. Additional follow-up searches and literature reviews, utilizing the sources indicated above, will be conducted on a quarterly basis, until the proposed study is completed, in order to ensure that the proposed study is grounded on the most up-to-date research.

Appendix E: Invitation Letter

Charis Wilson
12051 W. Dakota Dr.
Lakewood, CO 80228
[Date]

Dear [**Recipient Name**]:

I am the Freedom of Information Act (FOIA) Officer for the National Park Service and a Ph.D. candidate with the School of Library and Information Management (SLIM) at Emporia State University. I am doing research for my doctoral dissertation on the implementation of FOIA, specifically how incoming requests impact the FOIA process.

I obtained your information from the Department of Justice Agency FOIA contact list, and am contacting you to request your assistance with my research. I would like to interview you about your experiences processing FOIA requests. The interview will last approximately an hour and with your permission will be recorded. I have attached a copy of the required informed consent form.

The results of my study will be made available not only through my dissertation but also through the publication of related articles in a variety of professional journals. I also plan to present my findings at professional conferences, such as those held by the American Society of Access Professionals (ASAP). However, all data will be reported in such a way as to keep participant identities and their related agency affiliations confidential.

If you agree to participate, I will make arrangements to conduct the interview with you at a time of your convenience. At that time, I will also provide you with a copy of the interview questions I will be asking. Each interview will be transcribed and you will be provided an opportunity to review your interview transcript for accuracy.

If you are willing to participate, please reply to this e-mail mesSAGE and let me know what time(s) would work for you. I will then contact you to make all the necessary arrangements. In addition, please feel free to contact me with any questions you may have regarding my research. I can be reached by e-mail or by phone at 303-333-2314. I thank you, in advance, for your participation and support of my research.

Sincerely,

Charis Wilson, MLS, CRM

Appendix F: Informed Consent Form

My name is Charis Wilson. I am a graduate student at Emporia State University's School of Library and Information Management and am currently conducting research for my dissertation. The purpose of this study is to examine in what ways the initial request impacts the inner workings of the FOIA process, which many people perceive as a black-box, have on the . As part of this research I will be conducting interviews with personnel, like you, whose duties involve processing FOIA requests.

In this interview activity, I will meet with the FOIA professional (you) in a neutral setting away from your office, for approximately one hour to one and one half hours. The meetings will take place via online conferencing services such as Skype or Microsoft Meeting. I will ask you several questions, and ask that you provide me with honest answers. Please understand that I am not here to judge you, so there are no such things as a right or wrong answers, only honest ones.

I want to thank you, in advance, for agreeing to participate in this study. It is my hope that this study will help people both inside and outside the FOIA process to gain a greater understanding of how the FOIA process actually works. Before we start I wanted to let you know that:

- Your participation in this interview is voluntary;
- You are free to refuse to answer any question at any time;
- You are free to withdraw from the interview at any time;
- You will not be penalized for withdrawing from the interview or refusing to answer a question.
- You will be offered an opportunity to review and comment on the transcript of your interview

Please let me know if you become uncomfortable during the interview or if a question makes you uneasy, and I will do what I can to remedy the situation. Also please do not hesitate to let me know if you would like to take a break during the interview session.

The interviews will be recorded and transcribed for research purposes. You will be offered an opportunity to review the transcript of your interview to ensure accuracy and completeness. The interviews will be stored on my personal computer and will be destroyed after my dissertation is published.

Under no circumstances will your name or personal identifying characteristics be included in the dissertation or any other report or presentation arising from this interview. The digital recording of our interview will be permanently erased or destroyed after final acceptance and publication of my dissertation. Information from this interview, and any follow-up communications, will be used only for teaching and research purposes.

*I have read (or heard) the above statements and have been fully advised of the procedures to be used in this project. I have been given sufficient opportunity to ask any questions I have concerning the procedures and potential risks involved. I understand the possible risks involved and I assume them voluntarily. I also understand that I can withdraw from the study at any time without being subjected to reproach.

Enter Interviewee Name

Date

If you have any further questions, regarding this study you can contact me at Charis Wilson at 303-333-2314 or via e-mail at cwilso10@g.emporia.edu or shewolf925@yahoo.com

Appendix G: Focused Interview Questions

The following questions, some of which are adapted from sample questions prepared by Charmaz (2006), were asked during the focused interviews.

1. Tell me how you came to be working with FOIA?
2. What, if anything, did you know about FOIA when you started processing FOIA requests?
3. Tell me how you go about handling a new FOIA request. What do you do?
4. Can you describe a particularly memorable request you received and what made it memorable?
5. What do you think are the most important things that FOIA requesters should know or understand about the FOIA process?
6. Is there anything else you think I should know or understand?

Appendix H: ASAP Request for Volunteers E-mail



Wilson, Charis <charis_wilson@nps.gov>

Special Request for FOIA Feedback

1 message

asap@accesspro.org <asap@accesspro.org>
To: charis_wilson@nps.gov

Wed, Jul 2, 2014 at 12:08 PM

Dear ASAP Members and Colleagues:

We have a special request from graduate student who is conducting research for her dissertation. She is seeking feedback in the inner workings of the FOIA process.

From time to time, ASAP receives requests from students or other individuals/organizations to survey our membership and database contacts on various topics. Over the years we have cooperated with a few organizations and students, so there is precedent. There are three things you should understand:

1. ASAP NEVER releases your names or contact information to others. We fiercely protect our database: it is not for rent or sale and always remains in our custody. It is our procedure for ASAP to send out the communications from our own system.
2. ASAP does not endorse any products, services or activities by outside companies or individuals.
3. Your participation is completely voluntary.

Now that you understand ASAP's protections, please read further to consider Charis Wilson's request for your feedback. She provides an Informed Consent Form and a simple set of Interview Questions. Time is of the essence, so if you want to provide feedback, please let her know ASAP!

We wish you all a Happy July 4th.

Thanks,

Claire Shanley, Executive Director

Informed Consent Form

My name is Charis Wilson, and I am a graduate student at Emporia State University's School of Library and Information Management and am currently conducting research for my dissertation. The purpose of this study is to examine the inner workings of the FOIA process, which many people perceive as a black box. As part of that research I will be conducting interviews with personnel, like you, whose duties involve processing FOIA requests.

In this interview activity, I will meet with the FOIA professional (you) in a neutral setting away from your office, for approximately one hour to one and one half hours. I will ask you several questions, and ask that you provide me with honest answers. Please understand that I am not here to judge you, so there are no such things as a right or wrong answers, only honest ones.

I want to thank you, in advance, for agreeing to participate in this study. It is my hope that this study will help people both inside and outside the FOIA process to gain a greater understanding of how the FOIA process actually works. Before we start I wanted to let you know that:

Your participation in this interview is voluntary;

- You are free to refuse to answer any question at any time;
- You are free to withdraw from the interview at any time;
- You will not be penalized for withdrawing from the interview or refusing to answer a question.
- You will be offered an opportunity to review and comment on the transcript of your interview

Please let me know if you become uncomfortable during the interview, such as being too cold or too warm, or if a question makes you uneasy, and I will do what I can to remedy the situation. Also please do not hesitate to let me know if you would like to take a break during the interview session.

Under no circumstances will your name or personal identifying characteristics be included in the dissertation or any other report or presentation arising from this interview. The contents of our interview session and any follow up communications will remain confidential.

Information from this interview, and any follow-up communications, will be used only for teaching and research purposes. The digital recording of our interview will be permanently erased or destroyed after final acceptance and publication of my dissertation.

*I have read (or heard) the above statements and have been fully advised of the procedures to be used in this project. I have been given sufficient opportunity to ask any questions I have concerning the procedures and potential risks involved. I understand the possible risks involved and I assume them voluntarily. I also understand that I can withdraw from the study at any time without being subjected to reproach.

Enter Interviewee Name

Date

If you have any further questions, regarding this study you can contact me at Charis Wilson at 303-333-2314 or via e-mail at cwilso10@emporia.edu or shewolf925@yahoo.com

Focused Interview Questions

The following questions, which are adapted from sample questions prepared by Charmaz (2006), will be asked during the focused interviews.

1. Tell me how you came to be working with FOIA?
2. What, if anything, did you know about FOIA when you started processing FOIA requests?
3. Tell me how you go about handling a new FOIA request. What do you do?
4. Can you describe a particularly memorable request you received and what made it memorable?
5. What do you think are the most important things that FOIA requesters should know or understand about the FOIA process?
6. Is there anything else you think I should know or understand?
7. Is there anything you would like to ask me?

Appendix I: Institutional Review Board Approval



February 18, 2014

Charis Wilson

(b) (6)

Dear Ms. Wilson:

Your application for approval to use human subjects has been reviewed. I am pleased to inform you that your application was approved and you may begin your research as outlined in your application materials. Please reference the protocol number below when corresponding about this research study.

Title:	In the Beginning was the Request: A Street-Level Perspective on the FOIA Process
Protocol ID Number:	14050
Type of Review:	Expedited
Time Period:	02/01/2014--02/28/2015

If it is necessary to conduct research with subjects past this expiration date, it will be necessary to submit a request for a time extension. If the time period is longer than one year, you must submit an annual update. If there are any modifications to the original approved protocol, such as changes in survey instruments, changes in procedures, or changes to possible risks to subjects, you must submit a request for approval for modifications. The above requests should be submitted on the form Request for Time Extension, Annual Update, or Modification to Research Protocol. This form is available at www.emporia.edu/research/irb.html.

Requests for extensions should be submitted at least 30 days before the expiration date. Annual updates should be submitted within 30 days after each 12-month period. Modifications should be submitted as soon as it becomes evident that changes have occurred or will need to be made.

On behalf of the Institutional Review Board, I wish you success with your research project. If I can help you in any way, do not hesitate to contact me.

Sincerely,

Dr. Pamelyn MacDonald
Chair, Institutional Review Board

pf

cc: Dr. Gwen Alexander

Appendix J: Theoretical Code Detailed Breakdown

This appendix contains a listing of the initial and focused codes broken down by theoretical codes. The initial codes within quotation marks are *in vivo* codes based on terminology taken directly from the interview transcripts.

Emotional Response Codes

FocusedCode	InitialCode	Name	LineNo.
Afraid	"already on guard"	Sally	646
Afraid	"at war"	Sally	630
Afraid	"bad sign"	Rachel	163
Afraid	"going to be all over me"	Darcy	165
Afraid	"hit you over the head with a bat"	Brad	515
Afraid	"potential litigation" [appeals]	David	p23
Afraid	"requester as the enemy"	Sally	644
Afraid	"sued repeatedly"	Sally	645
Afraid	"they are not stable"	Kate	657
Afraid	"treat them carefully" [media]	Kate	631
Afraid	"troubling sign"	Rachel	165
Afraid	"up against the wall"	Bob	1075
Afraid	anticipating litigation	Sally	209
Afraid	anticipating news article fallout	Sally	219
Afraid	assessing threat potential	Darcy	161
Afraid	fearing job loss [post release reaction]	Evelyn	486
Afraid	fearing litigation	Bob	108
Afraid	fearing litigation	Bob	509
Afraid	fearing rampant litigation	Bob	101
Afraid	filing suit on day 11	David	p32
Afraid	FOIA staff v. requesters	Bob	1072
Afraid	foreseeable harm = subjective	Evelyn	776
Afraid	getting burned	Bob	1066
Afraid	getting sued	Bob	1070
Afraid	going "on the defensive"	Bob	81
Afraid	losing litigation case	David	p32
			77
Afraid	making assumptions [about potential threats]	Bob	
Afraid	Missing teeth in the law	Bob	357
Afraid	needing liability insurance	Bob	1078
Afraid	reacting to pressures	Bob	92

FocusedCode	InitialCode	Name	LineNo.
Afraid	requester v. agency	Sally	631
Afraid	requester v. agency	Sally	642
Afraid	requester v. agency	Kate	246
Afraid	responding to outside stimuli	Bob	22
Afraid	sticking neck out	Bob	988
Afraid	Thick v. thin [thickness of paper requests]	Rachel	163
Afraid	us v. them	Rachel	279
Angry	"bad attitudes will run the risk of 'running the clock'"	Carl	77
Angry	"calm down front office"	Kate	214
Angry	"doesn't want to give an inch"	Sally	648
Angry	feeling abused	Bob	111
Angry	getting "burned out"	Rachel	382
Angry	hypocrisy	Bob	1153
Angry	requester v. attorneys	Sally	632
Disgusted	"complaining a lot"	Evelyn	881
Disgusted	"cost of doing business with the government"	Darcy	796
Disgusted	"dinged" on DOJ audit for not announcing postings	Kate	464
Disgusted	"don't let my personal perceptions get in the way of it"	Brad	506
Disgusted	"just do the job. It's easier."	Evelyn	584
Disgusted	"like little infants" [media]	Kate	629
Disgusted	"make sure they cover everything...from attorneys"	Bob	576
Disgusted	"play psychiatrist"	Kate	215
Disgusted	"sent these diatribes out"	Kate	652
Disgusted	"tempest in a teapot" [post release reaction by mgt]	Evelyn	484
Disgusted	"walk a fine line"	Sally	641
Disgusted	"walking the fine line"	Sally	667
Disgusted	attorney v. attorney	Bob	920
Disgusted	being reluctant to comply [record holders]	Sally	643
Disgusted	FOIA staff v. record holders	Evelyn	165
Disgusted	morale "was not that great"	David	p14
Disgusted	outside info brokers v. gov. employees	Bob	622
Disgusted	why fight for fees if can't keep money	Evelyn	1026
Happy	"courteous tone"	Carl	71
Happy	"it was a win-win in my book"	Brad	175

FocusedCode	InitialCode	Name	LineNo.
Happy	"kind of like friends"	Brad	171
Happy	"really enjoy it"	Darcy	245
Happy	"we really want to help"	Darcy	576
Happy	apologizing for bothering FOIA staff	Rachel	278
Happy	courteous v. rude	Carl	72
Happy	friendly v. legalese	Darcy	57
Happy	playing nicely	Bob	110
Happy	surprising the requester	Evelyn	252
Sad	"going into the sunset"	Rachel	380

External Information Environment Codes

FocusedCode	InitialCode	Name	LineNo.
Conflicting rule set	"508 limitations"	David	p39
Conflicting rule set	"Just Google It Act"	Bob	823
Conflicting rule set	"legislation without appropriation"	Evelyn	1077
Conflicting rule set	"noble concept" = Section 508	Bob	635
Conflicting rule set	"statutory charge" v. FOIA	Bob	176
Conflicting rule set	508 costs v. FOIA fees	Bob	645
Conflicting rule set	508 is a "very, very expensive process"	David	p38
Conflicting rule set	508 v. FOIA	Kate	451
Conflicting rule set	changing Attorney general guidance	Evelyn	764
Conflicting rule set	changing law	Bob	91
Conflicting rule set	changing law	Bob	96
Conflicting rule set	changing law	Bob	381
Conflicting rule set	changing law	Evelyn	758
Conflicting rule set	determining if PA or FOIA	Jeff	p4
Conflicting rule set	FOIA and PA overlap	Sally	721
Conflicting rule set	FOIA v. HIPPA	Bob	723
Conflicting rule set	FOIA v. other laws	Bob	67
Conflicting rule set	FOIA v. PA	Carl	55
Conflicting rule set	FOIA v. PA	Bob	736
Conflicting rule set	FOIA v. PA	Bob	756
Conflicting rule set	FOIA v. PA	Kate	101
Conflicting rule set	FOIA v. PA	Kate	603
Conflicting rule set	FOIA v. regulations	Bob	362
Conflicting rule set	inconsistency v. need for stds.	Bob	922
Conflicting rule set	IT handles Section 508	Evelyn	414
Conflicting rule set	Overlapping w/ PA	Rachel	251

FocusedCode	InitialCode	Name	LineNo.
Conflicting rule set	Overlapping w/ PA	Evelyn	507
Conflicting rule set	putting more online [if not hampered by 508]	David	p38
Conflicting rule set	Regulations v. law	Rachel	261
Conflicting rule set	Trade Secrets Act v. FOIA	Bob	510
Conflicting rule set	workload v. "right to know"	Rachel	289
Conflicting value set	"conflicting interests"	Sally	669
Conflicting value set	"public's information"	Kate	515
Conflicting value set	concept v. reality	Evelyn	790
Conflicting value set	media v. agency	Kate	626
Conflicting value set	nonprofit v. taxpayer costs	Bob	912
Conflicting value set	Open v. closed	Rachel	64
Conflicting value set	salary costs v. economic impacts	Bob	1087
Conflicting value set	subsidizing commercial requesters	Bob	120
Conflicting value set	transparency v. privacy	Sally	280
Congress	"make Congress subject to FOIA"	Bob	1147
Congress	"read the tea leaves" [Congress]	Sally	260
Congress	Congress v. Executive Branch	Bob	61
Congress	Congress v. FOIA	Bob	1161
Congress	Congress v. FOIA staff	Rachel	294
Congress	Congress v. government employees	Bob	638
Congress	Congress v. government employees	Bob	770
Congress	making Congress subject to FOIA	Rachel	291
Congress	operating in a vacuum [Congress]	Bob	959
Congress	Staff v. Congress	Sally	262
Requester expectation	"any and all" v. perfected	Bob	586
Requester expectation	"cannot answer on behalf of the whole, entire government"	Kate	648
Requester expectation	"everything's in Wikipedia"	Evelyn	392
Requester expectation	"I can't answer the question...I can provide you the records"	Brad	144
Requester expectation	"it wasn't a frivolous request from somebody just searching for stuff"	Brad	178
Requester expectation	"just go on and Google it"	Evelyn	393
Requester expectation	"outside police stations or someplace like this can simply ask for the report"	Brad	80
Requester expectation	"people over-requesting"	Jack	457

FocusedCode	InitialCode	Name	LineNo.
Requester expectation	"they don't understand why there's no way that most government agencies can't it kick as quickly as Google does"	Brad	438
Requester expectation	"think that the government has that big database"	Brad	442
Requester expectation	"used to having information at their fingertips"	Evelyn	598
Requester expectation	"want everything"	Sally	607
Requester expectation	"we're not the library of Congress, we're nowhere near that organized"	Jack	629
Requester expectation	assuming FOIA is the only option	Evelyn	527
Requester expectation	Googelized expectations	Sally	437
Requester expectation	thinking "that we're all knowing"	Sally	435
Requester expectation	wanting records in next 10 days	David	p31
Requester motivation	"a lot of them end up spilling to me anyway"	Brad	520
Requester motivation	"angry at the government"	Kate	247
Requester motivation	"answers they are looking for"	Sally	431
Requester motivation	"do their work for them"	Darcy	405
Requester motivation	"don't ever make it a crossing guide"	Brad	526
Requester motivation	"fishing expedition"	Sally	178
Requester motivation	"I can't ask the person... which side of the fence they intend to throw the ball from"	Brad	511
Requester motivation	"industrial espionage"		128
Requester motivation	"keep it on the down low"	Darcy	340
Requester motivation	"looking for dirt on members of Congress"	Sally	495
Requester motivation	"looking for general trends"	David	p41
Requester motivation	"looking for something they're not even sure exists"	Sally	547
Requester motivation	"make requests about each other"	Sally	709
Requester motivation	"on a fishing expedition"	Sally	493
Requester motivation	"people protesting"	Kate	227
Requester motivation	"people want current information"	Jack	279
Requester motivation	"political consultants"	Darcy	703
Requester motivation	"proverbial fishing expedition"	Darcy	305

FocusedCode	InitialCode	Name	LineNo.
Requester motivation	"requesting same info from 15 other offices"	Brad	677
Requester motivation	"tees off of the subject matter...in terms of what they see as valuable information"	Jack	268
Requester motivation	"they want to go on these fishing expeditions"	Rachel	361
Requester motivation	"they're actually after something more substantive or they're trying to dig into it to find the origins of something"	Brad	463
Requester motivation	"trying to catch somebody unaware or off that particular day so they slip up and give them a piece of the puzzle"	Brad	696
Requester motivation	"want the information that's current"	Jack	297
Requester motivation	"want us to do their research"	Darcy	397
Requester motivation	"what the public feels they need"	Kate	418
Requester motivation	"what they're really after"	Sally	605
Requester motivation	"when it's a fishing expedition, I think they just throw out the chum"	Brad	708
Requester motivation	"why they were looking"	Sally	593
Requester motivation	"why they're looking"	Sally	582
Requester motivation	3rd party requests	Kate	258
Requester motivation	applicant v. applicant [for grants]	Rachel	100
Requester motivation	assuming we're "hiding something"	Evelyn	379
Requester motivation	attempting to avoid fees	Rachel	94
Requester motivation	avoiding "fishing expedition"	Rachel	325
Requester motivation	avoiding fees	Rachel	100
Requester motivation	competitive intelligence	Rachel	99
Requester motivation	competitive intelligence	Evelyn	729
Requester motivation	complaining about hiring decisions	Sally	714
Requester motivation	confirming requester identity for PA	James	11
Requester motivation	dealing with grieving requester	Sally	371
Requester motivation	dealing with mental health issues	Sally	351
Requester motivation	Democracy v. industrial espionage	Bob	1216
Requester motivation	determining "why they want it"	Sally	576
Requester motivation	Determining requester category	Jeff	p5
Requester motivation	expecting us to do their research	Evelyn	922
Requester motivation	knowing what they want	Sally	524
Requester motivation	looking for litigation ammo.	Bob	470
Requester motivation	media not usually looking for PII	David	p41
Requester motivation	not getting many commercial requests	Evelyn	1042
Requester motivation	not knowing that you don't know	Bob	574

FocusedCode	InitialCode	Name	LineNo.
Requester motivation	not wanting "to give you a heads up on what they're looking for"	David	p41
Requester motivation	older v. younger generation	Evelyn	596
Requester motivation	older v. younger generation	Evelyn	696
Requester motivation	others "more accommodating"	David	p41
Requester motivation	posing as individuals	Rachel	95
Requester motivation	relating to requester "self"	Bob	708
Requester motivation	Requesting expedited processing	Jeff	p6
Requester motivation	researching family	Carl	54
Requester motivation	reselling government information	Bob	834
Requester motivation	seeking information about relatives	Evelyn	512
Requester motivation	shopping for information	Bob	114
Requester motivation	spying on competitors	Bob	130
Requester motivation	varying needs for timeliness based on agency functions	Jack	286
Requester motivation	varying requester skills [based on agency functions]	Jack	206
Requester motivation	wanting to know more	David	p37
Requester motivation	young v. old	Bob	810
Website dissemination	"cleared and put on the website...did help us to a point"	Brad	318
Website dissemination	"haven't had a repetitive, same requester on the same topic in about a year and a half"	Brad	354
Website dissemination	"it's all redacted. It is not just as simple as saying, okay computer...pick all of the names...out of there."	Brad	328
Website dissemination	"more harm than good" [website]	Kate	488
Website dissemination	"most interesting things" [on website]	Kate	460
Website dissemination	"not cutting down as many requests as I had really hoped"	Jack	318
Website dissemination	"not everything should be put out"	Kate	468
Website dissemination	"not going to broadcast"	Kate	509
Website dissemination	"out of context" [website]	Kate	490
Website dissemination	"putting stuff on-line"	Darcy	438

FocusedCode	InitialCode	Name	LineNo.
Website dissemination	"started flooding [office name] with FOIA requests" [establishing website]	Brad	315
Website dissemination	2 million pages on website	Bob	628
Website dissemination	2 to 3 million pages [on website]	Bob	564
Website dissemination	maintaining FOIA library	Rachel	144
Website dissemination	maintaining website	Rachel	151
Website dissemination	maintaining website	Evelyn	447
Website dissemination	moving data [on website]	Evelyn	445
Website dissemination	not keeping stats for website usage	Evelyn	456
Website dissemination	online v. behind the counter	Bob	667
Website dissemination	posting "as much information as we can"	Kate	606
Website dissemination	posting for just the last few years	Evelyn	459
Website dissemination	posting records proactively	Bob	606
Website dissemination	preparing documents for posting	Rachel	199
Website dissemination	Reading room not robust enough to impact their workload either way	Jeff	p10
Website dissemination	temporary v. permanent posting	Bob	670
Website dissemination	weeding old data from website	Rachel	204
Website dissemination	worrying about posting copyrighted materials in a FOIA archive	Jack	341

FOIA Skills Codes

FocusedCode	InitialCode	Name	LineNo.
Aboutness	"make sure it's a valid request"	Brad	70

FocusedCode	InitialCode	Name	LineNo.
Aptitude	"absorb people who are not good performers" [larger org]	Sally	105
Aptitude	"dealing with details"	Kate	129
Aptitude	"didn't want to touch it" [technology]	David	p13
Aptitude	"diplomatic skills"	Carl	86
Aptitude	"entrenched in doing things manually"	David	p12
Aptitude	"good analyst"	Bob	150
Aptitude	"last person in"	Evelyn	106
Aptitude	"mind is in a form of logic"	Kate	147
Aptitude	"people who wanted to work electronically"	David	p16
Aptitude	"pick up on little minutia"	Kate	130
Aptitude	"pick up on the minutia"	Kate	141
Aptitude	"problem solver"	David	p5
Aptitude	"something different every day"	Evelyn	149
Aptitude	"still using keywords and languages" [comparing to LIS]	Kate	776
Aptitude	"thinking and logic"	Kate	139
Aptitude	figuring things out	Bob	160
Aptitude	getting called after a successful move project	David	p6
Aptitude	getting to the core	Kate	152
Aptitude	hiring someone comfortable with technology	David	p14
Aptitude	needing power users	David	p43
Aptitude	providing information to the public like libraries	Kate	782
Aptitude	similar to libraries	Kate	782
Aptitude	solving a puzzle	Bob	151
Aptitude	staff that "just couldn't function anywhere else in the agency"	David	p17
Aptitude	Things have improved. [better people now]	Sally	71
Career path	"bumping into FOIA and the Privacy Act"	Brad	48
Career path	"doing employee and labor relations"	David	p5
Career path	"FOIA was where people were sent" [like Siberia]	Sally	64
Career path	"high turnover"	Darcy	249
Career path	"lucked into FOIA"	Darcy	240
Career path	"more visibility"	Sally	74
Career path	"not really an entry-level thing"	Evelyn	201
Career path	"others it has been assigned to"	Darcy	247
Career path	"paralegal specialist" [as opposed to 0306]	Darcy	940
Career path	"public affairs" writer	Darcy	187
Career path	"see the same people"	Darcy	244
Career path	"something they were given" [FOIA]	Darcy	1102

FocusedCode	InitialCode	Name	LineNo.
Career path	"started hiring people specifically" [for FOIA]	Evelyn	166
Career path	"stumbled into it"	Darcy	886
Career path	"there is turnover in the field"	Brad	720
Career path	"worked my way through college...doing medical records"	Jack	42
Career path	22 years military paralegal	Brad	45
Career path	30 years of experience	Kate	723
Career path	applying for a paralegal contract job	Jeff	p3
Career path	becoming more professional	Evelyn	108
Career path	changing career	Rachel	47
Career path	changing careers	Rachel	44
Career path	coming from various backgrounds	Evelyn	186
Career path	creating FOIA program shop	Kate	79
Career path	declassifying documents	Evelyn	118
Career path	getting job classification	Sally	126
Career path	getting out of "crappy" job	Sally	49
Career path	GS-level above 9	Darcy	956
Career path	inheriting FOIA job duties	Evelyn	124
Career path	limited advancement potential	Bob	343
Career path	looking for work	Carl	2
Career path	looking for work	James	2
Career path	looking for work [after college]	Sally	47
Career path	looking for work [after college]	Jeff	p2
Career path	public affairs background	Darcy	224
Career path	Relying on processor skill sets	Jeff	p9
Career path	serving as JAG officer	Rachel	40
Career path	serving in the military	Evelyn	136
Career path	taking a detail	Kate	91
Career path	Threatening to send to FOIA assignment	Sally	68
Career path	working as a contractor on FOIA clean up job	Jeff	p3
Career path	working as a military contractor	Evelyn	139
Career path	working as a supervisor	Jeff	p3
Career path	working at a law firm	James	7
Career path	working with contracts	Kate	63
Education	degree in law	Kate	56
Education	education levels	Bob	222
Education	fisheries degree	Jack	35
Education	FOIA job series v. education requirements	Bob	186
Education	graduating law school	Rachel	39
Education	graduating law school	Jeff	p2
Education	Human resources and Health Services degree	David	p4

FocusedCode	InitialCode	Name	LineNo.
Education	Masters in Applied Management	David	p12
Training	"catch-as-catch-can" [training]	Evelyn	160
Training	"don't have the proper training"	Brad	721
Training	"got to learn a lot"	Sally	147
Training	"their expertise level is lower" [collateral duty folks]	Brad	728
Training	degree v. OJT experience	Bob	196
Training	education v. OJT	Bob	224
Training	getting required training	Darcy	216
Training	keeping up with the industry	Kate	211
Training	knowing it was "some kind of law"	Darcy	271
Training	knowing nothing about FOIA	David	p6
Training	knowing nothing about FOIA	Jeff	p3
Training	learning about the agency [like mailroom]	Sally	142
Training	Missing gov. wide training stds. / requirement	Bob	338
Training	moving to complex cases	Jack	140
Training	needing experience	Evelyn	196
Training	networking with others	Evelyn	577
Training	OJT training	Jack	133
training	OJT training	Rachel	75
Training	OJT v. standardized training	Evelyn	154
Training	starting on simple requests	Jack	134

Internal Information Environment Codes

FocusedCode	InitialCode	Name	LineNo.
Conflicting rule set	"still FOIA but it was with their flavor of it..."	Jack	228
Conflicting rule set	"their policy" v "our policy"	Kate	299
Conflicting rule set	"wasn't mission related activities"	David	p11
Conflicting rule set	differing decision on the same info by different agency	Kate	298
Conflicting rule set	failing to update regulations	Bob	936
Conflicting rule set	FOIA v. agency mandates	David	p25
Conflicting rule set	FOIA v. regulations	Bob	398
Conflicting rule set	mandated duties v. FOIA	Evelyn	659
Conflicting rule set	Overlapping w/ PA	Kate	259
Conflicting rule set	right to "generic information" [about employees]	Kate	501
Conflicting value set	"administrative burden"	David	p11

FocusedCode	InitialCode	Name	LineNo.
Conflicting value set	Employee privacy v. public right to know	Kate	505
Conflicting value set	Employees privacy v. public right to know	Kate	495
Conflicting value set	internal use v. public use [formats]	Sally	253
Organizational culture	"cautious" [organizational culture]	Evelyn	322
Organizational culture	"knows nothing about FOIA" [Senior staff]	Sally	238
Organizational culture	"more attention paid from higher management"	Sally	95
Organizational culture	"older agency" v. new agency	Evelyn	302
Organizational culture	"the Bastille"	Kate	314
Organizational culture	allowing flexible work arrangements	David	p14
Organizational culture	career v. appointed staff	Evelyn	853
Organizational culture	civilian v. military	Evelyn	852
Organizational culture	contractors v. staff	Evelyn	141
Organizational culture	Executive staff v. FOIA staff	Sally	230
Organizational culture	IT making decisions that impact FOIA & RM w/ consulting them	David	p35
Organizational structure	"growing pains"	Evelyn	325
Organizational structure	"in the backwater of government"	Evelyn	820
Organizational structure	centralized v. decentralized	Bob	332
Organizational structure	centralized v. decentralized	Bob	406
Organizational structure	centralized v. decentralized	Bob	504
Organizational structure	centralized v. decentralized functions	Bob	428
Organizational structure	implementing figurehead superficially	Bob	1015
Organizational structure	media v. staff	Evelyn	882
Organizational culture	"nobody really cared"	Sally	80
Organizational culture	specific agency culture	Evelyn	657
Process administration	"40 to 60 pages a day" [workload issues]	Bob	535
Process	"80% of it, will have to be forwarded to	Brad	566

FocusedCode	InitialCode	Name	LineNo.
administration	another element"		
Process administration	"a lot of meetings" [designing new system]	David	p22
Process administration	"active management of the processes"	David	p43
Process administration	"administering fees"	Bob	1229
Process administration	"administrative frames"	Kate	154
Process administration	"agonize over e-mails"	Sally	597
Process administration	"assigning a new number every time it comes into the office"	Brad	632
Process administration	"be an arbiter" [information flow]	Sally	634
Process administration	"bogged down" [workload issues]	Bob	531
Process administration	"boxes and boxes of hardcopy files" [workload issues]	David	p11
Process administration	"call memo" [information flow]	Bob	496
Process administration	"clearing it" [information flow]	Bob	69
Process administration	"completely different numbering schemes"	David	p17
Process administration	"cradle-to-grave approach"	David	p21
Process administration	"data entry should be maximum"	David	p43
Process administration	"dependent on what the level of impact or interest is...can affect how that thing moves because of who it has to go through"	Brad	552
Process administration	"don't necessarily know how to handle the data"	David	p44
Process administration	"due diligence"	Kate	514
Process administration	"eliminate ...the catfish pools" [information flow]	Brad	541
Process administration	"every time I get that piece back it's with a new FOIA number"	Brad	616
Process administration	"everybody has got a backlog" [workload issues]	Darcy	176
Process administration	"figure out what was causing the backlog" [workload issues]	David	p10
Process administration	"flow [of info] that should take place but there's also these choke points..." [information flow]	Brad	542

FocusedCode	InitialCode	Name	LineNo.
Process administration	"hardly maintain what we're doing" [workload issues]	Bob	862
Process administration	"important part of intake" [fees, expedited etc.]	David	p27
Process administration	"important that you know when you started"	Brad	73
Process administration	"internal reviews"	Kate	513
Process administration	"liaison with the program office" [information flow]	Kate	277
Process administration	"more focused on the future than the past"	David	p14
Process administration	"more to look at"	Sally	475
Process administration	"not going to be assigned a number if it's not perfected"	Brad	127
Process administration	"nothing went out in hardcopy"	David	p16
Process administration	"one term" = 6000 results [workload issues]	Sally	502
Process administration	"out producing the entire staff"	David	p16
Process administration	"production line" [huge backlog project]	Sally	90
Process administration	"release resumes"	Darcy	775
Process administration	"response authority" [information flow]	Bob	482
Process administration	"seems like it is a runaround to the requester" [the routing and rerouting of referrals]	Brad	600
Process administration	"several months to process" [workload issues]	Darcy	300
Process administration	"sheer volume" [workload issues]	Bob	532
Process administration	"show you how to do it"	David	p8
Process administration	"significant interest group team" [media requests]	Jeff	p8
Process administration	"staff time is lost time" [workload issues]	Bob	103
Process administration	"still have to review every piece of cyber-paper"	Darcy	623
Process administration	"strategize on handling FOIAs" [meetings]	Kate	182
Process administration	"talking to staff" [information flow]	David	p7
Process administration	"targeting problem areas"	David	p44

FocusedCode	InitialCode	Name	LineNo.
Process administration	"too new" = newly created agency w/no regs	Bob	592
Process administration	"way too intensive" re:watchlists	Bob	863
Process administration	"why do we have a backlog" [workload issues]	David	p7
Process administration	35,000 requests a year [workload issues]	David	p18
Process administration	analyzing records	David	p22
Process administration	assigning a different number in each office	David	p17
Process administration	assigning a single ID	David	p19
Process administration	assigning to analyst	David	p21
Process administration	attending redundant meetings [workload issues]	Kate	210
Process administration	authorization v. permission [information flow]	Bob	1043
Process administration	avoiding requests [workload issues]	Bob	607
Process administration	being consistent	Bob	8537
Process administration	centralized v. decentralized responses	Bob	491
Process administration	charging for review costs	Bob	895
Process administration	charging only commercial requesters	Bob	1210
Process administration	competing improvement project	David	p9
Process administration	conducting efficient searches [w narrowed request]	David	p41
Process administration	conducting evaluation by outside team w/former FOIA officer	David	p7
Process administration	consolidating responses	Bob	490
Process administration	consulting with multiple offices [information flow]	Bob	488
Process administration	consulting with other agencies or offices	Evelyn	231
Process administration	consulting with SME [information flow]	Bob	183
Process administration	coordinating w/22 different sub-units [information flow]	Evelyn	333
Process administration	copying 100,000 pages by hand [workload issues]	Sally	313

FocusedCode	InitialCode	Name	LineNo.
Process administration	copying redacted pages	David	p12
Process administration	cradle to grave processing	Carl	22
Process administration	creating workflows	Kate	106
Process administration	deduplicating is expensive [workload issues]	David	p34
Process administration	denying fee waivers rarely	Bob	889
Process administration	determining fees	Rachel	94
Process administration	developing a new system with workflow	David	p20
Process administration	drawing out data "to see how offices are functioning"	David	p21
Process administration	duplicating and replicating message chains	Sally	512
Process administration	ensuring consistency	Bob	505
Process administration	entering data	Bob	441
Process administration	establishing a processing team	David	p23
Process administration	establishing an appeals team	David	p23
Process administration	establishing an intake team	David	p22
Process administration	Establishing boundaries for search [workload issues]	Rachel	368
Process administration	evaluating fee waivers	Bob	870
Process administration	Farming out to IT [workload issues]	Rachel	224
Process administration	FOIA staff v. Management [information flow]	Bob	67
Process administration	FOIA staff v. Official spokespeople [information flow]	Bob	966
Process administration	FOIA v. SME [information flow]	Bob	502
Process administration	free information v. costs to actually process	Bob	528
Process administration	free v. paying for actual costs	Sally	488
Process administration	getting for free anyway	Bob	893
Process administration	getting voluminous requests [workload issues]	Evelyn	1036

FocusedCode	InitialCode	Name	LineNo.
Process administration	growing each year [no. requests] [workload issues]	Rachel	142
Process administration	growing exponentially [workload issues]	David	p34
Process administration	Half a million fees v. 30 million in actual administration costs	Bob	1189
Process administration	handling everything in hardcopy	David	p10
Process administration	handling fee waiver and expedited processing requests	David	p27
Process administration	having data about the process is important	David	p43
Process administration	helping with backlog [workload issues]	Darcy	207
Process administration	highlighting the records	David	p11
Process administration	HQ v. field [information flow]	Bob	481
Process administration	increasing complexity	Sally	477
Process administration	Increasing volume of pages of potentially responsive records	Jeff	p12
Process administration	Increasing volume of requests	Jeff	p12
Process administration	intake determines outcome	Darcy	80
Process administration	inter- v. intra-agency limitations	Evelyn	688
Process administration	inversely proportional [workload issues]	David	p37
Process administration	involving multiple people	Sally	539
Process administration	issuing decisions sooner [w narrowed request]	David	p41
Process administration	IT v. FOIA staff [information flow]	Rachel	214
Process administration	lacking a tracking system	Kate	196
Process administration	lacking regulations v. law requiring them	Bob	795
Process administration	limiting to "unique" records for response	Sally	518
Process administration	logging request	Bob	433
Process administration	losing money	Bob	1175
Process administration	low # requests v. high # requests [workload issues]	Bob	500

FocusedCode	InitialCode	Name	LineNo.
Process administration	mailing invoices	Bob	1236
Process administration	mailing materials to contractors for processing	David	p18
Process administration	mailing records back to office	David	p11
Process administration	making request to remote offices to search [information flow]	David	p10
Process administration	management v. line staff [information flow]	Bob	211
Process administration	managing time	Bob	277
Process administration	managing workflow	Bob	439
Process administration	measuring performance	Bob	324
Process administration	missing a "unique identifier"	David	p17
Process administration	monitoring program	Kate	199
Process administration	moving too slowly	Bob	598
Process administration	negotiating for records [information flow]	Carl	89
Process administration	not cross-referencing case numbers	David	p18
Process administration	not defraying actual costs	Bob	1183
Process administration	notifying public affairs & senior management proactively [information flow]	Sally	187
Process administration	notifying spokesman [before press conference] [information flow]	Sally	198
Process administration	older records v. younger records [format]	Sally	306
Process administration	Over 140,000 requests/year	Jeff	p11
Process administration	posting data has increased number of requests [workload issues]	David	p37
Process administration	preparing a decision	David	p22
Process administration	preparing for a press briefing [information flow]	Sally	204
Process administration	Processing with limited staff	Jeff	p11
Process administration	putting through process	Darcy	635
Process administration	requiring inputs[information flow]	Bob	99

FocusedCode	InitialCode	Name	LineNo.
Process administration	reviewing classification	Evelyn	228
Process administration	reviewing more electronic records	Sally	447
Process administration	routing requests [information flow]	Evelyn	351
Process administration	routing requests [information flow]	Evelyn	351
Process administration	routing requests [information flow]	Evelyn	362
Process administration	routing to multiple offices [information flow]	Bob	455
Process administration	searching as part of clarifying request	Sally	354
Process administration	showing actual working conditions	David	p8
Process administration	Technology v. Murphy's law	Evelyn	41
Process administration	time consuming	Bob	107
Process administration	tracking requests	Sally	285
Process administration	transferring to contractors	David	p19
Process administration	unable to say "no" [to burdensome requests] [workload issues]	Bob	954
Process administration	using a database to log requests	Brad	95
Process administration	using Adobe to redact	David	p15
Process administration	using both team and cradle-to-grave processing	Jeff	p8
Process administration	Using Excel to track about 1000 requests a year	David	p18
Process administration	using redaction tape	David	p12
Process administration	using same system differently	Kate	374
Process administration	using workflow software to process the request [workload issues]	Jack	123
Process administration	varying by agency how the initial processing goes based on volume & types of records [workload issues]	Jack	174
Process administration	varying fee thresholds	Bob	880
Process administration	voluminous v. reasonable requests [workload issues]	Bob	949
Process administration	wanting to be consistent	Sally	517

FocusedCode	InitialCode	Name	LineNo.
Process administration	working in three shifts [workload issues]	Jack	81
Process administration	working just with electronic [paper was scanned then routed] [workload issues]	Jack	112
Process administration	Working w/ IT staff [information flow]	Rachel	220
Records management	"100 years of records"	David	p30
Records management	"always a discovery process for us"	Sally	438
Records management	"as far as records management goes it is just about an absolute nightmare"	Jack	482
Records management	"assume that the records...are lying around"	Jeff	p11
Records management	"create information so much faster now"	Jack	529
Records management	"creates a nightmare"	David	p35
Records management	"definitely interrelated" [FOIA and RM]	David	p28
Records management	"determining where things go can be a problem"	Kate	355
Records management	"doing microfilm"	Evelyn	88
Records management	"don't keep everything"	Kate	239
Records management	"email is an absolute nightmare"	David	p34
Records management	"FOIA requests are filed under 400." with "boat navigational records"	Brad	223
Records management	"FOIA...it's only going to get more difficult"	Jack	510
Records management	"happening in a very haphazard sort of pragmatic fashion"	Jack	686
Records management	"how are we archiving their electronic records to ensure future generations have access to this information?"	Jack	685
Records management	"how many people am I dealing with? Are they right here or are they all the way across post or are they deployed right now..."	Brad	90
Records management	"if you can't find the records you're just not going to get it done"	Jack	512
Records management	"if you're doing FOIA, you're doing records management"	Jack	496
Records management	"in deep, deep, deep trouble right now"	Jack	507
Records management	"it was somebody's right idea that...a Lean Six Sigma project could fix anything"	Brad	266
Records management	"it's not like they're in a filing cabinet where you can just pull the folder"	Brad	377
Records management	"just finding the record"... "that's the first piece"	Evelyn	71
Records management	"love to chat" [in emails]	Rachel	329
Records management	"no magic database or file cabinet or warehouse"	Carl	82
Records management	"nobody's keeping any" [electronic records]	Evelyn	90
Records management	"not all online yet"	Evelyn	395

FocusedCode	InitialCode	Name	LineNo.
Records management	"only 12 file numbers now...that's down from in the hundreds"	Brad	221
Records management	"only requires we search for records that exist"	David	p33
Records management	"over 20 million files located here"	Jeff	p7
Records management	"people retiring like leaves falling off the trees in autumn"	Jack	681
Records management	"Raiders of the Lost Ark"	Carl	83
Records management	"renting offsite storage"	David	p31
Records management	"salt mines full of files"	Brad	449
Records management	"so much out there"	Evelyn	692
Records management	"social media is going to kill us" [discussing req. for text messages from official seen texting during Congressional hearing]	Jack	720
Records management	"the computer age is changing this whole thing of FOIA"	Brad	379
Records management	"the people who are creating the information, oftentimes, they have no idea how to manage those records"	Jack	519
Records management	"the two are linked hand-in-hand" [RM & FOIA }	Jack	493
Records management	"they're not on a system, they're not on a server, they're on CDs"	Brad	372
Records management	"where are those records"	Darcy	1147
Records management	"where it should go"	Kate	263
Records management	"with multiple file numbers where actually, you could grab the file number and that's what would be in the file"	Brad	271
Records management	allowing only "so many megabytes of space"	David	p35
Records management	being able to track progress and responsiveness of searches	David	p26
Records management	blending personal and official	Sally	451
Records management	centralized v. decentralized	Jack	260
Records management	Centralized v. decentralized e-mail	Rachel	312
Records management	centralized v. decentralized records management	Bob	562
Records management	coordinating the records search	David	p21
Records management	Decentralized recordkeeping	Evelyn	92
Records management	destroying old information	Rachel	116
Records management	determining which components might have records	Jeff	p7
Records management	determining who has the records	Sally	153
Records management	disposing v. keeping records	Bob	264
Records management	disposing v. keeping records	Bob	271
Records management	email v. paper [filing]	Rachel	318

FocusedCode	InitialCode	Name	LineNo.
Records management	extending record retention periods [FOIA request]	David	p29
Records management	ferretting out documents	Carl	86
Records management	finding more stuff [e-mail search results]	Sally	453
Records management	FOIA v. record holders	Sally	421
Records management	formal correspondence v. e-mail	Sally	585
Records management	Going to multiple components	Darcy	668
Records management	hubs and spokes	Jack	264
Records management	Identifying possible record locations	Jeff	p6
Records management	increasing workload because of e-mail [workload issues]	Brad	361
Records management	knowing "what you have"	Evelyn	95
Records management	knowing where to begin	Kate	650
Records management	Lacking adequate RM staff in component [impacts getting records]	Jeff	p9
Records management	locating records [search]	Carl	75
Records management	meeting with records staff	David	p33
Records management	mixing topics in e-mails	Sally	450
Records management	not requiring creation of record	Bob	593
Records management	Not working like Google	Jeff	p12
Records management	old v. new info	Rachel	193
Records management	older records v. younger records [storage]	Sally	306
Records management	paper v. electronic	Evelyn	87
Records management	parsing for record locations [search]	Carl	45
Records management	receiving more e-mails	Darcy	643
Records management	records management v. retaining everything	Bob	251
Records management	responding to constituent complaints about missing records[Congress]	Sally	299
Records management	retaining info inconsistently	Rachel	115
Records management	RM codes no longer match PA codes	Brad	274
Records management	searching archives	Sally	329
Records management	searching based on regulation number	Brad	227
Records management	searching for documents	Evelyn	607
Records management	searching for missing documents	Sally	291
Records management	searching for records	Sally	415
Records management	searching through bigger haystacks for the needle	Sally	463
Records management	searching using "simple terms"	Sally	473
Records management	sending to program offices	Kate	266
Records management	transitioning to a new file system and "lost file numbers"	Brad	243
Records management	treating e-mail records differently	Darcy	1010

FocusedCode	InitialCode	Name	LineNo.
Records management	trying to get records from busy people	Sally	419
Records management	voluminous e-mails	Rachel	321
Resource allocation	"all of the stuff is going into fewer offices"	Brad	561
Resource allocation	"ask for money to do records management and it isn't there"	Jack	635
Resource allocation	"devoting resources"	Evelyn	1082
Resource allocation	"going to get more and more multi-taskers" [due to funding cuts]	Brad	739
Resource allocation	"job didn't even exist" [20 years ago]	Evelyn	147
Resource allocation	"looking at the ergonomics"	David	p15
Resource allocation	"make it work" [doing more w/ less]	Evelyn	264
Resource allocation	"not given any resources"	David	p24
Resource allocation	"one of the hats" [multi-tasking]	Kate	73
Resource allocation	"one piece of the pie that is their job" [multi-tasking]	Brad	725
Resource allocation	"rare" to have own budget	David	p14
Resource allocation	"Rock into my ruck" [multi-tasking]	Rachel	232
Resource allocation	"shifting personnel" [multi-tasking]	Bob	182
Resource allocation	"stretched extremely thinly" [multi-tasking]	Kate	169
Resource allocation	"stretched really thinly" [multi-tasking]	Kate	543
Resource allocation	"this is costing us money"	Evelyn	166
Resource allocation	"underestimating the actual costs"	Bob	1232
Resource allocation	"we don't have the time, technology, and money"	Evelyn	780
Resource allocation	adding duties [multi-tasking]	Bob	287
Resource allocation	changing levels of support	Evelyn	767
Resource allocation	covering for other staff [multi-tasking]	Kate	162
Resource allocation	dedicated FT staff v. collateral duty [multi-tasking]	Bob	330
Resource allocation	Dedicating resources	Evelyn	115
Resource allocation	fighting for funds	Bob	1196
Resource allocation	FOIA v. regular job [multi-tasking]	Bob	289
Resource allocation	getting additional management support for effectiveness	David	p24
Resource allocation	going on vacation	Bob	543
Resource allocation	lacking financial or organizational support	Bob	1128
Resource allocation	lacking funding	Evelyn	261
Resource allocation	lacking support	Evelyn	802
Resource allocation	limited resources v. demand	Kate	420
Resource allocation	multi-tasking [multi-tasking]	Rachel	233
Resource allocation	multi-track processing v. one man shop [multi-tasking]	Brad	109
Resource allocation	needing money	Evelyn	1023

FocusedCode	InitialCode	Name	LineNo.
Resource allocation	one-man shop v. staff [multi-tasking]	Rachel	133
Resource allocation	paying for it	Bob	697
Resource allocation	performing other duties [multi-tasking]	Bob	540
Resource allocation	private v. work life	Evelyn	803
Resource allocation	reducing budgets	Kate	457
Resource allocation	spending money on public affairs	David	p11
Resource allocation	struggling to get recognition	Evelyn	164
Resource allocation	work life v. personal life	Bob	544
Resource allocation	working in a real cave [like Raiders of the Lost Ark]	Jack	56
Resource allocation	working in lousy conditions	Sally	59

Requester Feedback Codes

FocusedCode	InitialCode	Name	LineNo.
Customer service	"can't believe I got a call"	Darcy	583
Customer service	"courtesy letter"	Kate	702
Customer service	"educating the public"	Kate	243
Customer service	"get a little more respect" [frequent requesters]	Sally	75
Customer service	"give them consideration"	Sally	635
Customer service	"help them phrase it"	Kate	551
Customer service	"hold them by the hand and guide them as close as you can"	Jack	470
Customer service	"it actually went forward...helped her get her PhD" [requester now works for the agency]	Brad	173
Customer service	"mutual understanding" [frequent requesters]	Sally	184
Customer service	"put myself in their shoes"	Kate	566
Customer service	"right terminology"	Kate	553
Customer service	"suggest you write it this way"	Kate	561
Customer service	"there but for the grace of God"	Kate	622
Customer service	extending response time	Evelyn	243
Customer service	getting "put into the proper channels" [rerouting non-FOIA]	Kate	612
Customer service	giving customer service	Darcy	899
Customer service	going beyond statutory requirements	Darcy	891
Customer service	helping them "find their way" [rerouting non-foia issues]	Kate	608
Customer service	interacting with the public	Kate	190
Customer service	providing contact information	Kate	633
Customer service	providing guidance	James	16

FocusedCode	InitialCode	Name	LineNo.
Customer service	releasing records in batches and not waiting for everything	Brad	168
Customer service	satisfying the requester	Evelyn	579
Customer service	searching online for requesters	Kate	615
Customer service	support tiers	Kate	191
Customer service	trying to resolve complaints or issues	Kate	404
Customer service	using form letters [to communicate w/requester]	Jack	240
Customer service	walking requester through website	Bob	610
Customer service	writing custom letters [to communicate w/requester]	Jack	245
Initiating dialog	"can't challenge them"	Evelyn	567
Initiating dialog	"give you an e-mail address and that's all you've got"	Jack	582
Initiating dialog	"good contact infor that's as concise as possible"	Jack	586
Initiating dialog	"immediately send them a letter saying they haven't met the requirements for a perfected requests" [any and all]	Brad	390
Initiating dialog	"open up the channel of communication"	Jack	591
Initiating dialog	calling or writing requester	Rachel	349
Initiating dialog	calling requester	Carl	38
Initiating dialog	calling requester	Bob	584
Initiating dialog	calling requester	Bob	590
Initiating dialog	communicating with the requester	Evelyn	247
Initiating dialog	contacting requester	Rachel	273
Initiating dialog	following up with requester	James	22
Managing requester expectations	"FOIA requesters' handbook"	Brad	419
Managing requester expectations	"material they may not even want"	Sally	611
Managing requester expectations	"may take longer than you would like"	Evelyn	610
Managing requester expectations	establishing expectations	Evelyn	244
Managing requester expectations	establishing realistic expectations	James	28
Managing requester expectations	expectations v. reality	Bob	560
Managing requester expectations	expected v. actual records	Bob	253
Managing requester expectations	getting a dose of reality	Bob	1164
Managing requester expectations	Response v. "what they want"	Evelyn	892

FocusedCode	InitialCode	Name	LineNo.
Managing requester expectations	searching as part of clarifying request	Sally	534
Managing requester expectations	trying to meet their needs [survey]	Kate	400
Negotiating w/ requester	"be an arbiter"	Sally	634
Negotiating w/ requester	"clarification piece"	Brad	86
Negotiating w/ requester	"contacting the requester"	Darcy	288
Negotiating w/ requester	"help us help you"	David	p41
Negotiating w/ requester	"let's talk parameters"	David	p41
Negotiating w/ requester	"really not supposed to ask you"	Darcy	335
Negotiating w/ requester	"trying to work with them"	Kate	564
Negotiating w/ requester	"what you really need"	Evelyn	617
Negotiating w/ requester	"work with requester"	Kate	276
Negotiating w/ requester	"you have to kind of do this dance..."	Jack	624
Negotiating w/ requester	"you're not allowed to sit there and grill them"	Jack	621
Negotiating w/ requester	clarifying scope	Rachel	89
Negotiating w/ requester	clarifying what they want	Sally	528
Negotiating w/ requester	clarifying with requester	Sally	162
Negotiating w/ requester	diagnosing information need	Evelyn	538
Negotiating w/ requester	Explaining costs		57
Negotiating w/ requester	limiting request size	Bob	1208
Negotiating w/ requester	mediating differences	Bob	953
Negotiating w/ requester	modifying scope	Evelyn	536
Negotiating w/ requester	narrowing a request that is "all over the place"	Kate	669
Negotiating w/ requester	narrowing request	Bob	591
Negotiating w/ requester	narrowing request	Bob	594

FocusedCode	InitialCode	Name	LineNo.
Negotiating w/ requester	narrowing request to last 20 years	David	p31
Negotiating w/ requester	narrowing the request	Sally	532
Negotiating w/ requester	needing mediation	Bob	914
Negotiating w/ requester	negotiating a starting point	Evelyn	562
Negotiating w/ requester	perfecting the request	Rachel	81
Negotiating w/ requester	suggesting record types	Sally	568
Negotiating w/ requester	suggesting sampling approach	Sally	572
Negotiating w/ requester	using time to narrow request	Kate	540
Negotiating w/ requester	verifying dates	Rachel	83

Stimulus Codes

FocusedCode	InitialCode	Name	LineNo.
Aboutness	"any and all"	David	p40
Aboutness	"anything and all"... "that makes it a lot of fun" [ironic comment]	Brad	383
Aboutness	"came in asking for everything"	Darcy	464
Aboutness	"can't you just print it out"	Darcy	617
Aboutness	"comes back with another request"	Darcy	309
Aboutness	"don't know what they're looking for"	Darcy	395
Aboutness	"easier for us to locate"	Darcy	344
Aboutness	"everything is FOIAable"	Darcy	470
Aboutness	"finding who has the records"	Evelyn	365
Aboutness	"fine-tuned as possible"	Darcy	369
Aboutness	"five or six media requests at one time" [for same info]	Darcy	493
Aboutness	"goofy requests"	Bob	521
Aboutness	"it's an instant negative trigger"	Brad	388
Aboutness	"just didn't know what I could get"	Darcy	461
Aboutness	"kind of ambiguous"	Darcy	297
Aboutness	"leaves the door open later to appeal"	Brad	402
Aboutness	"legitimate FOIA"	Kate	229
Aboutness	"make sure we have the documents"	Evelyn	224
Aboutness	"making commentary"	Kate	642

FocusedCode	InitialCode	Name	LineNo.
Aboutness	"more a complaint"	Kate	639
Aboutness	"more of a complaint"	Kate	690
Aboutness	"most detailed" = law firms	Bob	595
Aboutness	"naiveté" v. experience	Bob	558
Aboutness	"not seeking what you want"	Kate	536
Aboutness	"personally exciting"	Kate	339
Aboutness	"piques his interest"	Darcy	305
Aboutness	"read between the lines"	Darcy	285
Aboutness	"read it really carefully"	Darcy	283
Aboutness	"reasonably describe"	Darcy	399
Aboutness	"referred to a lawyer right off"	Evelyn	282
Aboutness	"show me copies of documents that show X, Y, and Z"	Darcy	567
Aboutness	"statement of unhappiness" or a diatribe	Kate	705
Aboutness	"strict approach" [scope of interpretation]	Kate	546
Aboutness	"they are not FOIAs"	Kate	644
Aboutness	"think in the most common, simplest terminology"	Kate	592
Aboutness	"trench in the ocean from the surface to the bottom and they're thinking it's just a farm pond"	Brad	398
Aboutness	"UFO sightings"	Evelyn	344
Aboutness	"weasel words"	Evelyn	1000
Aboutness	"what direction they are going"	Bob	588
Aboutness	"what do they really want"	Evelyn	938
Aboutness	"what the requester is looking at"	David	p26
Aboutness	"your idea of what my any and all is is probably way shallow of what it is"	Brad	394
Aboutness	Addressing all issues within the request	Jeff	p6
Aboutness	Analyzing description of requested records	Jeff	p5
Aboutness	assuming records exist	Evelyn	370
Aboutness	being "specific as you can"	Darcy	557
Aboutness	capturing "even peripheral aspects"	Carl	37
Aboutness	colloquial usage v. formal usage	Evelyn	1009
Aboutness	colloquial usage v. literal interpretations	Darcy	1048
Aboutness	complexity v. simplicity	Bob	873
Aboutness	complicated v. mundane	Evelyn	664
Aboutness	conflicting request elements	Darcy	294
Aboutness	dealing with requesters who are not subject matter experts	Jack	202
Aboutness	deciding who might have records	Bob	452
Aboutness	defining "positions that may be interacting"	David	p40

FocusedCode	InitialCode	Name	LineNo.
Aboutness	defining parameters	David	p40
Aboutness	determining "what they're asking for"	Evelyn	74
Aboutness	determining if info even exists	Evelyn	608
Aboutness	determining who is responsible for that info.	Evelyn	226
Aboutness	evaluating request	Bob	414
Aboutness	examining requests	Carl	35
Aboutness	first party v. 3rd party	Bob	742
Aboutness	identifying real FOIAs	Kate	225
Aboutness	interpreting requests	Carl	36
Aboutness	narrowing the focus	David	p40
Aboutness	not speaking "the same language"	Evelyn	968
Aboutness	parsing request for records	Bob	431
Aboutness	parsing subject to determine who might have records	Bob	694
Aboutness	reasonable v. unreasonable	Evelyn	569
Aboutness	relating to complex litigation & policy issues	Bob	523
Aboutness	Requesting records about stories in the news	Jeff	p13
Aboutness	reviewing for PA requests	Jack	179
Aboutness	reviewing for possible geographic or organizational units considerations	Jack	183
Aboutness	reviewing for processing information	Jack	192
Aboutness	reviewing the request	David	p21
Aboutness	reviewing the request	David	p26
Aboutness	scoping the request	Carl	46
Aboutness	seeking mitigation plan for attack by "giant monster like Godzilla"	Jack	390
Aboutness	specific v. fishing	Darcy	371
Aboutness	Submitting a FOIA with a signed release from subject helped reporter gain access	Jeff	p10
Aboutness	triggering review	Bob	73
Aboutness	understanding request	Carl	39
Aboutness	unreasonable expectations	Sally	397
Aboutness	using parameters	David	p40
Aboutness	using people's names as search parameters	David	p40
Aboutness	vagueness v. clarity	Bob	417
Aboutness	verifying requester's identity (if PA)	Jeff	p5
Electronic	"you've got mail" [workflow]	Bob	439
Electronic	establishing a single portal	Evelyn	686
Electronic	Firewalls preventing e-mails from getting through	Evelyn	34
Electronic	receiving e-mails	Bob	444
Electronic	receiving requests via mail	David	p10

FocusedCode	InitialCode	Name	LineNo.
Electronic	saving time on e-mails [rerouting]	Bob	447
Electronic	sending via e-mail	Darcy	635
Hardcopy	10% hardcopy via mail	Kate	353
Hardcopy	Receiving "in by mail"	Rachel	159
Varied forms	"folks had to write and then mail it in...thought it was too much of a hassle"	Jeff	p13
Varied forms	"handwritten" "snail-mail"	Evelyn	343
Varied forms	"it's okay to call" to ask about info that the agency holds	Jack	460
Varied forms	"now anybody can" [file a request]	Jeff	p14
Varied forms	"the majority of mine start on the start on the phone"	Brad	476
Varied forms	e-mail v. mail	Evelyn	218
Varied forms	filing numerous follow-up requests	Sally	621
Varied forms	mail v. electronic requests	Kate	351
Varied forms	Making it easier to file [e-mail address / webform]	Jeff	p12
Varied forms	Receiving requests multiple ways (email, mail, fax, referrals etc.)	Jeff	p4
Varied forms	sending same request in via multiple paths	Darcy	650
Varied forms	single v. multiple input portals	Bob	688

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