FOIA's Future: Agentic AI's Potential to Transform the FOIA Requester eXperience

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Abstract: The ability of federal agencies to meet their obligations under the Freedom of Information Act faces growing challenges due to resource constraints, backlogs, and the growing volume and complexity of agency records in electronic form. The recent introduction of artificial intelligence (AI) technologies into FOIA workflows aims to improve the "FOIA requester experience" or "RX." Subject to appropriate caveats, in this piece the authors speculate on how future AI applications over coming decades, including agentic AI incorporating chatbots with generative AI capabilities, hold the potential to create a transformed FOIA process for requesters and in doing so, make government more accountable.

"I think there is a world market for about five computers." – Thomas J. Watson Sr., IBM Chairman, 1943

"There is no reason anyone would want a computer in their home." – Ken Olson, founder of Digital Equipment Corporation, 1977

"The future is already here. It is just not evenly distributed." – William Gibson, 1992

I. Introduction

From the viewpoint of 2026, sixty years after the enactment of FOIA,[1] the task is a near impossible one to accurately predict what FOIA administration will be like sixty years hence—assuming that FOIA law as we know it even continues to exist. Predictions of the future that far out are inherently suspect for many reasons,[2] including for failing to account for "disruptive technologies"[3] utterly changing the landscape of what is conceivable.[4] No one, for example,

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[1] Pub. L. 89-487 (July 4, 1966), codified at 5 U.S.C. § 552.

[2] George Wright & Paul Goodwin, 25 *Decision Making and Planning Under Low Levels of Predictability*: *Enhancing the scenario method,* INTERNAT'L J. OF FORECASTING (2009) 4, https://doi.org/10.1016/j.ijforecast.2009.05.019; Gandolfo Dominici & Federica Palumbo, *Limits and Criticalities of Predictions and Forecasting in Complex Social and Economic Scenarios: A Cybernetics Key* (2015), in chap. 7, Sefika Sule Ercetin & Santo Banerjee, eds., CHAOS COMPLEXITY AND LEADERSHIP (2013), https://www.researchgate.net/publication/271507754_Limits_and_Criticalities_of_Predictions_and_Forecasting_in_Complex_Social_and_Economic_Scenarios_A_Cybernetics_Key.

[3] The term was coined by Joseph L. Bower and Clayton M. Christensen in their article *Disruptive Technologies: Catching the Wave*, 73 HARV. BUS. REVIEW 43 (1995), https://hbr.org/1995/01/disruptive-technologies-catching-the-wave.

[4] *See, e.g.*, Ben Johnson, *The Great Horse Manure Crisis of 1894* (n.d.), Historic UK (recounting that the *London Times* newspaper predicted "In 50 years, every street in London will be buried under nine feet of manure," failing to anticipate that "[b]y 1912, this seemingly insurmountable problem had been resolved" due to horses being replaced

could have predicted the timing of the Netscape browser in 1995, resulting in an explosion of content on the World Wide Web leading to the Internet's dominance in our lives;[5] the same is true of the November 2022 roll out of ChatGPT and the rapid emergence of an array of generative AI apps based on large language models (LLMs). Gen AI has been hailed by some as an even bigger transformative event than the Internet itself.[6] With these thoughts in mind, we advise that the predictions made in this speculative opinion piece be approached with equal measures of caution, skepticism, and humility, given the track record of past pundits' crystal balls.

Although there is greater certainty with respect to whether the basic structure of American government will hold, history has shown that it would be naïve to believe that the Executive branch will always enthusiastically adhere to carrying out its recordkeeping and FOIA responsibilities,[7] or that Congress will leave the FOIA statute itself fundamentally unchanged over coming decades in ways that continue to enhance open government. Nevertheless, we do have certain facts in our possession to engage in measured and informed speculation about future events, starting in the short-term range of agency "strategic plans" (usually of five years vintage), and extending through the span of coming decades. Features of present-day government that present a baseline to ground our speculations include, but are not limited to, the following:

- As of June 2024, the federal government has "gone digital" in terms of requiring that federal records created after that date are to be both managed and preserved in electronic or digital form in accordance with recordkeeping requirements.[8] Under National Archives and Records Administration (NARA) records schedules requiring the transfer of permanent records into the agency's legal custody 15 to 30 years after creation, there will be an explosive increase in NARA's intake of electronic records beginning in 2039. The

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by motorized vehicles), https://www.historic-uk.com/HistoryUK/HistoryofBritain/Great-Horse-Manure-Crisis-of-1894/; *see also 1964 World's Fair tech predictions had some hits, misses*, CBS News (April 22, 2014), https://www.cbsnews.com/news/1964-worlds-fair-tech-predictions-had-some-hits-misses/.

[5] Tim Berners-Lee, WEAVING THE WEB: THE ORIGINAL DESIGN AND ULTIMATE DESTINY OF THE WORLD WIDE WEB BY ITS INVENTOR (1999), at 67.

[6] "The advent of generative AI is a seminal moment in tech, more so than the Internet or the iPhone," Mark Murphy, J.P Morgan Head of U.S. Enterprise Software Research, quoted in *Is generative AI a game changer?,*" J.P. Morgan Insights (Feb 14, 2024), https://www.jpmorgan.com/insights/global-research/artificial-intelligence/generative-ai.

[7] *See, e.g.*, Britton Struthers-Lugo, *The future of FOIA*, Muckrock (Aug. 6, 2025), https://www.muckrock.com/news/archives/2025/aug/06/the-future-of-foia/; Dave Leventhal, *ICE May Be Breaking the Law to Stonewall Reporters*, Columbia Journalism Review, https://www.cjr.org/analysis/ice-cbp-dhs-journalism-foia.php; *see generally* Sam Lebovic, *How Administrative Opposition Shaped the Freedom of Information Act,* in TROUBLING TRANSPARENCY: THE HISTORY AND FUTURE OF FREEDOM OF INFORMATION (2018) (evidence of agencies' wariness of FOIA stretches back to the legislative debates over the original FOIA law in the 1960s).

[8] *Update to Transition to Electronic Records*, OMB & NARA, M-23-07 (Dec. 23, 2022), https://www.whitehouse.gov/wp-content/uploads/2022/12/m_23_07-m-memo-electronic-records_final.pdf. The June 2024 marker date was a second extension of the original deadline of December 31, 2019, originally put forward in OMB and NARA's *Managing Government Records Directive*, M-12-18 (Aug. 24, 2012), https://www.archives.gov/files/records-mgmt/m-12-18.pdf, as extended by M-19-21, *Transition to Electronic Records* (June 28, 2019), https://www.archives.gov/files/records-mgmt/policy/m-19-21-transition-to-federal-records.pdf. An independent deadline of December 31, 2016, for agencies to manage e-mail records in electronic form was first set out in M-12-18 and subsequently retained.

volume of how many federal records are created annually is estimated to be in the billions.[9]

- Virtually all agencies engage in intra- and inter-agency communications over email and increasingly other means of electronic messaging including ephemeral apps, as well as with the public at large. Moreover, the use of electronic messaging communications technologies is expected to continue for decades to come, even if e-mail use will no longer be as prominent.[10]
- In FY2023 the volume of FOIA requests across the Executive branch exceeded 1 million per year for the first time since agencies began reporting FOIA requests separately from Privacy Act requests in FY2008. In FY2024 agencies received over 1.5 million FOIA requests.[11] There are on the order of 400 agency components of the Executive branch subject to the FOIA.[12] FOIA backlogs have increased almost threefold in the 12 years between FY2012 and 2024.[13]

In short, anyone can plot a graph showing inflationary growth in electronic records, coupled with systemic deficiencies in FOIA processing, to understand the profound predicament FOIA faces at its 60th anniversary.

Whatever may be the special concerns of the present moment, the enormous challenges contribute negatively to what we are here choosing to call the FOIA "requester experience" (RX), a specialized type of user or customer experience (CX) consisting of the FOIA community's interactions with FOIA agency bureaucracy. The goal of enhancing FOIA RX through AI, and in particular agentic AI, is in alignment with recent legislation in the form of the

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[9] *Records Schedules; Availability and Request for Comments*, NARA, 90 Fed. Reg 37890 (Aug. 6, 2025) https://www.govinfo.gov/content/pkg/FR-2025-08-06/pdf/2025-14904.pdf.

[10] *See The Future of E-mail archives: A Report from the Task Force on Technical Approaches for Email Archives*, Mellon Foundation (2018), https://www.clir.org/wp-content/uploads/sites/6/2018/08/CLIR-pub175.pdf; *Gartner Survey Finds Self-Service and Life Chat Will Surpass Traditional Channels as Top Customer Service Technologies By 2027*, Gartner (Aug. 27, 2025), https://www.gartner.com/en/newsroom/press-releases/2025-08-27-gartner-survey-finds-self-service-and-live-chat-will-surpass-traditional-channels-as-top-customer-service-technologies-by-2027.
More than half of critical business communication still flows through email, say global IT leaders, Business Wire (June 16, 2025), https://www.businesswire.com/news/home/20250611789729/en/More-than-half-of-critical-business-communication-still-flows-through-email-say-global-IT-leaders; *The State of Business Email 2025: Infrastructure, Risk and IT's Next Opportunity* (2025), https://hub.exclaimer.com/hubfs/State_of_Business_Email_Report_2025_EN.pdf; *see also Expanding the Use of a Role-Based Approach (Capstone) for Electronic Messages,* NARA Bulletin 2023-02 (Jan. 5, 2023), https://www.archives.gov/records-mgmt/bulletins/2023/2023-02.

[11] *2024 Annual FOIA Report Summary*, U.S. Dep't of Justice (DOJ) (Apr. 28, 2025), https://www.justice.gov/oip/media/1398111/dl?inline; *Summary of Annual FOIA Reports for Fiscal Year 2008*, DOJ (Aug. 19, 2009), https://www.justice.gov/archives/oip/blog/foia-post-2009-summary-annual-foia-reports-fiscal-year-2008.

[12] *See* https://www.federalregister.gov/agencies (citing to 444 federal "agencies," but including within that total components of the Legislative and Judicial branches excluded from FOIA).

[13] As reported on FOIA.gov, in fiscal year 2012, the total federal backlog was 71,790 requests. In fiscal year 2024, that number reached 222,328. *See* Amy Hilbert, "The federal government is likely to receive a record number of FOIA requests again in 2024" (Oct. 15, 2024), *Government Executive*, https://www.govexec.com/technology/2024/10/federal-government-likely-receive-record-number-foia-requests-again-2024/400228/.

21st Century Integrated Digital Experience Act,[14] as well as past and present Administration initiatives.[15]

In particular, FOIA backlogs, coupled with endemic resource constraints, are substantial contributing factors to a poor FOIA RX, as repeatedly acknowledged both by government insiders[16] as well as voices outside of government.[17] Indeed, even for the tiny percentage of FOIA requesters who have the resources to litigate FOIA delays in court, it is no longer that unusual to find DOJ informing courts through sworn declarations that it will take on the order of multiple years, not 20 working days,[18] for the government to fully process FOIA requests comprising a large volume of responsive records. In one recent case, the Food and Drug Administration (FDA) argued that it needed 55 years through 2074 to process plaintiff's request.[19] In the words of one U.S. House of Representatives Report, "something is desperately wrong with this process."[20] The backlog quagmire has been a main trigger for those stating that the government should "lean into technological advancements, using potentially AI and

[14] Pub. L. 115-336 (2018), codified at 44 U.S.C. § 3501.

[15] *See President's Management Agenda Framework*, OMB M-26-03 (Dec. 8, 2025) (calling for leveraging technology to reduce wasteful processes through the use of AI), https://www.whitehouse.gov/wp-content/uploads/2025/12/M-26-03-Presidents-Management-Agenda.pdf; *Transforming Federal Customer Experience and Service Delivery To Rebuild Trust in Government*, Executive Order 14058 (Dec. 13, 2021), https://www.federalregister.gov/documents/2021/12/16/2021-27380/transforming-federal-customer-experience-and-service-delivery-to-rebuild-trust-in-government (defining "customer experience" as "mean[ing] the public's perceptions of and overall satisfaction with interactions with an agency, product or service"), *revoked by* Executive Order 14148 (Jan. 27, 2025). *See generally*, Ann Aly, *What Will Happen to the CX Executive Order in the New Administration*, GovLoop (Dec. 12, 2024), https://www.govloop.com/community/blog/what-will-happen-to-the-cx-executive-order-in-the-new-administration/ (collecting past customer-friendly legislative initiatives and administration policies going back to the E-Government Act of 2002).

[16] *Guidance on Backlog Reduction Plans,* Department of Justice, Office of Information Policy (Aug. 21, 2025), https://www.justice.gov/oip/oip-guidance/guidance-backlog-reduction-plans?; FOIA Backlogs Hinder Government Transparency and Accountability, U.S. Government Accountability Office (GAO) (March 14, 2024), https://www.gao.gov/blog/foia-backlogs-hinder-government-transparency-and-accountability; Testimony of Alina M. Semo, Director of OGIS, Senate Committee on the Judiciary hearing on "The Freedom of Information Act: Improving Transparency and the American Public's Right to Know for the 21st Century" (March 29, 2022) ("Over the last two years of the COVID-19 pandemic response, the top concern of both requesters and FOIA processors has been delays"), at 2, https://www.judiciary.senate.gov/imo/media/doc/Semo%20testimony.pdf.

[17] *See, e.g.,* Lauren Harper et al., *25-Year Old FOIA Request Confirms FOIA Delays Continue Unabated* (March 8, 2019), National Security Archive, https://nsarchive.gwu.edu/foia-audit/foia/2019-03-08/25-year-old-foia-request-confirms-foia-delays-continue-unabated; Tom Blanton & Nate Jones, *Eight Federal Agencies Have FOIA Requests a Decade Old, According to Knight Open Government Survey*, National Security Archive (July 4, 2011), https://nsarchive2.gwu.edu/NSAEBB/NSAEBB349/index.htm.

[18] The FOIA provides agencies with 20 working days to respond to FOIA requests, subject to a 10-day extension in "unusual circumstances," as well as tolling in cases where an agency requests additional information from the requester. 5 U.S.C. § 552(a)(6)(A)(i) & (ii)(I); *id.*, § 552(a)(6)(B).

[19] Jenna Greene, *Wait what? FDA wants 55 years to process FOIA requests over vaccine data*, Reuters (Nov. 18, 2021), https://www.congress.gov/117/meeting/house/114270/documents/HHRG-117-GO24-20211201-SD014.pdf; *see also* Josh Gerstein, *Judge Balks at FBI's 17-year FOIA timeline for FOIA request*, Politico (July 29, 2017), https://www.politico.com/blogs/under-the-radar/2017/07/29/judge-balks-fbi-foia-timeline-17-years-241127.

[20] *Freedom of Information is Broken: A Report,* U.S. House of Representatives Committee on Oversight and Government Reform, 114th Cong. (Jan. 2016), at 38, https://oversight.house.gov/report/freedom-of-information-act-is-broken-a-report/.

automation to get these documents out more quickly,"[21] and that "it shouldn't be such a human-intensive process."[22]

Apart from FOIA delays, there is also a looming "open government" issue that the above recitation of bullet points is worth highlighting when considering future applications of AI. At the present time, less than 1% of the 634 million White House emails in the legal custody of NARA have been opened to the American public.[23] A principal roadblock to more expedited processing is a manual processing protocol carried out by archivists to ensure the withholding of PII (personally identifiable information) and other FOIA exempt information in the overall holdings. Under NARA's current policy setting a 75-year period for restricting the release of records containing personal information,[24] the presidential email records of the George W. Bush Administration containing PII will by default only be fully open in the year 2084—just in time for FOIA's 120th anniversary.

Taking all of these concerns together, the business case is overwhelmingly clear for moving forward with AI tools that can be used to expedite FOIA workflows, reduce backlogs, and generally aid in search and redaction of tremendous volumes of content. In Part II we begin our discussion with a focus on what constitutes a current "buzz," if not excitement, over present day embedding of AI in FOIA processing to reduce administrative burdens and increase agency processing capacity. We will be discussing two aspects of the FOIA RX in these early days, including (i) agencies adopting of what has been learned in legal e-discovery for purposes of searching for responsive records, and (ii) the build-out of Wizard as part of the government enterprise-wide FOIA.gov portal. We go on to discuss the government's use of chatbots in Part III, and how they could in the future be enhanced through generative AI apps. In Part IV we discuss agentic AI as a means of holistically integrating all the above into a seamless FOIA workflow, holding out the potential for enormous gains in FOIA RX. In Part V we make additional observations, including commenting on the black box nature of AI processes applied to FOIA, on how an agentic AI FOIA process fosters open government, and on the future evolution of government records and records requests. Our recommendations and conclusions are set out in Part VI.

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[21] Edward Graham, *Experts suggest AI could address FOIA backlogs, even as public records staff are terminated*, NextGov/FCW (Apr. 9, 2025), https://www.nextgov.com/digital-government/2025/04/experts-suggest-ai-could-address-foia-backlogs-even-public-records-staff-are-terminated/404397/ (*quoting* Mike Howell of the Heritage Foundation).

[22] *Id.*

[23] David E. Hoffman, *A Digital tsumani is coming. The National Archives is in trouble*, Washington Post (Sept. 20, 2024), https://www.washingtonpost.com/opinions/2024/09/20/national-archives-troubles-digital; Jason R. Baron, *Using AI in providing greater access to the U.S. government's email: a progress report*, 40 AI & SOCIETY: KNOWLEDGE, CULTURE AND COMMUNICATION 7 (2025), https://link.springer.com/epdf/10.1007/s00146-025-02256-3?sharing_token=EtBVSzQxrdQ48bjzfgkvE_e4RwlQNchNByi7wbcMAY5g0UOUJAc2TY4lXLJwyMKiOURVQuMb_xP7EntltqTj5UCKJcPrNwIvawjNVXLj88J7VXnFxNDKSqYze0Xj8sbH1Hvpim5MNy6JSFSe3zIaj6rSW-xbrH6YJ7W5BC1hPjM%3D

[24] *See NARA 1601: Screening Federal Records for Information Covered by FOIA Exemptions* (2002), http://www.archives.gov/files/foia/directives/nara1601.pdf.

II. The Near Term: Early Use Cases Embedding AI in FOIA

"There is considerable excitement within government about the potential of artificial intelligence to improve public service productivity through the animation of complex but repetitive bureaucratic tasks, freeing up the time of skilled staff."[25] Proactive, personalized, and anticipatory public services inherently reduce administrative burdens on citizens and improve satisfaction by minimizing user effort.[26]

Nikiforova et al. define "data-AI challenges as systemic frictions that arise at the intersection of AI systems and public data infrastructures."[27] Viewing FOIA "infrastructure" through a government-wide lens, the Executive branch's early efforts to overcome systemic frictions can be characterized as falling into two general categories: first, each agency's independent (largely siloed) efforts to add automation and AI to internal FOIA workflows, consisting of the intake of requests, followed by taking steps to collect, preserve, search, review for exemptions, and produce responsive records through initial determinations that may in turn be subject to administrative and judicial appeals. And second, early attempts, particularly on the part of DOJ in establishing a cross-agency FOIA platform for the intake of requests and the reporting out of responses. AI used in the search and review process is an example of the first category; DOJ's roll-out of Wizard on FOIA.gov is an example of the second.

A. AI in the form of e-discovery tools

Specifically with respect to the use of "AI" in the FOIA context, in September 2025 NARA's Office of Government Information Services (OGIS) reported out results from NARA's 2024 Records Management Self-Assessment, where 18.6% of agencies reported using forms of AI in FOIA processing. According to the self-assessment findings, "early [agency] adopters are demonstrating the ability of AI to identify sensitive information, and normalizing the concept of AI in FOIA processing."[28] What is being described turn out for the most part to be a set of useful e-discovery vendor products and services that allow agencies to perform (i) keyword searching across load files on a vendor platform, (ii) de-duplication of records; (iii) automated redactions of PII numerical expressions, such as SSNs and telephone numbers; and (iv) by some agencies, the

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[25] Straub et al., *AI for bureaucratic productivity: Measuring the potential of AI to help automate 143 million UK government transactions* (March 18, 2024), https://arxiv.org/pdf/2403.14712; *see also* Scott Palmer et al., *Generative AI can help transform government procurement*, Deloitte Center for Government Insights (Nov. 16, 2023), https://www.deloitte.com/us/en/insights/industry/government-public-sector-services/automation-and-generative-ai-in-government/generative-ai-to-transform-government-procurement.html; *Governing with Artificial Intelligence: The State of Play and Way Forward in Core Government Functions*, OECD (Sept. 18, 2025), https://www.oecd.org/en/publications/governing-with-artificial-intelligence_795de142-en.html.

[26] Anastasija Nikiforova, et al., *Proactive Public Services in the Age of Artificial Intelligence: Towards Post-Bureaucratic Governance,* in Ida Lindgren, *et al.,* Electronic Government, EGOV 2025: Lecture Notes in Computer Science, vol. 15944 (2026), https://doi.org/10.1007/978-3-032-01589-1_25; Markus Vogel, *AI integration in Public Administration: Enhancing Transparency and Efficiency*, 13 REVIEW OF PUBLIC ADMIN. MANAGEMENT 474, https://www.walshmedicalmedia.com/open-access/ai-integration-in-public-administration-enhancing-transparency-and-efficiency.pdf.

[27] Nikiforova et al., *supra* n.26.

[28] *Assessing Freedom of Information Act Compliance through the National Archives and Records Administration's 2024 Records Management Self-Assessment*, OGIS (Sept. 2025), https://www.archives.gov/files/ogis/documents/ogis-2024-rmsa-final-9.25.2025.pdf.

ability to produce records in machine-readable formats. As part of its report, OGIS opined that "AI and machine learning have the potential to aid in FOIA processing, but are not a substitute for a FOIA professional's judgment on application of exemptions and foreseeable harm."[29] We will have more to say on that proposition in the discussion that follows.

What is less clear from agency annual reporting is the extent to which agencies are embracing AI in the form of "technology assisted review" (TAR), consisting of machine learning tools used primarily for finding responsive records in large ESI repositories. A seismic boom in the legal profession occurred in 2012 with the first court pronouncement that, based on prior research and scholarship, TAR methods may be more accurate (and are certainly more efficient) than human-based review for responsive ESI in litigation.[30] In the years since, TAR methods have shown themselves to produce enormous efficiencies in terms of the time it takes to search for responsive records. What used to take many months due to overreliance on keyword searching, followed by reducing false positives to a set of records to be reviewed for privilege, is now handled in a fraction of the time.[31]

In contrast, it appears that in any number of instances both FOIA requesters and agency staff remain stuck in an old paradigm of asking for and then engaging in an adversarial posture as to which keywords are appropriate.[32] This in turn results in reported cases in which courts have been called upon to decide whether a requester's desired keywords will result in an unreasonable burden on agencies, or conversely, the keywords used by an agency failed in being a reasonable and adequate search.[33]

The use of AI in the form of TAR methods, including increasingly sophisticated sampling and validation protocols,[34] has enjoyed remarkable success in the litigation context, and no technological barrier exists for more widespread use of the technology for purposes of carrying out searches for responsive records to FOIA requests. Indeed, Judge Peck has gone on to opine that, at least with respect to civil litigation, "there may come a time when TAR is so widely used that it might be unreasonable for a party to decline to use TAR," with the added caveat, "We are not there yet."[35] Nor certainly is the FOIA community "there yet," but this is indeed a place where our AI future is already here (in e-discovery), but not yet evenly distributed (in the realm of FOIA) with respect to searching for responsive records.

As the OGIS report alludes to, there is also reported progress being made in using AI tools for the purpose of filtering text that can be legally withheld under one or more FOIA exemptions.

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[29] *Id.* at 6.
[30] *Da Silva Moore v. Publicis Groupe*, 287 F.R.D. 182 (S.D.N.Y. 2012) (Peck, Mag. Judge).
[31] *Technology Assisted Review (TAR) Guidelines*, EDRM & Duke Law School (2019), https://edrm.net/wp-content/uploads/2019/02/TAR-Guidelines-Final.pdf.
[32] *See FOIA Searches: Key Challenges and Findings*, Technology Committee of the Chief FOIA Officers Council, FOIA Searches Working Group (Sept. 29, 2021), https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council/tech-comm-foia-searches-challenges-09-29-2021.
[33] *See, e.g., Gov't Accountability Project v. U.S. Dep't of Homeland Sec*., 2018 WL 4954149 (D.D.C. Oct. 12, 2018) ("FOIA requests are not a game of Battleship. The requester should not have to score a direct hit on the records sought based on the precise phrasing of his request.").
[34] *In re Broiler Chicken Antitrust Litig.*, 2018 WL 1146371 (N.D. Ill. Jan. 3, 2018).
[35] *Hyles v. New York City et al.*, 2016 WL 4077114 (S.D.N.Y. Aug 1, 2016).

For some time now agencies have been able to purchase software that adequately finds and redacts the contents of texts constituting PII, including social security numbers, passport and telephone numbers, and a variety of other numerical forms of PII capable of being identified through algorithmic "expressions."[36] The more difficult challenge remains of having high success rates in isolating exempt information not in the form of a numerical expression that in the agency's discretion may be withholdable under FOIA Exemptions 4, 5, 6 and 7. Early research in this area hold out the promise that TAR methods are sufficiently successful to greatly expedite and otherwise aid in human review for exempt material.[37]

More recently, the legal profession has sought to embrace the use of large language models (LLMs) in connection with a variety of legal tasks, including document summarization, contract drafting, and other activities.[38] At the present time, there is however justifiable skepticism as to how quickly the use of LLMs in the form of generative AI apps will supplement or even replace machine learning methods in the form of TAR for information retrieval tasks.[39] That said, the emergence of generative AI holds great promise for the FOIA community, especially in view of its use as an intelligent assistant producing narratives in response to access requests that do as well or better at explaining why FOIA determinations with respect to reasons why the agency has withheld documents in whole or in part.[40]

B. AI and FOIA.gov

The promise of a cross-government portal universally enhancing a collective FOIA RX has been in the works for a decade, with recent improvements incorporated AI. As described by DOJ, the FOIA Improvement Act of 2016 mandated the creation of "a central, online request portal that allows a member of the public to submit a request for records under the FOIA to any Federal agency from a single website."[41] OMB set a deadline of August 2023 for agencies to build out interoperable platforms for the consolidated online request portal. DOJ proceeded to operate the

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[36] *See, e.g*., *Right on Redactions*, LitSmart E-Discovery (Nov. 3, 2020), https://www.ktlitsmart.com/blog/right-redactions.

[37] Graham McDonald, *A Framework for Technology-Assisted Review: Using Sensitivity Classification to Prioritise Documents for Review*, Ph.D Dissertation, University of Glasgow (2019), http://theses.gla.ac.uk/41076; Karl Branting, et al., *Automated Detection of Sensitive Content in Government Records*, 31 ARTIFICIAL INTELLIGENCE AND LAW, Issue 4 (2023), https://link.springer.com/content/pdf/10.1007/s10506-023-09383-6.pdf; Jason R. Baron, et al., *Providing More Efficient Access to Government Records: A Use Case Involving Application of Machine Learning to Improve FOIA Review for the Deliberative Process Privilege*" 15 JOURNAL ON COMPUTING AND CULTURAL HERITAGE, Issue 1, art.5 (2022), https://dl.acm.org/doi/abs/10.1145/3481045.

[38] *See, e.g.,* Jeffrey I. Erlich, *A Guide for Lawyers to Understanding How LLMs Work*, Advocate (Aug. 2025), https://www.advocatemagazine.com/images/issues/2025/08-august/reprints/Ehrlich-LLMs-Aug25-article-Advocate-magazine.pdf; Alexander Lampaert, *A lawyer's guide to Large Language Models (LLMs),* Legalfly (Dec. 7, 2025), https://www.legalfly.com/post/a-lawyers-guide-to-large-language-models-llms.

[39] Maura Grossman, et al., *Does the LLMperor Have New Clothes? Some Thoughts on the Use of LLMs in eDiscovery* (Sept. 6, 2024), http://dx.doi.org/10.2139/ssrn.4949879

[40] Jason R. Baron*, Using AI in providing greater access to the U.S. government's email, supra,* n.23.

[41] *Guidance for Achieving Interoperability with the National Freedom of Information Act (FOIA) Portal on FOIA.gov*, OMB, M-19-10 (Feb. 12, 2019), https://trumpwhitehouse.archives.gov/wp-content/uploads/2019/02/M-19-10.pdf.

FOIA.gov portal, with EPA taking on the FOIAonline platform that subsequently was subject to sunset.[42]

In 2024, DOJ rolled out Phase 1 of a new FOIA search tool titled "Wizard," "designed to simplify the process of making FOIA requests and finding federal government documents."[43] As described at FOIA.gov, Wizard "uses a combination of logic and machine learning to deliver results," including by the "model check[ing] if your query matches one of our predefined pathways for commonly sought records, or by scanning agencies and their components."[44]

Notwithstanding criticism of Wizard's deployment to date,[45] we believe there is near unlimited potential for FOIA.gov to continue to incorporate and build out AI elements through this portal. For example, a near term goal is enhancing Wizard to allow for federated semantic search to identify in existing FOIA public-facing repositories ("electronic reading rooms") all previously disclosed records and datasets, clustering released records by topic and identifying patterns across agencies. Second, AI tools could substantially enhance FOIA.gov by shifting it from a request-routing portal into a true cross-agency discovery, synthesis and guidance platform. Third, a semantic intake system allowing requesters to describe topics in natural language could enable AI to extract entities, timeframes, technologies and agency programs to map topics to likely record-holding agencies and components. Fourth, a future FOIA.gov portal could also provide through a chatbot function AI-assisted drafting of requests, with suggestions for date ranges, custodians, and record types, and flag for vague or overbroad language that will stall agency consideration of requests (more on chatbots, *infra*). Whether agencies would allow the logging in of "cross-agency" requests that commit two or more agencies to contemporaneously search for identically worded requests would be a future policy choice.

III. A FOIA "Digital Front Door"[46]: Chatbots

A chatbot is a "computer program designed to simulate conversation with a human user, usually over the Internet; *esp.* one used to provide information or assistance to the user as part of an automated service."[47] Chatbots are currently employed by numerous agencies[48] as the interface

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[42] *FOIA.gov Interoperability Deadline and Sunset of FOIAonline*, Memorandum for Chief FOIA Officers from Co-Chairs of the Chief FOIA Officers Council (Aug. 21, 2023), https://www.justice.gov/d9/2023-09/09.05.23.%20--%20CFO-Council-Memorandum.pdf.

[43] *The New FOIA Search Tool*, FOIA.gov (n.d.), https://www.foia.gov/how-wizard-works.html; *see also* Natalie Alms, *DOJ looks to improve the FOIA experience with new 'wizard,'* NextGov/FCW (Nov. 10, 2022), https://www.nextgov.com/digital-government/2022/11/doj-looks-improve-foia-experience-new-wizard/379571/.

[44] *The New FOIA Search Tool, supra,* n.43. The page goes on to say that "When neither predefined pathways nor agency matching provide an answer, our advanced machine learning model takes the stage." This entails reviewing FOIA logs and frequently request documents "to suggest relevant public documents and agencies that closely fit your query."

[45] *See, e.g.*, Alexander B. Howard, *The Department of Justice's FOIA Wizard isn't a magical solution for White House strategic silence on open government,* E Pluribus Unum (Oct. 16, 2023), https://e-pluribusunum.org/2023/10/16/the-department-of-justices-foia-wizard-isnt-a-magical-solution-for-white-house-strategic-silence-on-open-government/.

[46] Tokenring AI, *AI Chatbots: The New Digital Front Door Revolutionizing Government Services* (Nov. 10, 2025), Call and Times, https://business.woonsocketcall.com/woonsocketcall/article/tokenring-2025-11-10-ai-chatbots-the-new-digital-front-door-revolutionizing-government-services.

[47] *Chatbot*, OXFORD ENGLISH DICTIONARY (n.d.) (italics in original), https://www.oed.com/dictionary/chatbot_n?tl=true.

[48] *See, e.g., IRS Chatbot accessibility guide*, Internal Revenue Service (n.d.), https://www.irs.gov/help/irs-chatbot-accessibility-guide; *VA Chatbot*, U.S. Dep't of Veterans Affairs (n.d.), https://www.va.gov/contact-us/virtual-agent/.

with the public primarily as a means of information retrieval, including as a way of enhancing "static content search" in lists of frequently asked questions (FAQs).[49] Even in their somewhat present rudimentary form, chatbots "offer users comfortable and efficient assistance when communicated with them; they provide them with more engaging answers, directly responding to their problems."[50]

Brookings has noted that chatbots "are becoming an integral part of our society."[51] It seems clear that chatbots will increasingly be one of the front doors to government services, answering common questions, enabling task initiation, and routing more complex cases to agency staff. Gartner has predicted that by 2029, a majority of government agencies globally will leverage AI agents to be handling routine citizen interactions and transactions.[52]

There are also noted limitations, including (i) frustration when queries fall outside pre-programmed flows; (ii) repetitive steps before resolution; (iii) limited personalization, in that every user gets largely the same experience; and (iv) users must navigate multiple channels for complex cases. Present day chatbots employ rule-based programming. They do not purport to act autonomously on user requests; nor can they complete transactions or make discretionary decisions. They offer linear, reactive communication and guidance, not guidance that is necessarily in any way pro-active or anticipatory.[53]

Chatbots are destined, however, to evolve. Easily envisioned in the short-term future are hybrid forms of intelligent assistance in the form of chatbots that incorporate both machine learning capabilities, as well as aspects of generative AI. As stated by Minseong Kim, "Diverging from traditional chatbots limited to fixed responses, ChatGPT exhibits a dynamic repertoire, capable of swiftly addressing inquiries, summarizing documents, composing essays, and generating comprehensive content."[54] Chatbots powered by gen AI will likely do much to improve the overall FOIA RX in the coming decade, earlier in some agencies, later in others. We see gen AI-enabled chatbots as a necessary building block in an AI ecosystem of the future where the FOIA RX is transformed, as next discussed.

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[49] Eleni Adamopoulou & Lefteris Moussiades, *Chatbots: History, Technology, and Applications* 2 MACHINE LEARNING WITH APPLICATIONS (2020), Art. 100006, https://doi.org/10.1016/j.mlwa.2020.100006.
[50] *Id.*
[51] Kevin C. Desouza and Rashmi Krishnamurthy, *Chatbots move public sector toward artificial intelligence*, BROOKINGS (June 2, 2017), https://www.brookings.edu/articles/chatbots-move-public-sector-towards-artificial-intelligence/.
[52] *Gartner Reveals Top Technologies Shaping Government AI Adoption*, Gartner (Sept 9, 2025), https://www.gartner.com/en/newsroom/press-releases/2025-09-09-gartner-reveals-top-technologies-shaping-government-ai-adoption
[53] *See* Adamopoulou & Moussiades, *supra* n.49; *see also* Alexander Wuttke et al., *Artificial Intelligence in Government: Why People Feel They Lose Control* (May 2025), https://arxiv.org/abs/2505.01085.
[54] Minseong Kim, *Unveiling the e-Servicescape of ChatGPT: Exploring User Psychology and Engagement in AI-Powered Chatbot Experiences*. 14 BEHAVIORAL SCIENCE 558 (2024), https://doi.org/10.3390/bs14070558

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IV. Agentic AI Transforming the Future of FOIA's RX

A. Definition of agentic AI

As a rapidly developing emergent technology, agentic AI carries numerous definitions that emphasize different aspects of behavior, utility, and technological underpinnings. For the purposes of this article, we consider a useful definition of agentic AI to be "systems that exhibit autonomous decision-making capabilities to achieve specific goals without constant human intervention."[55] This ability goes beyond traditional automation or narrow predictive tools: it means that AI agents are capable of independently performing complex workflows, incorporating "specific subtask[s] required to reach the goal."[56]

Agentic AI holds the promise of acting as an intermediary between the public and government agencies, to the extent it can guide people step-by-step through complex procedures (e.g., tax compliance, healthcare benefits, business licensing and permits). Deloitte has characterized this agentic future as one in which the public sector workforce consists of AI and human collaboration, with reliance on subject matter experts at agencies to supervise AI deployment, handling "edge cases," ensuring ethics and maintaining trust frameworks.[57] Luukas Ilves and his co-authors note that agentic AI holds significant potential for many government services because many of these services are high-volume tasks that follow "structured decision-making frameworks."[58] While many FOIA requests carry significant complexity, it is a governmental function that contains several attributes that suggest the benefits of agentic AI. FOIA contains a set of well-defined outcomes, detailed rules, multi-step processes, high volumes, and—for a significant portion of requests—significant repetition.

B. Government agencies have taken tentative steps to employ agentic AI

Several federal agencies are already in the process of deploying forms of agentic AI both for internal and public facing processes. The FDA is actively seeking to "further advance the use of AI to assist in more complex tasks, such as meeting management, pre-market reviews, review

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[55] Ume Nisa et al., *Agentic AI: The age of reasoning—A review*, JOURNAL OF AUTOMATION AND INTELLIGENCE (2025), https://doi.org/10.1016/j.jai.2025.08.003, containing a survey of agentic AI definitions:

> Another study defines it as "a type of interactive system designed to interpret and respond to information from its surroundings, including images, spoken or written communication, and other contextually relevant data, while taking purposeful and contextually appropriate actions." . . . Agentic AI systems possess rationality, enabling effective reasoning and adaptation to achieve goals. In addition . . . [a]gentic AI as autonomous systems capable of dynamically adapting tasks, evaluation metrics, and strategies according to context, without explicit predefined instructions. Methodologically, agentic AI emphasizes key design capabilities, such as reasoning, planning, tool utilization, memory integration, Retrieval-Augmented Generation (RAG), and instruction fine-tuning (internal references omitted).

[56] *What is Agentic AI?*, IBM (n.d.), https://www.ibm.com/think/topics/agentic-ai.
[57] Adithi Pandit, et al., *The AI-amplified future of work in government service delivery*, Deloitte Center for Government Insights (Sept. 24, 2025), https://www.deloitte.com/us/en/insights/industry/government-public-sector-services/ai-future-of-work-in-government/ai-future-of-work-in-government-service-delivery.html.
[58] Luukas Ilves et al., *The Agentic State: Rethinking Government for the Era of Agentic AI*, Global Government Technology Centre Berlin, The World Bank (Oct. 2025), https://agenticstate.org/.

validation, post-market surveillance, inspections and compliance and administrative functions."[59] Reportedly the agency planned to launch a two-month "Agentic AI Challenge for staff to build Agentic AI solutions" at an FDA event in January 2026.[60] The Internal Revenue Service is beginning to use Agentforce, an AI agent created by Salesforce, to "augment and supplement the work" in multiple divisions, including aiming "to help overburdened agents process customer requests more efficiently.[61] According to the Department of Defense's Chief Digital and Artificial Intelligence Office, the Department is developing agentic AI workflows to use in "address[ing] critical national security challenges."[62]

In many other agencies, while not specifically labelled "agentic AI," numerous multi-step, autonomous or semi-autonomous use cases, sometimes incorporating machine learning, are being developed, including for fraud detection, risk pattern recognition, data extraction, and the like.[63] Darrell West, writing for Brookings, makes an important point when noting:

> With any new technology, it is important to alter administrative processes to take full advantage of the digital tools. One of the key determinants of institutional change is making sure administrative structures are in alignment with technology innovation. If digital tools do not correspond to agency missions, they are not likely to generate positive results.[64]

It remains for agencies to make as robust a case as possible for agentic AI being in line with FOIA's mission.

C. Agentic AI and FOIA: Every request with its own FOIA AI liaison

At present, there are no known instances of agentic AI being integrated into the FOIA administrative process. That is sure to change over the coming decades. There are no overwhelming technological barriers to setting up a multi-task system that incorporates elements of gen AI empowered chatbots having sophisticated dialogues with requesters, coupled with multiple agentic AI apps that perform searches using machine learning and/or LLMs to find responsive documents and review for exemptions, as well as AI-generated narratives providing informative explanations as to every element of the FOIA workflow the agency has engaged in.

Let us proceed then to imagine a future where agentic AI facilitates the evolution of chatbots into agents that pull requests through the full FOIA process, essentially assigning a FOIA liaison

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[59] *FDA Expands Artificial Intelligence Capabilities with Agentic AI Deployment*, FDA News Release (Dec. 1, 2025), https://www.fda.gov/news-events/press-announcements/fda-expands-artificial-intelligence-capabilities-agentic-ai-deployment.
[60] *Id.*
[61] Jon Swartz, *IRS Deploys Salesforce AI Agents Amid Major Workforce Reduction: Report,* Techstrong.ai (Nov. 21, 2025), https://techstrong.ai/agentic-ai/irs-deploys-salesforce-ai-agents-amid-major-workforce-reduction-report/
[62] *US defense department awards contracts to Google, Musk's xAI*, Reuters (July 14, 2025), https://www.reuters.com/business/autos-transportation/us-department-defense-awards-contracts-google-xai-2025-07-14/
[63] Darrell M. West, *How robotic process and intelligent automation are altering government performance*, Brookings (Nov. 16, 2021), https://www.brookings.edu/articles/how-robotic-process-and-intelligent-automation-are-altering-government-performance/.
[64] *Id.*

agent to every request. The FOIA mandates that the Chief FOIA Officer of each agency designate one or more FOIA Public Liaisons.[65] Liaisons are "responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes."[66] In other words, liaisons are meant to solve problems, only engaging in individual requests when a dispute arises. As humans, liaisons cannot scale to monitor every request. AI agents, on the other hand, can scale. FOIA programs could, in theory, assign an agent to each request it receives. With sufficient, yet appropriately bounded independence, these agents could shepherd every request through the full FOIA process, solving problems as they arise. Agentic AI presents the opportunity to move beyond FOIA programs offering chatbots that help requesters complete discrete tasks by providing active agents that can initiate tasks autonomously, invoke services on behalf of users, and efficiently coordinate requests across agencies while ensuring security, privacy, and transparency.

A personal FOIA AI Liaison would transform the FOIA RX by providing tailored explanations (and solutions) at every step in the agency's FOIA workflow process. At present, the frustrations experienced by requesters often arise due to an agency's simple failure to respond to the following questions in a timely way:

- How should I frame my initial request?
- Which part(s) of government should I send the request to?
- How can I narrow or clarify my request to get a timelier response?
- Why is my request subject to delay?
- Why were these records found from certain custodians or components of an agency, and not others?
- Why were the records redacted or withheld in full?
- Why did the agency interpret my request in the way they did?

The use of a FOIA AI Liaison, incorporating agentic AI and chatbots with gen AI capabilities narratives would be able to largely (if not entirely, at least for routine requests) eliminate the friction, burden, and delays experienced by requesters today, through:

- a request intake process that begins with an open-ended dialogue with the requester;
- assistance to the requester in query formulation including as to the scope of the request;
- automated routing of requests to relevant personnel and offices for responses;
- automated searches across enterprise repositories (including on local and shared drives and networks, and cloud-based data);
- automated filtering for material to be withheld under one or more exemptions;
- providing interim responses in the form of samples of records, and accompanying explanations as to where responsive records were stored and what systems were searched;

[65] 5 U.S.C. § 552(j)(2)(H).
[66] 5 U.S.C. § 552(l).

- setting out in plain English the legal bases for any withholding or partial withholding;
- routinely updating the requester on delays in the process (if any); and
- providing appeal rights.

The FOIA AI Liaison should be able to carry out all of the above through an interactive dialogue with requesters up to the time of the issuance of final determination letters and appeals decisions, including answering follow-up "why" questions as well as clarification requests.

Applying these concepts, as well as the AI capabilities discussed previously in this paper, we present here a more built-out imagined FOIA workflow of the future for a request of a certain volume and complexity:

a. *The requester "asks"[67] for all records on a certain subject (e.g., a surprise foreign intervention by the U.S. in country X, with a variety of subparts necessitating multiple searches).*
b. *The FOIA AI liaison acknowledges the request.*
c. *The FOIA AI Liaison determines which component of the agency likely has responsive records, and/or directs the request to a government wide portal (FOIA.gov or its successor) for responses by other agencies.*
d. *In cases of voluminous records or where a request needs to be clarified, the FOIA AI Liaison asks series of follow-up questions to establish parameters in terms of custodians, time period, agency components to be searched, etc.*
e. *After consensus with requester is reached, the FOIA AI Liaison informs the requester of the next steps being taken and provides an estimated timeline to expect a response*
f. *the FOIA AI Liaison searches databases using advanced AI techniques (combinations of TAR methods, LLMs, and their successors capable of searching non-textual documents in hypermedia).*
g. *The FOIA AI Liaison informs the requester of the results of the search, for the purpose of further narrowing or clarifying search parameters in cases where search results have turned up a voluminous amount of records.*
h. *After locating and accumulating responsive records, the FOIA Liaison applies filtering/ sensitivity analysis to review for possible FOIA exemptions.*
i. *The FOIA AI Liaison proceeds to engage in an iterative process with a requester providing samples of responsive records either disclosed in full or in part, and an AI-generated narrative on reasons for withholding. The requester discusses with the FOIA AI Liaison any perceived deficiencies in a given sample, triggering further rounds of sampling and disclosure as appropriate.*
j. *As part of the process of reviewing documents, the FOIA AI Liaison has sufficient capability to make risk determinations with respect to foreseeable harm to the agency, after taking into account contextual data from the real world.*
k. *The FOIA AI Liaison provides a final determination letter comprising a full explanation of how records were searched, what AI processes were used for*

[67] "Asking" or engaging in a dialogue with the FOIA AI Liaison may not necessarily involve the need for oral or written communications in the way they are made now. *See* Part V.C, *infra.*

conducting searches, why certain documents were withheld in full or in part, and providing additional information pertinent to the requester including appeal rights.

l. *With the determination letter the FOIA AI Liaison produces materials in any authorized "machine-readable" format.*
m. *The requester has the ability to engage further with the FOIA AI Liaison during the administrative appeal stage.*

As an initial matter, aside from the future capabilities of agentic AI, this protocol at least in part follows the outline of a recommendation from the FOIA Advisory Committee concerning providing samples of documents to requesters to engage in further dialogue.[68] There is little reason to doubt why in coming decades such a protocol (on AI steroids) could not be widely implemented with then-existing AI technologies.The use of an agentic FOIA AI Liaison that empowers FOIA requesters to proactively drive the process of making requests for records, while engaging in a personalized, tailored, interactive dialogue, arguably could improve comprehensibility, transparency, and procedural fairness in ways not remotely achievable with present non-automated processes.

We will go on to address concerns regarding "black box" agentic algorithms and the absence of humans-in-the-loop concern in the following section. But the suggested protocol contains one element at step (j) that arguably may be one of the more difficult obstacles in fully operationalizing a FOIA workflow process with a FOIA AI Liaison. The FOIA Improvement Act of 2016 amended the statute to incorporate a "foreseeable harm" standard, where an agency is required to make a determination that the release of particular documents which otherwise qualify for withholding under an exemption will *also* result in foreseeable harm to the agency.[69] The D.C. Circuit's decision in *Reporters Committee for the Freedom of the Press et al. v. FBI*,[70] held that with respect to at least some of the pre-decisional, deliberative documents at issue the agency had failed to establish "foreseeable harm" with sufficient specific, contextual justifications for the continued withholding under FOIA Exemption 5. It takes at least some leap of imagination to conceive of AI software with sufficient contextual knowledge to be able to make these types of determinations, although it is not inconceivable that AI can be trained to perform risk assessments that take into account most factors an agency would consider to be legitimate. In today's AI world, it may be a bridge too far; in the imaginable future, and perhaps sooner than anticipated, it may not be.

V. Additional Considerations

Given the speculative nature of this paper, there are any number of additional issues to consider regarding agentic AI supporting FOIA programs. Three which we see as important to at least briefly address include: first, the challenging "black box" nature of AI as applied in the context of public access. Second, how AI could shape the broader goals of "open government," as well as what we view as a continuing need for FOIA. Third, how AI-driven changes to government

[68] Recommendation 2024-03, 2022-2024 FOIA Advisory Committee Final Report, https://www.archives.gov/files/ogis/documents/finalreport.6.17.24.pdf.
[69] 5 U.S.C. § 552(a)(8)(A)(i).
[70] 3 F.4th 350 (D.C. Cir. 2021).

recordkeeping practices and the modes of making FOIA requests will affect FOIA program practice.

A. The "Black Box" Challenge and the Human in the Loop

A rich literature exists on the subject of "black box" algorithmic processes generally, raising concerns of bias, procedural fairness, transparency, explainability, and in the public sector context, ultimately the issue of democratic accountability.[71] Concerns regarding the above FOIA AI Liaison protocol consist of the same objections present in the deployment of algorithmic "black box" processes generally. As Capaldi states:

> The role of AI in such sensitive, high-stakes determinations raises critical concerns about transparency and fairness; there is a growing tension between the efficiency AI provides and the transparency required by FOIA. As the system evolves, the need for accountability in AI-driven decisions grows more urgent, especially as human oversight diminishes.[72]

In our view, explainability is not an optional feature for an agentic FOIA process: a core design requirement of using the kind of FOIA AI Liaison we have envisioned is that the dialogue with the AI app fosters usability and trust at every step in the process. Of course, we acknowledge that the use of machine learning and LLMs raise legitimate issues in how a lay outsider (or even those involved in the FOIA process) can ever fully understand every decision made by an algorithm: no one can.

We wish to make two points in response to the concerns expressed by some with respect to algorithmic processes employed in FOIA administration.[73] First, the "as is" model of human review in FOIA is not without its own considerable "black box" elements, given the degree to which FOIA requesters routinely experience delays due to backlogs, frustrations when attempting to engage in a dialogue with agencies, and material gaps in the explanations received in determination letters as to the nature of searches performed, as well as why redactions were

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[71] *See* Frank Pasquale, THE BLACK BOX SOCIETY: THE SECRET ALGORITHMS THAT CONTROL MONEY AND INFORMATION (2016); Cary Coglianese & David Lehr, *Transparency and Algorithmic Governance*, 71 ADMIN. L. REV. 1 (2019), https://ssrn.com/abstract=3293008; Marie Christine Fahr, et al., *Improving the use of public e-services through explainability*, 95 J. OF BUSINESS ECONOMICS 553 (2025), https://doi.org/10.1007/s11573-024-01212-9; Katherine Fink, *Opening the Government's Black Boxes: Freedom of Information and Algorithmic Accountability*, 21 INFORMATION, COMMUNICATION & SOCIETY 1453 (2017), https://www.tandfonline.com/doi/full/10.1080/1369118X.2017.1330418; Madalina Busuioc, *Accountable Artificial Intelligence: Holding Algorithms to Account,* PUBLIC ADMINISTRATION REVIEW (2020), https://pmc.ncbi.nlm.nih.gov/articles/PMC8518786/pdf/PUAR-81-825.pdf; Saar Alon-Barkat, *Algorithmic discrimination in public service provision: Understanding citizens' attribution of responsibility for human versus algorithmic discriminatory outcomes,* 35 J. OF PUBLIC ADMINISTRATION RESEARCH AND THEORY, Issue 4 (Aug. 23, 2025), https://academic.oup.com/jpart/article/35/4/469/8249873.

[72] Ronald L. Capaldi, *FOIA and the Use of AI in Government: Freedom of Information or an Empty Promise of Openness?*, 45 J. NAT'L ASS'N ADMIN. L. JUDICIARY 25 (2025), at 33 (internal citations omitted), https://digitalcommons.pepperdine.edu/naalj/vol45/iss2/2.

[73] *See, e.g.*, Lewis Kamb, *Some U.S. government agencies are testing out AI to help fulfill public records r*equests, NBC News (Aug. 1, 2023), https://www.nbcnews.com/news/us-news/federal-agencies-testing-ai-foia-concerns-rcna97313.

made. What an agentic AI process offers in the alternative open dialogue with agencies at every key stage in the process, coupled with user-friendly explanations with respect to each decision made, all in an expedited fashion (potentially reducing or eliminating backlogs). We will leave it to the fair-minded reader to decide whether uncertainties with respect to an algorithmic "black box" are mitigated under the circumstances.

Second, we understand that courts have emphasized that FOIA's legitimacy depends on the reviewability of agency action. The introduction of agentic AI into FOIA processing may therefore trigger judicial skepticism, particularly concerning algorithmic systems introducing opacity incompatible with reasoned decision-making. We wish to point out, however, that in the e-discovery arena, in the hundreds of reported decisions involving the use of TAR methods it has been a rare occurrence where parties asked for an evidentiary hearing to obtain a judicial ruling on the fairness and completeness of the algorithmic process used in finding responsive documents.[74] While there is a distinction to be made between litigation involving private parties and the provision of public services, nevertheless, we believe the legal profession has demonstrated that the benefits of using AI in e-discovery searches substantially outweigh objections based on issues with algorithmic accountability, and that judgment should mitigate some of the concerns present in its application in the FOIA realm.

No question exists, however, that it remains to be determined to what extent human oversight continues to be necessary at each stage of an agentic multi-task process. At the present time, existing AI technologies act at best as "intelligent assistants" to human employees managing agency FOIA workflows and working on individual FOIA cases. In the case of filtering documents for exempt materials, as previously discussed we are in the early days of software applications, and none are sufficiently good enough to obviate the need for human quality control. Each agency will need to evaluate the risks involved in allowing FOIA AI Liaisons independence in making final decisions.

We predict that over the coming decades, any agencies continuing to commit to labor-intensive human review for every FOIA request will be seen as increasingly archaic. Rather than debating whether individual requests should be processed with a human in the loop, debate will shift to discussing how closely AI agents should be supervised and what degree of autonomy FOIA AI Liaisons should be allowed to have. We anticipate that the FOIA community will soon begin to calculate that the inefficiencies in requiring humans in the loop on exemption decisions for every FOIA document will present more risk than deferring to agentic AI protocols, and thus the risk calculation will tip in favor of deferring to agentic AI protocols to a much greater degree. There should, however, always be humans in a "meta" loop, where people are actively validating, overseeing, and auditing overall FOIA processes, if not individual requests.

B. Open government and the need for FOIA in our AI future

A legitimate question to consider is the extent to which the future of FOIA is of diminished relevance with the rise of the open government and open data movement. Advocates of open

[74] *See, e.g., Kleen Products LLC et al. v. Packaging Corp. of America et al*., No. 10 C 5711 (N.D. Ill. Sept. 28, 2012), https://law.justia.com/cases/federal/district-courts/illinois/ilndce/1:2010cv05711/247275/412/.

data, most notably the widely respected scholar Beth Simone Noveck, have argued that the future of government transparency lies in the capabilities of government to open its data to the public without necessitating that the public navigate the present "cumbersome process" of FOIA requests,[75] where "extensive documents must be painstakingly reviewed and analyzed."[76] Noveck envisions that "in the long term, FOIA and open data may themselves converge as we move to a future where all government data sits in a secure but readily-accessible cloud."[77]

Certainly, wherever records and data sit, the dream is that there will be a (near) frictionless future where disclosures facilitating government transparency and an informed citizenry are agency-initiated and continuously updated, and automated, rather than dependent on a reactive administrative and legal process. Given that all observers agree that FOIA's first 60 years of manual review does not scale, we all wish to live in a world where FOIA processes succeed in opening government records in ways beyond anything possibly imaginable at present. Arguably, agentic AI interactivity with requesters in the ways described above will significantly close the gap in terms of the ease in which government records are disclosable.

However, we remain of the belief that FOIA will remain independently relevant regardless of any future direction that the open government movement and open data laws take for two reasons. First, the stubborn fact remains that the vast majority of what constitute government records are not now, and will not be in the future, immediately made open to public access even by the most enlightened officials in government in favor of transparency and accountability. A prime example: the billions of emails and electronic messages exchanged among government agencies in 2025, and what passes for new forms of ephemeral apps and electronic communications in the future, containing valuable information of interest to the public, presumably will *never* be contemporaneously made available by future administrations. Indeed, as we have observed with respect to White House emails, due to sensitivities in such vast collections arguably the timeframe for opening up such records, many of which contain the most candid observations of government officials available, will be on the order of many decades.

Second, achieving the vision of open government vision will only proactively address the needs of a minority of current FOIA requests. The majority of FOIA requests are first-party requests made by individuals seeking records about themselves.[78] FOIA provides individuals with a robust legal vehicle to obtain these records. Many agencies have implemented alternative means of providing access to these records and stakeholders have made multiple calls to expand the effort to take first-party requests out of FOIA. However, FOIA remains the most effect pathway for many people to request their records from federal agencies, especially when these records are voluminous and complex.[79] For these reasons, we do not see the government implementing open

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[75] 126 YALE LAW JOURNAL FORUM (Nov. 21, 2016), https://yalelawjournal.org/pdf/NoveckFinal_xjaur4gj.pdf.
[76] Beth Simone Noveck, *Rights-Based and Tech-Driven: Open Data, Freedom of Information, and the Future of Government Transparency*, 19 YALE HUMAN RIGHTS & DEVELOPMENT L.J. (2017), https://thegovlab.org/static/files/publications/Rights-Based-and-Tech-Driven-Noveck-YHRDLJ-vol-19.pdf.
[77] *Id.*
[78] *See* Margaret Kwoka, SAVING THE FREEDOM OF INFORMATION ACT (2021).
[79] *Final DHS First-Party FOIA Feasibility Assessment*, Homeland Security Systems Engineering & Development Institute (Apr. 25, 2024), https://www.dhs.gov/sites/default/files/2025-03/0320_25_PRIV-Final-DHS-FOIA-Feasibility-Assessment-Report.pdf.

government and first party request solutions that will remove the need to invest in an enhanced FOIA AI infrastructure to meet the needs of requesters and help foster trust with the public.

There is no substitute for pro-actively publishing government data to the greatest extent possible. This is a necessary project, but for the reasons given does not embrace the entirety of the challenges posed in making government records accessible. Our hope would be that the kind of agentic AI processes that we anticipate will develop will go a long way towards mitigating the present objections the open government community have concerning FOIA.

C. The evolving nature of government records and records requests

AI adoption will increase the volume and complexity of agency records. As previously noted, FOIA programs will need to keep pace with technological acceleration resulting in the creation of new forms of records. One challenge posed in coming decades will be figuring out how government records in the form of data from an ever-expanding universe of the "Internet of Things" (IOT) will be reasonably accessible using successors to present-day TAR and LLM search methods, which will need to account for dynamic, multi-modal, continuously active streams of data.

Examples of data comprising agency records from the "day after tomorrow" (and in the decades ahead) come in a wide variety of categories, including but not limited to: (i) smart health care tools, including human-embedded and bio-integrated device data in the form of continuous wearable biometric monitors, digital identity implants, and augmented sensory devices; (ii) data from autonomous vehicle systems, delivery drones, government-managed transit "swarms"; (iii) smart cities and environments with embedded sensors and intelligent buildings; adaptive energy grids and water systems; climate-responsive infrastructure; and (iv) records of AI agents, including interaction logs where AI agents are themselves acting to fulfill user requests.[80]

FOIA programs will also need to account for the evolution of technologies. One should assume that the nature of online interactions with FOIA requesters experience may change dramatically over decades hence. It is not too fanciful to imagine, for example, that one option for public interaction with agentic AI public services will not require texting or any form of oral or written communication. It is already a subject of active research and scholarly inquiry that in the future people could interact with automated, conversations systems via wearable or implantable brain-computer interfaces (BCIs) that interpret thought directly rather than relying on spoken or typed language, in ways that go beyond medical applications.[81] In the words of Jackson Boonstra,

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[80] *See, e.g.,* Chan Wang et al., *Artificial intelligence enhanced sensors – enabling technologies to next-generation healthcare and biomedical platform*, 9 Bioelectron 17 (2023), https://doi.org/10.1186/s42234-023-00118-1 Tushar Dasgupta, *Autonomous vehicles, drones, and AI: Transforming modern supply chain management*, 15 WORLD J. OF ADV. ENGINEERING TECH. AND SCIENCES 15 (Apr. 14, 2025), https://doi.org/10.1186/s42234-023-00118-1; Anand Ramachandran, *The Rise of Autonomous UAV Swarms Harnessing Advanced AI for Breakthrough Applications, Challenges and Future Directions* (Jan. 2025), https://www.researchgate.net/publication/388357951_The_Rise_of_Autonomous_UAV_Swarms_Harnessing_Advanced_AI_for_Breakthrough_Applications_Challenges_and_Future_Directions; Ani Matei and Madalina Cocosatu, *Artificial Internet of Things, Sensor-Based Digital Twin Urban Computing Vision Algorithms, and Blockchain Cloud Networks in Sustainable City Administration* (Aug. 7, 2024), https://www.mdpi.com/2071-1050/16/16/6749.

[81] Guglielmo Tamburrini, *Brain to Computer Communication: Ethical Perspectives on Interaction Models*, 2 Neuroethics 137 (Nov. 2009),

"BCI technology stands at a crossroads: it could redefine human potential or deepen existing vulnerabilities."[82]

VI. Recommendations and Conclusions

One does not need to engage in speculation as to when "artificial general intelligence" (AGI) systems will emerge (i.e., AI systems capable of matching the cognitive abilities of humans across any task),[83] to accurately predict that in the coming decades virtually everyone will increasingly be confronting the presence of new and improved AI in all aspects of our lives. Over even a short-term time horizon, we can already see that government services, including in the administration of FOIA, are moving in any number of ways towards embedding AI into workflows.

Putting the present moment aside, we have proceeded from the assumption that the systemic challenges FOIA has faced for decades are not due to bad faith on the part of those government servants deeply devoted to FOIA's mission. Rather, the problems that exist consist of "scale mismatch" due to burdensome, friction-filled, resource-intensive demands on good people, in a world of increasing volumes and hence growing backlogs. What is needed is to re-engineer capacity by taking advantage of future AI progress.

FOIA programs will need to keep pace with this adoption of agentic AI for two core reasons. First, adoption of agentic AI will simply be found to be necessary to continue to conduct business and provide services. The volume of government records will assuredly increase, including possibly at an exponential level. Records will most likely increase in complexity. FOIA programs will need to keep pace with the size and complexity of the records that the public could request. These programs will need the same technologies to search for, review, and prepare records for release that are used to create those records. While we acknowledge that it is unlikely that the FOIA offices of the future will be the first to receive cutting-edge AI technologies, one would hope that they are not stuck with the equivalent of typewriters in the age of AI. In furtherance of transparency and accountability in future administrations, it does not make sense for FOIA programs to forego the AI technologies their agencies will be using.

Second, as requesters encounter more agentic AI-based services from the private and public sectors, they will come to expect FOIA programs to operate in a manner that is on par with the services they encounter in their daily lives. Agencies that have FOIA programs that are noticeably behind the technological times send a signal to the public that they are not investing in

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https://www.researchgate.net/publication/225735446_Brain_to_Computer_Communication_Ethical_Perspectives_on_Interaction_Models; *see also* Seo-Hyn Lee, et al., *Toward Imagined Speech based Smart Communication System: Potential Applications on Metaverse Conditions*, (Feb. 7, 2022), https://arxiv.org/pdf/2112.08569; Muhammed Ugur, et al., *The Interplay of Computing, Ethics, and Policy in Brain-Computer Interface Design* (Sept. 26, 2024), https://arxiv.org/pdf/2409.17445.

[82] Jackson Tyler Boonstra, *Ethical imperatives in the commercialization of brain computer inte*rfaces, IBRO NueroSci Rep. (Oct. 2025), https://pmc.ncbi.nlm.nih.gov/articles/PMC12553070/.

[83] Dave Bergmann & Cole Stryker, What is artificial general intelligence (AGI), IBM (n.d.), https://www.ibm.com/think/topics/artificial-general-intelligence; Ray Kurzweil, THE FUTURE IS NEARER: WHEN WE MERGE WITH AI (2024) (predicting that AGI to be achieved by 2029).

their FOIA programs and therefore do not prioritize transparency. This, obviously, does not help foster trust in government.

The question to be considered is how to optimize AI future trajectories that enhance the ability of government to remain transparent and accountable, both as a matter of urgent then-current concerns that will arise, as well as a matter of historical interest. Embedding FOIA considerations into agency-wide strategic plans through the end of this decade would help "lock in" earlier advancement of agentic AI. So too, proposals for legislative reform should embrace the notion that FOIA (and government recordkeeping more generally) require an increasing AI focus. Agencies can set goals for funding and authorize machine learning for purposes of search and PII filtering, with further advancements as warranted by breakthroughs in AI research leading to better ways to deal with, for example, filtering material for exemptions. Agencies can plan on embedding transparency-by-design requirements (audit logs, explainability interfaces, FOIA-compatible export functions) into future systems that aid in automated records series classification supplemented by metadata useful for purposes of preservation and access.

The FOIA officer (like many professions in government service) will be expected to transform as well. Due to the presence of agentic AI, one could fairly expect that FOIA staff will increasingly act as AI auditors and specialists. This includes functioning as "transparency engineers," through prompt-engineering subject matter expertise. Agencies might consider the creation of a "FOIA Technology Corps." This is an idea the Technology Committee of the FOIA Chief FOIA Officers Council could place on a future agenda. [84]

Agency Chief Data Officers and Chief AI officers, whose present-day focus is on optimizing vast amounts of data held in government agencies, should be aware (or made aware) that all government data is "recorded information" within the definition of what constitutes a federal "record,"[85] and that the public has a right of access to all such data. To that end, continued attention should be paid to embedding adequate specifications in future chatbot, gen AI, and agentic AI procurements that account for recordkeeping preservation and access controls.

So too, agencies need to work with industry and academia on how agentic AI processes can transform the FOIA experience for the public. The Justice Department and the National Archives and Records Administration have roles to play in fostering a public access agenda that embraces future AI developments.[86]

Our observations on the future of agentic AI in transforming the FOIA RX are not just for the convenience of requesters: the AI infrastructure to build out robust agentic AI processes should be considered a meaningful exercise of the public's "right to be informed about what their government is up to."[87] The present-day administration of FOIA is under stress, with all its systemic failures now coupled with a heightened degree of politicization not previously experienced in the first 60 years of statutorily mandated public access. We choose, however, to

[84] *See* https://www.foia.gov/chief-foia-officers-council/committee/technology-committee.
[85] 44 U.S.C. § 3301.
[86] Recommendation 2020-22, 2018-2020 FOIA Advisory Committee Final Report and Recommendations (Archivist should work with industry and academia on integrating AI into recordkeeping and access policies).
[87] *Dep't of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749, 773 (1989) (cleaned up).

end these remarks on a note of optimism, to express the sincere belief that in the coming world of agentic AI there is a place for a frictionless, non-burdensome, efficient, fair, and ultimately enlightening FOIA process that maximizes the future accountability of our democratic system and contributes to improving our civic life.