Presentation to the Right to Know Advisory Committee

Monday, November 16, 2026

We strongly support government transparency and the public's right to access government records. However, the volume, breadth, complexity, and frequency of today's FOAA requests are creating an administrative burden that was never intended to be absorbed within existing agency staffing. We need to have an honest conversation about how to preserve the public's right to know while ensuring state employees can continue to perform the work they were hired to do.

Talking Points for the Maine Right to Know Advisory Subcommittee

Balancing the Public's Right to Know with the Operational Capacity of State Agencies

1. We support transparency, but the current workload is becoming unsustainable.

- The Department of Inland Fisheries and Wildlife (IFW) takes its obligations under the Freedom of Access Act very seriously.
- We believe transparency and public access to government records are essential to maintaining public trust.
- We respond to straightforward requests as quickly as we can, and we make every effort to work cooperatively with requestors.
- However, we are seeing not only an increase in the number of requests, but also a significant increase in their complexity, breadth, and the volume of records they seek.
- We typically receive between 2 and 5 FOAA requests every day. That volume, combined with the complexity of many requests, creates a substantial and growing workload.

The issue is no longer simply the number of requests. It is the amount of staff time required to estimate costs, communicate back and forth for weeks or months with requestor and if they want to move forward with a request to then interpret, locate, review, redact, and produce the requested information.

2. The nature of FOAA requests is changing, particularly with the use of AI.

One emerging concern is that we are increasingly seeing requests that appear to have been drafted or expanded with assistance from artificial intelligence. AI can generate a request in minutes. It can take an agency weeks or months of staff time to fulfill it.

- AI tools make it very easy for someone to generate a lengthy, highly professional, and comprehensive public records request.
- It seems like individuals who may just have a question about an agency decision or policy can be prompted to submit a formal FOAA request rather than first contacting the agency for an explanation.

- Requests can be written in broad, sweeping terms that encompass years of correspondence, multiple programs, numerous employees, different record systems, and thousands of potentially responsive documents.
- While AI may make it easier for the public to formulate requests, it does not make it easier for agencies to fulfill them.

We are not suggesting that the use of AI should be prohibited or that someone should be discouraged from exercising their rights. However, we need to recognize that technology is changing the volume and nature of requests, while the expectations and resources placed on agencies have not changed.

3. The time involved goes far beyond simply pulling records.

There is sometimes a misconception that responding to a FOAA request is as simple as locating a document and sending it to the requestor. That is most often not the case.

For complicated requests, the process can involve:

1. Interpreting the request and determining what records may be responsive.
2. Communicating with the requestor to clarify or narrow the scope.
3. Identifying all employees, divisions, and offices that may possess responsive records.
4. Keeping an excel spreadsheet or some way to track individual staff members' hours worked, creating individual electronic files where each staff person can place responsive records and ensuring that staff are documenting hours worked within the PRIZM pay system.
5. Coordinating the collection of records across multiple staff members and information systems.
6. Working with the Office of Information Technology (OIT) to identify and retrieve electronic records.
7. Determining which records may contain confidential or legally protected information.
8. Reviewing hundreds or thousands of documents, sometimes individually.
9. Consulting with the Office of the Attorney General when requests involve litigation or other legal considerations.
10. Using redaction software, which can be expensive, to protect confidential information.
11. Organizing, preparing, and producing the final records.

Even preparing a cost estimate for a complicated request can take between **5 and 20 hours**, sometimes requiring assistance from OIT. Sometimes we spend all these hours and the person never even responds to our estimate to confirm that they either do or don't want to move forward. This is time we are never reimbursed for. Many times, after an estimate is provided, we there are several communications back-and-forth with the requestor regarding the scope of the request, the estimated cost, and what they are willing to pay for. That correspondence can continue for weeks or even months before the actual records review begins. The time spent administering the request itself is a significant workload.

4. FOAA responsibilities are not staffed as full-time positions.

To my knowledge, FOAA coordinators generally do not have FOAA administration as their sole responsibility. These duties are incorporated into existing positions, alongside many other responsibilities.

In my own position, I serve as:

- Legislative liaison.
- Assistant to the Commissioner and Deputy Commissioner.
- The constituent services between the Governor's office, legislators and the Commissioner's office.
- Staff resource for new laws, training and implementation and our law book review.
- Support for the legislative and rulemaking processes.
- Trainer of staff on FOAA procedures and Legislative process.
- Coordinator of internal policy updates.
- Member of the license appeal panel.
- Tribal liaison.
- FOAA coordinator.

We have a FOAA point person within Warden Service who handles all the of the law enforcement related FOAAs that come in, he and I both have administrative secretaries that help send the responses, log the requests, help with invoicing and sometimes work on the responses. Like many people in state government, I wear multiple hats. I routinely receive 50 to over 125 emails a day, in addition to meetings, deadlines, legislative responsibilities, constituent concerns, tribal liaison work and other departmental work. Now add 2 to 5 FOAA requests every day, many of which require substantial coordination and review. If we were to dedicate the staff time necessary to fulfill all of these requests as they come in, the workload would easily amount to a full-time responsibility for two or three people.

5. These requests compete directly with the work agencies are responsible for delivering.

My understanding is that under current law, responding to FOAA requests is a function that departments are expected to accomplish within existing staffing levels, integrating the work among employees' primary responsibilities. But there is an important philosophical question for this committee and ultimately the Legislature: **Where do we want state agencies to direct their limited staff resources?**

Do we want agency employees spending an increasing amount of their time locating, reviewing, redacting, and producing thousands of pages of records, or do we want those employees focused on delivering the programs and services the Legislature has charged their agencies with administering?

This is a question about balance, priorities, and the responsible use of taxpayer-funded resources. We also need to consider the impact on members of the public who submit legitimate, focused requests. When agencies are overwhelmed with large, complicated requests, the ability to respond promptly to everyone is affected. There is a point at which excessive administrative demands of these FOAAs can undermine access for everyone, this is of concern to all FOAA coordinators I have spoken with.

6. Some requests are directly connected to litigation.

Another consideration is that a number of FOAA requests are directly related to lawsuits filed against the agency. I am not an attorney nor does our agency have a staff attorney, we rely on our assistant attorney general in matters such as these.

- These requests may involve extensive records and communications.
- They frequently require coordination with the Office of the Attorney General.

- The agency must ensure that records are reviewed appropriately and that confidential or legally protected information is not inadvertently disclosed.
- The FOAA response process can overlap with other substantial legal and administrative responsibilities.

This adds another layer of complexity and makes it difficult to treat these requests as routine administrative tasks.

7. IFW is seeking to improve efficiency in our initial FOAA process.

I want the committee to know that we are not simply identifying a problem and expecting someone else to solve it. We are actively looking for ways to improve our processes.

We have identified four different pathways through which requests may be received and handled:

1. **General IFW FOAA requests:** These are generally directed to me and the Commissioner's administrative assistant for coordination.
2. **Warden Service requests:** Requests involving IFW enforcement activities are directed to the Bureau of Warden Service.
3. **Data requests:** Depending on the nature of the request, these may be handled through InforME or our licensing data analyst.
4. **ATV and snowmobile crash reports:** Requestors can be directed to the Maine Crash Reporting System (MCRS), where reports can be purchased with confidential information already removed.

InforME has been an excellent partner in helping us respond to data requests for years. We recently approached them about opportunities to improve the efficiency of our FOAA and data request intake processes as well which is why Richard Campbell from InforME will be presenting a demonstration of this shortly. Staff have looked at other states' FOAA web pages and options to make the intake less redundant or more quickly get to the right person for processing. We are hopeful these improvements will reduce some duplicative efforts, better direct requests to the appropriate personnel, and streamline intake. However, I want to be clear that:
Improving intake processes does not solve the underlying problem of the increasing volume and complexity of requests.

Technology may help us process requests more efficiently, but it does not eliminate the need for people to communicate back and forth with requestors, estimate costs, locate records, make legal and confidentiality determinations, review documents, and ensure appropriate redactions. We cannot solve an ever-increasing workload simply by becoming more efficient at administering it.

8. Recent legislation provides an example of a more balanced approach.

We are grateful for Public Law Chapter 692 titled "An Act Regarding Public Records Maintained by the Department of Inland Fisheries and Wildlife" the legislation enacted in July that gives IFW authority to charge for providing certain lists of data outside the FOAA process and explicitly defines personally

identifiable information within the records IFW maintains. This legislation recognizes that some agency data is highly sought after for commercial purposes, including by businesses interested in marketing their products and services. It also recognizes that there is a distinction between a public records request and a request for agency data that may be used for commercial purposes.

We are currently working through rulemaking to establish standard, reasonable fees for providing this data and updating our internal policies and procedures to align with the new law. We are identifying which data requests can be sent to InforME for processing vs. which ones must be processed within IFW. This is an example of how the Legislature has and can recognize the unique nature of certain requests and establish a process that better balances public access, protection of information, and the cost of providing the service. It also demonstrates that thoughtful adjustments to the law can make a meaningful difference.

9. We need to have a broader discussion about whether the law needs to evolve.

I believe this is where the committee's work is particularly important. The FOAA framework was developed to ensure government accountability and public access to government records. Those principles remain just as important today. But the environment in which agencies operate has changed and the need to protect personally identifiable information is of significant importance.

We now have:

- AI tools that can generate lengthy and highly detailed requests almost instantaneously.
- Increasingly broad requests that may encompass thousands of records.
- More complex electronic records and information systems.
- Greater confidentiality and privacy considerations.
- Requests that can require extensive legal review.
- Limited agency staffing that has not grown to accommodate these demands.

It seems like it is time to examine whether the law, as currently written and administered, provides an appropriate balance.

Some questions worth considering include:

- Should there be clearer expectations made to the requestor around requests that are exceptionally broad or burdensome?
- Should agencies have additional tools to require clarification or narrowing of requests before undertaking extensive searches, that are often required to provide an estimate of time and cost?
- Is the current $25/hour adequate when the administrative time required to prepare an estimate can itself be substantial?
- Should there be additional considerations for repetitive, duplicative, or exceptionally large requests?
- Should agencies have more flexibility to establish reasonable production timelines for requests involving thousands of records?
- How do we distinguish legitimate requests for government accountability/transparency from requests that require huge administrative burdens without having a clear public-interest purpose?

- Should there be a “ticket-line” approach whereby we respond to the requests by the order in which they are received unless they can be dealt with within a couple of hours?

Closing

I want to emphasize that I have always believed in the importance of FOAA and the public's right to know. I have made it a priority to be responsive, to work with requestors, and to ensure that we meet our obligations under the law. I don't want anyone to walk away thinking that we are looking for ways to avoid transparency or make it more difficult for the public to obtain information. But I do think we have reached a point where we need to have an honest conversation about balance.

The volume of requests is increasing, but more importantly, the complexity and breadth of those requests are increasing. We are seeing requests that can take weeks or months to coordinate, and in some cases require hundreds of hours of combined staff time. We are being asked to absorb this work within existing staffing levels, while still meeting all of the other responsibilities the Legislature and the public expect of us. I also think we need to recognize how technology, particularly AI, is changing this landscape. Someone can now generate a very lengthy and sophisticated public records request in a matter of minutes. But fulfilling that request is not automated. It requires real people, real hours, and careful judgment.

So, I would leave the committee with a philosophical question: **Where does the committee, and ultimately the Legislature, want state agencies focusing their time and resources?**

At what point does the administrative burden of fulfilling increasingly broad and complicated requests begin to take away from the actual work agencies are responsible for doing? At what point does the cost to taxpayers become disproportionate to the purpose of the request? And at what point do these extraordinary requests begin to delay responses to individuals who have legitimate, focused needs for public information? My prior Commissioner would often say, “you are one large FOAA request away from being paralyzed to do the rest of your job”. We should not have to choose between transparency and the ability of state agencies to function effectively. We should be able to accomplish both. As I said previously, I don't believe technology alone is going to solve this problem. We can improve intake, eliminate duplication, and streamline our processes, and we absolutely should. But those efficiencies will not eliminate the substantial human resources required to review, evaluate, and produce records.

I hope this committee will consider whether it is time to look more closely at the way the law is written and whether additional tools, reasonable limitations, or clearer standards are needed to address requests that are exceptionally broad, repetitive, or burdensome. We want need a system that recognizes the finite resources of state government and allows us to continue doing the work the public and the Legislature have entrusted us to do.

We are not asking for less transparency. We are asking for a more sustainable and balanced way to provide it.