

INTERIOR

FOIA overhaul continues with creation of legal team

Jennifer Yachnin, E&E News reporter • Published: Wednesday, January 8, 2020



A new secretarial order gives the Interior solicitor more oversight of Freedom of Information Act requests. Interior Solicitor Daniel Jorjani is pictured. Francis Chung/E&E News

The Interior Department plans to establish a new "litigation unit" to consolidate legal challenges over Freedom of Information Act requests, part of the agency's ongoing overhaul of its handling of public records demands.

Interior Secretary David Bernhardt signed off on the new legal team yesterday in [Secretarial Order 3378](#).

The document detailed the role of Interior's new deputy chief FOIA officer, who will oversee the agency's public records program via the newly established "Departmental FOIA Office."

The FOIA office will also be tasked with creating an "oversight program to monitor FOIA-related activities throughout the Department, including developing and assisting with the implementation of quality control review plans for each Bureau/office to ensure that FOIA processing is consistent, efficient, and accurate."

The order also puts all FOIA personnel — identified as Interior employees who have any role in processing, preparing or reviewing public records requests, whether full time or as a "collateral duty" — under the direct authority of the new office.

In addition, the order states that the FOIA office can "assert control over any aspect of any FOIA request."

The order calls for creating a FOIA litigation unit to consolidate any legal actions involving public records requests.

Former Interior Secretary Ryan Zinke initiated an overhaul of the department's FOIA program in late 2018, shifting responsibility for public records requests from Interior's chief information officer to its top attorney ([Greenwire](#), Dec. 11, 2018).

Interior officials have argued that the change was prompted by a "dramatic increase" in demands for public records during the Trump administration.

But the realignment also shifted responsibility for FOIA requests from a career post to a political one, currently held by Interior Solicitor Daniel Jorjani.

Although the Trump administration has also pressed for changes to Interior's FOIA program that aimed to curb demands — by penalizing frequent filers with FOIA quotas, for example — Bernhardt backed down from some of those proposals in the face of criticism from Congress ([E&E News PM](#), Oct. 25, 2019).

Center for Western Priorities Deputy Director Aaron Weiss criticized Interior's latest changes to its FOIA process, saying they will limit the disclosure of public documents.

"This looks to us like another attempt by Daniel Jorjani to consolidate and assert even more control over the release of public documents, especially any that might end up being damaging to him or Secretary Bernhardt," Weiss said.

Jorjani has faced criticism over how the agency handles FOIA requests, including an "awareness process" that requires career staff to notify politically appointed officials if their names or email addresses appear in documents designated for release ([Greenwire](#), July 31, 2019).

Oregon Sen. Ron Wyden (D) asked the Justice Department to review whether Jorjani may have perjured himself in testimony to the Senate last year on the process.

"Solicitor Jorjani has already been accused of perjuring himself regarding FOIA during his confirmation hearing, and he said out loud that his job is to protect the secretary; that is contrary to both the letter and the spirit of FOIA," Weiss added. "Public documents are public documents, and they have to be released even if they are damaging to political appointees."

Reporter Scott Streater contributed.

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