

Open Government Advisory meeting  
Minutes 2018-11-1

Attending

- Tiffany Crowe, Chair - Public Member
  - Barney Krucoff, Vice-Chair - the Chief Data Officer of the Office of the Chief Technology Officer, OCTO
  - Alan Karnofsky - representative of the Office of the City Administrator
  - Julie Kanzler - representative of the Chief Technology Officer, OCTO
  - Shannon Turner - Public Member
  - Josh Tauberer - Public Member
  - Marie Whittaker - representative of Deputy Mayor for Planning and Economic Development
  - Jay Melder - representative of Office of the Deputy Mayor for Health and Human Services
  - Xx Russell for Jennifer Comey
  - Thomas Moir - representative of the Mayor's Office of Legal Counsel
  - Niquelle Alan, Office of Open Government
  - Rebecca Katz- representative of the Executive Office of the Mayor
- Observing: Joshua Stearns , dc auditors office

Turner Lewis, OCTO lawyer

Not Attending

- Sandra Moscoso- Public Member
- Robert Becker - Public Member
- Justin Grimes - Public Member
- Kathryn Pettit - Public Member
- VACANT- Director, Office of Open Government
- Zach Walter - Representative of the Council of the District of Columbia
- Jennifer Comey - representative of Office of the Deputy Mayor for Education
- VACANT- representative of the DC Public Library
- David Tseng - representative of Office of the Chief Financial Officer
- Victoria Wassmer- representative of Office of the Deputy Mayor for Public Safety and Justice/Deputy City Administrator
- Elaine Block - representative of the Office of the Attorney General
- Karuna Seshasai - representative of the Executive Office of the Mayor General Counsel

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Tiffany asks that the subcommittees send items for the agenda.

Open the floor for public comment... None

OCTO is being audited on PII, and invited auditor

Opened discussed on the Advisory Group proposed procedures, drafted by Rebecca Katz.

Tom moved to make a motion on the procedures. Josh seconded.  
Unanimous vote "Aye"

Thanks to Rebecca for drafting them.  
Thanks to Alan for efforts in filling vacancies.

#### Barney presentation on Personally Identifiable Information

- Passes

Notes that there is an internal advisory group

PII is mentioned in the data policy, but not defined.

Defining privacy is where openness ends, so OGAG has a role.

I find that the privacy statement under FOIA is also vague and if we define PII here, we are not sure how that would be interpreted by FOIA officers. That is another place where privacy connects to open government.

Turner: My position was created in response to a Inspector General report and found that internal controls on privacy information was lacking.

Privacy, enterprise data inventory and FOIA should be complementary. The District does not have a privacy law. We then look to the federal government for guidance under the privacy act. District does have a FOIA law, modeled after the federal one.

Wanted agency buy-in from a small but representative group: Rebecca Katz, rep from MPD, General Counsel, Rachel Plaskin (DHS), Phillip Husband, GC of health dept, Sam Quinney (OCTO).

- Examples include health, civil liberties, octo that works with every agency.

First task - what kinds of computerized PII in the agencies. Still have a number of paper records. It is maintaining both types to be sure they are properly stored and accessed.

One issue because of computerized information, When they have shared information agreements. How to ensure that each agency is complying with their requirements and the federal requirements.

Policy for privacy awareness and PII - coming up with a definition. Looked at CA, NY, Seattle (gold standard of privacy program). Also looked at NIST.

Tiffany: Definition alone does not tell you how the data can be used. For gold-standard, does that mean most-restrictive? How do you decide what a good privacy program is?

Barney - You should assume that there would be restrictions on PII. We get audited on PII. There are exceptions, we do make PII public for land records. If you own a building in the city, your name is published. There is a historic precedent. We are only publishing PII where there is pun

Turner: Distinction between PII and enterprise data set. The purpose of a PII definition is to protect privacy. The purpose of open is on transparency.

Kathy: asked about MOU-based sharing for research?

Turner: There is a need for data sharing agreement policy - need to have a plan to how to respond to data breach. Role of particular employee. Minimum, necessary and use policy - only collect information needed for the purpose. And making sure you are destroying the data .

Shared CA law - will take effect on 1/1/2020.

Tom - it is a consumer privacy act. Companies need to protect data. But you are looking internally?

Turner - the law is all-encompassing despite the title.

Barney - we are thinking about a mayor's order that would affect agencies, not everyone.

Marie - comment on overall policy on historical precedent. There are more robust legal frameworks to balance PII needs against open government desires. Speaking as a user and a producer. Framework she used in a previous job was a balancing test. The need for sunshine and the rights of people who may not have the wherewithal to know they are opting in. The reason the framework works well, requires that you look at all the aspects of a situation. Requires more effort/time but leads to better outcomes than just historical precedent

Turner: NIST - 1) identify PII in the environment 2) minimize use and collection 3) categorize PII by risk level 4) apply appropriate safeguards 4) develop policies/procedures and provide training 5) de identifying PII so the remaining information does not identifiable.

Barney - historic describes current practice. For example, crime reports by 100 block - not because we think that protects.

Turner: other NIST guidance - enforce through access control policies. Worked on policy for acceptable use from government devices. Ensure there is strict limited (or prohibited on mobile devices) for employees/contractors. Use of encryption to share data. Systems can do it today, but doesn't do it by default.

Tiffany - we have members to think about research use and those thinking about public access. We would like periodic chances to provide feedback. The criteria and balance i

Turner: Another guideline is auditing, incident response plan

What to do with first party requests for information? For example, when I want to access data about myself? As a sanctuary city, there are issues about asking for identification

Turner - yes at some point. We need the basics first. We need centralized policies and procedures.

Josh - I loved Marie's comment on balancing test. We don't know how this definition will be used and how it affects other policies. A balancing test would go well with a call-out for public record information - like DC employee salaries. It would be a good idea to carve out the definition to make sure that things

Rebecca - it is still PII , but goes to the balancing test. Just because something is PII doesn't mean that it is private. Agree with the balancing test. That is what I did as a FOIA officer. If a journalist requested emails to the deputy mayor, we would look at email addresses of the senders. It is important to spell out what we are including in the balancing sets. We are talking here about datasets. Not all issues of privacy, PII are in datasets. Email is one example, or letter to the mayor. Difference between someone coming in person versus a dataset. There is case law on that. These are things we should be considering.

Turner: salaries are paid by taxpayers, so the public has a right to know how the money is being spent. We are talking about enterprise data set so people can see govt programs/operations. We need to be careful about FOIA and privacy protections.

Julie - remind us what we did with data policy. We had a definition and classification. Then there are different actions - we can de-identify. We haggled alot about level 0 and level 1 and default open.

Its better to adopt and deviate where we need to versus develop. The NIST rules sounds helpful and the balancing test seems helpful.

Turner: they help to show the different analysis when they are determining whether something should be disclosed. What NIST recommends in the confidentially level based on potential impact. Potential impact is low if the loss could be expected to have limited adverse effect.... [continued with NIST specifications]

Tiffany asked for resources to be sent.

ADD IN LINKS FROM TURNER RE: RESOURCES.

Report out from committees:

- Josh - FOIA/Open Meetings subcommittees. Bob Becker is the chair. Start by looking at possible. Niquelle, Karuna, and Bob were going to share what they know from OOG, EOM and share with the group.
- Rebecca - agency outreach commit
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