

National Archives and Records Administration

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Freedom of Information Act (FOIA) Advisory Committee

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DEBRA STEIDEL WALL>> All right Good morning. I'm Debra Wall the Deputy Archivist of the United States. Welcome to the National Archives and this fifth meeting of the 2018-2020 term of the Freedom of Information Act Advisory Committee. This Committee is an important part of the FOIA landscape. It's gratifying to see so many FOIA experts from both the Federal agency community and the requester community collaborating to improve FOIA. This Committee's work is tightly linked to the mandate of FOIA that the Office of Government Information Services here at NARA "identify procedures and methods for improving compliance" with FOIA. The Committee's work also - as we said at previous meetings - connects directly to two of the National Archives Strategic Goals to provide access and connect with customers. We welcome representatives from the Chief FOIA Officers [CFO] Council created by Congress in the 2016 amendments to the 2016 Freedom of Information Act. The Council, co-chaired by the Directors of OGIS and the Office of Information Policy at the Department of Justice, established the CFO Technology Subcommittee last fall in accordance with a recommendation by the FOIA Advisory Committee.

Today we'll hear from the Subcommittee's co-chairs about the group's work regarding what they've learned about the state of FOIA technology across the Federal government. As agencies work for a fully electronic government we at NARA often note that excellent records management Practices help ensure efficient and effective FOIA process. NARA and the Office of Management and Budget jointly issued a memo in June called "Transition to Electronic Records" with goals around guidance on managing Federal records in an electronic environment. I understand that today the Committee will begin discussing several draft recommendations from the Records Management Subcommittee as well as surveys of both agency FOIA professionals and FOIA requesters conducted by the Time/Volume Subcommittee. I also understand that the Vision Subcommittee has worked with the Time/Volume Subcommittee on surveys and began discussing several of the long-term recommendations with the Records Management Subcommittees.

The Archivist [of the United States], David Ferriero, and I thank you for your work and look forward to hearing your ongoing discussions and deliberations. I'll now turn the meeting over to Committee Chairperson Alina Semo. Thank you.

ALINA M. SEMO >> Thank you. Deb.

<< Applause >>

All right. Good morning everyone. Thank you again for joining us for our fifth meeting as Deb just said of the 2018-2020 term of the FOIA Advisory Committee whether you're here in person, via telephone or via live stream. I note that Joan Kaminer is unable to join us today. I also see that two other members who are not here yet, Emily Creighton and Lee Steven. We will announce them as they arrive and make a big deal about the fact that they're late. Otherwise we will mark them absent.

>> Emily said she's calling in.

ALINA M. SEMO >> Hey, James Jacobs?

JAMES R. JACOBS >> Hi, I'm here.

ALINA M. SEMO >> Good morning.

JAMES R. JACOBS >> Good morning.

ALINA M. SEMO >> Lizzette Katilius are you here?

LIZZETTE KATILIUS >> Yes, I'm here.

ALINA M. SEMO >> Ginger McCall?

GINGER MCCALL >> I'm here, Good morning.

ALINA M. SEMO >> Good morning, Ginger. Michael Morisy?

MICHAEL MORISY >> Good morning. I'm here.

ALINA M. SEMO >> Good morning. Michael.

ALINA M. SEMO >> Abioye Mosheim.

ABIOYE MOSHEIM >> Good morning, I'm here.

ALINA M. SEMO >> Good morning, Abioye.

ALINA M. SEMO >> Patricia Weth? If Patricia calls in she will announce herself. Anyone else on the phone that I missed that I did not call out? All right. I will work frequently to check in with those of you on the phone, but if I forget, please remind me. We do again have a very robust agenda. I will do my best to keep it moving along and stay on schedule so we can end on time. I

have a few housekeeping notes as most of you know the FOIA Advisory Committee which reports to the Archivist of the United States provides a forum for public discussion of FOIA issues, and offers members of the public the opportunity to provide their feedback and ideas for improving the FOIA process. We encourage public comment, suggestions and feedback that you may submit at any time by emailing FOIA dash advisory dash committee

PATRICIA WETH >> I'm here --

ALINA M. SEMO >> @NARA.gov. At the end of today's meeting we will as usual have time for public comments. If you are watching us on the NARA YouTube channel someone is monitoring the livestream throughout the meeting. If you have any comments or questions please submit them in writing we will read them out loud during the public comment period. We are livestreaming this meeting and will make the video transcript and meeting materials available on the Committee's webpage as soon as possible.

To promote openness, transparency and public engagement, we post Committee updates and information to our website, blog and on Twitter at FOIA underscore Ombuds. Stay up to date on the latest OGIS activities and comments by following us on social media. Biographies and Committee documents are available on the FOIA Advisory Committee webpage on the web-site. Our sponsors, the AV folks, remind us to please remember to say your name before speaking every single time. I'm somewhat guilty of that I will really work on that today. For Committee members we have laid out the AV reminders around the table; feel free to refresh your recollections with what's written on the page in front of you.

Before we approve our minutes from the last meeting, I would like to recognize the contributions of several of our NARA colleagues whose have assisted Kirsten in her duties as Designated Federal Officer. Two of those individuals are NARA employees whose year-long part-time detail to OGIS has come to an end sadly, Carrie Tallichet Smith, an archivist with the Johnson Presidential Library in Austin, Texas, has provided research for the Subcommittees as well as help with the minutes, which despite posting the transcript and broadcasting on the National Archives YouTube channel we are required to take and post by the Federal Advisory Committee Act. Liz Pickford who also works for NARA has been helping with many logistical details for scheduling of these meetings. We're going to miss very much both of them.

OGIS also has an undergraduate student intern, Laurielle Lambert who has helped with the Advisory Committee work as well. She specifically combed through Chief FOIA Officer reports to gather information for our report on how agencies use technology in the FOIA process. We are very grateful for their service. Please join me in a round of applause for their effort this is past year.

<< Applause >>

Okay. Now we need to approve the minutes from the last meeting, which Kirsten sent around yesterday, she has incorporated edits. Thank you Tom. Are there any other changes or edits that we have to make? No. I'm seeing heads saying no. Folks on the phone you guys are good with the minutes?

>> Yes.

ALINA M. SEMO >> She and I have certified the minutes to be accurate and complete which we're required to do under the Federal Advisory Committee Act within 90 days of our last meeting. Do I have a motion to approve the minutes? Thank you, Tom. No second required, but I'm also happy to entertain one. Do I have a second?

RYAN LAW >> Sure.

ALINA M. SEMO >> Thank you, Ryan. All present in favor? Thank you. Those telephone in favor?

>> Aye.

ALINA M. SEMO >> Any opposed on the phone or in person? Okay, the minutes are approved we will sign them. An important reminder regarding scheduling, walking backwards from our final meeting in June 2020 which seems like a long way away but it will be here before you know it. We are asking Subcommittee to finalize all draft recommendations by early calendar year 2020 with an eye towards presenting them by the March 5, 2020 meeting. In advance of that at our December 6, 2019 meeting, I will appoint a small working group of the Committee to compile recommendations into a final report between the March 5, 2020 and early May 2020. Thank you so much Abioye and Ginger who have already volunteered to be on this working group. We could use a few more volunteers it's never too early. Please let me know if you're interested.

Just wanted to check in, is Emily joining us now. Emily Creighton are you on the phone?

EMILY CREIGHTON >> I am here. Can you hear me?

ALINA M. SEMO >> Hi, Emily. Good morning. So we could use a few more volunteers as I said, it's never too early to volunteer, let me know if you're interested. Ideally all working group members would be able to get together in-person from past experience and the last term of the FOIA Advisory Committee that seemed to work out the best. That doesn't preclude anyone who need to call in, but it's definitely preferred to be in person, we can duke it out better that way.

So before we launch into our substantive agenda I would be absolutely remiss if I did not take this opportunity to recognize that very sadly today is Melanie Pustay's last meeting ever with the Committee. As most of you know Melanie announced she will be retiring from the Federal government after October 3rd. We are immensely grateful for her sustained and tireless contribution to the FOIA landscape not only as a Committee member for three terms but of course as the Director of the Office of Information Policy at the Department of Justice, a total of 36 years at DOJ -- impressive. We have crossed paths many times during our career, first in 1986 when I joined as a law clerk and she was an attorney adviser, I remember going to DOJ aerobics class with her. Federal programs and OIP Melanie and I worked together on high profile and sometimes stressful FOIA litigation. But I especially enjoyed having Melanie as my client.

She was always cheerful even when things were not going too well. Of course now as the director of OGIS Melanie and I have work together not only on this Committee but co-chairing the Chief FOIA Officer's Council. As Melanie acknowledged in her email back to me in July when she shared her retirement news with me, we have certainly done a lot in the FOIA world, but she's the one who leaves us with an indelible mark in America on the FOIA world and on all of us. Please join me in thanking Melanie for her devoted Federal service. We will miss you very, very, much.

<< Applause >>

ALINA M. SEMO >> Okay. So the fun part's over now we have to get to work. So first up is going to be Martha Murphy our Deputy Director from OGIS. We have shifted the agenda around a bit from our last meeting. She is going to come up to the podium, she is here at the podium to update us not only on past FOIA Advisory Committee recommendations but also on Best Practices at the request of one of our Committee members. As you know Martha has done a great job of tracking the recommendation. She will introduce the guest speakers, Eric Stein and Michael Sarich who are linked to one of the past FOIA Advisory Committee recommendations. Take it away Martha.

MARTHA W. MURPHY >> Thank you, as she alluded to in addition to updating the Committee on our progress with the previous Committee's recommendations, we've been asked to discuss how we promoted and assessed the implementation of the Best Practices outlined in the previous Committee Final Report. So I'm going to begin there and provide an update just on the three recommendations whose status has changed since our last meeting. So since the Best Practices were published in the 2016-2018 Advisory Committee Report OGIS has promoted the Best Practices through presentations and publications.

At OGIS's open meeting in May of 2018, we hosted a panel of Advisory Committee members who went over the work and recommendations of the Committee including the Recommended Best Practices. Then utilizing the opportunity for communication offered by the American Society of Access Professionals, ASAP in the summer of 2018 we presented on the Best Practices at an ASAP Food-for-Thought luncheon and the ASAP National Training Conference. Finally in an effort to reach out specifically to the Chief FOIA Officers we held a CFO Council meeting in October of 2018 where the main focus of the meeting was explaining the Best Practices.

Finally we referred to the Best Practices in our 2019 Annual Report to Congress and the President, which was published in March of 2019. As far as assessing the degree to which agencies have adopted the Best Practices, OGIS assessed the implementation of Best Practices when evaluating the response to the CFO question that went out last year. In our published assessment regarding leveraging technology to improve FOIA searches we noted the response to the CFO question showed some progress on three of the recommendations.

I would point you to the assessment which is published on our website for more details. But just at a high-level, we found references to a designated point of contact to approve search requests

within records management systems, which was one of the Best Practices. As well as another creating add-on IT systems or exporting records and finally, making the end goal of responding to FOIA requests a major component when developing the agency's records management system and workflow.

OGIS will continue to evaluate the adaptation of the Best Practices when conducting our agency and issue assessments. So I hope that provided some clarity on OGIS's effort to forward the Best Practice recommendation of the previous Committee. Moving to the recommendations, there has been progress regarding three specific recommendations of the eight recommendations we've been tracking four are complete. One is basically complete pending action of NARA's FAR representatives and three will be launched next year.

There is one change in recommendation number 2. This recommendation was completed when the question regarding leveraging technology was included in the CFO Report. Now, that the [OGIS] report has been published, OGIS analyzed the responses as I mentioned, earlier OGIS published on July 31 of this year an assessment on "Leveraging Technology to Improve Freedom of Information Act Searches." This assessment is published on the OGIS website, our assessment showed that 86% of respondents to the CFO Annual Report questions indicated that they were leveraging some sort of technology to facilitate efficiency and conducting searches. I urge you to examine our assessment for more in-depth analysis.

Regarding recommendation number 3, as I have reported previously, OGIS drafted a Business Case and submitted it to NARA's FAR Council representative, we're actually meeting tomorrow to finalize that draft. So it will be ready for submission to the Council. And finally, recommendation number 1, as you know, the technology Subcommittee of the Chief FOIA Officer's Council was created about a year ago. They have been working diligently and the Subcommittee presented before the Chief FOIA Officer's Council in August. We're fortunate to have the two co-chairs from the Technology Subcommittee here today to discuss their work. So I'm going to move onto introduce our visitors next but I wanted to take a second to just ask if anyone had any questions regarding the status of the recommendations? Questions?

Great. So I'm very pleased to welcome the co-chairman of the technology Subcommittee, Eric Stein is the director of the Office of Information Programs and Services at the State Department. His office is responsible for the department's records management, FOIA, the Privacy Act, classification, declassification, library and other records and information access programs. That's a lot. Michael Sarich is the Veteran's Health Administration FOIA Director, he leads FOIA program with over 300 FOIA Privacy Act officers handling 25,000 plus requests across 151 facilities worldwide in addition to his work on the CFO Council and CFO Technology Subcommittee Michael was recently appointed as the Vice Chair of the American Bar Association's government information and right to privacy section. So thank you and welcome. I'm going to get your slides up here.

<< Applause >>

PATRICIA WETH >> This is Patricia. I'm on the line, apologize my speaker wasn't working.

ERIC F. STEIN >> My name is Eric Stein and Michael Sarich, we're the co-chairs of the IT Subcommittee the Chief FOIA Officer's Council. As mentioned we spent the past year reviewing IT Practices at Federal agencies enlisting feedback from ASAP, the Federal CIO Council, the Chief FOIA Officer Council and then we're here today. This the end of our tour. (Laughter)

What's coming out of these efforts will be recommendations that we'll be talking about today going into a little bit more detail than we went into. Thank you to the National Archives to OGIS, to OIP and to all of you here with us today here on the phone and online. So, if you can go to the next slide. What we've been working on is the past December, almost a year now, just short recommendation that came from all of you to create a Subcommittee. We formed a diverse Subcommittee of -- we formed a diverse Subcommittee of various agencies from very small to cabinet level, diverse record types, anything from form, reporting data, classified information which gets into an area of declassification and other challenges and we have heard that there are diverse issues on technology. When you talk about technology, say we're going to drill down and get more specific with regard to what are we talking about? Because people hear technology you heard "search" mentioned before but there's case processing. It's how do we work in this new electronic era as we transition to more electronic records as we declassify or move things electronically how can be publicly released and save time. Records management is the foundation of what we found. Here we go through and show how we're here today. Go to the next slide, Mike.

In September we were asked to co-chair the -- we've been doing that Mike and I together, here's a list of the agencies that have been participating. There's been a richness of based on the diversity of this group. And we've seen -- we came to the table with a bunch of assumptions a lot of which were proved to be false. So we had to then go back and really listen careful throw the needs of agencies. For example, you get up here talking act how we're leveraging AI and new tools to search -- leveraging AI and new tools of Federal records but a smaller agency says I need a scanner just to digitize records. Some people may be shaking your heads, you're kidding me. They're really trying to comply with the law, that's what they need. You this range is out there. So we're trying to figure out we have this figured out we'll go with large agencies and look at the IT landscapes. We had these great ideas and solutions.

We had to take a step back and really listen carefully to what these agencies had to say we learned quite a bit. So with that, speaking of learning quite a bit I'll turn it over to Mike to talk about how we went about assessing the landscape out there including reading the previous Committee's report and respective recommendations to get a baseline of work that's already been done so we didn't reinvent the wheel.

>> Mike?

MICHAEL SARICH >> It is a real thrill and honor to be here, especially as we send Melanie off to a happier retirement. Through my whole career Melanie has been that exemplar that go-to for FOIA, it's going to be a great miss not seeing you there. But we'll always have your example and your memory and your legacy will carry on for years to come. So thank you.

So as Eric mentioned we had three major mandates here. Had to study the use and deployment of FOIA across the agencies. We're trying to get a snapshot of who's doing what, who's using a scanner who's using predictive AI. Eric mentioned we found an incredible diversity in the field. Some folks doing things with ink and pen. Some people, Sharpies and copiers. And other folks with really advanced robust systems. We're going to talk a little bit about that digital divide we have in the field.

All of the programs, we're all under the same mandate. We all have the same requirement, we all have to process under the same deadlines and produce the same amount of records through requests, we all have the same job to do, but the resources are spread dramatically across different agencies.

And we found in researching the role in terms of where a program is located in relation to the technology it has. So for example if you're in a general counsel shop, then you may be encouraged to use e-discovery software because that's what the other folks in the office are doing whereas if you're in the records shop you may have access to different technology that's more field specific. That was interesting where people sit depend on what they see and what access they have. We'll get into some programmatic recommendations later in the presentation. But the major take away from this first portion to study the landscape of FOIA was that there's a huge market for improvement. People out there are working very hard they want to be the best!

They want to make sure that they're getting requests out in a timely manner. They don't want their agency to be looked at in a negative way, in some ways FOIA can be a public relations issue for some folks, right? They want to make sure that they're getting their information out quickly, and that they're being responsive to their requester community.

The one thing that we've seen for sure in this process is that if we keep doing the same things that we've been doing with the same level of resources we're going to get left out of the results in the long run. Requests are increasing in complexity, litigation throws sand in the gears of operations, and things become more and more difficult over time. We must embrace technology, new techniques and methodologies if we are going to continue on the course of improvement that we're all seeking in this profession. So I'll turn it over to Eric to talk about some of the Best Practices we found before we move into the thematic broad-based recommendations for the discussion.

ERIC F. STEIN >> The Committee met once if not twice a month to discuss how we're going to approach these tasks. The first, Mike and the team went through every single Chief FOIA Officer report the look at where different agencies were and what they reported. We then also took the experiences of our members in the Committee to understand what real problems do we have within the agencies? But that's very insular. We also thought of the public and those of you outside of agencies, what issue to you have? Most of the time it's you want other information faster. I can tell you from what we've seen, agencies really are working to do their best, the best are different. We're getting to Best Practices, it's great to say we have the great e-discovery tool go buy it. It came down to understand what are the process problems? And what are the needs of the agency? What type of records do they maintain? And that's probably the biggest point and

take away is that there will not be one-size-fits-all solutions. The more we looked at this, if we're looking at FOIA IT -- looking at FOIA IT we're looking at a broad range of issues, which is why our recommendations will touch on all of these points. Because whether you're looking for contemporary reporting, something that is a major cabinet level agency does on a topical issue, or something that really matters to you personally because it's some privacy matter related to you individually we didn't put weight as to who's more important we looked at what are the issues and how do we resolve them. Identifying Best Practices, the first one I mentioned before, you say you're an IT what are you talking about? Records management matters. And going to the June 2019 memo that's going to be very helpful in framing how agencies move forward, what electronic records are available. It also get to making sure FOIA programs and records officers and records programs understand one another and what they're doing, and understand what agencies already offer publicly, and have really assessed what are they getting FOIA requests for? And have they leveraged and put their resources in place in such a way that align with the tools and technology that allow for processing. We found that sometimes again, this doesn't sound like a technology recommendation but it is, we ask agencies did you ask for more resources in did you ask to pivot? Have you put in place, have you reviewed your contracts? Some of them said yes, some of them said no. Just starting with records management matter, I think that's something everyone here agrees.

A point that came out we'll touch on this later is that having champions within agencies matter. Senior level officials and what does that mean? Some people think it means the Secretary or cabinet-level official, it could be your CIO, it really depends on as Mike said where your FOIA operation is. But having senior-level buy-in matters because it says to the workforce, this is serious, we should -- we take this seriously, and you should to.

Other tools, other things we found interoperability between records tools and FOIA case processing tools matter. And what we found is several agencies are using several different tools. They're not interoperable. And as a result of that, you have these piecemeal solutions we use tool A to do our case processing, but we use tool B for the redactions, we use tool C -- then afterward we release to it the requester but they don't publish them online. At State we adopted one release to all. Not only to technology but state of requesters saying have you checked our FOIA website? That's another thing, leveraging technologies like websites, how do you post more records online? A lot of that agencies have the means of doing so, some don't, it's great if you feel like you have that support but we may not. So the flipside is, publishing records online, a lot of agencies haven't considered doing that yet. There's this aversion, well if you're going to release everything online, you're going to release something you shouldn't. Well, our view has been, we're not doing our jobs then.

MICHAEL SARICH >> Exactly.

ERIC F. STEIN >> That's where the exemptions exist. Looking at other Best Practices and recommendations, we had interoperable tools. We also needed to again look at problems, which problems are we trying to solve, we talked about records, case processing, re-talked about redaction. We'll be looking at, I'll segue over now to Mike, recommendations that are meaningful and probably the biggest one that's going to come out of this group is having some sort of body and opportunity for agencies or group that agencies that really want to make change and improve

can reach out to. I think that's partially what OGIS and OIP do, but given their mandates and demands we found instead of saying agencies you must adopt one of these six practices, those who are serious about change don't know where to start. One small agency came up and said that's great all this stuff you're talking about is wonderful, however, we just need a simple redaction tool. And I'm not even sure about how to get that. And I appreciated that feedback and the agency preferred not to be named. That's fine. Creating an environment where people are willing to talk. That also matters in hearing from the public perspective, are you getting information the way you want? The means you want it in a timely manner? So with that, I'll turn it back over to Mike to talk about recommendations.

MICHAEL SARICH >> There's a number of additional recommendations that will be in our forthcoming paper, one in paper that we talked about before we transition to the broader thematic recommendation, leveraging the budget cycle. Make sure that you make the opportunity, frequently you'll go and ask for something, you'll get re-buffed and that's it. But try, try, and try again. Especially this time when money is getting swept, budgets are getting consolidated. When you're in this business for a lot of years, you learn there are pots of money, if you have a project that's prepared, shovel-ready if you will, shovel-ready FOIA programs and improvements this, is a great opportunity. So kind of strike while the iron's hot. Understand the dynamics in your agency in terms of where the money is how you can leverage that. And keep asking, keep knocking on the door until they say yes.

You may not get the full request, but through time you will get more. So working through the objectives of the Committee our sense was that the Best Practices that Eric outlined and the recommendations I'm about to share and Eric is going to share really is going to be the value that's going to come. Because we really wanted to make sure that we add actionable tools for people, things that people can actually take away from this and really make a difference in their FOIA programs the themes of these three recommendation, recall we're going from large to small. These are things that everyone can do, no matter the size of your agency. The first thing thematically we'll talk about leveling the playing field for folks in terms of access to information, access to programs. And we'll talk about Eric previewed lending a hand. How do we help those folks get to where they want to be? Finally something that I'm very passionate about, that's sharing the word, that's readying the information success stories. Because really, when you look deeply into what's going on into the FOIA world it's a good news story. It's not being portrayed as a good news story but I do think question that by sharing the word.

ERIC F. STEIN >> I would just add, as much as there are good news stories, there are real challenges. So part of these foray to discuss those challenges in a meaningful way where people put their guards down really can get to what's the core issue not the one up here, you waste all the time up here discussing this when really the problem's been down here.

MICHAEL SARICH >> One the great things to start to level the playing field is when we have these meetings on our Subcommittee level some of the greatest conversations come from kind of the side talk before and the after, I think as you guys can all appreciate. When we talk about we learn about the way things are going on at different agencies. So one of the things that we found in reviewing the reports is there's no fewer than 26 unique programs and platforms used in the FOIA world that people have self-reported. These range from the whole world of usual suspects,

the commercially available off-the-shelf products, the normal office suites of different product to home grown systems that folks are in the process of updating, replacing or moving forward on.

Because programs exist in different locations in the organization with differing levels of support, some folks have a real challenge in terms of going out, they know what they need, or maybe they do not know what they need to start off with, they have a real challenge in making that argument and moving forward. So one the things we had a great opportunity to meet with the CIO Council we talked about partnering with GSA to have a kind of a minimum standards or a benchmarks if are what these programs should and can, and must indeed do to successfully manage a FOIA program.

And so, a big way to kind of level the playing field is going to be to get these programs or work to get these programs on a GSA schedule so every Federal agency will have access to these. It doesn't matter if you have 50 or 50,000 cases I don't say view the same access the same state-of-the-art technology at a price point that makes sense both for the agency and the taxpayer. So having the records management software, having those FOIA products available, and when I circle back to sharing the word I'll talk more about access to these programs, access to the technology and finding out about that.

But, we're going to transition and talk about the second theme and Eric will talk about lending a hand. How are we going to help those folks out there in the smaller agencies? How are we going -- I'm in the second biggest agency in the Federal government in terms of people, 9 million veterans. We're doing stuff every day. I have resources can I do things. How can I help the other agencies the smaller requesters? Eric will talk about what our Committee determined and some possible next steps for how we can lend a hand.

ERIC F. STEIN >> I think if you go to the next slide, tomorrow's today. Every day the past is another opportunity that we're missing to move forward and move in these directions. Mike did you want to go back --

MICHAEL SARICH >> You're good.

ERIC F. STEIN >> Okay. Sorry. Always best to lend a hand. We talked about creating an environment where agencies can talk. Several agencies did express interest in understanding better what are their options. So as Mike had mentioned creating a venue or an opportunity where you can discuss here's what we've learned, coming up with these custom-tailored solutions to agencies, doesn't have to be hundreds of tailored solutions, but maybe buckets or groupings. Because there are relevant -- there's overlap in the issues among a lot of the agencies. So how to best lend a hand, creating an environment -- where do I go? You can go to OGIS, OGIS can reach out to us. As we look for the next steps for this group the Subcommittee, these groups tend to exist and then they can linger and go on forever, our plan is to sunset at some point.

And the question becomes after we draft these recommendations this month, what if any role does this group have moving forward and what do we need to provide to agencies in? How to best lend a hand, getting the word out, letting them know what's available. Let's talk about that for a minute.

Sometimes just hearing what the issues are and saying, have you thought about contracting out a solution instead of developing one in-house? We've had this one forever, we love this solution. But there were backlogs growing we're not able to keep up with demand. Well, have you teased that out and thought about it. What's the issue? We can't find the record -- what's the issue? Now the bigger issue we're seeing is we're inundated with records, those who have adopted technology for e-records are finding a lot of nonresponsive material that, slows down the FOIA process as you're working through, doing searches and you the overly broad requests that come in, I want everything on this one word, you're getting -- how do we better have a dialogue with the public and requesters and understanding what exactly are you looking for.

Because we and agencies want to respond. And this isn't so much a technology issue. Because some groups we talked to say technology will take care of it. I have not seen any AI yet for right now, it's coming up with the use cases, the examples. What can we do now to find results? I know for example, what we're doing is making our E-records solution interoperable with FOIAXpress to export those records over and then work through them that way. There was another way of looking at things.

So one of the things to lend a hand looking at the requirements of agencies. Some Federal agencies actually went through the exercise of understanding whether their FOIA programs are centralized or decentralized and gathering the requirements for their program for our intake -- we do this, this, and this. For our search of records we need to do this, that, and that. Those that listed out core requirements are actually moving faster and understand better what the issues are and the solutions they need. We found the other agencies that were struggling hadn't even considered that. Some of it comes from people are so busy and overwhelmed trying to comply with mandates increasing demands of request, volume, litigation, electronic records that they don't take time to pause and then think about these things.

So it's help too. Have feedback and recommendations from a group like this where you're come at it from a different angle, just taking the time which doesn't sound like much, but it really does matter to think about the issues and figure out how do we bridge these gaps. How to best lend a hand, the represented accommodations -- I listed -- I previously went through will be written up. Our plan is to finalize that draft this month.

Part of that will also be a series of recommendations and then some practical solutions. And I think Mike will talk about some of those in terms of how to best share the word and next steps.

MICHAEL SARICH >> Right. Right. So we have 100 plus agencies doing this and they're working hard every day right? So in some ways you have 100 plus people trying to bend a wheel every day. But there's a lot of people who have a really well-working wheel that spins and things work. Lots of success stories, Securities and Exchange [Commission] and other agencies that are really getting it done. How do we share that word? I used to think I was really in the loop with things. But then when I got involved in this Committee and really started to have some dialogue and do really deep dives in agency processes and looking at processing manuals and looking at SOPs and how agencies do things and how some agencies embrace technology and how they don't, there's a whole world out there that as Eric mentioned, most folks frankly don't have the

time to maybe study another agency, you're busy studying your agency, trying to figure out how the make your wheel faster and grease the axle to move the request out in 20 days. Champions in the FOIA Committee, Melanie has been a champion, I looked to OIP for guidance in terms of what are the Best Practices what, is the guidance on this issue? Where do I look for people? Mike Marquis I looked at his processing to see how can I bring these great techniques, this intelligent case management to make sure I'm assigning cases properly? And I'm someone who's invested a lot of time to learn that.

Our job I think is with the modalities of communication that we have now it's almost criminal not to be able to spread that word and share that word in the FOIA community and show those he exemplars and say look, it is possible to get these out. Other people are doing it. In some ways you can't just cut and paste because you don't have the same resources. Because there's going to be good ideas in those programs, right. You're going to be able to take some intelligent case management ideas from Mike, pull some things from SEC, pull things in in this kind of palette of colors and paint your own picture from your program. But you won't be able to do that unless we get better as a field in sharing that word. There's been some discussions in the Committee in terms of how about being something like a FOIA Federal -- a people would come in and people that had programs that would help you in your field, they would come in and they would present them. And so working with industry to see how we can make that happen while saying, -- staying in line with contracting procedures and ethics and et cetera. But we found that through that technology and sharing that word we can sharpen our processes and refine our operations. And we can make that improvement through innovation because, you know, frankly we don't have a hundred more people busting down the door at the Veteran's Health Administration to come process FOIAs. We have to have a solution. One the great things in working in this field and the Technology Subcommittee is access, I'm bringing it to the Veteran's Health Administration and the State Department, we want the make sure we're getting benefit from that and share the word.

In doing that we'd like to transition to engaging this body and discussion on how you think we can best level the playing field how many we can best lend a hand and best share the word. Because our report is pretty robust at this point. But it can also benefit from the expertise of a panel like that.

ERIC F. STEIN >> Just a closing point. In looking at the FOIA process, how agencies process FOIA requests it's also understanding the 1256 [job series] you have and available. A lot of agencies have 306 Government Information Specialist employees, some use attorneys, I mentioned in the past at State we'll start leveraging librarians to do searching. Who better to find information than people who were trained to find information. Especially as we move into this sea of electronic data that's overwhelming. Looking at data scientists, the different job series, you know get a contract. Show the contract written with the statement of work? What exactly are you asking for? What services, tool, et cetera? The needs will be vary and there needs to be flexibility for agencies to maintain autonomy, but again sharing these ideas sometimes just leads to that's what they're doing, it doesn't work for us, I never thought of it doing it this way ourselves. We're very interested in the thoughts, feedback, anything that we covered. Otherwise we open it up. Thank you. Thank you.

<< Applause >>

ALINA M. SEMO >> All right so as Eric and Mike said there are definitely very interested in our feedback, our reactions. -- our feedback, our reactions. Anyone have any questions that they are dying to ask? And that includes folks on the phone, just speak up.

MELANIE PUSTAY >> I want to say thank you both. I want to just say to say that I think your work has been really excellent. It captured so many things that you said they resonate with me so clearly. But particularly I like the idea of recognizing that there isn't a one-size-fits all, really, there just isn't. Because the diversity of the FOIA landscape is so vast, but at the same time, being able to pick and choose. That was a beautiful way of saying it like to draw your own painting. You know, to the extent we can share that, share the colors with one another, I think it's really for the overall benefit of FOIA. So thanks very, very, much.

MICHAEL SARICH >> Thank you. And again, thank you for the opportunity, the members of the Committee that aren't here, I would be remiss if I didn't discuss the robust contributions of the more than a dozen agencies and groups that we've been able to benefit from. So to have that large of a sample size of agency operations for people to share their first-hand experiences in doing this work, you know, day in/day out every day and how they're meeting their mandate and working with requesters has really just been fantastic in terms of the FOIA professional's own career development in terms of learning.

ERIC F. STEIN >> And after those meeting to discuss some of the issues we're having and that has helped us go back and maybe think at our agency, why are we doing it this way?

MICHAEL SARICH >> Exactly, and just the opportunity to have agencies as Eric discussed that have taken the time to do those line-by-line need based analysis of what -- need based analysis of what exactly do we need. That intellectual exercise, that exercise to use the resources create a product at the end of the day to say hey look, contractor, whoever, this is what we need can you do this really makes you refine your own processes. It really makes you think what do, I really need because I'm going to be paying for it. If I don't need it why would I pay for this.

ERIC F. STEIN >> We asked who's leveraging AI and how are they using it? And what we found so far it's mainly records programs, I have not seen a FOIA program leverage it yet to do advanced redactions or anything. But I think we're at a point now where we're starting to understand how the technology works, how it works and how it works in Federal agencies and in their IT landscape, we're moving. So for example I've seen firsthand what machine learning's capable of doing, it's very promising both from a records perspective, that will only reinforce FOIA programs and any other program for access for public records.

MELANIE PUSTAY >> Yeah, Melanie, again, we've been -- we're at the very, very beginning stages within OIP of exploring AI. We want to -- as we usually do, we really like to try to try things out so that we get some hands-on experience first. Obviously AI is so promising, and the idea of being able to have any sort of assistance with processing being done electronically would be really a huge game changer.

But you're right. It isn't just -- it's very difficult and challenging. It isn't easily translatable yet to FOIA. But we're hoping as we get moving on our exploration of it that then we'll be in a position to start sharing. That's definitely the future.

ERIC F. STEIN >> This exploration is definitely creating an opportunity for employees to get comfortable with technology and AI. People hear it they think I'm going to lose my job. You're welcome to continue combing through hundreds of thousands of nonresponsive records if you'd like or we can get to the actual material that people are looking for.

MICHAEL SARICH >> Right. Not to give away too much in our report, that's part of sharing the word inside and outside. At the Veterans Administration were the first directors of AI as a position. So the first thing that I did was go talk to him and say, doctor, -- here's an opportunity for you to get a program, to have an early success how can you work in this field, helping us. It's sharing internally and externally, inside of our field but also sharing up the chain and letting people know what your needs are. And I think more and more agencies as Eric mentioned are going to be in this field. More and more people are going to be --

MELANIE PUSTAY >> It's the frontier for news FOIA.

MICHAEL SARICH >> When you're looking at resources, you have administration-level interest in AI. So I think if you can tie yourself to that that's a good thing.

ALINA M. SEMO >> Thank you for all your work as co-chairs Melanie and I definitely look forward to your report. Please hurry up before you retire. I think Jason has a question or a comment or probably maybe both.

JASON R. BARON >> Eric, Michael I'm heartened by your message here about technology. And I think if you stick around for the rest of the meeting you'll see that you're channeling the thoughts of our own Subcommittee that Ryan and I are on in many ways. What I didn't hear during the presentation here is an outreach to the private sector which is filled with solution providers both for FOIA and e-discovery on AI and machine learning.

So I guess the question is, would we expect as part of your recommendations to encourage agencies to do RFIs or some kind of outreach to that community to tap their expertise and to have things like vendor days or some kind of industry day where you're interacting and you're getting the best thoughts from that community.

ERIC F. STEIN >> So that's excellent. The RFI piece in particular, I think making sure agencies are clearly understanding what RFIs are. It's somewhat innocuous and having vendors come in. One thing we did discuss the agencies and we did hear, that's great, Eric and Mike you have all these ideas all you will show us are tools that we won't be able to buy. We don't have the money or the resources. So we said that's not a great approach, we thought about partnering with another agency, interagency agreement, leveraging across the government instead of saying no that's not going to work. I think we can definitely incorporate the RFI other some proposal. In terms of feedback, we have presented at ASAP, we have received some feedback, some feedback, we

have not done outreach because we were trying to understanding what are the needs of the agency and in that incorporate that. But there's a value-added not just from the private sector but the public as well.

JASON R. BARON >> I have a follow up. Did I hear you they the Technology Subcommittee is sun setting? And if so ...

ALINA M. SEMO >> We're not letting them sunset. They did not ask us for permission.

ERIC F. STEIN >> We're going to solve it and go away. (Laughter).

JASON R. BARON >> Explain to me why it wouldn't be a continuing mandate for the government to avail itself of a technology Subcommittee on an ongoing basis.

ERIC F. STEIN >> I think we're very open to that, but a lot of Subcommittees and groups look to perpetuate their own existence for a long time. We would like to come up with a recommendation. We understand we serve bodies, those bodies have to make a decision. I know Mike and I discussed if we would stay on in this role or how that would work. We thought it was presumptuous to say we will do this forever because it's needed.

JASON R. BARON >> Speaking only for myself, I would be happy to make a recommendation coming out of this Committee that the Technology Subcommittee continue.

MELANIE PUSTAY >> Well, I understood exactly what you were saying. And I actually -- I think -- I member you for saying that you see your work as -- I commend you for saying that you see your work in no way saying that technology will be like okay, we've solved technology for FOIA. Obviously we're never, when you think of how far we've come. But I understand the wisdom of saying, we're doing a discrete thing then we'll take the next challenge as its own thing.

ERIC F. STEIN >> We have a wonderful team but we are pulling from resources from agencies, while it's a phenomenal commitment of time, it still is a commitment of time, it's a nominal commitment of time there, have been challenges, we've actually enjoyed this, it's been a great opportunity, I'm very grateful that we've been able to do this. Absolutely.

ALINA M. SEMO >> Questions?

PATRICIA WETH >> Hi, this is Patricia Weth. I wanted to thank Eric and Michael for the presentation. Your point about getting leadership behind you is everything. I've been at agencies where we've had leadership support and it makes such a difference. And then I've been at agencies when you don't. And it's night and day.

But one thing I wanted to share, and it kind of follows up on Jason's point. I think Jason mentioned something about an industry day. And oftentimes when I go to the DOJ trainings, or the DOJ Working Groups that's the only time that you know, during a Q&A where some of the agencies can share the different technology that they're using. And I feel like we, with the

workload and everything we get a bit isolated and we don't know about all the other technology out there.

And doing an RFI is great, but I would love to have something like what Jason said, like an industry day, or a conference, or maybe that's something that ASAP could facilitate, you know. Oftentimes they have vendors that come in. But I think the problem for us is we don't know everything that's out there. And it would kind of be nice to have it all under one roof so that all the agencies could see the possibilities. Because, you know, we need help. And I think technology is the way to go.

ERIC F. STEIN >> I think that's a value of the body like this. We now have enough experience and understanding of what the landscape looks like to say all right, here the issues you're saying you have, we're also hearing this and this with other agencies, here's what they're doing, and then the next step would be here are the tools available and making sure there's awareness.

MICHAEL SARICH >> Exactly. The different stovepipes, -- the one thing that I started my career at the Bureau of Land Management, so I try to be aware of this, we're in DC, we think that everything is here. But there's a big huge government worldwide especially in the Veterans Health Administration, doing this work all across the world. So we want to make sure we're able to share the word with those folks that may be based in Denver or Los Angeles or San Francisco, pick a American city where this work is also being done the make sure that they also get the benefit from that, so that kind of industry day, that FOIA FOSSE, that ability to get that word out is critical. We're working in stovepipes sometimes. We're all so busy that to have the opportunity to learn what is going on across the Federal family is really critical if we're going to keep our programs moving.

It doesn't do the field, it doesn't do my administration a great service if we improve the FOIA program at the Veterans Administration but doesn't do that same service to the Social Security Administration or a different administration because we don't tell them about it. So having that industry day and sharing that word I think is critical moving forward if we're going to grow as a community.

ALINA M. SEMO >> Other questions on the phone? You guys are not very lively today. Come on, wake up! (Laughter). These guys came here to get feedback from us too.

ERIC F. STEIN >> That brings us to this slide here, if you think of anything after the fact you can email me and Mike and share that feedback. Next week we have a meeting where we really seek to wrap-up our paper, while it's robust we kept it robust yet succinct, so people will read it and see what comes out of this nah in the next steps. Submitting that to OIP and OGIS then waiting to hear next steps in the meantime, very happy and welcome feedback to share with the group, that's a great team we welcome that. Thank you. Thank you. All right, thanks.

<< Applause >>

ALINA M SEMO >> We're super, super early, because I expect a robust discussion with Eric and Mike. And so, I'm going to go ahead and take a break which would have been normally at

11:30, but we'll give you a little more time. So let's come back at 11:20. Is that okay? Jason? Okay. So let's take a break. Just a reminder, if you want to purchase food or drink from Charter's Cafe, on this level you may do so but you may not bring it back in here. There are restrooms directly outside the theater, another set near the cafe. So please enjoy your break. And talk amongst yourselves and please be back here at 11:20. Thank you.

(Break until 11:20.). OGIS Freedom of Information Act Federal Electronic Records Modernization Initiative Federal Electronic Records Modernization Initiative

ALINA M. SEMO >> So, we're gathering back everyone. Folks on the phone if you could reengage, we would very much appreciate that.

>> Hey, Alina I'm still here.

>> Hello, this is Michael.

>> This is -- hi. (multiple people speaking).

>> Liz is here too.

>> Hi this, is Patricia.

ALINA M. SEMO >> I totally understand. All right. So I think we're back. Glad that we have a little more time today for the Subcommittee Reports. And are folks back on the phone? Is everyone there? Do we have Abioye?

>> Yes, I'm here.

>> Hi, Abioye. Ginger?

>> Yes, I'm still here.

>> Hi, Ginger, thanks. James are you still here?

>> I'm still here, thanks. Lizette?

>> Great.

>> Great. Michael?

MICHAEL MORISY >> I'm here.

ALINA M. SEMO >> Patricia?

PATRICIA WETH >> Hello, I'm here.

ALINA M. SEMO >> Okay great. And Emily?

EMILY CREIGHTON >> I'm here.

ALINA M. SEMO >> Emily are you still there?

EMILY CREIGHTON >> I'm here. Can you hear me?

ALINA M. SEMO >> Okay, great. Thank you, I just wanted to do the roll call. So we're back. Hope everyone enjoyed their break. I wanted to just thank everyone very, very much for the great work the Subcommittees are doing. I know everyone's been working very, very hard, I'm very much looking forward to each of the reports of the Subcommittee. A lot of the work has been conducted between meetings and that's very, very important to the work of the whole Committee.

So I am going to switch things up a little bit from the published agenda because the Records Management Subcommittee Ryan and Jason actually have a lot to present. And I want to give them the opportunity to have time to present and time to get questions and comments from the rest of the Committee. So, with that, I'm just actually going to flip it on its head and first would invite to hear from the Vision Subcommittee co-chairs. And I believe that's Chris today since Joan is not here. Correct? And you're going to update us on where you are and raise any issues you would like for the Committee to hear.

CHRIS KNOX >> Absolutely. Chris Knox. This will be quick in the interest of time and the Records Management Subcommittee. As discussed in the previous Committee, we broke our Subcommittee down into four distinct work streams in order to facilitate our mission of a shared vision for the future of FOIA, those four work streams are, raising the priority of FOIA within the executive branch in agencies that's lead by Joan who is not with us today. Reconsidering the model of OGIS within the FOIA community that's lead by Patricia who's on the phone. Manage expectations of FOIA agencies and requesters that's lead by Kevin. The need for increased financial support for FOIA programs that's lead by Michael the phone. Since our last meeting the majority of the work has been focused on crafting, finalizing and releasing our survey targeting FOIA agencies and requesters. That survey was launched at the ASAP training in July. Kevin has been instrumental in leading the responses, he'll provide an update in one second. The priority work stream lead by Joan is planning upcoming interviews with those on this Committee. We have not finalized the structure of that, what that's going the look like, that's over the next couple of weeks. Patricia in her work stream in OGIS's role in the FOIA community they've looked at OGIS and moving onto other bodies doing similar work, they're looking at state, Federal and international ombudsmen, they plan on bringing that research back to the Subcommittee for digestion and recommendations back to this Committee. Kevin, if you have a minute to take over the update on the surveys please?

KEVIN GOLDBERG >> Yeah. Thank you. So this will also double dip a little bit because we're implementing this survey as part of the Time/Volume Subcommittee, the two surveys. I would

be remiss if I didn't thank Sarah, on writing the questions. I wrote the agency officer questions; she wrote the requester questions.

SARAH KOTLER >> I have a lot of questions I would like to ask FOIA requester that have been on my mind. I finally got that opportunity.

(Laughter).

KEVIN GOLDBERG >> Bradley, Joan, Emily and Michael helped edit. When we got into the actual implementation, Suzanne was really useful in using the survey and research knowledge in putting this survey together we could not have gotten this done. Where we are now is we had put out, I think it was 12 questions to the agency officer community as you said mainly through the assistance of ASAP which Kirsten helped shepherd through. Ten questions to the requester community which Michael helped us to promote. We have I believe it is about 100 responses from the agency officers, and almost 90 from the requesters, which I like.

It's going to give us a strong base of information to work with, but not an unmanageable one. I think, we hope. Suzanne and I were just talking about this a minute ago as to how we're now going to take what are again, about 100 responses to 12 questions, i.e., 1,200 individual responses, and make sense of them. On the other side another thousand or so individual responses and make sense of them.

But that is the next step. And remembering that what we're taking out of these, even though they were the same questions used by two Subcommittees, what we're trying to pull out from them are two different things. So Time/Volume what we're going to be looking for in the responses are a little bit of here and now and a little bit of future, but geared toward what are the individual processes that are not working, that are working and what will our recommendations be for, you know, effectively for lack of a better term reducing backlogs. Managing expectations we're hoping to find within the same responses the idea that requesters think this and we can't do this.

So there's a disconnect that is also causing problems. So there's going to be overlap. But we're really hoping that we're getting information out of it is that going to answer two different questions for us at the same time. And the next step will be out do we make sense of all of this this we'll be talking about that as I'm sure on both sides of the Subcommittee. But I'm certainly going to work with Suzanne to find a way to make sense of these now magnitude of responses and bring them back to the greater Subcommittees for kind of what we're going to do is hopefully pull out themes that then become recommendations.

ALINA M. SEMO >> Kevin, I'm sorry.

>> I was going to ask is the survey closed?

KEVIN GOLDBERG >> It will be closed on Monday, yeah. Because ASAP actually had a privacy convention this week in Chicago and we decided to leave it open. We originally said we would shut it down right after Labor Day weekend. But then Claire reached out to me and said hey would you mind if we kept it open, I said not at all.

CHRIS KNOX >> So obviously next steps is digesting that survey. That's going the feed the majority of the work that the work streams the four work streams that we talked about are going to be reviewing and digesting going forward?

KEVIN GOLDBERG >> Yeah, I mean really what we're looking at for vision from the survey was again managing expectations. So again you have some of these questions, for instance, on the agency officer side, a couple of them were can you identify a couple of areas of confusion for requesters. That might be useful for Time/Volume if requesters don't understand what it mean to write a FOIA request. But if we get answers that are more about managing expectations, the people just call us every day and don't understand how long it takes us to actually do one thing, you know, to oversimplify the possible answers then we're going to be able the use that and find the themes that come through. If we do find, four, five, six, seven we hope we'll plug those in and try the use those recommendations.

ALINA M. SEMO >> Kevin, I just want the thank you for being a constant presence at the ASAP National Training Conference, you were there every day. I think that was very helpful just to solicit and get folk to focus on the fact that there was a survey available for them to take. We obviously didn't force anyone it was all voluntary. But I think you did a great job just being there every day. So thank you for that.

CHRIS KNOX >> I'd like to reiterate that, thank you, Kevin and to Suzanne, Sarah and Michael they've really driven the survey through for us and we really appreciate the work.

KEVIN GOLDBERG >> Yes.

CHRIS KNOX >> Thank you.

ALINA M. SEMO >> Anything else, Chris?

CHRIS KNOX >> No, that's it.

ALINA M. SEMO >> Any questions from the rest of the Committee for the Vision Subcommittee? Any questions on the phone? Okay. Very quiet today. Okay. So let's move onto Time/Volume Subcommittee and I'm looking at Bradley because I can't look at Emily. Did the two of you did you talk about who is going the present?

BRADLEY WHITE >> This is Bradley here, we did and our answer was Kevin. (Laughter).

ALINA M. SEMO >> Okay. Good.

So yeah. The survey was the biggest thing that our Subcommittee had going on and you just heard from Kevin.

ALINA M. SEMO >> Okay, that was the shortest report that I've before heard. (Laughter).

ALINA M. SEMO >> Now we have a lot of time for records management Subcommittee, Ryan and Jason. So seriously any questions for Time/Volume any other issues you guys want to talk about? Any other comment to the folks on the phone? Going once, going twice, okay. Please, James.

JAMES STOCKER >> The international Sub Subcommittee has been meeting in the meantime maybe we haven't done a good job, I'm not sure Abioye might want to say something about that, because she brought up some wonderful notes from our meeting that I don't have in front of me just right now.

ABIOYE MOSHEIM >> Sure, I can pull them up. Hold on just a second. So yes, we met on the phone last night, yesterday. We have been doing research on different countries FOI laws since July, we met yesterday to discuss our findings. Everyone is currently in the midst of researching their countries but we noted a couple of things that we had in common. One is we're having trouble locating particular pieces of information related to budget and cost. So we shall going the reach out to those countries FOIA offices directly to see if we can get that information. Some other things that we discussed that most of the countries have fewer FOIA requests each year than the U.S., we're not clear whether this is because countries have procedures for accessing information out FOIA process the FOIA. Ginger found out that in Chile they have very stringent practice disclosure provisions with a comprehensive list of what must be required online and required to update that information every 30 days. And James found that in Switzerland there's an accelerated appeals system that helps the parties reach an amicable resolution. These three issues may form the basis of our recommendations. We plan on concluding our research by the end of October.

ABIOYE MOSHEIM That's all I have. Hello?

ALINA M. SEMO >> I'm sorry. Someone else.

ABIOYE MOSHEIM >> That's all that I have sorry.

ABIOYE MOSHEIM >> Thanks, Abioye. I really appreciate that. No other Time/Volume but we look forward to your next Subcommittee report at our next meeting. It has to be more than one minute. I promised Jason and Ryan a lot of time and I think you now have it. And I'm very much looking forward to hearing what you have all pulled together. I know you've been working very hard, I'm very grateful for that.

I'm looking around, I know Lee and Tom are also on that Subcommittee. So feel free to chime in. And Bradley, sorry about that. Yes. And James Jacobs is on the phone. Yes. And I believe that Kirsten circulated, there should also be if hardcopy in your folders assuming you have in your folders the hardcopy of what the Subcommittee has pulled together. Does it look fairly similar to the one that we had circulate add couple of weeks ago? Has it changed?

JASON R. BARON >> It has only changed in that we're presenting in the main 7 recommendations not 8 here for the full Committee's consideration. I do hope that James on the

phone has an opportunity to present his ideas about what might still be a recommendation, one or more. Can I just yield -- if Ryan can yield to me for one second? -- as a point of privilege, I'd like to say something to Melanie which is that, I don't know whether I'm going to be invited to your retirement party after --

ALINA M. SEMO >> I asked the same thing.

JASON R. BARON >> -- after this session, but you are an unsung hero of the government. The Office of Information Policy, Dan Metcalf and yourself, have been pillars for hundreds of agencies for decades. Government service of 30 something years I have 33, you said what? 36, you know, we work outside the spotlight. People don't know what you do. The FOIA Handbook is used by thousands out there in the larger world, larger community.

I point to it all the time in private practice with commercial requesters. And I say that the expertise is unparalleled. So I just want to say my own thank you for your public service, which has gone not unnoticed by some of us. So with that, Ryan is going to start us off and then I think what Alina wanted us to do is rapidly kind of walk through the seven recommendations, just as kind of -- just to give a little summary of each and then go back and for people to dive in on each one, but to sort of give the landscape, both for us and for the larger audience as to what the Subcommittee has been recommending.

ALINA M. SEMO >> It can be done in a more leisurely pace. You don't have to do it rapidly.

RYAN LAW >> Yeah. Yeah. All right. Hi, Ryan Law, so thank you, Jason, Alina and I'll second Jason's comments here, Melanie. The one thing I've learned from you and hope to aspire to do, every time you appear before Congress you seemed so calm and collected. I hope I don't ever have to be in that position but I aspire to be just like you in that regard. So thank you.

The Records Management Subcommittee since our last full meeting has met three times, we've been busy at work going through our recommendations. We have today planned to present seven proposed recommendations and we'll pause after each to collect your feedback and comments. Hopefully we'll have a good discussion. So I want to kick off by jumping right in and talking a little bit about recommendation 1 so, as part of -- you can go to the next one. Our first recommendation is around agency handbooks. Section (g) of the FOIA requires that agencies make available for public inspection electronic format or reference guide for the public. It also includes three requirements. Index of agency information systems, a description of those major information systems and record locator systems maintained by the agency, and then finally handbook for obtaining various types of information for the public.

So these FOIA Handbooks Reference Guides are available on agency websites one of our process was to review many of those guides. What we found is some agencies do it very well. Some agencies handbooks have not been updated in some time. We found that there were some agencies that provided really good information about their Privacy Act systems but not a lot of information about their general records, how records are maintained and stored by the agencies.

So we felt -- this is an important recommendation because now that agencies are accepting requests via FOIA.gov, the FOIA handbook is one of the first things that the requester sees when they go onto FOIA.gov and they select the agency, the FOIA handbook is one of the first things they see. And so, the stature or the visibility of this hand book has increased as a result.

And so, we look to those guides or those handbooks and we had several recommendations about -- we wanted to ensure that agencies, one recommendation will encourage DOJ and OIP to have agencies review their handbooks, to ensure that they're up to date, that they meet the needs of their requester community, and to identify record systems and databases is not limited to Privacy Act systems, to identify records schedules.

And then importantly information about how email is stored at the agency, including information about Capstone, if agencies have adopted a Capstone approach to managing email records, identifying how those records are stored and providing additional information to the public so they can submit tailored, specific, narrowed requests for information.

So our recommendations, you know, ask that we undertake a review and update of agency reference guide to ensure they're incorporating records management related guidance to increase their usefulness to the public. In addition to that, we feel that part of that should be that OIP should look at their FOIA website guidance to see if any tweaks or updates to there might support that effort.

Similarly, the FOIA assessment Tool Kit might be a -- a update to the tool kit for self-assessments that OIP has put together might be very helpful this helping agencies ensure that their handbooks are of greatest utility to the requester community. And then finally to also report on their effort to update their handbooks in upcoming Chief FOIA Officer Reports. OGIS has importance in Best Practices in calling out agencies that do reference guides very well and putting them on a pedestal for other agencies to see and to hopefully adopt some of their Best Practices. And then also in integrating records management features in the FOIA guidance.

We recently learned that the Administrative Conference of the United States adopted a recommendation which kind of helps our argument here around ensuring that agencies maintain on their websites information, inform the public about the availability of certain guidance documents and facilitating access to those records. And we feel that our recommendation here aligns closely to that.

And then finally, maybe most importantly as agencies are updating these guides, we feel it's very important that FOIA staff should collaborate with records management professionals and privacy professionals, others in their agency to ensure that those perspective are also conveyed to the public as well. So what did I miss? I think we'll pause to see if there's any question, comments, concerns from the group?

ALINA M. SEMO >> Sure.

PATRICIA WETH >> Hi, this is Patricia Weth. So I just recently updated my FOIA homepage at NLRB. And a big thank you goes to Melanie and her office. I reached out to Bobby Talebian

and one of his folks, Karen Hopkins, was wonderful. And she went through our proposed new FOIA homepage and made wonderful comments. So I wanted to give her a shout out. But I guess I have a couple of comments. One, I think there's a difference between the FOIA Handbook and the FOIA Reference Guide. Or as I'm understanding it, when you say FOIA Reference Guide you're referring to the FOIA Reference Guide that each agency has on their FOIA homepage, is that right?

RYAN LAW >> Yes, I believe so.

PATRICIA WETH >> Okay. And then the FOIA Handbook we also have our FOIA Handbook online, it's a big bear of a document that lays out like the application of the various FOIA exemptions. I have to say in my experience, I have never had a FOIA requester ever refer to our FOIA Handbook. And usually I'm the FOIA Public Liaison for my agency right now. Usually I'll get phone calls and I will walk folks through our FOIA reference guide online and answer questions. But a lot of times I don't even think they read that. You know, it's almost like when I go in to get my car fixed, I don't care what the mechanic does, just as long as it's running.

And I think you guys have some -- these are all things that are of interest to me as a FOIA professional, but I don't know that most of our FOIA requesters really care about how we store our emails or how we store our records. I mean, in my final response letters I always describe the search and what we did. But I don't think that the FOIA requester community really cares about that. Or I think the bottom line for them is you know, really get me the record I asked for. But I could be wrong.

You know, folks here on this Committee who are part of the requester community, so I will defer to them. This is just my two cents worth. I find everything that you said of interest to me. And by the way, when I updated my FOIA website, we certainly contacted our records management officer as well as our privacy officer and also had the help of my OCIO folks.

So we did implement this and I think that would be a great Best Practice. But anyway, those are my two cents. Thank you.

>> Thank you.

MELANIE PUSTAY >> Melanie, I can -- I had a couple of comments with this. We typically use handbook and reference guides interchangeably. I think most agencies have one thing that -- and we certainly for FOIA.gov have just been using the term "FOIA Reference Guide" but it's intended to be the document that agencies who have been required for a long, long time to have and in the statute it says hand book but we just call it the reference guide.

I thought -- I really liked this idea, a come of things I had just that just echoed exactly the comments we just heard. I think this is a perfect project to have input from the requester community as well as agencies in terms of like what features, what aspects of agency reference guides do people find the most helpful? Because we certainly learned when we were building FOIA.gov that requesters totally have that mindset of Google search, they just want to type in a topic in a search bar and so before we spend a lot of time having agencies list things and catalog

things, if the requester community is not going the use that to make their request, then we haven't really moved the ball forward. So it seems to me this is a great project. Importantly when I read this I thought we could do something like what we did with the FOIA Regulations template, have a group with both agencies and requesters, look at some examples then it would be great like if OGIS would sort of do some screening and say here's like 10 reference guides that look really terrific to us. Here's 10 that look very non-user friendly and then we can kind of go from there. But I think there's a lot we can do to work with this.

Then just to let you know, we put the reference guides -- purposefully put the reference guide so front and center on FOIA.gov because we had the agency Regs there, then we thought oh gosh does Aunt Betty that lives in Omaha want the look at the FOIA Regs she would rather look at the Q&A and something that speaks in plain language, that's why we put both resources there.

BRADLEY WHITE >> I think it depends totally on who the requester's you're dealing with are. I know I spend in an inordinate amount of time explaining to usually litigants rather than requester what is we have, where we store it, how we're able to search those records and what we're able to do with what we have.

And unfortunately I also spend a lot of time trying to dig into and understand what a system is if I can't readily find that information. So I think for those of us who have to deal with the incredibly savvy requesters who really do want to know every single detail and get in the weeds of what you're doing, and who are ready to challenge you, to challenge your search declarations in court if what you say doesn't exactly comport to what's online, I think having this update would be incredibly helpful for those who are in that position.

JAMES STOCKER >> So James Trinity Washington University. Speaking for the historians to a certain extent for other researchers, in many cases when we make FOIA requests we kind of assume I think correctly that we know more about the subject than the people who will going to end up doing the search. So it's very useful to know what record sets they're looking at particularly when it concerns historical data. Because oftentimes we'll have an idea of where the appropriate records lie and guide the person doing the search to the right records. So the more transparency there is about that, the better from our perspective.

ALINA M. SEMO >> I'm going to just call out on Michael Morisy from the requester perspective, any feedback you want the share?

MICHAEL MORISY >> Oh, yeah. Thank you. Yes. Am I -- can you hear me?

ALINA M. SEMO >> Loud and clear.

MICHAEL MORISY >> It was great to hear Capstone called out. I think this has been a really wonderful perspective. Because I think agencies have really, really improved their FOIA pages. A lot of agencies have really improved their FOIA pages over the last few years. I think it's great to see a lot of tease reading rooms come to life. You know, I remember for years talking about FOIA offices they only had like ten megabytes or 20-megabytes of storage on their FOIA reading room. It seems like a lot of those limitations are no longer present.

One of the things that I think it's really challenging to come up with resources that requesters are going to take advantage of. I think having sort of indexes or detailed technical dives sort of how stuff is structured is really tough. And I think one of the surprising things to me as sort of Capstone has pushed agency to improve their email retention and management strategies is like, I think that's an opportunity for resources that say, hey, if you want to request email from my agency, here's what you should know. And there are a few agencies that have example requests of like how to -- if you request an email this, is some stuff the keep in mind, here's some sample language that might make this more successful. And I think requesters do really respond to materials that are like, here's what you should know for a requesting emails from agency X. Or here's what you should think about when requesting historical files from agency Y.

And doing it more or less as sort of like our comprehensive FOIA guide where people are kind of expected to really sit down and dive through it, and more kind of guiding people with some of the most common request types.

Some of our most popular guides and resources that we've worked on for requesters are you know, very basic tips on like, here's really understandable language about putting together a few Labor requests or what's the definition of this? Because that's even something like even basic stuff like this OIP has really detailed guidance on sort of the criteria. And a lot of agencies do a good job of including that.

But it's really really hard for requesters to understand, okay, what does that actually mean in plain language I can understand and I think that sort of context is really challenging. So I think using Capstone has an opportunity for agencies that are participating in it to think about resources like how can we guide requesters (no audio)

MICHAEL MORISY >> Hello?

>> How can we help requesters?

ALINA M. SEMO >> Comments on the first recommendation. Okay. So we'll move on. We have more to go.

>> How do you wish to proceed? Do you want to get a sense of the Committee or do you want to march through?

ALINA M. SEMO >> I'm happy the get a sense of the Committee. Make maybe Michael will tune back in. Do you want to take -- I don't think we need to take an informal vote at this point. What I'm generally hearing I'll try to quickly summarize. I'm hearing some support from some corners of the table. And so it seems like it's a good idea generally the move forward on the recommendation, how it's implemented, I think is the key, right. It's always the follow-up. So is this a fair summary? Everyone agree? Everyone on the phone? Who's left on the phone who hasn't hung up on us?

JASON R. BARON >> Procedurally here what Ryan and I and the other members would do is take back whatever feedback from here and we'll proceed to march forward either whether it's

December or the next meeting to present what we are proposing as our Subcommittee report are. And so we really do want to take the temperature of the room and figure out if there is consensus to move forward on all of these.

ALINA M. SEMO >> So Jason before you go, on, I heard a beep.

MICHAL MORISY >> I'm in a basement and in solidarity with everyone on the cell phone.

ALINA M. SEMO >> You left us on a cliff hanger.

RYAN LAW >> Oh, I think trying to experiment was really real targeted materials rather than saying hey, here's our FOIA Guide maybe almost more similar to the wonderful blog posts that OGIS puts out, being like, here's what you need to know about requesting emails from our agency, and that sort of thing.

You know, I think requesters do really really appreciate and use stuff that's sort of simple, action item oriented and kind of return from sort of a specific a point of view versus a more comprehensive resource that does put more work on them.

JASON R. BARON >> Thanks Michael I'll just say that I respect the opinions that Patricia and Melanie and others have said that it may be that the FOIA requester doesn't -- the typical FOIA requester doesn't necessarily ask for things or think about records categories or records management as part of a FOIA request. But those of us who know what the resources of agencies are in terms of their file plans, their schedule, particularly their records schedules, the fact that a Capstone 6.1 general records schedule exists, it seems to me that with a minimal effort one could provide links and just a little bit of a guide in whatever FOIA requesters are so they know something more about the work of the agency. Not every requester will care, but I suspect that there's a segment of requesters that would benefit from the way the government itself categorizes its records and talks about its policies.

And so it's in that spirit that we're putting this forth.

EMILY CREIGHTON >> This is Emily, can folks hear me?

ALINA M. SEMO >> Yeah if you can speak up a little bit that would be even better.

EMILY CREIGHTON >> Okay, great I tried to call back in a couple of times, I keep getting dropped I'm not sure what's going on, probably on my end. I just wanted to echo the sentiment that this sort of information would be extremely helpful to requesters, and whether or not organizations like minor others that you know attempt to really understand how records are managed and kept before filing a FOIA request, even the most savvy requester, I mean there have been cases where I mean it's rare but we've gone to discovery to understand how records are managed and kept. It's not just that this would be helpful to the savvy requester but it would build a culture of understanding where if people were more accustomed to this information being available and there were more trainings and more you know, in my world we develop practice pointers for attorneys or others who are interested in doing FOIA requests, where this

information is kind of filtered down a little bit more and there becomes a culture around that and an understanding that that information is available, I think that it might -- it would have long-term beneficial effects.

RYAN LAW >> Thank you, Emily. This is Ryan again. So your point is a really natural transition to our second recommendation had is around training for FOIA professionals on records management. So I'll give it to you Jason.

JASON R. BARON >> We have it up on the screen for the wider audience. We recommend that the Archivist of the United States direct NARA and request that DOJ OIP have training for FOIA Officers and Public Liaisons and public agencies and create a module and records management training courses open to all Federal employees. It's certainly clear to me for many years as a government person in my past that OIP does a tremendous job in teaching FOIA.

And is looked to as the gold standard. There are other places that one can have FOIA training, but it is OIP that has lead the effort. Similarly on records management, NARA has in the past done both face-to-face courses, I participated in one as a course for lawyers for many years. And is now I think concentrating on online training for the most part going forward. Regardless of how the formatting is, what this recommendation is saying is that we're urging that there be some consideration on both halves that when FOIA training is conducted that there's some reference, some module, some something that ties in records management concerns so that FOIA people in the larger FOIA community that are taking the wonderful FOIA courses at DOJ and other places understand what Capstone is and what electronic record keeping is at their agencies. And so, know where to go for potentially responsive records. So that's on that side. On the NARA side if there's the opportunity the build in some FOIA awareness or access purposes that records management is not just to preserve stuff, but also the make available to the wider public. I think that would be a good thing. I think people know it generally but the people who take courses may -- I think only to the benefit of knowing something so that you don't have siloed worlds of FOIA over here and records management expertise over here. It's all Federal records/agency records with an asterisk. I know the difference, one can have an esoteric conversation about that. The Venn diagram is that 98% is all records of the government and should be thought of in a way that's more integrated.

So that's what this recommendation is all about.

PATRICIA WETH >> Hi, this is Patricia Weth. I wholeheartedly support this recommendation. And I echo Jason's compliments about OIP. Their courses are excellent. And I think they would do us all a great service if they were able to offer courses on records management.

ALINA M. SEMO >> Anyone else? Comments around the table? Comments on the phone? That was an easier one.

JASON R. BARON >> Great. Okay. Next recommendation we have put up on the screen. Number 3. Okay. Great. We recommend the Archivist of the United States request that DOJ OIP provide further Best Practice guidance on what constitute a record for FOIA purposes of records in electronic management form including but not limited to email and Capstone repository some

when we looked at across the board on the Chief FOIA Officer Reports I'm going to dovetail or this conversation very much follows on what Eric and Michael were speaking to, we also read all the reports. There is definitely a movement in government recognizing, leveraging technology. Many agencies are talking about it in various ways across the spectrum of expertise. What we didn't see in the Chief FOIA Officer reports it may well be that agencies are doing it but not reporting out in that vehicle, but mention made of e-discovery tools that use what I consider and what many consider to be Best Practices in the space involving AI machine learning technology assisted review, predictive coding.

We are entering a world of electronic government, The Transition to Electronic Records Memo is pointing the way, post-2022 for the entire government to be essentially thinking about digital forms of records and permanent preservation and FOIA access will be to those ever-larger collections of electronic records in which Capstone is the first harbor, not the last, it will be in all kinds of formats and whatever. It seems to me that we should be doing more. This recommendation would build on the excellent guidance that DOJ already has with respect to FOIA processing, but to put an emphasis on using the best available tools out there.

Now part of this recommendation still is to be drafted, which is that we suggest an Appendix A to a report out by the Subcommittee that essentially is a Best Practices set of specifications and requirements with respect to conducting searches, using e-discovery protocols and we would -- we think that such a sort of a Best Practices guide of protocols set of specs would be of help in developing RFIs, or RFPs by agencies including under the current GSA schedule 36 for records management or otherwise.

So all of this is saying is that we would be recommending that there's some focused attention on the world of search technology very much in parallel with what the technology Subcommittee I would expect would be reporting out as Best Practices here.

JASON R. BARON >> I'll pause to see if there's any comments or questions.

PATRICIA WETH >> Hi, this is Patricia Weth. There was a recommendation included for agency to adopt or looking to adopting e-discovery technologies for search. Is this just further deepening that recommendation? Or can you explain the difference between this and what the --

JASON R. BARON >> I think this goes a step further because I think there is -- when you read the Chief FOIA Officer Reports, there is a -- in many cases there is a touchstone of mention of e-discovery tools. But the e-discovery tools as you know that are out there are -- they provide a tremendous opportunity to do searching in more efficient ways than simply the baseline of de-duplication or email they are threading or key -- email threading or keyword search. We did see at least mentioned, it's really a vision for the future, but a mention of the fact that there is this ability to perform more efficient searches. And there's going to be a need, given the growth of Capstone repository. So I think the prior recommendation was there as kind of a baseline, this builds on it.

And it's focused on giving greater direction. And again, it would be -- it will be helped by an appendix, I think to our report where you've said e-discovery workflow that's applicable to FOIA

and certainly would want to have conversations with the Technology Subcommittee as well so that we're not a cross purposes.

>> Hi.

PATRICIA WETH >> Yeah, hi this is Patricia Weth. So I always love seeing guidance from OIP. But I think this one might be a bit difficult for them because, you know, just as the gentlemen who were presenting earlier today Eric and Michael, every agency is different and has different tools. And I think we're all using what we have to, you know, as best as we can. So I don't know, you know, I'm just looking at it. I wonder if that might be a difficult task for OIP. And I, you know, I'm very aware of the -- you know, with Capstone, I do know the volume of emails that we have to review. It's just going to increase and increase more and more. It's already quite voluminous, I'm not sure what the solution is there. Anyway. That's my two cents.

ALINA M. SEMO >> Thanks Patricia. Anyone else on the phone want to comment? Or ask questions? Anyone at the table? On recommendation 3? You have now got a sense of the Committee. Thank you.

JASON R. BARON >> I will go on. So recommendation 4, we're up to 4. The clicker is being a bit temperamental.

>> Difficult.

JASON R. BARON >> There we go. Got it. And Recommendation 4 is that we recommend that as part of Federal Electronic Records Modernization Initiative the Archivist of the United States further incorporate the idea of public access to Federal records including through FOIA. This is a recommendation that essentially is raising the profile of FOIA as part of for FERMI access is already embedded in you like at the details of FERMI it's in there somewhere, it's in a maintenance and use section of FERMI and some specifications that in 2.01 records of current and former employees must be managed in a manner that supports searching and response to information requests including FOIA. But what we're advocating here is that NARA's initiative in this area include a use case involving FOIA access. We had conversations with NARA. We should say the Subcommittee all along has been working, Alina and Kirsten put us with a liaison of Kyle who works for Lawrence, Kyle Douglas, and we've appreciated his efforts and the efforts of others who come in to talk to us about this.

So we had this conversation at some point along the way and we got support in that FERMI would think it's a good thing for us -- that NARA would think it's a good thing to be advocating for a FOIA use case. I'll defer to Alina to supplement on where things are on the NARA side. But this is something that we believe NARA is already on board with.

ALINA M. SEMO >> I think that's a fair characterization based on the feedback we've gotten so far. So yeah. I'm watching Martha shake her head. She's been working on the FERMI initiative as well. And understands it a lot more than I do.

ALINA M. SEMO >> Questions from anyone at the table? Or comments. How about folks on the phone.

RYAN LAW >> You can fill where I missed. So Recommendation 5. The battery may be dead. Okay. So the Subcommittee for Recommendation 5 recommends that the Archivist of the United States make a formal request to the chair of the Council of the Inspectors General on Integrity and Efficiency [CIGIE], the group from which we heard earlier this year, or we heard from some members of that group earlier this year, excuse me and considered designating as a cross-cutting project or priority area the issue of how agencies are doing providing FOIA access to agency records and electronic or digital form.

As I mentioned, we heard from several members of the Committee. We heard that this group is an independent entity established within the executive branch that addresses integrity, economy and effectiveness of issues that transcend government agencies. So they are common to most Federal agencies. And one of the potential areas that we discussed at one of our last Committee meetings with that group was that we may consider recommending that we seek out that group to establish as a cross-cutting area of interest or area that they'll look into in the future, records management in FOIA.

And so, we recommend that either that the Archivist either on his own or work with the inspector general of NARA to formally request to elevate the issue of how agencies are doing in providing access to records maintained in an electronic form.

So this may align with the new goals that were established in OMB memo M-19-21, which is Electronic Records Management Initiative requiring agency to manage all records in electronic format by the end of 2022 and to no longer store and maintain records in paper form. And then finally we recommend that inspector general offices should consider establish ago point of contact tool functions in-house expert on records management access issues that will keep track of any audits conducted with respect to records management. What did I miss, Jason?

JASON R. BARON >> You summarized out. I think this recommendation came directly out of a public meeting on this term where it seemed like it would be a good thing for us to formally recommend that CIGIE seriously consider the issues that are cross cutting across all agencies involving FOIA. And we wanted just to push the issue forward in terms of a recommendation.

ALINA M. SEMO >> I'm looking at Tom because I know he commented earlier -- I'm looking at Tom because he thought it was a very good idea suggested at the meeting.

THOMAS SUSMAN >> No other comments.

ALINA M. SEMO >> Any other comments. No? Good job. Questions from anyone else at the table on recommendation 5. Okay. Folks on the phone, anyone have any questions or comments on recommendation 5? I heard someone drop off so -- yeah? All right. I think you have a good sense of that. So we're going to go on, we're going the try to go onto number 6.

JASON R. BARON >> Recommendation 6 is that we recommend the Archivist of the United States directs NARA and requests DOJ/OIP each establish a liaison with the new Chief Data Officer Council so they understand the importance of Federal record keeping and FOIA requirements and how such laws comply to the maintenance of data within agencies. The foundation is the Evidence-based Policy Making Act that passed in January of 2019 which incorporated the Open Government DATA Act provides for a new Chief Data Officer Council, the OMB Memo M-19-23 that was dated July 10, 2019 which implements phase 1 of what will be a three-phase program according to OMB, talks about the setting up of a data governance body in each agency to enforce priorities for managing data as a strategic access to support the agency meeting its mission. And the appendix to that OMB memo states that each agency's data governance body is to include the agency's general counsel, its chief Freedom of Information Act officer, senior agency official for records management and others. In my perspective as kind of an information governance guide, this is exactly the kind of thing that I have been speaking to, finding a champion, a set of C-suite people who care about data strategy and the management of information. What is missing in both the statute as well as the OMB memo other than the mention of Chief FOIA officers is a paragraph discussing the Federal Records Act or FOIA. Because the memo takes its cue from the statute talking about data and open data and the need for chief data officers to be on top of many different aspects of the life cycle of data. But as we all know, data that is either generated by the U.S. government or received and used by the U.S. government are Federal records and they're in large part agency records that are FOIAable. So all of this recommendation is is that when CDOs are set up at NARA and DOJ, that they -- that we are recommending that they be tasked with the kind of clearinghouse function where they're at meetings of the future CDO Council when it's set up, and whatever shape or form it's in, that there's some attention paid to records along with considerations of putting data up on the web and making it available and making it available and machine readable and all of that. So it's really injecting the notion of records because of the two statutes that have been long standing in 60-70 years but not mentioned in otherwise recent guidance, so that's why we're purposing this forward. I -- we're pushing this forward. We have standing to do that as part of this Committee.

RYAN LAW >> Jason, three points. First you mentioned the guidance I'm told is imminent and should be really soon on the action items if are the Chief Data Officer role at each agency. Second, one the primary responsibilities of the Chief Data Officer is to be responsible for the complete information lifecycle. And so, that touches not only records management, but the Paperwork Reduction Act, the Privacy Act, the disclosure of information under the Privacy Act under FOIA as well. And so it's important that professionals from those areas are involved in that process.

The recent guidance does as Jason pointed out suggest that agencies ensure that those professionals are included in those -- in the agency council's for the Chief Data Officer. There will be the government-wide council which will need representation. So I think that's part of the recommendation here. A third point which we discussed briefly at our last Subcommittee meeting is just something we will need to think and talk about with Alina and Kirsten is on timing. Our recommendations for this Committee will come out for the FOIA Advisory Committee will come out in 2021.

ALINA M. SEMO >> 2020.

RYAN LAW >> 2020, I'm sorry. The activities around the Chief Data Officer and The Evidence Act Implementation are happening now. OMB is having orientation sessions for the three specific roles created under the evidence-based policymaking act. I believe next week there will be a number of activities that begin as soon as this Fall and Winter that will need -- that I believe, that we believe, the Subcommittee believes that FOIA officers and records professional will have a role in participating in. -- professionals will have a role in participate in, it may be unprecedented to push forward a recommendation prior to the full recommendation coming out but it's something to consider based on the timing of this. Any questions or comments at that?

PATRICIA WETH >> Hi, this is Patricia Weth. I'm glad that you brought this memo to my attention. I'm not familiar with it. Can you tell me who the Chief Data Officer should be at each agency? How -- whether what are the requirements to designate such a Chief Data Officer?

RYAN LAW >> Right this is Ryan, Patricia you should look to OMB Memo 19-23 which is issued in July -- this was issued in July. It doesn't specifically say who should be a Chief Data Officer but it lists a number of roles and responsibilities and also knowledge and experience that that individual should have. My experience is that agencies are doing different things and that OMB's attention wasn't to require agency to do anyone specific thing, we want it to be flexible in that.

So many agencies are hiring Chief Data Officers as a new position. Some of those are GS employees, others are executive level. Other issues, some agencies are appointing existing staff. For example at Treasury, we've appointed not just one person but several to be the chief Data Officer until we're able to hire a Designated Chief Data Officer of which I'm a member of that group. So FOIA and records management already have a seat at the table there. So we're very happy about that.

So I encourage you to take a look at that for more information. But there is more guidance coming soon from OMB.

PATRICIA WETH >> Okay. Thank you. Yeah. I will look at that after the meeting. Thank you very much. You know, I believe in communication and folks talking together. So I think it's a great idea for you know, to establish a liaison NARA and OIP with this Chief Data Officer Council it seems like a good idea to me.

MELANIE PUSTAY >> This is Melanie, I just wanted to let you know that within DOJ, our Chief Data Council includes OIP. So we're already there.

ALINA M. SEMO >> That's great. Good.

You have a chief Data Officer Officer?

MELANIE PUSTAY >> Yeah, our CIO is our chief data officer.

THOMAS SUSMAN >> This is Tom. I don't believe there's any protocol that would prevent Advisory Committee from issuing a final recommendation on the subject in December. I think we probably need that much notice with what we have. And the other question is, given the speed at which this wonderful Subcommittee -- this wonderful Subcommittee, especially you two guys have been working, we may be ready to vote on it on the entire Subcommittee recommendation in December. And then go onto either assist the other two Subcommittees or even perhaps come up with some more refined sort of stage 3 issues out of this that we can begin the process of exploring.

RYAN LAW >> This is Ryan, Tom, I agree. I think Jason can probably come up with 18 more recommendations for records management. But that's a good idea. I think we might want to depending -- particularly on the guidance that coming from OMB next, that will lay out some timelines, deadlines for specific action items for the CDO Council, for the CDOs at each agency. And we can -- I think if we get some guidance, if we're able to get a recommendation, particularly that one done by December and out I think that would be very helpful.

JASON R. BARON >> And as for your broader point, Tom, it's appreciated as a friendly amendment. The thing is that, I want to build if time for James, we are still talking at one or two possible further recommendations. So I'm not sure that the cycle will permit a complete slate being presented in December. But we can certainly work on a report. I'm sure Ryan and I can come up with something by this weekend if you want it. (Laughter).

ALINA M. SEMO >> Again, I think we've talked about this before. I think question be very flexible. So piecemeal is also okay. This recommendation in particular, number 6, this is Alina, see I do it all the time. This recommendation if it's time sensitive we can certainly entertain it sooner rather than later. So December seems to be a good time. Is that -- I see some nods around the table. Yeah? Nods on the phone?

>> Sure.

ALINA M. SEMO >> Okay. I got a sure. All right. (Laughter).

>> You couldn't hear my head nodding but I was agreeing as well.

>> Thank you.

>> This is James.

JASON R. BARON >> We'll talk about procedurally how we can transmit that to the full Committee. Okay. And the seventh recommendation Ryan if you can change the slide. Oh, you got it. You got it. Very good. Technology. So we recommend that the Archivist of the United States work with other governmental components and industry in promoting research into using artificial intelligence -- AI -- including machine learning technologies to do two things, one to improve the ability to search through government electronic record repositories for responsive records two to segregate sensitive material in government records including but not limited to

material otherwise within the scope of the 9 FOIA exemptions. So this also comes from our reading of Chief FOIA Officer Reports and what this Committee has done in the past.

I think has been alluded to by our interesting speakers Eric and Michael that there is a world of AI out there. But it hasn't specifically been tuned to FOIA or to sensitivities that are represented within the 9 FOIA exemptions. Part of this recommendation is to encourage research that the NITRD [The Networking and Information Technology Research and Development Program] part of government, the agencies that are responsible for the networking information technology research and development program and other possible candidate agencies like OSTP [Office of Science and Technology Policy] or NIST (National Institute of Standards and Technology), or Chief Privacy Officers from selected agencies, that this initiative is put forward to solve the problem that is looming which is that there will be hundreds of thousands, millions, tens of millions of electronic records. For FOIA to do its job it would be great, I think, if machine learning tools that are out there could be tested and that supported through whatever government grant initiative or whatever money can be found to advance the ball so that we basically have a world where we can take a collection of a million electronic objects and through machine learning have the FOIA exempt material be brought to the forward, clusters, see patterns in the larger data set to like oh, this blob of stuff, this subgroup is more likely to contain deliberative and pre-decisional stuff, or a privileged stuff or confidential and proprietary stuff, or law enforcement stuff. These are not impossible tasks. They are very much like the basic machine learning tools that in e-discovery for responsive records or not responsive. It's just tuning the responsiveness question to a specific set of what the exemptions hold.

But it is something that you can't buy off the shelf as far as I'm aware. Although there are some solution providers that say some things in this space, but it's not so easy to just take it and run with it today. I think it would be -- what we're recommending is that the government support research that is focused on that.

And of course, there's a broader issue of searching through large collections, generally. And I'm sure question do a better job for Capstone and otherwise for the government supporting machine learning tools that accomplish lots of search purposes. So that's what this recommendation is about.

ALINA M. SEMO >> Comments? Questions?

PATRICIA WETH >> Hi this, is Patricia Weth. So I like this recommendation a lot. Recently I had -- I was assisting our Congressional Affairs Office they had to weed through 1,600 emails, none of them were responsive. And you know, my agency uses great search tools. So I support this. The one thing Jason and Ryan maybe you could -- some thoughts I had is, you know, if someone's doing the research on this, it would be you know, the research is great. But getting it out, sharing with the agencies is huge. And I'm wondering could this be something that the Chief FOIA Officers Council Technology Subcommittee, is this something that these gentlemen could be tasked with?

JASON R. BARON >> So I guess, one way of framing that is whether the recommendation should be revised to specifically call out the Technology Subcommittee to be a part of the

process, whether to be taking the lead or at least part of this. I don't call them out this the current text. So I think that's well taken.

Of course you guys need to not sunset. (Laughter).

PATRICIA WETH >> I mean, to me, Patricia Weth again, it seems like they've already begun the process. I think they would be the perfect candidates for this research.

JASON R. BARON >> Well, there would be a platform for taking the -- a platform for taking the good efforts that have been done by whomever ends up actually doing the work of this with a megaphone to the FOIA community. And that I think is a very valuable point.

PATRICIA WETH >> Do you envision each -- the agency's doing the research are and sharing the information with --

JASON R. BARON >> So it would be my dream that the NITRD community which is -- the President publishes a research budget every year. And we get a line item -- that we get a line item for a billion dollars, you know, devoted to FOIA exemptions sensitivities and large data collections and how to use AI techniques. Short of that -- but what this is calling for is really a research by scientists at government agencies or at least the ability to grant, or provide funds for that kind of research.

It's not for people with serious jobs doing FOIA work to devote some portion of their time to thinking about the best AI machine learning efforts. While it can certainly be supported by a whole bunch of agencies that we listed in our recommendation, I think we really need to focus on those parts of the government that are -- that enable partnerships with the private sector to happen and produce real research.

CHRIS KNOX >> As a side note --

PATRICIA WETH >> I'm sorry, Jason, I'm not clear. You would have industry and who would be doing the research on this?

JASON R. BARON >> That's for the NITRD community and for whoever's involved -- I mean, in the rosier scenario the Archivist would make this recommendation, it would be picked up by one or more places in government as putting on a regulatory agenda to do, or you know, an action item agenda.

And then it can be figured out by an interagency task force. It can be figured out by NSF. There are any number of players in the space as to how exactly the money would -- where it would come in and how it would be spent. We're not fleshing that out in this forum. I mean, if that is -- if the sense of the Committee is that we need to drill down and have a path forward for this, I'd be happy to entertain that and have further conversation so that we're giving more direction to the Archivist.

ALINA M. SEMO >> More is better than less.

PATRICIA WETH >> And I see you also envision establishing a private/public partnership. So that's what you're talking about.

JASON R. BARON >> Definitely, yes. So that would be a prime one of the options for this. AI and machine learning.

CHRIS KNOX >> Again, this is Chris Knox, AI and machine learning has been mentioned ten different times in this meeting. Would it be beneficial, I don't know what our speakers look like in future meetings but find a government thought leader to come talk about the art of the possible. You touched on some of the possibilities but driving a little deeper, spending 15 minutes in a presentation, even 30 minute to talk about what could be possible if research was done in this area. Would-- would the Committee benefit from that? Or does everybody have a general understanding of what we could be doing what, is the art of possible here?

JASON R. BARON >> I mean, I think it's -- so I'll defer to Alina for future meetings and what the agenda might be. I think Chris, we can certainly have a conversation offline as to whether having speech in a public forum would be a beneficial both to us, as well as the greater public at large. I think the Administration is very supportive, an executive order on AI. There are a lot of experts on AI. What we need is to focus them on FOIA and on records concerns and so I'm happy to work with you and others to find the right people to maybe be the go-to people who would receive such a recommendation and carry it forth.

There are people at NIST, and there are people at NSF and people at NITRD that I think would be interested.

CHRIS KNOX >> Yeah, my thought would be if we could get them to come speak to them and we pique their interest in our particular topic. That's kind -- that kind of goes both ways.

ALINA M. SEMO >> Yeah, I think we're open to that, absolutely. Kirsten and I, this is Alina we don't have a speaker on deck for the December meeting. So if there's interest in that, we can certainly work on making that happen. Kevin?

KEVIN GOLDBERG >> This is Kevin. I would actually have a personal interest in hearing that. I wasn't sure how it was going to fit in at first. Because these recommendations are pretty far down the line, I wasn't sure if we have time. But if you're telling us there's an opening and based on what Chris said, do I buy into the idea very much that we can prime the pump for recommendation to go outward. If you have nothing else lined up I would love to hear that.

JAMES R. JACOBS >> This is James Jacobs.

ALINA M. SEMO >> Is that Michael?

JAMES R. JACOBS >> No, James.

ALINA M. SEMO >> Oh, James.

JAMES R. JACOBS >> I just had a quick comment, if I may at the risk of seeming to be a shill, my library, Stanford Library is creating some open source software called ePADD. E-P-A-D-D. It sort of is what we're talking about here. It incorporates techniques of CS and computational linguistics, AI, machine learning in the analysis and preservation and discovery of email archives. So it might be something of interest for this Committee to look at.

ALINA M. SEMO >> Okay. Sounds great.

CHRIS KNOX >> Just one last comment. I wasn't recommending that that in anyway hold up this recommendation. I definitely support this recommendation 100%.

JASON R. BARON >> Alina I have twice promise that James has an opportunity to speak about a further recommendation that we didn't include because it still is in play among ourselves.

>> Half baked.

JASON R. BARON >> If with your allowance, James Jacobs can speak to what his idea is. It's sort of a vision. It like he's doing a dual purpose, both the Records Management and the individual Committee here. But James, go ahead.

JAMES R. JACOBS >> Okay. Thanks Jason. Thanks for giving me the time. There's one further recommendation that is in the process of being discussed and hashed out. I really appreciate Jason's perspective on this. So the recommendation is for the Archivist of the United States to direct NARA and OGIS and request DOJ and OIP to encourage agencies to work toward a goal of collecting, describing and giving access to FOIA-related records in one or more central repositories in standardized ways. This is just the current draft recommendation that we're coming to. It's really -- it might split into two recommendations. One about the use of central FOIA repositories as a good goal, and one on the use of xml and machine readable formats and metadata. And it comes out of the idea -- the idea kind of coalesced from two places for me. One is document clouds public catalog and database. And a hats off to Michael and the MuckRock gang for putting that together. And the other place it comes out is from Representative Quigley Transparency in Government Act that he has submitted, introduced in every Congress at least since the 111th Congress. And one of the pieces of that Transparency in Government Act is a section on creating a structured database of completed FOIA requests.

And so we're still working on the wording of these -- of this recommendation/perhaps two recommendations. But that's coming down the line, we're hoping to have that together in the next month or so. Did I miss anything, Jason?

JASON R. BARON >> Yes, great.

MELANIE PUSTAY >> I just want to be directed, I just want the direct you to the work of 18F that we did prior to launching the national FOIA portal. Because one of the things we were researching was the concept of a virtual government wide FOIA library. And the conclusions, the bottom line conclusion of 18-F and DOJ at the conclusion of our work there is that metadata

tagging was really the best way to do it as opposed to I think what a lot of us thought about was sort of like having a website where all of the stuff physically resides. We're sort of past that now. So the work is there in the report from in connection with the national FOIA portal. So that's just an important thing to look at.

JAMES R. JACOBS >> Thanks Melanie I appreciate that. I had looked at 18-F and the other place that's interesting to me is data.gov, which is doing for data across the government, what I feel like would be interesting to do for FOIA records. And so I'll definitely look at the 18F work and incorporate that. Part of what we're working in as well is the FOIAonline.gov, which does start to have a central digital repository. But there are only a small subset of agencies currently using that system. So we're working on that.

ALINA M. SEMO >> Okay. Any other comments on potential recommendation number 8? Before we move onto public comments, I want to just give an opportunity to Eric and Michael to say yea or nay, to continuing your mission. Because we look like we're giving you some more homework. (Laughter) They're conferring. They're conferring. They'll get back to us. All right. Ryan and Jason? Do you have a good sense of where you're at and you have feedback from the Committee?

JASON R. BARON >> Yeah we look at the comments today, frankly I'm going to have to return -- I'm going to have to go back to REI and return the flak jacket that I brought last night in anticipation of today. I think it's been a very useful session and we'll just move forward with finalizing the report as best we can.

ALINA M. SEMO >> Great, thank you very much for all your hard work, we really appreciate it. So believe it or not we're already at 12:45. 12: 41. I should say. I want to give members of the public time to comment. The next 15 minutes we will hear comments from those of you who are in attendance. I'm also going to look to Sheela our attorney advisor at OGIS who's been monitoring the live stream if there are any comments or questions from those folks watching us on live stream, you'll read them out loud to us. That would be great. When you come up to the mic, please state your name and affiliation if applicable.

ALEX HOWARD >> Thanks. My name is Alex Howard, currently affiliated with e-pluribusunum.org we with groups focusing on open governments improving transparency and particularly the use of technology in government for governance. Great to be back here. Thank you again for making this forum open and accessible to the public, particularly on the live stream which extends the reach and also makes this accessible to people here after. And you know on YouTube there's automatic transcription, it's great to see accessibility continues to be a priority here at the Archives. I was unable to find the FOIA recommendations OGIS referred to earlier in the discussion on the website, blog, social media. When I asked about it on YouTube, the Archives staff responded to me, where they had linked to that document. The pdf, I asked if they could tweet that out, they said they would. That experience is a great example of how the U.S. government can be immediately responsive when you hadn't made an asset available table available to the public in a proactive way. I wanted to highlight that as an example that I personally experienced here that is not always the case across the agencies.

Second I wanted to give some thanks to director for her long record of service. While we've had our differences on policy and performance of OIP at various times, I've always appreciated your willingness to meet, to take questions, particularly if the new toy.gov and to stand up for -- the new FOIA.gov and to stand up for open transparency on behalf of our country insured in a -- behalf of our country in a lot of international people. I hope DOJ finds a candidate to improve upon your record on OIP particularly the resources that have been created which really should fall within DOJ's work not just to ask questions but to lead in terms of compliance and maybe to use your territory to enforce compliance at -- your authority the enforce compliance at some point which you have under the statute. There was an earlier reference from the State Department to release all policy for the FOIA for disclosure which many of the public knows about it because of the publication of the former Secretary of State emails at FOIA.state.gov, issues on discovery of those records highlighted a major issue FOIA offices with the e-discovery tools that have been referred to here. I am grateful that at OIP that records must be memorialized and remind agencies to make sure that anything that has on personal and email are put into places where the FOIA officers can find it. Director, is there any update on the policy for "release to one release to all" that DOJ took public comment from over two years ago, our members of the Committees are a-- are aware of any agencies that have adopted such a policy and the impact of doing so?

MELANIE PUSTAY >> I -- thank you for your initial comments, especially, Alex. I always like the make sure people recommend that "release to one release to all" is a DOJ initiative. So we started it with a pilot, and obviously we've been champions, we've use that word before we really believe in the idea of it. But as you know, as I have explained time and time again in answer to your question, there are these difficult resource issues that agencies face with posting everything that's released under the FOIA and concerns by agencies that doing more posting means they might have less resources available to do processing. And so it's a trade-off that's not an easy trade off.

So what we encourage agencies to release as much proactively as they can. And obviously you know I am a big proponent of to the extent agencies can feasibly post FOIA process records online they should. And I of course smiled when I heard that the State has been doing it for quite some time. We do have other agencies that are following on their own a release one release to all. Of course with the amendment to the FOIA, we now have all agencies are required to post at three requests. So we definitely have a lot more proactive posting going on. Obviously I share the interest that you have in making as much information available proactively so that people don't have to make requests for it. That benefits everyone and FOIA offices certainly love it to be able to point to something on the website. So we continue to encourage agency to do it. And definitely have examples of agencies that are doing it.

ALEX HOWARD >> Thank you for that. The research I've seen at the state and city level shows that proactive disclosure as open government data does in fact have an impact upon FOIA and the costs thereby, hence our Federal government is spending quite a bit of money on FOIA, hundreds of millions of dollars perhaps, annually. It seem to make sense from a cost perspective to continue to drive agencies to be posting those documents and to direct people to that. I'm glad to hear that data.gov came up since that does seem to be the natural place for the government to be posting responsive records in a structured format.

There's a specific question that is also relevant to your office, but I would love to hear from other members of the Committee. You all may be well aware that when President Obama directed DOJ to look at extending this policy in December of 2016 we also established a cross-agency priority goal on the Freedom of Information Act. That CAP goal was posted to performance.gov. It was removed from performance.gov in the current administration. And there has been no one this the Administration who has been willing to explain why it was removed.

Can anyone here speak to why that CAP Goal doesn't exist anymore or whether it might be a useful thing for achieving many of the goals that you all have described?

ALEX HOWARD>> Sorry to hear that. Or not hear it. Given you're discussing recommendation to improve our nation's FOIA compliance and performance, it seems relevant that a directive from the past President to make this a cross-agency priority was removed. And I hope you all will consider making the recommendation that such a goal be restored since it seems to be directly relevant to improving records management and to saving the nation money and being more accountable to the public.

With respect to that, will the Committee make any recommendations to Congress regarding the FOIA reform bill that members are drafting in the wake of the recent Supreme Court decision on FOIA?

ALINA M. SEMO >> I can certainly respond to that. It has not been on our agenda on any of the Subcommittees. So for Committee members, something to chew over and see whether you want to discuss it within your own Subcommittee. Okay. We're putting it out there.

ALEX HOWARD >> That draft is in active participation, I would encourage you to participate in offering your expertise on this.

MELANIE PUSTAU >> I just feel like I don't want to leave your previous question completely left hanging. You've been here for the whole meeting and this, is the quintessential example of a cross-agency both private and public sector group, right here and you heard from all these different Subcommittees. You heard recommendation after recommendation. To me what you just witnessed for two hours is a beautiful example of solid FOIA work being done across the government. There's certainly no lack of interest, motivation, initiative in FOIA across the government. So I'm sort of surprised that you would say that after listening for two hours.

ALEX HOWARD >> Well I've been reporting on the United States government's compliance for the FOIA for a decade here in DC and I've gone to the hearings at which Congress has held your office accountable for that performance. And I think we all can agree that when a President's management agenda includes certain CAP goals it creates an understanding that this is a priority. And removing from such a goal also sends a signal across government. So, while I am very grateful for the service and the commitment and the people here who are in government and for the people who are volunteering to serve this community across the country, I think it is also fair to point out where and when given priorities have been de-prioritized without any accountability or transparency, and the impact that may be having upon the shared goals of the people around

this table and online. On this count, the U.S. law respect to the Evidence-Based Policy Making Act which contains the open data act requires agencies to publish a required data inventory. Here's is what we got. It does not require them to publish the data under lying it but it does require them to make a listing of that. That data inventory should help both FOIA officers and requesters know what records agencies have and whether they've already been disclosed online as open, saving the public, the press and the watchdogs time. Are you aware of any guidance regarding harmonizing the Open Government DATA Act which was signed into law in January and proactive disclosure of records released under FOIA? If not would you recommend that they do so?

JASON R. BARON >> I think your point is one that should be thought of as part and parcel of the recommendation where we're putting forward here which is CDOs of agencies make -- CDOs of NARA and DOJ and those who are well aware of records issues make known to the greater CDO community what kind of expectations there are of FOIA and the Federal Records Act. So I think we can certainly incorporate your point in conversations going forward with the CDOs that are knowledgeable about records issues informing the greater CDO community.

ALEX HOWARD >> Thank you. As I phrased it different forums consider forms related to this Committee and others, there's a substantial community of practice around the proactive disclosure of information as open government data that existed prior to the enactment of this law, if you look at project open data online, many of the Best Practices and ways to improve disclosure already exist there. The challenge that advocates continue to see is there is a... void between the web staff of agencies, those who are entrusted with publishing this information and the people who are operating the FOIA Reading Rooms. I will encourage your Committee, in addition to these recommendation to look at how and where these reading rooms are actually being used. We heard a comment from the gentlemen about some people agencies still talk to them about publishing records online whereas Congress has repeatedly agencies the use the reading rooms when the advocates from the National Security Archive analyzed, we see usage is not actually steady, right. If there's a difference between what's published in these reading rooms and what's happening in the agency it's not serving public well. I'm really glad to hear that you all are actively discussing these things. It's surprising that there are still staff that are not thinking about publishing records online, since FOIA is not just for the press, it's not just for business, right, it's for the public to gain access to our records and benefit from them.

So one last question on this count. The EPA's recent FOIA regulations, which I think we can all agree are not harmonized with the 2016 FOIA Improvement Act were cited by the agency's reasons not to accept FOIA requests over email. Do any of the members of this Committee have a view on whether agencies should accept FOIA requests by email or relatedly the character limit at FOIA online which poses an artificial limit upon a given FOIA request that is not laid out in the statute?

MELANIE PUSTAY >> All right. You just really wanted to have a nice debate here. So there are sound reasons for agencies if they have a portal to have direct -- to direct agency to portals rather than emails, that's efficient, that gives efficiencies to everyone. This these are all things you've heard me explain before, Alex that, if you create a portal like we did with the national FOIA portal where you have the requirements for each agency for make a request and you have

then the requester have to fill out those boxes in order for their request to go in, that means that when the request goes in, it's perfected, you don't have to then go back and forth. You didn't give us this, you didn't give us that. Where there is obviously a gut appeal the using email, I understand that. People think, oh, I just would rather shoot an email to the agency. But if they just shoot an email and don't give all the information that they need to give for it to be a proper FOIA request, we haven't helped improve FOIA administration. You know, we've just made it worse. So there are -- we studying the nationality portal that became very clear that there are benefits to using a portal over email.

Now we have at DOJ long told agencies that there needs to be electronic ways to make a request. And we've actually asked agencies in the chief officer report do you accept requests electronically? So we certainly are well past the days where you had an agency say, If only take it by paper or copy. That's gone. You to have either email or portal, win or the other. That's definitely our guidance to agencies. And I don't know of any agency that doesn't take one or the other.

ALEX HOWARD >> So, are you saying that Justice Department is saying there needs to be one or the other so the agency is not accept it online for whatever reason they need to have an email address?

MELANIE PUSTAY >> Sure. It's hard for me to think... in this day and age, it's hard for me to imagine that you can't do one or the other. Obviously not -- well, every agency has electronic available through the national FOIA portal. So I can answer that. If you want to make a request electronically to any agency use the national FOIA portal and there you go. You would never be forced to use anything other than electronic.

ALEX HOWARD>> I could encourage you all to continue to speak and engage with the requester community because I think you will find that the experiences and stories that they have to share are evidence that in 2019 there are still things which we would be surprised -- that you would be surprised by in this day and age. And that as you research recommendations that the requester community's experiences are incorporated into your recommendations.

And they're represented here at the table and in different forums. Because I do think that the government-centric nature of these discussions sometimes doesn't incorporate those perspectives of the realities that people experience on the ground. When people receive records that are wholly redacted and then that's counted as being partially responsive I think it dukes the stats. That's what you know example. But there are certainly many others too. And I do appreciate the opportunity to ask these questions. I do wish that more people made use of this time.

ALINA M. SEMO >> Thank you, Alex.

ALINA M. SEMO >> Just I wanted to ask Sheela any questions or comments or statements online?

SHEELA PORTONOVO >> Unfortunately, I'm having some technical difficulties here on our live stream. I can't see it. But the last time I checked there were -- the last time I was able to see it there were not any questions.

ALINA M. SEMO >> Okay. All right. Well I don't see anyone else lining up at the mic. So I think we're done with the public comment section. And I think we're 3 minutes over. So I appreciate all the hard work that has been going into everything we've been talking about. I think we're doing some great work. Please keep it up. The Subcommittees should continue to meet. We certainly invite everyone to visit OGIS's website and social media for more information about our activities and how you can participate.

Our next meeting is a Friday, Friday, December 6th, 2019. Not this Friday! I just wanted to emphasize Friday, because it's a little off day. We usually are on Thursdays. Friday December 6, 2019 at 10:00 a.m. You'll be watching us on live stream, Melanie.

Thank you again for your time and participation. Kirsten always reminds me to remind everyone on the Committee to please leave behind their National Archives folder so we can recycle them for the next time and actually have content in them so we can reuse them for future meetings. Any questions from anyone? Not hearing any. Anyone on the phone have any questions? Great. We stand adjourned. Thanks everyone.