

National Archives and Records Administration
June 4, 2020
Freedom of Information Act (FOIA) Advisory Committee Meeting Transcript
10:00 a.m. - 1:00 p.m. (ET)

EVENT PRODUCER: Ladies and gentlemen, welcome. Thank you for joining today's conference, The Freedom of Information Act Advisory Committee meeting. Before we begin, please ensure you have opened the chat panel by using the associated icon located at the bottom of your screen. If you require technical assistance, please send a private chat to me, the event producer. All audio lines have been muted until the end of the call. We will give you instructions on how you can make a verbal comment at that time. As a reminder, this conference is being recorded and with that, I'll turn the call over to David S. Ferriero, Archivist of the United States. Please go ahead.

DAVID S. FERRIERO: Good morning. This is David Ferriero and welcome to our second virtual meeting of The Freedom of Information Act Advisory Committee and the final meeting of the 2018-2020 term. Once again, we join each other virtually rather than in person at the National Archives building in downtown Washington, where I am currently perched. Two years ago, I appointed 20 FOIA experts from both inside and outside of the government with a range of FOIA experiences and lenses to fulfill a broad mandate: advise on improvements to FOIA administration across the government.

Since September 2018, three subcommittees looking at records management, time and volume matters, and a long-range vision for the FOIA have asked questions, studied answers, shared their FOIA experiences, brainstormed ideas, and deliberated suggestions for improving the FOIA process. The full Committee has voted on a majority of their proposals at its last three meetings. The result is a package of 22 far-reaching recommendations, 15 of which are aimed at federal agencies, including the Office of Government Information Services here at the National Archives.

Other recommendations are geared toward the Chief FOIA Officers Council, the Council on Inspectors General for Integrity and Efficiency, and Congress. Committee members, I look forward to your final deliberations today and to receiving the final report later this month. Thank you for your dedication to FOIA and to this Committee. At the May 1st meeting, Committee member Michael Morisy noted FOIA is a team sport. Indeed, it is, and you have all exemplified that by working together, FOIA requesters and agency FOIA professionals, toward a common goal, making the FOIA process work for all.

Please note that I greatly appreciate your work, which dovetails nicely with the National Archives' strategic goal to "make access happen." I especially appreciate the work done since the March 5th meeting, the majority of which took place during these difficult times in which life has frayed around the edges while we physically distance ourselves, face technological changes and juggle caregiving responsibilities.

If we were not in the midst of the Coronavirus pandemic, I would present each of you with an OGIS/NARA challenge coin and a handshake on the stage of McGowan Theater. We will find a

way to get you your challenge coin eventually. In the meantime, please accept my gratitude and a virtual handshake for a job well done.

Please know that I am committed to ensuring that your recommendations are carried out. Much of the work will be tasked to OGIS, which has done an excellent job of ensuring that the recommendations from the prior two terms of the Committee are implemented. OGIS is in the midst of completing action on recommendations from the 2018-2020 term of the Committee by assessing how agencies prepare documents for posting on agency FOIA websites and how agencies are incorporating FOIA performance standards into non-FOIA professionals' performance plans and evaluations.

Before turning the Committee meeting over to Chairperson Alina Semo, I wanted to let everyone in attendance know that on May 7th, I signed the charter for a fourth term of the FOIA Advisory Committee. OGIS will solicit nominations from both the federal agency and FOIA requesters communities and in accordance with the charter, I will appoint members for the 2020-2022 term of the Committee representing cabinet level departments, smaller agencies, as well as requesters with a variety of FOIA perspectives. The new Committee of 20 members is expected to hold its first meeting on September 10th. Take care, stay safe and be well. I now turn the meeting over to Alina Semo.

ALINA M. SEMO: Great. Thank you so much, David. Thank you everyone for joining us today. As the Director of the Office of Government Information Services (OGIS), and this Committee's chairperson, it is my pleasure to welcome you all to the second of our virtual meetings of the FOIA Advisory Committee and also the ninth and final meeting of the 2018-2020 term of the FOIA Advisory Committee. I can't believe it's been two years already. I hope everyone who's joining us today has been staying safe, healthy, and well.

Despite the challenges we have all been facing during the COVID-19 pandemic, I am very proud to say that this FOIA Advisory Committee has continued to stay engaged and focused on the task at hand to finish out this third term with an impressive 22 recommendations for the Archivist of the United States and a draft final report that we will be discussing and finalizing today.

I want to thank each and every one of you on the Committee for your contributions, your passion and your commitment to developing consensus recommendations from proving the administration of FOIA across the federal government. Behind the scenes of the last few months and throughout the past two years, several of you deserve an extra special thanks for the hard work you've put in to get us to this point. I would like to recognize in particular on records management stuff, Subcommittee co-chairs Jason R. Baron and Ryan Law; [Time/Volume] co-chairs Emily Creighton and Bradley White; and Vision Subcommittee Co-Chairs Joan Kaminer and Chris Knox.

To get us into this home stretch, the working group who pulled this report together deserve a special thanks as well. That would be Jason R. Baron, Abioye Mosheim, Sean Moulton, and Patricia Weth. Behind the scenes, we could not have gotten to this point without all of the hard work of the Committee's Designated Federal Officer – DFO – Kirsten Mitchell. I want to

recognize the support of our NARA historian, Jessie Kratz, who has given us, for the past several months, lots of help behind the scenes and has assisted us with the work of the Committee.

Thanks also to OGIS's Christa Lemelin for her oversight, care and feeding of the Committee website and the Eventbrite RSVP. Also, a thank you to our Office of General Counsel colleague Rana Khandekar, who has provided us with valuable legal guidance and advice regarding the Federal Advisory Committee Act and ethics issues.

As the Archivist mentioned in his opening remarks this morning, he has renewed the Committee's charter for fourth term 2020 to 2022. I am excited to continue to chair the next Committee term as long as David agrees. Please be on the lookout for a Federal Register notice that will be coming out in the next few days soliciting nominations for the 2020-2022 term. The deadline for nomination submissions is July 2nd. As we have in the past, we are happy to consider both first party and third-party nominations. Sorry. That was a bit of FOIA humor there. The first meeting of the 2020-2022 term is scheduled for Thursday, September 10th so please mark your calendars.

Next, I would like to cover some housekeeping rules, review our general agenda for today and along the way set some expectations for today's meeting. First, 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 comments, suggestions, and feedback that you may submit at any time, by emailing foia-advisory-committee@nara.gov.

Meeting materials are available on the Committee's webpage. We will upload a transcript and video of this meeting as soon as it is available to the Committee webpage. Information about the Committee, including members' biographies and Committee documents are available on the 2018-2020 FOIA Advisory Committee, OGIS website. I invite everyone joining us today to visit the Committee website and that way we can dispense with introductions to the Committee members today. Eighteen of the 20 Committee members are participating today. Sarah Kotler of the Food and Drug Administration and Abioye Mosheim of the Consumer Product Safety commission are unable to join us today.

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 and FOIA Advisory Committee activities and events by following us on social media.

As I mentioned at our May 1st meeting, the virtual environment, unlike in-person meetings has many advantages, including much shorter commutes for all of us to more casual Thursdays. Last time, we met on a Friday, so it was easier to say casual Friday. The disadvantage for me and Kirsten is that we will not be able to see you raising your hand or eagerly leaning forward, ready to make a comment or ask a question as when we were meeting in the McGowan Theater.

Although I will be doing my best to monitor nonverbal cues during the webcast, we will all need to be respectful of one another and try not to speak over one another although I realize that may be inevitable at times. I want to encourage all Committee members to use the all panelists option from the drop-down menu in the chat function if they want to raise their hand and speak.

You can also just chat me directly, but I just want to remind everyone, in order to comply with the spirit and intent of the Federal Advisory Committee Act, I want to ask Committee members to please keep communications in the chat function to housekeeping and procedural matters and not make any substantive comments those you shouldn't be making by speaking on the record.

Kirsten will be chatting with our event producer today to ask him to make any language changes that we're going to be talking about today as part of the process but otherwise, if you chat something substantive it will not be recorded in the transcript of the meeting. Another important reminder, if you need to take a break today please do not disconnect from either the audio or video for the web event. Instead, please put your phone on mute or continue to keep it on mute and close your camera, and then join us again as soon as you can.

Also, please remember to identify yourself by name and affiliation each time you speak during the meeting. I'm guilty of always forgetting that myself, but I have to remind everyone. This does help us with the transcript and minutes, both of which are required by the Federal Advisory Committee Act.

We have posted the agenda for today's meeting on the 2018-2020 FOIA Advisory Committee website. Our goal as a Committee today is to vote on one best practice that has now reverted to recommendation, discuss if necessary any comments that have been submitted by both Committee members and members of the public and discuss, finalize and vote on the final report of this Committee. I promise that although there was no break on the agenda, if we need to do so, we will take a 15-minute break at a logical point. Although my overall goal is to try to give all of you back the gift of at least one hour and end at noon.

After the Committee has deliberated but before we take a vote on the final report, we plan to open up our telephone lines to welcome public comments, and we look forward to hearing from any non-Committee participants who have ideas or comments to share. Jessie Kratz, the National Archives historian, will be monitoring the chat function. I will ask her to read out loud any questions or comments during the public comment period as well.

After our May 1st meeting, the final report working group met weekly, more often as needed sometimes, to pull together the draft report based on the recommendations the Committee passed. We posted a final draft on our website on May 21st and promoted it via our blog posts and NARA social media. We also circulated the final draft among the Committee members and encouraged all of you to read it in advance of today's meeting so you can be prepared to raise any concerns or issues before we get ready to vote.

We have realized that we have forgotten to post the two appendices on our website. We will take care of that right after this meeting and make sure that the two appendices go up, one of which is

the charter itself. The second is I believe a summary that has been put together by Committee member, Jason R. Baron and I apologize for that, but we will fix that error.

I want to move on now to approve meeting minutes from our May 1st meeting and Kirsten has circulated by email those minutes to all Committee members. I do not believe that we got any comments to any of those Committee meeting minutes. Kirsten, is that correct? Yes, that is correct. Later today, Kirsten and I will certify the minutes to be accurate and complete, which we are required to do under the Federal Advisory Committee Act within 90 days of our last meeting. We're way ahead of schedule. If I can have a motion to approve the minutes in their current form, I would appreciate that.

JAMES R. JACOBS: So, moved, it's taken some moves.

ALINA M. SEMO: I'm sorry, who was moving? My bad, I missed who was moving [00:14:45 crosstalk]. That was James Jacobs. Thank you, James Jacobs. Happy to take a second.

THOMAS SUSMAN: Second, Susman.

ALINA M. SEMO: Thank you, Mr. Susman. All present persons on video webcam in favor of approving the minutes, please say aye.

COMMITTEE: Aye.

ALINA M. SEMO: Anyone oppose, please say, nay. Anyone abstaining from the meeting minutes? It sounds like there are no abstentions and no nays. It sounds like we have unanimously passed them. The May 1st minutes are approved, and we will post them on the Committee website. Kirsten, we're good? I'm going to move on. I'm going to review the voting procedures. I try to do that every time, because we used to be able to hand them out to Committee members in their NARA folders. We're not able to do that right now in this virtual environment but briefly any member of the Committee could move to vote on any recommendation.

Although the motion does not need to be seconded, it seems like we've been doing that for a while, so I'm going to continue that practice seems to make us feel better. The vote can be passed by unanimous decision, which is when every voting member except abstentions is in favor of or opposed to a particular motion. General consensus, which is when, at least two-thirds of the total votes cast are in favor of, or are opposed to a particular motion and general majority, which is when a majority of the total votes cast are in favor of, or are opposed to a particular motion.

In the event of a tie, we will reopen discussion and the Committee will continue to vote until there is a majority. If you are in favor of a recommendation, please say, aye. If you are against a recommendation, please say nay and if you do not wish to vote, please say abstain. In this current virtual environment, we will take a voice vote, but I will make sure we pay particular attention to any nays and abstention. Kirsten our DFO will record and announce the results of any and all those that we take today.

We would then open the floor to the Committee for a period of general comments, questions, and

feedback about recommendations today and after comments, questions, and discussion. I will ask whether the Committee is prepared to take a vote. Today, I'm anticipating taking a vote only on two items, the final report itself, as well as the best practice, which has now reverted to a recommendation. Before I go on, I just want to check in with the Committee. Does anyone have any questions so far? Okay. Silence is golden. Okay, let's move on.

KEVIN M. GOLDBERG: I do have one thing. I really should have brought this up a bit earlier, but it just jumped out at me, looking at the screen now. I think we need to have cameras on. I realized you're going to talk about it might be confusing, but we managed in the last meeting and this is a transparency group. If we were in McGowan [Theater] people would see all of our reactions, you alluded to this. It doesn't feel right to me that we don't do that.

ALINA M. SEMO: Yeah, Kevin and I second [00:18:14 crosstalk].

KEVIN M. GOLDBERG: [00:18:15 inaudible] once I saw it here, it did not feel right.

ALINA M. SEMO: I actually, I'm able to display on my laptop screen everyone's little squares. Hopefully, everyone is able to do that. I believe Patricia has been the only one in the minority who has not been able to turn on her webcam, but we all know what she looks like.

KEVIN M. GOLDBERG: I get that. I get if there's issues and I understand people may not want to, but I'm certainly, I'm going to do it and people can make their own choices. I just wanted to mention it.

ALINA M. SEMO: Some people have dressed up for this meeting today. I want to recognize Chris Knox and James Stocker and Bradley White. [00:18:59 crosstalk] Tom is wearing not a jacket. Some of the other Committee members are wearing jackets. I'm going to just give you kudos for that. Kevin, I agree. It makes it much easier for me as well so thank you for that.

KEVIN M. GOLDBERG: [00:19:13 inaudible].

ALINA M. SEMO: Yeah. I appreciate it. Any other comments or questions about everything I've gone over until now? Because if we don't have anything else, I'm going to keep moving forward to talk about what we're gathered all to talk about today, primarily, which is the final report. I have a few comments. I just wanted to set the stage before we get into a substantive discussion.

The working group made a great effort to integrate the three subcommittees' reports into one complete document. Groupings of recommendations into subcategories mean that recommendations appear in a different order than in the subcommittee reports. If anyone wants to compare the two, we have posted the three subcommittee reports on our website.

In the interest of clarity, the working group took some drafting liberties, I'm saying that in air quotes, for those who can't see me, to include modest revision of the precise wording of certain of the Committee's recommendations, but the group made every effort to uphold the substance of the recommendations as previously voted on by the entire Committee.

The working group also used some editorial discretion to craft supporting text for each recommendation that adhered to what was set out in the subcommittee reports, supplemented with additional text and as you might've noticed, lots of citations. Believe it or not, despite the current length of the draft report, I believe we're at 42 pages, the working group elected to shorten some of the accompanying rationales in the subcommittee reports while retaining the substance of what was said.

As the working group looked more closely at the survey results from FOIA personnel and requesters, we were challenged with reconciling percentages contained in the last draft version of the survey. In the draft report, the working group used its discretion to remove sites to percentages and the survey results, replacing them with what arguably are less precise, but nevertheless, still useful language that conveys the overall messages of results.

Nevertheless, a final version of the Time/Volume Subcommittee report has been posted on the Committee's website and it has appended to it the actual survey results so that interested readers and Committee members can delve further, if they would like. In addition, the Records Management and Vision Subcommittees reports have been updated and reposted on the Committee website to reflect a more final version.

First order of business, I would like to call everyone's attention on the Committee to recommendation number 13, which had formerly been voted on by the Committee as a best practice. I thought in particular, this would make Bradley very happy since we managed to persuade him to move his recommendation to a best practice, but we really found that in and revisiting all the recommendations and in writing the report that the working group really thought that it just flowed much more smoothly to revert back from a best practice to a recommendation. I hope all of you agree.

We also thought it would just look a little bit odd to have a single best practice sticking out all on its own. We are recommending that we put it back as a recommendation to this currently, number 13. I will read it out loud in case everyone doesn't have it in front of them and I believe that... If I could ask our event producer, Viju, to please go further down to get into recommendation number 13, just so we have it in front of us. Is that possible?

EVENT PRODUCER: It's up Alina.

ALINA M. SEMO: It's up. Great. Thank you. Just to read it out loud, for those of you who cannot see the slide, we recommend that agencies conduct a comprehensive review of their technological and staffing capabilities within two years to identify the resources needed to respond to current and anticipated future FOIA demands. Again, because we passed it as a Committee as a best practice in a prior meeting, I thought it was important that the Committee vote on it in its present form as a recommendation.

First, I just want to invite any thoughts or comments on this. If there are none, I'm happy to proceed to a vote. I'm seeing everyone nodding. If we could please vote on the recommendation number 13 at its present form, all those in favor please say aye.

COMMITTEE: Aye.

ALINA M. SEMO: Anyone who would like, Oh, I heard a late aye. Anyone who is against the recommendation, please say nay. Anyone who wishes to abstain?

BOBBY TALEBIAN: This is Bobby from OIP, and I'll continue to abstain.

ALINA M. SEMO: Thanks, Bobby. I'm going to go with aye on this one. Kirsten, do you want to read out the results of our votes please?

KIRSTEN B. MITCHELL: Yes. The recommendation number 13 passes unanimously with Bobby Talebian abstaining.

ALINA M. SEMO: All right. Great job everyone. Thank you, Bradley, are you happier?

BRADLEY WHITE: Yes.

ALINA M. SEMO: Okay. Good job. Next, I would like to invite several different Committee members to provide us with their thoughts on some language tweaks that they would like to offer up. I personally do not think they arise to the level of needing to take a vote on each one. My intent is to just vote them in as part of our final vote on the package of the final report but if anyone disagrees, I'm happy to discuss after each Committee member introduces their tweaks.

If I could first turn to Bobby, please and I tried to do this in the order in which the recommendations appear on the slides. We are now back to recommendation number one. Bobby has a small language tweak he would like to offer up recommendation number one.

BOBBY TALEBIAN: Thanks, Alina. Just a small tweak and I think it's on the next slide. It shows you what the tweak would be, but it reflects more of what the rationale describes and that OIP would be issuing the guidance. That's really all there is to it.

ALINA M. SEMO: Yep. A clarification. I'm just going to turn to Tom for one minute. He had raised earlier a question about whether the language flowed well enough in recommendation number one. Does Bobbie's tweak fix your issue?

THOMAS SUSMAN: Yeah, it does. My concern was a grammatical one basically that for the purpose of OGIS and OIP did not make sense, but this does it. I support this amendment.

ALINA M. SEMO: Any other comments from Committee members on Bobby's proposed language tweak? All right and let me just poll everyone. How does everyone feel about the need to take a vote on this individually or can we just vote on it as part of the final package?

MALE SPEAKER: Final package.

FEMALE SPEAKER: Final package.

ALINA M. SEMO: Final package. I got a thumbs up from Emily too. Okay, sounds good from the phone. Thank you, Bobby. It seems like there's consensus. We don't need to vote on it separately. That takes care of recommendation number one. Yay, we did it. Okay, moving on. I'm now going to turn it over to Sean Moulton, who is going to discuss his changes to recommendations number 3 and 12. Let's start with 3, Sean.

SEAN MOULTON: The changes in both of these are pretty much identical. You'll see that basically I'm just removing OGIS and OIP from the target of the recommendation. Both of these were ones where we asked OGIS and OIP to encourage agencies to do something and instead, since we've discovered that we can make recommendations directly to agencies, I'm saying we should make the agencies the target of the recommendation.

Just recommend that the agencies do whatever work that we envisioned for the... so this one is as you'll see online access through standardized ways and a website. Instead of saying, OGIS and OIP, encourage them to collect and release the FOIA records to say agencies work towards the goal.

ALINA M. SEMO: Does that get us off the hook, OGIS and OIP? Should we be celebrating?

SEAN MOULTON: I will point out that the language beneath the recommendation still mentioned heavily OGIS and OIP and what we envisioned them doing to help the agencies.

ALINA M. SEMO: I tried, Bobby. Anyone have any questions regarding Sean's proposed change?

JAMES R. JACOBS: This is James Jacobs, Stanford University.

ALINA M. SEMO: Yeah. Oh, James Jacobs [00:29:28 inaudible]. Thanks.

JAMES R. JACOBS: I just wanted to say thanks to Sean to make this recommendation a little bit more clearer and also pointing out that the describing text under the recommendation includes OGIS and OIP because I think if we just say, we recommend that agencies do this, how are we going to get the agencies to know about this recommendation? I'm glad that OGIS and OIP will still be in the mix. Sorry Alina.

ALINA M. SEMO: No, it's fine. I saw Jason R. Baron raising his hand. Jason, do you have a comment?

JASON R. BARON: Well, I am supportive of the change by Sean, but this was calibrated in its original form and discussed in the prior public meeting so as to balance the ability of agencies to take into account the ability of agencies to do this. I think it's important as noted by the last two speakers that OGIS and OIP are vehicles to encourage agencies to work towards this goal. By omitting an express reference, I would hope that the final report is still encouraging agencies through the vehicle of OIP and OGIS to affect this. It would be, I think it's just more effective with Bobby's voice and your voice Alina in doing this.

ALINA M. SEMO: We understand that, and we certainly will rise to the challenge. Right, Bobby?

BOBBY TALEBIAN: That's exactly right. I don't see it any different for us.

ALINA M. SEMO: You're now on the record, Bobby. All right. Anyone else have any other comments or questions?

BRADLEY WHITE: Bradley White, DHS. This still works and [addresses] my concern, so I have no issues with this language.

ALINA M. SEMO: Okay, great. Thanks, Bradley. How do folks feel about whether we need to vote on the new language, or do you think it's sufficient to vote on it as part of the final package?

MALE SPEAKER: Final package.

FEMALE SPEAKER: Final package.

ALINA M. SEMO: Thanks. [00:32:11 inaudible]. Anyone feel differently? All right. Well, Sean, thank you. Do you want to go on to number 12 or do you feel like we should at least fill up the slide even though you just covered the essence?

SEAN MOULTON: Yes.

ALINA M. SEMO: Can I have... Thank you.

SEAN MOULTON: Here we go.

ALINA M. SEMO: Recommendation number 12.

SEAN MOULTON: You'll see the same thing here, just removal of OGIS and OIP and this is encouraged or actually recommend that agencies release documents in machine readable, legible, actionable and feasible. A very similar change.

ALINA M. SEMO: Thank you, Sean. Any comments or questions?

EMILY CREIGHTON: This is Emily. I wondered if this is... maybe it's a little bit of explanation on the reasoning, is this to create more of the burden on the agency to take action? Because I think folks have noted the importance of OGIS and OIP working with the agencies. I'm just wondering if that... I understand it makes it a little cleaner to read, but I just wondered if it was actually to put some more mandatory language there for the agency. I just didn't know what the reasoning was.

SEAN MOULTON: I guess that's along that vein, I wouldn't call it mandatory language or anything, it's still just a recommendation to the agencies. I think what I was envisioning was

under the current structure of the recommendation if OGIS and OIP did something to encourage the agencies to accomplish either of these recommendations and even if no agency changed anything, technically the recommendation would have been satisfied because OGIS and OIP would have encouraged.

I felt that the recommendation was really for there to be at least some movement in this area. I just thought we should say it that way, that this is what we're recommending, this change. I didn't want to change the underlying texts because I do see an important role for OGIS and OIP in trying to make this change, but I felt like we should just recommend straight to the agencies, the change that we envisioned.

OPERATOR: Your line is now unmuted.

EMILY CREIGHTON: That makes sense. Thanks for that explanation.

ALINA M. SEMO: Emily you're good?

EMILY CREIGHTON: Yeah, I'm good.

ALINA M. SEMO: Okay. Thank you. Any other comments or questions for Sean on number 12?

JASON R. BARON: Alina, this is Jason. This is nominally similar to Sean's other recommendation, but if my recollection is correct, this was even more calibrated to address concerns of one or more members on behalf of their agencies that the agencies might not be able to in the short term, do anything like this. Again, I myself have no objection, but I'm voicing what I thought was a concern. I think there were issues in both directions at a prior public meeting where some on the Committee wanted the language to be stronger than what we had at then and others were cautious about what their agencies were capable. I defer to anyone on the Committee to speak up if they have any heartburn over this.

BRADLEY WHITE: Bradley White, DHS. My issues here are also still addressed especially with the continued inclusion of the extent feasible so I'm still okay with this one.

JAMES R. JACOBS: This is James Jacobs. I just want to echo my former comments and my prior comment and note that, OGIS and OIP are both mentioned in the recommendations, comments and description. I'm fine with it too.

MALE SPEAKER: I'll just say, this to me, this approach just makes this, it just adds to best practices kind of a flavor where it's a recommendation for OGIS and OIP to do something, but it also highlights the best practice for agencies that we can convey and that they can look to that the Committee is supporting. I see this in that angle. I think that's fine in that angle.

THOMAS SUSMAN: This is Tom Susman. Comment?

ALINA M. SEMO: Yes, please.

THOMAS SUSMAN: I think it's especially important that OGIS and OIP be involved here. I wouldn't oppose the change, but as you know, I have been concerned about language to the extent feasible, because I think you gave me a tough task and say, do it to the extent feasible, I'm going to find it not feasible if I don't want to do it and so I think there definitely needs to be some outside supervision, accountability, assistance, encouragement, et cetera, on something that were... if we maintain this qualification.

JASON R. BARON: I think that language was [00:38:56 inaudible]. I think that language added in there to give flexibility for unknowns, but obviously what we're aiming for both OIP and OGIS, would be to fully embrace this level of posting and machine-readable format but with unknowns, part of this action is going to involve a little bit of study on our part.

ALINA M. SEMO: I'm not seeing anyone else raising their hand. Again, same question as I've asked with the others, anyone feel the need to vote on this now in this new form or are we okay to vote on it as part of the final report? Choose your venture, one or two? Two, okay.

JAMES R. JACOBS: Final report is fine. This is James Jacobs.

ALINA M. SEMO: All right. Thank you, James. That takes care of now recommendations 1, 3, and 12. I'm going to now turn it over to Ryan who wanted to discuss a proposed tweak to recommendation number eight.

RYAN LAW: Hi, good morning, everyone. This is Ryan Law from Treasury. I'm just waiting for the slides to catch up here. If you could go to the... perfect. Thank you. Looking at this recommendation, which I think is a great one, there's a lot of discussion in the narrative about the purposes for, by which we're recommending this. As it was previously written, it only included the goal of encouraging agencies to improve their internal processes.

I recommend that we add another really important goal, which is to improve and increase public transparency to agency FOIA processes. I felt the need to bring that up into the actual recommendation. I wanted to see if anyone had any concerns or questions or comments about that.

EMILY CREIGHTON: Emily Creighton [00:41:15 crosstalk]. This is a great addition. I support it.

BRADLEY WHITE: Yeah, same thing. I think it strengthens it and makes it a lot better.

BOBBY TALEBIAN: I agree.

ALINA M. SEMO: Just for the record, that was Emily Creighton, who said she likes it, right? Okay. Yes, and then who was the second person that spoke? I kind of [00:41:40 crosstalk].

BRADLEY WHITE: Bradley.

ALINA M. SEMO: Bradley, thank you, and Bobby also likes it. Jason raised his hand.

JASON R. BARON: I support it. Ryan and everyone, just to make it cleaner, is there a reason to have the clause into agency FOIA processes, because the word processes, why not just say to increase public transparency and to encourage agencies to improve their internal processes?

RYAN LAW: This is Ryan. Jason, I agree with that modification.

ALINA M. SEMO: Just so we're all clear, we are going to keep the phrase to increase public transparency and strike into agency FOIA processes. It will read, to increase public transparency and to encourage agencies to improve their internal processes. Correct?

MALE SPEAKER: Correct.

ALINA M. SEMO: Okay, Ryan, is that good?

RYAN LAW: Yes.

ALINA M. SEMO: All right. Any other comments on this particular tweak for recommendation number eight? Again, unless I hear any objections, we're not going to vote on it separately. We're going to vote on it as part of the whole package. I'm waiting for any objections to come in. Thank you, Kevin, for nodding. I appreciate that. Thanks, Ryan. Tom, I would like to turn it over to you. You would like to discuss a tweak to recommendation number 18.

THOMAS SUSMAN: Yes. I think this is, my recollection is that this is a non-substantive. It's not 18, no. No, that's not me.

ALINA M. SEMO: That's not you?

THOMAS SUSMAN: No.

ALINA M. SEMO: I thought it was you, you just have a slight wording change that I don't think it was substantive, but we just decided we should just let everyone see it.

THOMAS SUSMAN: Yes, but that wasn't the 18th.

ALINA M. SEMO: Oh, I'm sorry. I thought that's what you had indicated.

THOMAS SUSMAN: I'm trying to find out where I was [00:44:14 inaudible].

JASON R. BARON: Alina, I actually think this is a substantive change. It's Jason.

ALINA M. SEMO: Okay.

JAMES R. JACOBS: This is James Jacobs.

THOMAS SUSMAN: Yes. Actually, yes. I see. I'm sorry. I didn't care for the how agencies have been doing. How agencies are doing. That just seems really strange to me. How are they doing for a [00:44:46 inaudible] recommendation, the Advisory Committee, but I'm not necessarily related to how successful they may have been? I do think that the... I was put off by the initial language. I apologize.

ALINA M. SEMO: That's okay.

THOMAS SUSMAN: I got distracted by the [00:45:05 inaudible] mark out there.

ALINA M. SEMO: No, I only had a momentary moment of panic. It's all gone.

THOMAS SUSMAN: Yeah, no.

ALINA M. SEMO: It's okay. Thanks Tom. Jason, you think this is substantive? Do you want to talk about that?

JASON R. BARON: The only, I don't have an objection, but I think we should all recognize what this change means. The recommendation is for an ongoing priority. It's not a one-time thing of a cross-cutting project or priority area and so the language are doing is an active component of this recommendation. That's a going-forward component, it's not just a one-time assessment of what has been done. I agree, however, that in the usual case, what OGIS do is do an audit or some kind of look into what an agency has done, but they also make recommendations for the future. I will say back.

THOMAS SUSMAN: Jason, how about putting the word are instead of have been, so that then makes it [00:46:31 inaudible]?

JASON R. BARON: How would it read?

THOMAS SUSMAN: For priority area, the issue of how successful agencies are in providing FOIA access to agency records.

JASON R. BARON: That would be more faithful to the way that it was originally drafted. Again, I don't have an objection to what you're doing, but I hope the point [00:46:55 crosstalk] the point.

THOMAS SUSMAN: I take your point of it not being an assessment of the past, but encouragement of continuing conduct and I think that changed our response to your concerns, I hope. It certainly would be fine with me. I just was trying to get away from the, how agencies are doing.

JASON R. BARON: Well, I support your latest amendment.

ALINA M. SEMO: Sean has been raising his hand very patiently.

SEAN MOULTON: I just had a variation, I think, on what Tom was trying to change and maybe a little bit simpler if we made it read the issue of agency's performance in providing FOIA access, might capture all of this.

JASON R. BARON: This is Jason. That also seems like a good word. However, it could be read by some as limiting and we do have the word performance in the recommendation inspired by Suzanne's work on performance plans. I wouldn't want that to be a delimiter in what the IG scope is.

ALINA M. SEMO: Sean...

EMILY CREIGHTON: This is Emily [00:48:34 crosstalk]. Sorry.

SEAN MOULTON: I couldn't hear your comment, Alina.

ALINA M. SEMO: I'm sorry. I just asked whether you wanted to withdraw your suggestion, or do you want to [00:48:47 crosstalk]?

SEAN MOULTON: Sure. If it's not seen as helpful, then that's fine. I'm actually fine with Tom's, how successful agencies are in providing FOIA access.

ALINA M. SEMO: Okay, [00:49:00 crosstalk]. I just wanted to resolve that. Emily, I'm sorry. Go ahead.

EMILY CREIGHTON: Yeah, I was thinking, I think there's a need for language here around the fact that the success is being measured in some way. Maybe the how is just the way to do that, but to simplify it, cross-cutting project or priority area designating it as cross cutting or priority area, it's really the success of agencies in providing FOIA access. All of those words say that, I think but I don't know how successful. It sounds like you're measuring it a little bit more, but I also think you just say the agency's success in...

ALINA M. SEMO: Can I ask, I believe this is a records management subcommittee recommendation, is that correct?

JASON R. BARON: Yes, it is.

FEMALE SPEAKER: Correct.

ALINA M. SEMO: Can I have Jason and Ryan comment on what Emily just said and of course, invite the other subcommittee members to comment as well?

JASON R. BARON: Ryan, I'll defer to you.

RYAN LAW: I'm sorry. This is Ryan. I don't feel strongly. I think I support the edits here and Emily, I'm sorry, I might've missed your point.

EMILY CREIGHTON: I think that there's just been discussion about, have been referring to past activities and that there needs to be current language about current ongoing work and there was just also a discussion about simplifying the language. I just, I'm not sure. I think are in providing was the previous suggestion. I think that's fine and I just suggested additional language that would make it even simpler, but I think it might take away some of the measuring there. I would maybe, I think that either are, or just saying the issue is cross cutting or project area, the success, agency success, in providing. I think either of those would be fine.

ALINA M. SEMO: What I recall...

JAMES R. JACOBS: This is James Jacobs. I'm sorry.

ALINA M. SEMO: I'm sorry, James. I was just going to make a quick point. I seem to recall this recommendation was intended to have CIGIE designate this cross-cutting project in order for them to in fact measure how agencies are performing. Wasn't that the original intent of this recommendation?

JASON R. BARON: Well, the original intent, this is Jason, was to get this on the radar screen of IGs and how they did that was really up to them. I'm not sure I'm seeing the difference Emily in the language you're proposing. I liked the language that Tom has proposed, and we just suggest that we stick with that.

EMILY CREIGHTON: Are goes to have been?

ALINA M. SEMO: Right.

JASON R. BARON: Yeah [00:52:30 crosstalk].

EMILY CREIGHTON: That's fine. I think so.

ALINA M. SEMO: I'm sorry Jason but [00:52:35 crosstalk].

JAMES R. JACOBS: This is James Jacobs. I agree with that and I just wanted to note that in the content of the recommendation it suggests that the review that takes place can take the form of an auditor review of how agencies are planning to meet the goal set out in M-19-21. It makes reference to a specific document that should be used as a standard for measuring this. Because it's making this specific reference to a document, I'm not sure if it really matters too much, whether we say they're successful in doing it or just whether they measure how they do it. I feel like we're splitting hairs a little bit there.

ALINA M. SEMO: Okay. Thanks. Anyone else who wants to comment or offer up another language suggestion or are we all good with successful agencies are in providing FOIA access? Kevin's nodding. Thank you, Kevin. Sean is nodding. Ryan is nodding. It seems like we have consensus on that. Kirsten, are you able to reflect that in the changes that we're making?

KIRSTEN B. MITCHELL: Yes. Just let me read it please, to make sure that I have it correct. We recommend the chair of CIGIE consider designating as a cross-cutting project or priority area the issue of how successful agencies are providing FOIA access to agency records in electronic or digital form.

ALINA M. SEMO: Are we leaving then the word in before providing or did you just drop that?

KIRSTEN B. MITCHELL: I dropped it. I'm sorry. How successful agencies are in providing FOIA access to agency records in electronic or digital form.

THOMAS SUSMAN: Yes.

ALINA M. SEMO: Tom, you're good with that, obviously.

THOMAS SUSMAN: Yes.

ALINA M. SEMO: Okay, anyone else want to comment? Does anyone feel like we need to vote on this separately? No, we're going to vote on it as one package. We're going to vote on it as a final package. I'm seeing lots of peace signs. All right, great. Well, thank you for all of that. I want to move on next to Jason, who would like to discuss very briefly, not a bridge to the future, but looking to the future. I mistakenly called it a bridge to the future earlier at the end of the report. He is the proud author of that, and he wanted to share with all of you what the thinking is behind putting that as part of the report. Jason, is that a fair characterization?

JASON R. BARON: Sure. I tried to get up to the page here on my other computer so that I can thankfully say, we added an ending here in the report. It's a little bit different and we really haven't discussed it as a Committee and so I wanted to point it out. It's under final observations on page 35 of the report itself, under the page numbering of the report. What we say in the third and fourth paragraphs is that, without intending to bind any member of the next term of this Committee, we do have a suggestion.

The suggestion is that, because this term of the Committee proposed 22 recommendations, if you add up the 22 recommendations we've done, and the recommendations that Martha's been reporting on to us from the last term and even the first term, it's a lot of recommendations. It was our thought that members may want to spend a portion of their time essentially measuring or evaluating compliance with prior recommendations rather than solely being tasked at the outset to go forth and dream up another 22 recommendations or however many that they might have.

We're simply making a suggestion here as to what... opening up the space of what the next Committee might proceed to do. I have a personal concern about, always, about the difference between putting recommendations on paper and actually having compliance with recommendations. That's true were my concern when I was in government about regulations as well, in terms of what's in the CFR or even on the statute and how it's complied with at agencies. It was our thoughts that this was an appropriate paragraph, but I did want to bring it to everyone's attention. Alina, we're not hearing you.

KIRSTEN B. MITCHELL: [00:58:17 crosstalk] Alina, I think you're muted.

ALINA M. SEMO: I muted myself during Jason's talk. I apologize. I just asked whether anyone has any comments or reactions or thoughts to Jason's presentation. Is everyone good?

JAMES R. JACOBS: James Jacobs. I do just want to thank Jason for putting this in here. I think it's a valuable idea for the next Committee to think about. Thanks Jason.

ALINA M. SEMO: Anyone else? All quiet, okay. I'm going to move on now to Kirsten. We have received a total of three sets of comments with... one just came in very short time ago. I believe either Kirsten or Jessie will read the fourth set of comments, but I'm going to turn now to Kirsten to summarize the few public comments we have received to date. They are posted on the Committee website. Certainly, everyone is welcome to go look at them, but Kirsten, take it over.

KIRSTEN B. MITCHELL: Sure. I can summarize these. From Julie Winstead, who is a Privacy/FOIA officer out in New Mexico Veterans Affairs Healthcare System. She prefaces her comments to say that they are based on her observing a lack of training at all levels of her organization. She identifies the need for more training regarding creating, maintaining, accessing, and retaining records as well as more training regarding FOIA. She supports the recommendations and says that they are needed throughout the federal workforce.

We also got a comment from Linda Frye, Senior Government Information Specialist at the Social Security Administration, who brings up a point regarding Recommendation 12, the one about encouraging agencies to release FOIA documents in open legible, machine readable and machine actionable formats, to the extent feasible. Her comment concerns data integrity. She writes, "If this is implemented, how will agencies ensure the data's integrity and that the data will not be falsely represented? Data provided in the recommended format can be manipulated." That was her comment regarding 12, regarding the recommendations.

ALINA M. SEMO: Kirsten, let me just pause for a second, because I think that might warrant just a little bit of feedback from the Committee members.

KIRSTEN B. MITCHELL: Sure.

ALINA M. SEMO: I'm going to turn it over to James Jacobs.

JAMES R. JACOBS: Oh, yes. I just wanted to comment on Ms. Frye's comment and that I think it is important to have data integrity but I wanted to assure her and others who have this concern that, things like PKI, Public Key Infrastructure, are already used in places like a GPO and their gov info database to assure data integrity of their reports and documents. Currently, most good digital repositories use things like checksums and in fact, it's part of the open archives, the OAIS [Open Archival Information System] standard to push for data integrity along the whole life cycle and management of files, including ingest as well as access.

I just want to assure Ms. Frye, if she's on the call or she's going to see this later that I support her comment, but I want to assure her that processes are already in place in which to assure data integrity.

ALINA M. SEMO: Thanks, James. I appreciate that. Anyone else with a comment in response to Ms. Frye's comment on flow? I see Michael raising his hand, Michael Morisy.

MICHAEL MORISY: Yeah, I do. Just want to echo what James said, but also say, I think from the requester community, this is a reasoning that we've seen that has really undermined the usability of documents. I think there's confusion in the requesters community wide. Not a single federal agency owns a colored scanner, for example, let alone, when you get an Excel spreadsheet and you can't actually check those numbers and that sort of thing. The reality is that even if people do not provide things in an editable format, bad actors, it's very easy for them to go and forge documents, very convincingly, no matter how the agency releases it. I think finding better solutions to this very real problem, the solution of providing less usable documents is not actually solving that problem but also really hurting the ability to engage with that material in very meaningful ways that increases distrust in government in other ways. I do think it's a problem. I think it would be a great topic to begin to, but finding other solutions is really important.

ALINA M. SEMO: Thanks. Bobby, I don't want to put you on the spot, but I know this is something that you're a little more of an expert in than even I am, and I know you've posted some machine-readable documents on the OIP website. Do you have any thoughts about the ability to protect the integrity of the documents?

BOBBY TALEBIAN: No, I agree with all that. I think the rationale in the recommendation also illustrate there's multiple ways of having information being open in machine readable formats and so it might just be that some documents are in certain formats than others where they can still be open, but there's still that confidence that there's some protection over the integrity of the data. For example, just as opposed of a scan document making sure that the document is at least OCR or machine readable in that way.

ALINA M. SEMO: Okay, thanks. I appreciate that. Anyone else want to comment on 12 or should we let Kirsten keep going? I'm not seeing anyone raising their hand. Kirsten, please carry on.

KIRSTEN B. MITCHELL: Thank you. This comment is also from Linda Frye of the Social Security Administration. It's regarding Recommendation 20 that Congress ensure agencies receive and commit sufficient resources to meet their obligations under FOIA. She notes that a majority of the Committee's recommendations depend on this recommendation being implemented. Then we have one other written comment submitted from a Dr. Paul Maas Risenhoover from the requester community. A number of his comments do not relate to the work of the FOIA Advisory Committee, so I won't read those.

The ones that do relate include that FOIA processors who are contractors, he thinks should not be able to respond to FOIA requests by saying they are over-broad and, or not properly

formulated. He also thinks the National Archives should ensure that Privacy Act requests do not require, "Physical submission of an affidavit of identity claiming American citizenship, but may instead use an email option under 28 U.S.C. § 1746 to attest to the requester's identity." Finally, he thinks that FOIA requests should not be denied without at least one search by a subject matter expert. Those are all the written comments that we received.

ALINA M. SEMO: Any reaction to the last set of comments? Bobby, not to again call on you, but I'm just wondering, has there been any exploration from the DOJ side about accepting something less than the privacy identity waiver currently in use by most agencies? Is that something that's been explored? Have you discussed this before? That's **[01:07:37 crosstalk]**.

BOBBY TALEBIAN: I think that'll just really go back to is what is in agencies regs as far as what's acceptable and a lot of the agencies regs have more flexibility where different forms of certifying identity is acceptable. But, the agencies are bound by their regs, so unless they change their regs, that's when they would be first looking to as far as how to accept certification of identity.

ALINA M. SEMO: Michael.

MICHAEL MORISY: Yeah, just to fall on with Dr. Risenhoover's point about contractors, I think the broader concern is there is a fair amount of concern within the requester community that A, we have this wonderful group of trained professionals within government who've been doing this for a long time, bringing in private contractors. A, they're not very transparent themselves in a lot of cases and B, there's a lot of concerns, in some cases it's justified, in some cases we just don't have enough information, that they try to figure out how to deny requests because that's cheaper and are putting profits over transparency. I think that's something we didn't dig into much here, but I think is something that's worth flagging for future discussion whether within this community or within the broader FOIA landscape.

ALINA M. SEMO: Thanks, Michael. I appreciate that. All right, anyone else have any reaction, comments? Emily, was that you raising your hand or no? No, okay. All right, I'm looking around, everyone looks like ...

BOBBY TALEBIAN: I would just add to that before you get back. When agencies are using contractors and when they do use them, which can be a very useful resource, those contractors should be supervised by FOIA professionals, FOIA officials in the office. The decisions that they're making should not differ from if someone else in the agency was making them and reasonable searches should be conducted and so on, and so it shouldn't bear on the type of resource the agency's using, even in the sense when they're using contractors, those contractors can't independently make decisions or they should be supervised by the actual FOIA professionals in the office.

EVENT PRODUCER: Bobby. Sean, please go ahead.

SEAN MOULTON: Yeah, since we're talking about contractors, I just wanted to chime in briefly and point out, I think Bobby's right that, obviously if you're using FOIA contractors to

process FOIAs that's one thing, but the commenter may have also been talking about agencies using private contractors simply to do some agency program work and thereby be a manager, the contractor be a manager of records. It has been a difficult area at times when activities are contracted out that, would they normally would have been done by agency personnel, there might be a lot of records as to decisions being made such and FOIA requester community often are looking for those things. When you use a contractor, it can become a bone of contention, whether or not those records are now accessible or not through FOIA, and so it might've been also that not necessarily contractors processing FOIAs, but contractors who are holders of records which I think is another area that future terms might look into and see if there's recommendations or best practices worth putting forward.

BOBBY TALEBIAN: Thanks, Sean. I wasn't thinking of it in that angle, so thanks.

ALINA M. SEMO: Although, we do have an amendment as part of the OPEN Government Act, right? It was passed that contractor generated records are now subject to the FOIA. Is that sufficient or do we need something else?

SEAN MOULTON: I think that's the question, if it's sufficient. I don't know how well it's been implemented or how much the boundaries have been tested since that really went into place. I do know, for POGO [Project on Open Government Oversight] in particular, an area that's been of great interest has been private prisons. That's both, for immigration purposes, but also for regular privately controlled prisons and the access to records there. I don't know how much that's been explored through actual FOIA cases.

ALINA M. SEMO: All right. Any other comments on the public comments we've received so far? Kirsten, that's it for you, right?

KIRSTEN B. MITCHELL: Yes, that is it from me.

ALINA M. SEMO: I'm going to ask Jessie to please let us know if there are any questions or comments on the chat. We have also received a message from Alex Howard who was having trouble accessing our meeting. Hopefully, maybe that's something that our folks are working on, but Jessie, you were going to read out his comments and let us know if there are any other comments on the chat function.

JESSIE KRATZ: Okay. First, we'll do Alex's comment and he says, "Hello! My name is Alexander B. Howard, director of the Digital Democracy Project at Demand Progress Education Fund, a nonprofit focused on open government, among other issues.

I've made many public comments at the FOIA Advisory Committee meetings in this past.

I write today about 3 recommendations that are not in the final draft that should be:

1. The White House Office of Management and Budget removed a cross-agency priority goal for the Freedom of Information Act across the U.S. government. The Council should

recommend that OMB restore this CAP Goal.

2. The Department of Justice took public comment on a "release to one, release to all FOIA policy" but then buried it. The Council should recommend that OIP implement it.
3. The US Capitol Police are not subject to FOIA, nor are other legislative support agencies or the courts. The Council should recommend that Congress enact some mechanism by which the public can exercise its right to know across all branches of the US government.

As always, thank you for your attention and service. Best, Alex.”

ALINA M. SEMO: Apologies for [01:14:38 crosstalk]. Does anyone want to respond to Alex's comment?

MALE SPEAKER: In response to the first comment regarding the CAP [Cross-Agency Priority] goal, I think we do capture that in essence with recommendation number 16 for the Chief Officers Council to look into cross agency collaborations and a potential grant program that goes in line with what we would be doing with the CAP goal.

SEAN MOULTON: Sorry. This is Sean Moulton. [01:15:17 crosstalk] of POGO. I also think that to some extent, the Recommendation 18 that we just discussed with Tom's changes about CIGIE, the Council of Inspectors General getting involved in a cross-cutting priority area also gets to the same tenure and goal there. But I did also want to talk about his third point which was about Capitol Police. We had a discussion at our last in-person public meeting, around applying FOIA in some form to the other branches of government.

There is a mention in the report towards the very end saying that we encourage a future term to wrestle with this or to consider wrestling with it and see if there's recommendations that could be gotten to. This term just didn't have enough time once the issue really had been raised to explore it fully. I appreciate, and I agree that, I think, these are recommendations we can make here, but I also agree with the Committee who decided that they didn't have the time to commit to fully explore it and I do think it's mentioned in the report.

ALINA M. SEMO: Yeah, that was also my reaction, Sean, that for number three, I think it's something that we could carry over to the next term. We're not going to bury it. We will definitely have it as a point of discussion for the fourth term. I know we addressed in the past and the Director of OIP has made comments in the past about the release to one, release to all. I believe the status at DOJ has not changed with regard to that. I think it's still being considered. Is there any reaction from anyone about whether we should recommend that OIP implement that? Oh, James Jacobs is raising his hand. Thank you.

JAMES R. JACOBS: Yes. Hi, this is James Jacobs, Stanford University. I was just wondering, since several of our recommendations allude to the issues that Mr. Howard raises, if it would be feasible to at least bring those issues that he is concerned about more to the fore in the commenting section of our recommendation.

ALINA M. SEMO: Just so I'm clear, James, I think what you're suggesting is to the extent that his comment number one, with regard to the CAP goal, we incorporate that more explicitly in the comment section of Recommendation 18 in the CIGIE recommendation. Is that what you're suggesting?

JAMES R. JACOBS: Yes.

ALINA M. SEMO: Yes. Then also for three, we could certainly, the working group could do this as a drafting change or just an amendment to add to the discussion on Vision Recommendation 3C, right Sean? Which is now... I actually sort of lost track. I don't think it's the recommendation anymore since we took it off the table, but in that narrative, we could add the explicit recommendation that I'll bring forward about the US Capitol Police being subject to FOIA. That's what you're suggesting, James? Just so I'm clear.

JAMES R. JACOBS: Yes

ALINA M. SEMO: Sean, is that something that's doable?

SEAN MOULTON: I certainly think we could acknowledge that some of this takes place, certainly the Capitol Police could be added to the section where we talk about future final observations. My only concern is, I'm not sure if we can... if we want to take the time to try and do that right now and have it read out to the Committee since we're trying to vote on the final version, or if there could be a process where, small tweaks like that could be done after this public meeting. I just don't know to the extent of that.

In terms of the cross-cutting, I'm not sure for this cross-cutting goal, like the CAP goal, I'm not sure I would feel comfortable putting a reference to the CAP goal just kind of jamming that in there. I personally think the recommendations get to it without going in that direction. I don't want to confuse CIGIE with something about a CAP goal when we've got a laid-out recommendation for them. I would say that that one stands alone for the final observations to say something specific about Capitol Police or something I think would be a small change. I don't know if others have thoughts.

ALINA M. SEMO: Yes, James.

JAMES R. JACOBS: Thanks Sean for that clarification. Yeah, perhaps it could be something in a wrap up blog post on the [FOIA] Ombuds Blog or something to that effect that we could respond to the public comments, not just Mr. Howard's, but Ms. Frye's and Ms. Winstead's public comments as a way to assure people who give comments that we've considered them and worked on them. I agree though with Sean, maybe it's too much to do some work on this right now.

ALINA M. SEMO: I think that's probably true. I agree with both Sean and James. I'm also wondering, will the public comments be there on the website, so they're certainly accessible to everyone, they speak for themselves. We will also post out some comments on there as well. One

option is that we could add them as the appendix to the final report. Kirsten and I were just channeling the same thought; great minds think alike. If that's something that folks are interested in, that's something we could just get some verbal cues, nods, if that sounds okay. If everyone seems okay with that, that might be the best way to go. That way, it's all together in one place, one stop shopping.

THOMAS SUSMAN: [01:22:24 crosstalk]. I'm sorry. Why wouldn't we just refer people to the online report comments then? I don't know. It seems to me that in an appendix to file a report elevates them to a position where people who didn't write in, but had some very strong thoughts. It just seems to me that that provides more of a stature than the Committee's consideration comments reflects, with no disrespect to the commenters.

ALINA M. SEMO: No, that's a good point. I think, again, as I said those comments are already posted. We'll also add Mr. Howard's post on there as well, so they speak for themselves. Everyone is equally comfortable just leaving it as a reference? Suzanne is raising her hand. Yes, Suzanne

SUZANNE PIOTROWSKI: Hi, this is Suzanne. I see Tom's point but and, maybe not, but I think the issue is trying to make sure we get the comments to the next Committee and that doesn't necessarily have to be a formal appendix to this report, but somehow when the next Committee reads our report, they also can get the comments and then they'll have some more time to process them and constantly act on them.

JASON R. BARON: [01:23:53 crosstalk]. This is Jason. I support that last comment, but one could supply or apply on the online page to say that... to affirmatively say, that in the fourth term of the Committee, we'll consider public comments received on the last report. It's not that the comments are just received with silence but there is some commitment to your bringing it up, Alina or someone, at the next public meeting. I don't think that we should be incorporating the... my personal view is that comments stand by themselves, and I do see them as something that goes beyond editorial changes that we would need to have a further discussion on. I think it's best to have it right over to the next term.

ALINA M. SEMO: How do folks feel about that? The idea of an appendix is off the table. We're just going to reference on our website the fact that these will be passed over to the fourth term of the Committee. By default, Bobby and Alina need to make sure that we're passing those along, based on the charter. Okay, all right.

JAMES R. JACOBS: This is James Jacobs. I still like the idea of adding those comments as an appendix, so that the next Committee group will have both our final report, plus the comments all in one place. They won't have to remember to go to the OGIS website to see those public comments. [01:25:48 crosstalk].

MALE SPEAKER: Let me ask Alina, is the public comment period closed?

ALINA M. SEMO: No, not necessarily. We can certainly continue to receive comments

through the time that we finalize the report, which is we expect to do at the end of the month. It's not technically closed I suppose, but Kirsten, what do you think about that?

KIRSTEN B. MITCHELL: Sure. I think we should be open to receiving more. That said, we did have a cutoff for receiving comments before today's meeting, but certainly if others were to make comments, I don't think we'd turn them away at this point.

ALINA M. SEMO: Right.

THOMAS SUSMAN: This is Tom Susman again. To the extent that the comments to what we ought to be doing in the future, I would suspect that shortly after the archivist announces the new Committee, which was already [01:26:53 inaudible] he is going to appoint that it would be quite useful as to open at that point for public input on what the Committee ought to be doing before the first meeting. Because I have been at a couple of these where the first meeting is spent sorting through and brainstorming. We might be way ahead of the game if we have a comment period in advance and refer people to the website [01:27:16 inaudible] and comments made previously.

ALINA M. SEMO: That's another idea. May I take that under advisement? Okay, all right. I think the general consensus is, we're going to not include them in an appendix, despite James Jacob's plea. To the contrary, we're going to reference them on our website. Well, I guess we can say two things, one that we will continue to accept comments through the time that we finalize the report and publish it, and we are acknowledging and thank the commenters for their comments that they've offered up through today. That sound good to everyone? Okay, all right. Jessie, back to you, any other chat comments or questions that you've seen?

JESSIE KRATZ: Alina, no, there are no additional chat comments.

ALINA M. SEMO: Okay. Thank you so much, Jessie. I appreciate it. Over to our event producer, I'd like to ask if you could open up the phone line now to see if we have any comments via telephone, and if you could please remind our participants or attendees rather instructions for chiming in, that would be great.

EVENT PRODUCER: As we move to Q&A, please press pound two on your telephone keypad to enter the question queue. You'll hear notification when your line is unmuted at that time, please state your name and question. Once again, dial pound two to ask a question or leave a comment over the phone. First caller, your line is unmuted.

ALEX HOWARD: Hello, this is Alex Howard. I'm glad I was able to attend the meeting. I hope that if the virtual conditions continue, you'll be able to put a live stream that does not require a registration link for the public to attend this public meeting. I understand that there are significant technical constraints that exist right now, but choosing a platform that doesn't require a registration from a private company would be great. I sent in three comments on the draft to the email address provided, hopefully they'll be filed in the docket. They're not new ones, but I did not see them in the draft specifically recommending that OMB put back a CAP goal, that's Cross-Agency Priority goal for FOIA. That the Office of Information Policy if they release... the

release to one release to all policy I've been asking the Committee about for years. Finally, they recommend [01:30:12 inaudible] or some kind of statutory mechanism for people to request information from the legislative and judicial branch.

In particular, given what we're seeing across the country having the US Capitol Police not be transparent and accountable through something like FOIA, it seems to me to be a significant oversight that should be rectified. Thank you very much for taking the steps you have to create this public meeting, the robust discussions you have and the recommendations in general, which if implemented would do much to improve the state of FOIA.

ALINA M. SEMO: Okay, Alex. Thank you very much for your comments. I don't know whether you were able to hear the Committee's deliberations about your comments and the rest of the public comments was received, but the Committee has agreed to continue to retain the public comments on our website, and we will incorporate them into a discussion for the next term of the Committee, to see whether they can be addressed by the fourth term.

ALEX HOWARD: Thank you.

ALINA M. SEMO: Thanks. [01:31:35 inaudible], do we have anyone else on the line? Any other callers?

EVENT PRODUCER: One more time, ladies and gentlemen, please dial pound two to ask a question or give a comment. There is no one else on the line.

ALINA M. SEMO: All right. Well, that concludes our public comment section of this process and I am eager to move on to the vote on the final report, unless someone is going to tell me they have something else that they want to raise with the Committee members before I move forward. No, I'm seeing no from Bradley. Thank you. No, Sean. Okay. I see most nos. As a package with the language tweaks that we discussed today and that at times were read out loud by either me or Kirsten, I would like to take a vote on the final report. I do want to promise that the working group, I'm going to make them read this one more time. They didn't know that I was going to ask them, but I will. Jason, I think has already read and given some comments, but our goal is to make sure all the commas are in the right place, all the grammatical errors are fixed, that there's only one space between each sentence as opposed to two spaces. We're going to try to clean that up as much as possible. We will not obviously mess with anything substantive, but it will look fabulous once we're done. With that in mind, may I ask for a final vote on the draft final report that we have in front of us today? Do I have a motion?

THOMAS SUSMAN: Sure, moved.

ALINA M. SEMO: Thank you, Tom. Do I have a second?

COMMITTEE: [01:33:27 crosstalk]. Second.

ALINA M. SEMO: Thank you. All right, all those in favor, please say aye.

COMMITTEE: Aye. Aye. Aye.

ALINA M. SEMO: Okay, I heard a bunch of ayes. All those not in favor, please say nay. I'm not hearing any nays. Any abstention?

BOBBY TALEBIAN: This is Bobby. I am abstaining, but I'm looking forward to working on all these recommendations, but just to be consistent, I'm abstaining.

ALINA M. SEMO: Hey, and this is Alina Semo. For consistency as well, I'm just abstaining on those recommendations that involve OGIS in particular, which is really just about all of them, several of them, but I am otherwise in favor as well. Bobby and I are excited to be able to work together collaboratively to move OGIS forward. We've all done a great job. With that I believe we have unanimous approval. Kirsten, do you want to read out the vote?

KIRSTEN B. MITCHELL: We do, indeed. Yes, so the final report and recommendations of the Advisory Committee passes unanimously with two abstentions, Bobby and Alina.

ALINA M. SEMO: All right. Any other thoughts or comments that anyone wants to make before we start wrapping things up? Again, I just want to thank all of you for the amazing work you've done, not just today, but for the duration of that two-year term. I am truly grateful for all the hard work, thoughtfulness and dedication I have seen throughout this whole process, both at the subcommittee and the Committee levels. Thank you. Thank you. Thank you. Again, I want to invite all of those out there watching to go to OGIS' website and our social media websites for more information about activities and how you can participate or comment. If there are no other comments, Committee members, I want to thank you again for joining us today. I wish everyone good health and safety and hope that every one of your families remain safe, healthy, and resilient. We will reconvene the fourth term as a Committee this fall. Any questions or concerns? Yeah, I'm seeing claps. I think we should clap for ourselves. All right, well, I'm not hearing anything else and seeing lots of claps. Thank you again, everyone. The 2018-2020 term of the FOIA Advisory Committee stands adjourned. Thank you all. Have a great afternoon.

MALE SPEAKER: Well, thank you.

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ALINA M. SEMO: [01:36:19 inaudible].

FEMALE SPEAKER: Thank you.

MALE SPEAKER: Thanks everyone it was great working with you.

FEMALE SPEAKER: Thank you.

ALINA M. SEMO: Thank you very much. It was great working with you.

EMILY CREIGHTON: Thanks everyone.

ALINA M. SEMO: Thanks, bye.

EVENT PRODUCER: ... for the conference. Thank you for using AT&T Event Conferencing-Enhanced.

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