FOIA Advisory Meeting

[background chatter]

GRAMIAN: Good morning, everyone.

MULTIPLE: Morning. Good morning.

GRAMIAN: Thank you all for being here. I would like to have

    the Archivist make opening remarks before we start the

    meeting.

FERRIERO: Good morning and welcome back or welcome [00:06:00]

    to, if this is your first meeting of the FOIA Advisory

    Committee. Welcome to the National Archives. By bringing

    together those inside and outside government to tackle some

    of the great challenges facing the Freedom of Information

    Act, this committee truly embodies the spirit of open

    government. Before addressing this committee's important

    work, I want to recognize that supporting the FOIA Advisory

    Committee is one of the many ways that the National

    Archives has answered the President's call to make

    government more transparent, collaborative, and

    participatory. Just last month we published our fourth

    Open Government Plan, which includes 50 new commitments and

    builds on the more than 140 commitments we have implemented

    since the launch of the open government directive. I'm

    proud to note that this year we published our plan on

GitHub, which gives the public an opportunity to provide targeted feedback and suggest ways to strengthen the plan. GitHub also -- and sev-- several [00:07:00] of you have been commenting. Thank you. GitHub also allows other agencies to leverage our work to build their own plans. And shortly after we published our plan the General Service Administration used our code to design their own Open Government Plan. So very proud of that.

And regarding this committee, it's my pleasure to announce the appointment of a new committee member, Dr. James Hershberg. Welcome. Dr. Hershberg is a professor of history and international affairs at GW. He has taught at Tufts and CalTech. He directed the Cold War International History Project and edits their book series. And one of those books is his own *Marigold: The Lost Chance for Peace in Vietnam*. We are working on a major Vietnam exhibit here that's going to open next year, so I'll be talking to you about that. And he has [00:08:00] a long experience with FOIA as a historian who searches back more than three decades to his work on James Buchanan as an undergraduate. So welcome aboard, Dr. Hershberg.

Since this committee's last meeting I have sent the committee's recommendations from its previous term to the Office of Management and Budget. I'm still waiting for a

response. I'm pleased that the committee was able to work collaboratively to develop a consensus recommendation during its first term and look forward to reviewing its future recommendations.

The work you have in front of you today is very important. Today you'll be choosing issues you as a committee want to address during the remainder of your two-year term. I look forward to learning which issues you choose to address and to hearing about your progress. And so I'll now turn the program back over to Nikki Gramian. Thank you, Nikki.

GRAMIAN: Thank you.

FERRIERO: Thanks for being here. [00:09:00]

GRAMIAN: Morning, everyone. I'm Nikki Gramian. Before I start, please pull the microphone to -- closer to you when you speak. A couple of the members on the phone expressed that they can't hear us. So make sure that the microphone -- you speak to the microphone. I'm the Acting Director of the National Archives and Records Administration's Office of Government Information Services. It's also known as OGIS. And before I start the meeting, I, too, would like to welcome our new member, Dr. Hershberg, to the committee. We're very happy to have you and welcome.

As you all know, the committee brings together both
government and non-government FOIA experts with vast and
diverse experience to advise on and make recommendations to
improve the FOIA administration throughout the executive
branch. The committee also provides a forum for public
discussions [00:10:00] of FOIA issues and offers members of
the public the opportunity to weigh in on administration of
FOIA and their ideas for improving the FOIA process. We
encourage the public to share their comments and
suggestions for the committee in writing. To learn more
about submitting comments for the committee, please visit
our website at www.ogis.archives.gov. As a reminder,
information about the committee, including members'
background and bios, committee documents, and also the
public comments, are all available on OGIS's website. We
are videotaping this meeting and will make the video trans-
- video, the transcripts, and also the meeting materials
all available on the committee's webpage as soon as
possible. The videos that we post on the committee's
webpage need to comply with the American with Disability
Act of 1990 and the amendments to the Rehabilitation Act of
1973. So before we post [00:11:00] a video on the website,
we must have the meeting transcribed and review the
transcription for accuracy. We expect to have all of this

meeting material available on our website within 30 days. So I thank you in advance for your patience and understanding.

Next we will spend a few minutes introducing the committee members who are around the table and also participating by telephone. During the course of this meeting, for the record, please identify yourself by name and affiliation when you speak. We will begin with the members we expect to have on the phone, and I'll ask each of you to introduce yourselves and remind the group of your profession and also affiliation. Jill?

EGGLESTON: Hi, I'm Jill Eggleston. I'm with Citizenship and Immigration Services and I'm the Freedom of Information Act Officer.

GRAMIAN: Thank you. Margaret? [00:12:00] Do we have Margaret on --

KWOKA: Hi, I'm Margaret Kwoka. I'm on the faculty at the University of Denver Sturm College of Law.

GRAMIAN: Great, thank you. Now, let's hear from those of you in the room, starting with the end of the table at my left. Please introduce yourselves and remind the group where you work. We'll start at the far end of the table. Actually, to my right, beginning with Mitra and then we'll continue

around, and skipping me, of course, and ending with Dr. Hershberg.

EBADOLAHI: Thanks, Nikki. My name is Mitra Ebadolahi. I'm a staff attorney with the American Civil Liberties Union.

GRAMIAN: And thank you for coming from California to attend this meeting. Yes.

HOLZERLAND: Good morning. William Holzerland. I'm the Director of the Division of Information Disclosure with the Food and Drug Administration Center for Devices and Radiological Health for the balance of this week.

VALVO: [00:13:00] Hi, I'm James Valvo with Cause of Action Institute. I'm counsel and senior policy advisor.

BEKESHA: Michael Bek-- Michael Bekesha, an attorney at Judicial Watch.

LAZIER: Hi, Raynell Lazier. I am the FOIA Manager at Consumer Financial Protection Bureau.

PRITZKER: I'm David Pritzker, Deputy General Counsel at the Administrative Conference of the United States.

SUSMAN: Tom Susman with the American Bar Association.

PUSTAY: Melanie Pustay, the Director of Office of Information Policy at Justice.

JONES: Nate Jones, National Security Archive.

MOULTON: Sean Moulton, Project on Government Oversight.

CARR: Stephanie Carr, Office of Secretary of Defense and Joint Staff.

PEREL: Logan Perel. I'm an attorney with the Department of Homeland Security.

KNOX: Morning. I'm Chris Knox, Managing Director with Deloitte Advisory.

MCCALL: Ginger McCall, Department of Labor.

HERSHBERG: Jim Hershberg. I teach history at GW and [00:14:00] I've indeed been filing FOIA since I was an undergraduate 35 year ago.

GRAMIAN: We're very pleased to see so many of you with an interest in FOIA here in the Archivist's reception room today and we welcome your feedback. To promote openness, transparency -- transparency and public engagement, we post the committee's updates and information to our website at, again, www.ogis.archives.gov, at our blog post, and also on Twitter. So stay up to date on the latest OGIS and FOIA Advisory Committee news, activities, and events by following us on Twitter. Our Twitter account is @FOIA_Ombuds. We will take one 15-minute break halfway through this meeting at approximately 11:30, 11:45. During the break you may wish to purchase food or drink from Charter's Café, located two levels down on the ground floor, which is also where [00:15:00] the restrooms are

located. At the end of the meeting we have set aside time

for public comments. We look forward to hearing from any

non-committee members who wish to comment at that time. We

also welcome anyone to submit written comments to the

committee at any time.

With all of the administrative matters discussed, I

would like to turn our attention to the approval of our

July 21st meeting minutes. The committee members have had a

chance to review a copy of the meeting minutes. Are there

any corrections to the minutes?

MANY: No.

GRAMIAN: No? OK. Now, we will entertain a motion to approve

the minutes. Do we have a motion?

MOULTON: Motioned.

GRAMIAN: Do we have a second?

EBADOLAHI: Second.

GRAMIAN: All in favor?

MANY: Aye.

GRAMIAN: The minutes will be approved. Thank you. All right.

So during our first meeting of the current term there was a

great deal of discussion about [00:16:00] how compliance

with section 508 of Rehabilitation Act might limit agency's

ability to post more records on the website, which has been

released under FOIA. Thanks to Melanie, who made

arrangements, we will now have three guests with particular

expertise on section 508 to tell us more about the laws,

requirements, and also the agency's responsibilities. It

is my pleasure to introduce Ms. Helen Chamberlain,

Government-wide Section 508 training and Outreach Director

from the General Services Administration, David Capozzi,

the Executive Director from U.S. Access Board, and also

Timothy Creagan, the Senior Accessibility Specialist who's

also from the U.S. Access Board, who will give us their 15

to 20-minute presentation. After the presentation we will

open the floor for the committee to discuss and also ask

any questions that they may have from the presenters.

CAPOZZI: [00:17:00] Good morning.

MANY: Morning.

CAPOZZI: So I'm David Capozzi. I'm the Executive Director at

the Access Board. If we can fast-forward two more -- one

more slide, please. Thank you. So, first of all, let's

talk about what Section 508 is and what it was intended to

do. So it is a section of the Rehabilitation Act of 1973.

It was passed by Congress in 1998 and it was intended to

essentially be a procurement vehicle for making information

technology accessible to people with disabilities, both

employees of the federal government and users of federal

agency services. It's important to point out that Section

508 is not intended to be an accommodation law or

regulation. It's essentially like a curb ramp getting into

a building. It's an electronic [00:18:00] curb ramp

getting into technology, so that when a federal agency buys

technology, whether it's a website or a copier machine or

software, that that technology is already accessible to

people with disabilities before they get hired or before

they try to use the government service. So it's

essentially a way in to the federal government.

The law requires that our agency, the Access Board,

develop standards for technology and that they get

incorporated into the federal acquisition regulations. We

did that in 2000. They were incorporated into the FAR

shortly thereafter and we are now in the process of

updating our standards because technology has changed since

2000. Everything is incorporated into one device, whereas

in 2000 we had multiple devices. [00:19:00] So we're in the

process of updating our standards. Our final rule is at

the Office of Management and Budget currently, under

review. It was just sent out to agencies for interagency

review, I believe, this morning. And we hope to see those

finalized before the end of this administration.

The Access Board and the General Services

Administration jointly provide technical assistance on the

law and our standards. GSA provides technical assistance

primarily on procurement issues and the Access Board

primarily provides technical assistance on the meaning

behind the standards. OK. Next slide, please.

So there's a few sources of technical assistance on

what is meant by Section 508. One is from our agency. We

do a series of webinars, six a year. We've been doing them

for the past three years. They're all archived --

[00:20:00] this is from the archives -- on our website.

They're fully accessible from the get-go. And people can

earn continuing education credits for our webinars. So if

you missed a webinar or you want to watch one, they're all

available on our website, which is Access-Board.gov. OK,

next slide, please.

Right after Section 508 was passed in 1998 a group was

formed of federal agencies that had some interest and

experience and expertise in accessible technology. And it

was kind of a loose-knit organization of agencies,

primarily to coordinate technical assistance, answers to

questions that people had regarding Section 508. And that

group has [00:21:00] lived on through the years and now is

-- has its own in the Chief Information Officer's Council.

It's called the Accessibility Community of Practice. Next

slide, please.

And in the Accessibility Community of Practice there's three subcommittees. One is on vendor outreach. Another is an education subcommittee, which is primarily overseeing the webinars that we do. And the third is best practices, and Tim will talk a little bit about some of the resources that are available from the best practices subcommittee. Next slide, please.

So the CIO accessibility community of practice is chaired by -- co-chaired by two individuals, one from the Department of Veterans Affairs, one from the Department of Transportation, and it's a cross-section of agencies. Many of your agencies are probably represented on the accessibility [00:22:00] community of practice. We meet on a regular basis to make sure that agencies are coordinated and that information that is needed for implementation is provided to agencies. And it -- there's a rich amount of information on the website. It's CIO.gov, and then if you look under groups you'll see accessibility community of practice and there's a number of resources under that. So I'm going to turn it over to Tim, who will talk more specifically about how you make documents accessible, because I think that's really what you wanted to hear about.

CREAGAN: Thank you, David. Good morning, everyone. I'm Tim
Creagan, a Senior Accessibility Specialist at the Access
Board. And what I'm going to do this morning is give you
sort of the very high-level view of accessible documents so
you have at least a passing familiarity with some of the
things that are involved with making a document accessible.
[00:23:00] I will just say that, before we begin this,
David has mentioned Section 508 of the Rehabilitation Act.
He's mentioned the law and he's also mentioned the
technical requirements. As he said, the Access Board has
the responsibility for drafting and publishing the
technical requirements. For those of you who are in the
room, I happen to be holding up a copy of the Federal
Register from December 2000. These are the section 508
technical standards on functional performance criteria,
which are the how you do this. These are also found on our
website. I just wanted you to be aware that when I'm --
when we're talking today, everything that we're doing is
dictated because of these technical requirements.

A separate issue, which David has touched on briefly,
with regard to the CIO Council, is implementation. The 508
law, which is also found on our website, makes it very
clear that there is a division of responsibility. Although
the Access Board has the responsibility for developing

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[00:24:00] and promulgating the standards and guidelines and developing technical assistance with General Services Administration, we are only responsible for enforcing 508 within our own agency. Each agency of the federal government is responsible for establishing their own 508 program and establishing their own implementation of the law. People call us for technical assistance. We have technical assistance hotlines. We're always happy to answer questions but we are not a Supreme Court on 508. We just give you our learned opinion and then you have to make and justify your own decisions. Next slide, please.

OK. So the question we ask is are documents covered by Section 508. And the reason we're saying current 508 is to distinguish it from the pending rule which we have put out and which a lot of people are sort of conflating in their own mind. The proposed rule, which is not yet effective, versus what the actual current standards say. [00:25:00] So our current standards do have a definition for EIT, which is Electronic and Information Technology, and that's covered section 1194.4, electronic and information technology, EIT. And it says -- and it includes information technology and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or

information. So what we look to is essentially documents

or data or information. And that is what you're looking at

what when you're looking at accessibility. Also, one of

the technical assistance sites, section508.gov, which is

administered by General Services Administration, has a

section of frequently asked questions. The question,

subsection c.7.1 asks, "Must portable document formats,

PDFs, that are displayed, meet the Access Board [00:28:00]

standards?" And the question is yes. So the question you

would have yourself -- OK, so what standards do we use?

Next slide, please.

　　　All right. Again, guidance for documents. We're

talking about section508.gov. And, again, the laws that

are involved are the Section 508 standard. And as part of

today's presentation I'm also going to talk about another

law which is called the WCAG, W-C-A-G. For those of you in

the room, I'm holding up a copy of the WCAG 2.0 success

criteria. It stands for Web Content Accessibility

Guideline. WCAG 2.0. I will say that in the proposed rule

that we published on our website last year, we recommended

that we adopt the WCAG 2.0 web accessibility guideline as

the new standards for 508. Under current 508, under the

concept of equivalent facilitation, which is 1194.5

[00:27:00], you can go ahead and use the WCAG success

criteria. Whatever it takes to achieve the maximum amount of accessibility. So I will just put that out there just for your information. What I'd like to do is just move very quickly through this.

So we're on section508.gov. You have guidance for documents. There is a section on the page that's called best practices. Remember David showed you the chart? There's a best practices subcommittee. That subcommittee developed the materials that we're going to discuss today. Excuse me. Within it there is the CIO consult -- electronic documents community of practice. And what there are is there are two bits of technical assistance we're going to review today. One is the documents (inaudible) prepared. Their acronym is AEDCOP. Accessible electronic documents community of practice. And I'm holding it up in my hand. And what it is, this is technical assistance for making word documents accessible. It's posted [00:28:00] at that link and it's really self-directed.

What I'm going to do today for the rest of my time is very quickly go through a couple of screenshots, just to give you a concept of what we're talking about. Similarly, there is another document which I'm holding up in my hand now, which is the accessibility community of practice for PDFs, portable document format. Since we're talking about

archiving materials, we all know that PDFs are like

everyone's favorite format. The question often comes up

is, "Well, how do you make this accessible and what's

involved?" OK. Let's talk about the concept of

accessibility very generally. The concept of accessibility

-- David -- as David used the acronym, it's like a ramp.

You know, it's a ramp into a building or it's a ramp into

the electronics. So if you think about it, when you have

material in electronic format, it's primarily visual. And

so the issue is, OK, so who might have trouble accessing

visual information? Well, people who have low vision or

limited vision. [00:29:00] Or -- but if there's audio

output, people with hearing loss, such as myself, might

also have problems. Or if the information requires you to

have fine motor control, such as take a pen and follow

something on a screen or do typing. So there is a variety

of ways where material can be inaccessible. There could be

barriers to it. So accessibility is just then what's an

alternative means of providing the same information. When

it comes to images or text, you could make it audible.

That is a way to make it accessible to someone who can't

see it. You could also make it tactile. That's another

way to make it accessible to someone who can't see it.

What we're going to talk about today is creating accessible

electronic documents. Now, what I'd like to do is -- at the bottom of the page, on this link, there's a link to the section 508 content I was talking about, creating an accessible document. You can get to that same link if you just go to the section508.gov webpage and just [00:30:00] look for best practices. Next slide, please.

All right. Remember I held it up and I said we're going to talk about Microsoft Word 2013. Again, this is an overview. I'm sort of cherry-picking a couple of topics. When you look at making Microsoft Word accessible, there's these five areas that are covered. You format the document, you format the text, you format objects, you format the color, and then there's miscellaneous things that are covered. I'm just covering two items today. I'm covering text formatting and object formatting. Next slide, please.

OK. So what you're talking about. When you create a document and you have headings, you know, you have a title, you have subtitles, you have indented paragraphs, you have tables, everything on that page visually appears in a distinct and unique place, OK. So when most people type words, you just start typing and you hit the indent tab. And I love that indent tab. [00:31:00] The problem with that is that someone who's blind who tries to access this

material using a screen reader, there's no structure to the page. Just like we can visually see headings, boldings, italics, and other changes in text, and we can orient ourselves and go, "OK, I want main headings," or "I want indented material, so I want body material." And you can see that from the styles on the page. What you have to do in order to make that same content accessible to someone who would use a screen reader is you would have to use what's called a style sheet. And what you have on this screen is a screen capture of the home page style sheet. If you've ever taken a look at it in Word, basically what it does, you just see the different formatting that you can use. And what it does is it identifies the components of a page. Next slide, please.

So what you can do is you can either type [00:32:00] your material, then go back and click on the style you want to render it as. You know, a heading, a second heading, a third heading, or as bold or as body or whatever. And that will identify what style it is. So this screen shot is just giving you examples of the different cutting levels and what are the font sizes and styles that are associated with it. You can also customize your style sheets and heading within this. Next slide, please.

OK. So once you're done you can check your work. You open the navigation page, control F, and then you click on the icon to browse headings. And what will happen is two windows will open up. There'll be the original document on one side and the other side, if you've done this correctly, there should be an outline. And the outline should identify all your headings and your content and it's very easy [00:33:00] to do and it becomes pretty obvious what we're talking about. When you do this training for yourself, you'll see what I'm talking about. This is just to give you a sense of what is involved. OK. Moving on to the next slide.

OK. Now we're going to talk about information in headers, footers, and watermarks. Again, this is an example where you have content on the page that needs to be made available to screen readers. Screen readers... Let me just ask, just for purposes of illustration. How many people in this room have either seen a demonstration of a screen reader or have used one or have observed it? OK. What I would suggest, for those of you have that Outlook on your computers, when you go back to your offices, go down to the start menu and click on get your programs and keep clicking until you find the accessibility submenu. There is a built-in program called narrator, OK. It's like a

built-in screen reader that comes in [00:34:00] everybody's computer. I'd suggest you just turn it on and then try playing with it a bit just to see what it sounds like. Because what it is is as the cursor goes over text it will read aloud what is on the page. And if you try navigating on a page, it's very sequential. It starts in the upper-left-hand corner and it continues straight down the page for all the markers that it has. If there is not an identifiable marker for it to identify, it just skips all of that. And when you're looking at something visually, you may not realize stuff that's not tagged appropriately. So it would be like... Say this room. It's a good example. We know there's a table, rugs, all these barriers, right? Turn off all the lights, right. Can't see anything. Then you only -- you only discover that there's things in here by bumping into them. What accessibility is really trying to do is identify what's in the room so people can navigate the space. [00:35:00] So, again, with headers and footers, those also have to be identified on the page. Next slide, please.

Though the example we're giving here, you see there is a very, very, very small header and what you do is you have to repeat the information that's in headers and footers. You have to actually put it in the body of the document, in

the main part of the text, because otherwise the screen

reader's not going to be able to pick it up. Because

screen readers typically stay on one level. They do not go

into footers or headers. They can but it's complicated and

it's not obvious. Whereas if you're making a document that

you want people to be able to review and understand, it's

better to follow this as a best practice. Next slide,

please.

OK. So, again, you check your work. You look through

your headers and footers. You go near the start of the

information to see whether or not you've duplicated the

information, such as respond to by date, confidential, do

not duplicate [00:36:00], all that. Next slide, please.

OK. Now we're going to talk about portable document

formats, PDFs. OK. This is divided into the following six

categories. Precondition, document properties, structure

tags, objects, color, and miscellaneous. One of the things

about PDFs that you need to consider. We all recall a few

years back, maybe in the last 10 years, when PDFs started

to become really popular because there was all this free

software. You'd download this free software, hey, I can

turn anything into a PDF. Isn't this great? Well, the

problem is what you've done is created a bunch of

inaccessible documents. A particular favorite is people's

PDFs of their signatures. For someone using a screen

reader, unless it's tagged, that's going to be signed by

blank. There's no -- the content is not available. So in

order to make it available you have to structure the page.

You have to structure the PDF. I will speak briefly at the

end about [00:37:00] some suggested products you can use.

The point on this is I'm trying to say what the technology

does, you can understand why it's so important to take

these steps to make it accessible. Next slide, please.

OK. Tag PDF. Again, tag PDF, it's similar to the

concept we were just looking at about style sheets. It

puts markers on the page so that someone using assistive

technology will be able to navigate through that page.

They'll be able to go, "Oh, this is the header. Oh, this

is the topic sentence. This is the body text. This is an

image. The image has an alt tag. The alt tag says that

this is the agency logo of the National Archives," et

cetera. So what you have to do, you have to tag the PDF.

And what you can do is you go to your document, hit

properties, hit description, and you have to see whether or

not it has a tagged PDF. If it's not a tagged PDF then you

need to sort of kick it back to the author and [00:38:00]

go, "Nice try. You need to do this again." Next slide,

please.

Here's a screenshot of what this would look like. So when you clicked on your properties and you're reading down, I know in -- circled in red. It's very small print. But basically it's telling you whether or not it's tagged. In this case, no. So moving on to the next slide.

OK. So screen readers rely on the tags, as we talked about. What you can do is you -- you're using Adobe Acrobat to create the tagged PDFs. That's -- and I mention that particular product because that is one of the few documents which -- products which creates PDFs which is most commonly used to create accessible materials. So what you're doing is, is you're just basically following the steps here for creating a tagged PDF. So you've gone through the steps of view, show/hide [00:39:00] navigation pane, tags. Then you click control, left click, and you expand all your tags and see what's there and you select a tag to highlight the corresponding content on the page. And then if you don't see highlighting then you turn on highlight content and then you add the text that's needed. I'm going to go to the next slide.

OK. This is a screenshot of what I just talked about. So you see, on your left is the document. This is an outline of what the assistive technology is picking up. And on the right-hand side you see how you cut and attach

some of the material to make sure that there is a
corresponding tag that identifies that material. So
there's a lot of back and forth and making sure that the
tags are in a logical reading order. So if you have a list
that goes from one to 10, you want to make sure [00:40:00]
that the tags are in that same order. The important thing,
though, is you -- again, you're creating an accessible
document, meaning that you're putting this purely visual
document into an alternative format where it's accessible
by screen readers.

    Now, what I will just do is, in closing, this isn't on
the slides because I was thinking of this afterwards. So
one of the things that you guys are very, very interested
in -- that you're very interested in, the PDF format when
you're producing responses to FOIA. And one of the things
that happens is it may be that under -- when you're
producing a response to FOIA, you will have to redact or
remove certain information. And when you do that, you
specify the reason for the redaction. FOIA section that is
-- needs to be redacted. The good news is that Adobe
Acrobat includes [00:41:00] PDF redaction in their
features. The bad news is you have to follow it and you
have to pay attention to make sure that it's accessible.
Because, again, what you're ending up with is... At the

end of the day you want to have a document in electronic

format that is tagged and labeled in such a way so that

someone using a screen reader would be able to follow

throughout the document, including those portions that are

redacted. So just like a person who's sighted would be

reading through and see our big black bar, a little note,

"Redacted for the following reason," someone who's using a

screen reader will have the same benefit. So thank you.

My time is up, so I'm going to pass this to my colleague,

Helen Chamberlain of General Services Administration.

Thank you.

CHAMBERLAIN: Good morning, everybody. I think Tim did a very

good job on giving you a very high-level of the document

remediation. It's really not [00:42:00] as scary s it

sounds because most of your softwares, your Microsofts and

your Adobe, your PDF software, they have these tools these

days built right into them. This morning I was going

through a PDF PowerPoint that actually is one of our flyers

here. And what I found -- what I discovered, because I

didn't create this document, was that the person that

created this had layers upon layers upon layers of boxes

and so when I went into the PowerPoint there's a section

you can go into that checks your document, your PowerPoint,

whatever it is you're doing for accessibility and will

actually give you a list of what you need to fix and

instructions on how to fix it. So they've made it a lot

easier these days. But when I went in I was driving myself

crazy because on the top of my document I have a [00:43:00]

- huge -- I don't know if you can see it or not but I have

a huge box. Well, there's a box and a box and a box and

all the boxes need to be labeled. So trying to figure out

how to label all these parts in this document can be a

little bit of a challenge. But having said that, it's

really kind of easy because they make it that way for you

and the tools in the software applications are really,

really comprehensive these days.

I'm going to talk a little bit about my organization,

the Office of Government-wide Policy, Information,

Integrity and Access Division. We are part of GSA but

we're a government-wide entity and we do a lot with the law

with regard to procurement because obviously that's what

GSA does a lot of. We do a lot of procurement things. We

also do a lot of training. And we have training on

section508.gov, [00:44:00] as Tim mentioned, in the best

practices that actually gives you detailed instructions on

how to do document remediation. We also -- I also have

some training resources available. So if you go back to

your organization and you have people that are actually

going to be doing the remediation, I have some business cards. Contact me and I'll be more than happy to work with you to set up some training for your organization for the people that are going to be actually needing to either create or remediate this information and content before it goes on the web or goes out to somebody.

One thing I wanted to talk about, and I was in a FOIA meeting I think last year where we had two gentlemen from GSA, from the 18 Ave, and they were talking about OCRing documents, which is optical character recognition. And we got into a conversation and we were talking about things like, "OK, what if somebody wants to read the Declaration of Independence [00:45:00] or the Constitution?" What do we do then? What if I get a handwritten letter in crayon from somebody that wants some FOIA information? What do I do with that? How do I post this out onto the website so that people with a screen reader can go out there and read something like this? And this is where the invention of the OCR has come in really handy and it is moving forward and it is evolving and hopefully at some point in time we'll be able to take a document like the Declaration of Independence or that letter written in crayon, and put it through the OCR process and it will come up with an accessible version that someone with a screen reader can

read. It does this now to a point but obviously it's still in its growing stage. And one thing I know that -- you were talking about having a repository containing information from all agencies and things like this. [00:46:00] You don't have to get upset about the fact that, "Well, what if I can't do this?" If it creates a type of an undue burden to be able to do it, that's something that you have to justify with your agency. A lot of agencies have processes set up for this type thing.

The thing that you have to remember, and you have to pass on, and this goes for government agencies as well as anybody outside of government, is that you're always responsible for providing an alternate means of access for whatever the information is that the person might want. And that goes down to even if somebody has to sit with them and read it to them. So, I mean, you're always responsible for that in some form. And, again, this is where we come in because we are providing technical assistance and we're there for everybody. And if you come to us with something, a problem or an issue, [00:47:00] we'll do our best to help you to find a solution for it. We partner with the Access Board to provide training. We're getting ready, as David was talking, about the new regulation that's going to be coming out. We are going to be redeveloping training.

Just today -- just got a training contract in place which we are going to graciously share with the Access Board so that we can have a comprehensive training program. What we rely on is information from all of you. So you're our customers and we can't read your minds. So if you need something and you want something, again, contact us and tell us what your needs are and how we can solve them. The section508.gov does a lot of that but, again, you're our customer. We're really close to it. If there's something out there that needs to be updated [00:48:00] or isn't there that needs to be there, again, we need to know about it because we want to make all of the information and resources that we have accessible. And, again... Let's see, what else did I forget here? I think that's everything that I had to say. The screen reader that Tim was talking about is called Jaws. I don't know if anyone is familiar with it or has seen it but if you want to, I believe you can download a demo copy of it for like 30 days to load onto your machine to actually play around with and see what a person who is visually impaired hears and sees and how they navigate with the keyboard. But the electronic content is probably the most important thing because everyone needs to have equal access.

GRAMIAN: Thank you all for your presentation. [00:49:00] I will now open the floor for the committee members to ask any questions that they have from the presenters and also raise any issues that they would like to discuss regarding the section 508 compliance. Please. Please identify yourself.

HERSHBERG: Jim Hershberg, historian at George Washington University. I'm also associated -- former director of the Woodrow Wilson Center's Cold War International History Project. You're dealing with word documents, it seems, in much of your presentation. I'm just curious, what is your approach -- and I apologize if you're going over familiar territory, since I'm new to this whole issue -- how do you deal with historical documents that I assume would be in PDF and then, I guess, you would have to optically scan, read them, turn them into word files, and then go through that process. And is there some sort of automatic process that is not so labor intensive that it would delay release of historical materials in a [00:50:00] serious way?

CHAMBERLAIN: Well, what I always tell people when I'm doing my training is that if -- you know, because I get asked a lot, "Well, we have to put this on the web right now. We can't wait." And I always say, "Well, you know, if you absolutely, positively have to or somebody's going to drop

dead, then make sure there's a disclaimer when someone clicks on that link to tell somebody you are now leaving such and such. Number one, we're not responsible for the data on this website or, number two, this document has not yet been made accessible. Please contact so and so for an accommodation or something like that." Did you want to...?

CREAGAN: Sure. The other thing I would want to discuss, following up on Jim's question. He's raising an issue of interpretation. Remember how I said that there's the Section 508 standards and they say what they say and the technical assistance guides you in a certain way. The question becomes one of interpretation and what [00:51:00], for example, is the agency's interpretation of something. Let's hypothesize that you're responding to a request for somebody and it contains personally identifiable information relative to that individual. OK. So the question would be, you know, what gets redacted, what doesn't get redacted. Let's say that some of the material that's included is something that is open to interpretation, such as x-rays. OK. That's a question that comes up in 508 areas all the time. So you want to make an x-ray accessible. OK. So what are we talking about here? Let's say we're talking about a physical film x-ray. All right. That's a visual image. It's inherently

visual. The question is what would you do to identify it as text? What do you put down for the text? And the answer would be -- and this is where I'm getting to Jim's question -- is it depends on what the purpose in that circumstance [00:52:00] is and what the agency's mission would be. So if the purpose of it is just to say, "This is an x-ray and we're not interpreting it," so be it. If, in the original context, it was interpreted and it was said, "This is an x-ray of a left distal fracture of your radius," OK, that's what would go on the alt tab. The point is what the material is and how it's interpreted is really going to be up to the discretion of the agency. So remember how I said that each agency has to have their own policies and you have to think about how you do this. In an earlier life I used to do document review. And one of the things we ran into would be you would have five versions of what was apparently the same document but it had marginalia or stuff missing or stuff redacted or stuff blocked out. What was significant? Well, it depends on the context. What are you trying to prove? What does this indicate? What is it going to? Meta-data is another area in that. What I would think is [00:53:00] is the kind of policies that you put in place and when we view that type of material, are the similar thoughts you need to have when

you're thinking, "How would I explain this visual element to someone? What would be the point that I would be trying to make to someone?" So that would be my response. It has to be customized for that entity. They have to have a policy that they would develop. 508 does not tell you all x-rays have to be described a certain way. It just says it has to be identified.

SUSMAN: Question?

GRAMIAN: Yes, please.

SUSMAN: Yeah, Tom Susman. Two of the issues which are frequently discussed in FOIA circles and have been by this committee are proactive disclosure and release to one should be release to all under FOIA, which contemplates large numbers of documents, large quantities of information being made available [00:54:00] on the web by agencies. And we are frequently told that 508 stands in the way. It's an obstacle to making that happen because the burdens, the costs, the technology, the manpower. And I guess I'm seeing a little bit of a disconnect because on the one hand I'm hearing from you either there's a technology that can do it, or if it's too great a burden the agency can go ahead with the disclaimer. And yet I'm hearing from the other side, a lot of agencies and government people, "Oh,

no, no. 508 keeps us from doing it." So can -- I think

that's really the question of the day.

GRAMIAN: That -- and I would love -- that would be the FOIA

unit, not the agency. The FOIA personnel were making --

SUSMAN: They're not part of the agency?

GRAMIAN: Yeah, they are.

SUSMAN: Yeah, I thought so.

GRAMIAN: But I think some of the agencies have smaller number

of FOIA --

F: FOIA (inaudible).

GRAMIAN: -- officers, so...

F: Yeah.

CREAGAN: OK. So just generally [00:55:00] what I would say.

OK. Within the context of 508 -- I'm not addressing the

FOIA implications here. Within the context of 508... 508,

the general rule is agencies, when they procure, use,

develop, or maintain electronic and information technology,

they must make the information and data accessible to

federal employees with disabilities, as well as members of

the public who have access to that information. So in

practical terms what that means is every public facing

agency website, the content on that public facing website

needs to be made accessible. People who say, "But it's

such trouble to do this," and it's like, well, the response

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is if it's important enough to be put out there, to identify the agency mission, it's important enough to be made accessible. "But it's such an undue burden and so outrageous," and et cetera. As Helen said, there are some limited exceptions within 508. The undue burden [00:56:00] exception is just one of them. You can contact us for further information on that. Typically undue burden is -- and it's based on case law -- goes to the concept of something is so onerous and so burdensome that it couldn't be done. Another example of an exception, as it were, is if it's going to fundamentally alter the nature of the ICT. So let's say you have a spelling test, right. OK. So giving a spelling test to somebody who's deaf, how's that going to work because they can't hear you. So, well, we'll caption it. Well, if you caption a spelling test, that kind of destroys the whole purpose of the spelling test, doesn't it? So that's an example of something that just can't be made accessible on its terms. The information and data could be provided in alternative format but that particular instance wouldn't work. Now, if you're doing a huge data dump of something... Let's say you have -- somebody asks for wheat production values from the 1940s and there are, you know, [00:57:00] three feet of paper documents. So then the question is, OK, in terms of

reducing that to digital formats, you know, you can scan it. OK. And you can scan it using software to help you create the material accessibly. So what does that mean? OK. So let's say that it's text. So the text is your easiest example. The text is just, you know, what it says. It's words typed out, typographical words, let's say. That's your best-case scenario. As Helen talked about, the strategy of optical character recognition could do a vast majority of your work. Now (inaudible) there's probably going to be some of that material which will need review because it isn't going to come through. On the other extreme, let's say you have a horrible situation where it's multiple layered tables. Again, 508 provides that tables should be identified with row [00:58:00] and column headers so someone using a screen reader can identify where that is. Now, let's say that the agency says, OK, they could make a judgment call to say, "We're not going to post this material publicly or we're only going to post material publicly, that material which we can make accessible." OK. "Whereas the other material which is not accessible, we're not going to post it but we'll provide contact information, notices, so that if someone needs it provided in an accommodation format for them, we can do that." So let's say that it has to be brailed or a description of it has to

be brailed. So my point here is that 508 is a requirement on agencies. The interpretation and how far you go really depends on the circumstances. That's why it's so important that agencies really think about this and have a policy for how you're going to implement it. I would just like to point out, [00:58:00], one agency that's done a lot of work on this and a lot of thought into the issue is HUD. wwwHUD.gov. Google their Section 508 page. It's very good. It's very clearly laid out. It's got a number of policies. It explains what the approach of the agency is to implementing 508 and what are their considerations. One of the things we haven't even talked about, which David touched on briefly with the CIO council. The reason that you need that kind of top-down leadership is because someone in the trenches who's creating the document, they might be creating it because they personally know about 508 and they understand that it's a requirement. But it's management that really needs to know, OK, systematically, this is what everybody's going to do. These are the approaches we're going to do. No more untagged PDFs. No more inaccessible material being posted everyday, that kind of stuff. You need to create it in an accessible format. I realize that with old historic archival [01:00:00] non-documented materials you're in a different situation. But

that's no different from what you would face anyway,

correct? If someone says, "Give me all your materials

relating to a certain issue," and let's say that the

contents that you have at your agency, let's say... One

example we got from Internal Revenue Service was they said,

"People send us tax returns written on tissue paper. How

do I make that accessible?" You know, obviously I'm not

going to duplicate the tissue paper. But what I have to do

is I have to extract the material and present it in a

meaningful way, in an alternative format. But that's true

no matter what the circumstance is.

CHAMBERLAIN: Oops. Let me just say... I just want to say one

thing to address what you were asking about people saying,

you know, it's too much trouble. Every federal agency has

a section 508 coordinator or program manager and they also

have a Section 506 coordinator or program manager. Those

people are the [01:01:01] -- you know, the funnels that

should be contacted. If you want to know who your

coordinator is you can go to section 508.gov and we have a

listing there. If you want more information or if you want

us to assist you, you can contact me and I can help you get

in touch with the proper people because I know it's an

issue and I know I get the same thing outside of it even

being FOIA. So, you know, we kind -- we -- it's a unique

situation. You have to deal with it one at a time because every agency does business differently and that is one of the problems. Did you want to say something?

PUSTAY: Melanie Pustay from Justice. David, I thought your analogy of the curb ramp, the curb, making the curb a ramp, was so helpful and I just wondered if you could elaborate a little bit on that, because that helped me visualize -- or -- yeah, maybe that's a bad -- well, maybe it is a good use of [01:02:00] term. It helped me understand sort of the purpose behind this, is that we're not... It's not to post a notice that if you have accessibility issues we'll do something for you. It's from the get-go --

CAPOZZI: Exactly.

PUSTAY: -- we're making sure that it's accessible.

CAPOZZI: Yeah, exactly. And that's what oftentimes gets overlooked as people think that this is a remediation. Which it's not. The intent was to make government technology accessible out of the box essentially, so that it doesn't stand as a barrier to the employment of people with disabilities or to the continued employment of federal employees or to people with disabilities from the public getting services from federal agencies. If you think about it... Because, I mean, technology accessibility is sometimes hard to wrap your mind around but if you think

about it in terms of the built environment, people can kind

of relate to that and the idea with accessibility to the

built environment is -- is... [01:03:00] You don't build a

ramp every time somebody knocks on your door and says, "Can

I come in?" Right. You build the ramp when the building

is new so that people can come in.

PUSTAY: It's already there.

CAPOZZI: Yeah.

JONES: Nate Jones from National Security Archive. A couple

of just quick questions and points. First of all, building

off this issue of technology, I think that we as the FOIA

Advisory Committee need to think about this problem. I

just want to share an anecdote. I want to a FOIA training

a couple of months ago and there was a booth of the FOIA

technology providers that sell software to do the FOIA

requests. And along with the booth they had a sign that

said 508 solutions. And I walked up to the booth and said,

"Ah, terrific. What's this new technology that will make

it quicker? Thank you very much for your instructions on

how to do 508 but that appears to me as a layman that it

possibly could be very time intensive?" So I asked this

FOIA provider what's the solution. And he said, "Well,

there's actually no solution. [01:04:00] You have to go by

page-by-page. A human being has to go through it and we'll

do it for you for a modest fee." So the situation now is people outside the government are charging for the government to give them documents that someone, a contractor, will go through page-by-page. And I think -- that's -- I don't think that's acceptable and we have to grapple with that. So that's one point. The second point, I would love... You don't have to do it right now but if we could get the citations from you about how it's -- how and when it's appropriate to do a disclaimer and how and when it's appropriate to claim undue burden, that'd be really helpful for us. And then I have more questions but I'll just leave one more here. So there are millions of pages of documents posted on agency websites and I suspect quite a few on the National Archives, incredible website of primary sources that are not 508 compliant. And I sure hope, and I ask your take -- [01:05:00] I sure hope that these wouldn't have to be taken down or that -- beyond that, that the pace of continuing to post documents online should be stopped if they're not 508 compliant. And I understand very much the importance of accessibility but I think that for -- to use a cliché... Well, I won't do any clichés. But I think that it would be harmful if documents that are currently online were taken offline and I just wanted to hear your take on that. Is there any... What's

the book say about documents that are currently on agency

websites that are not technically 508 compliant?

CREAGAN: OK. So you're asking if stuff... If materials online

and it's not accessible --

JONES: Yeah.

CREAGAN: -- should it be taken off? Well, my question would be

is, if you're an agency and you posted this online as

material and it's not accessible, what's the point? In

other words, anybody who can't see, [01:06:00] for example,

let's say it's a visual issue, they can't access the

material. So what are they supposed to do? Now, what

Helen talked about is a possibility where you could have

links to provide accommodations for people who need

versions of the materials. So think about it this way.

What if the material was so fragile, OK, that it couldn't

be scanned. OK. That it couldn't be reduced to a digital

format? What are you going to do? What you might do is

you might take some pictures of it or a description of it

and say, "You know, for people who wish to see this

material in greater detail, contact us and we can arrange a

review," or something like that. The point is that 508 is

just providing a minimum level of access. It doesn't mean

that every single human being is going to be able to use

508 to achieve access to content. Let me use a different

example. This is a mobile phone [01:07:00] that I'm

holding up. OK. So a mobile phone is made accessible

because you can up the volume. You can turn up the volume

control. Right? That's a built-in feature. But volume

control only goes so far. That's the end of the

accessibility part of it. The other aspect is people who

use assistive technology, like I use a hearing aid to boost

sound so I can hear better. So I can use my hearing aid to

boost the volume for me personally and on the phone.

That's my accommodation. The 508 piece says that there

will be synchronization between my phone and the hearing

aid to avoid magnetic feedback and squeal. But the point

is I still need the assistive technology, OK. People are

always going to need assistive technology at a certain

point to achieve access to material. And then sometimes

there still won't be a way to make -- to reasonably achieve

access. One example we get in our office all the time is

auto CAD. It's a type of software package [01:08:00] that

architects use. And it's visual 3D real-time renderings of

built environment. It's almost impossible to make that

accessible. So some things by their nature won't be able

to made acces-- be made accessible. But the information

and data would be provided somehow in an alternative

format.

JONES: So can --

CAPOZZI: A short answer to your question. So I think it was Melanie who sent around to us a draft policy statement. We provided information back. So there's a policy statement that's being worked on by this committee, so...

JONES: But can I just ask one more time. Of the millions of pages of documents onside that -- on the website that are not 508 compliant, is the policy that they should be removed? No. I'm hearing no.

CREAGAN: Right. Either make it accessible or take it off.

HERSHBERG: Can I -- can I strongly object to that?

JONES: That --

CHAMBERLAIN: It isn't one or the other.

__: OK, go ahead.

JONES: So can -- is -- yeah. I mean...

CHAMBERLAIN: It... OK.

HERSHBERG: There are different imperatives [01:09:00] to balance. Accessibility is good --

CHAMBERLAIN: Yes.

HERSHBERG: -- but so is openness and transparency and also accessibility for the people who can see it, because it would impair their rights if you started taking historical documents down. That would be absurd.

CHAMBERLAIN: What -- again going back to what I said. No, we

are not saying that you need to remove these things. We

are not saying that you can't use it. All we're saying is

that you still have the responsibility. So if you put that

disclaimer out there and somebody calls you and says, "I

want to know what that crayon letter said," you can get

somebody on the phone with them or knock on their door or

do whatever you need to do. The same thing goes for any

kind of content. So, for example, if you have content on

your website that has a link to another website... Have

you ever seen when you click a link that a little box pops

up and says, "You are now leaving?" Well, you add, "We are

not responsible for the accessibility of the content where

you're going." So, I mean, you know, it's...

PUSTAY: I think it would help though, if you don't...

[01:10:00] If you would... We understand that there's

like the out-- what I would call the outlier. The

Declaration of Independence, the thing in crayon. So

let's... I think what's more -- I guess maybe more

relevant to our discussion is, you know, typed documents.

We're not just -- the sort of the everyday documents that

are in agency files that are subject to FOIA requests and

that would get posted. Emails is a huge example.

CHAMBERLAIN: Yeah. Again -- again, if you --

PUSTAY: They have to be made accessible.

CHAMBERLAIN: If it's text and if it's an email or if it's a Microsoft Word document or even a PDF document, they can all be made accessible. If you're talking about something out of the ordinary then, again, I never... When I do my training I never say, "No, you can't do it." You just have to justify why you're doing it to your management. You have to justify why you're making the purchase. You have to justify why you're not making this [01:11:00] document accessible to cover not only yourself but your agency because you could be sued. Somebody could come up and say, "Well, I need this document and you're not doing anything to help me. There's nothing on your website that even tells me where I can go to talk to somebody."

PUSTAY: But, fundamentally, doesn't 508 impose a requirement on agencies to make the documents accessible --

CHAMBERLAIN: Yes.

PUSTAY: -- when they post them? Like that's the --

CHAMBERLAIN: And that's -- yes.

PUSTAY: -- sort of the bottom-line.

CAPOZZI: (inaudible) for 16 years.

CHAMBERLAIN: But -- but you've got --

PUSTAY: And it's been that way for a long time.

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CHAMBERLAIN: But you're going... But you know what? It's like a can of worms. You know? You're just going to go around and around.

PUSTAY: There's lots of exceptions and different things.

CHAMBERLAIN: There's lots of exceptions. That's why I always say it's case-by-case. I take my agencies and whatever problems they have we deal with them because they don't necessarily do it the same as this agency over here. So, yes, if you're creating new documents from the beginning, yes. If you've got documents that are already created [01:12:00] then you have to try and make them accessible. If you can't then you are responsible to provide that link for the person to go to somebody or a mailbox or somewhere to get that information.

HERSHBERG: So...

MOULTON: And so that's...

HERSHBERG: Sorry, Sean.

MOULTON: No... Sean Moulton with Project on Government Oversight. And that's what I wanted to just drill down on a little bit. So when you say if you can't and sometimes you can't, as you've talked about, because things are inherently unable to be translated and made accessible. But I think some people would say if we're dealing, as Nate was saying, with millions of records, there becomes, "We

can't because of the volume. We can't make them all

accessible at the same time but we would like to still post

them." Are you saying that if you provided this

alternative access for those documents, a link or something

where someone would --

CAPOZZI: They would have (inaudible).

MOULTON: If there was a link, [01:13:00] let's say, that

someone could get a live person on the phone who would then

read the document live to them, any documents that they

wanted, would that count as them being 508 compliant?

CHAMBERLAIN: Your first responsibility is to make it

accessible if at all possible. That's your first and

foremost responsibility. If you can't make it accessible

for whatever reason, if it's that crayon or the Declaration

of Independence or whatever it is, then that's where the

disclaimer would come in. But your first responsibility

is, if it's at all possible, to make it accessible. The

thing -- the bottom-line is that, in my mind anyway, is

that people want access to information and it's our

responsibility as the federal government to make sure they

can have it in whatever form that is plausible for us to

do. And, again, number one responsibility is everything

must be accessible, everything you can make accessible. If

you can't make it accessible then your responsibility still

[01:14:00] is to provide something that the person can go to to get it.

MOULTON: Well, I guess my other question would be, if the 508 compliance is also in place internally for agencies for their people who might have access, employees who might have access issues, why is it that so many of the records that are coming out still today that have been created in the last 10 years are still not 508 compliant and have to be done after the fact, which makes it more burdensome and more difficult and we don't seem to... And that always becomes then the problem to greater access for everybody and there seems to be no solution of the document creation.

HOLZERLAND: Can I weigh in on that real quick? This is William Holzerland with the FDA. You're touching on a very important point that I actually wanted to bring up, as well. And I think this is a very important conversation that we have and I thank you for sharing this guidance [01:15:00] with the committee, particularly with our colleagues in civil society so that we can collaborate on potential solutions so that these types of issues won't be a barrier for anybody, so we can make records accessible through FOIA and other means. But I'm sort of hearing two things here, which is that the responsibility to bake the compliance in from the beginning, from record creation, is

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really the primary responsibility and then sort of the --

on an as needed basis we address other sort of one-offs or

odd issues. Old records, things that weren't created in a

format that's easily -- that's conducive to making access

an easy thing to address. But I think, Sean, to touch on

what you're -- you mentioned at the end, one thing that we

deal with at the Food and Drug Administration would be...

In my center, applications from [01:16:00] companies to

legally market medical devices in the United States. So

it's essentially unsolicited correspondence, right, and

they can come in in electronic form, paper form. Paper

would be a little bit easier in that we could scan it in

and then make theoretically a record accessible. What

about when you get an electronic application to market a

device that is not created in an accessible form and it

arrives locked with -- password protected so that we can't

change it and these sorts of issues. And these records run

in -- they can run into the tens and in some cases hundreds

of thousands of pages. So we wrestle with the exact issue

that we're talking about here, where you want -- we may

make our best efforts to make the record accessible but it

may -- there may be significant resource barriers to doing

so. So I'm certainly open to hearing any kind of ideas

from any party that I could steal shamelessly to employ

[01:17:00] at my agency so that we can make records

accessible to the widest possible audience without, you

know, doing what Nate suggests, in that - you know,

avoiding making them accessible because of this resource

issue.

CHAMBERLAIN: (inaudible) questions to ask (inaudible)

regarding that. We can talk.

HOLZERLAND: Sure.

PEREL: Well, and -- Logan Perel from Department of Homeland

Security. Similar to Bill, I mean, there's this obligation

to produce what we already have under FOIA and the tension

I'm seeing is, you know, if I have a word document, I now

have to recreate the header. I'm now creating a new

document, which is not our obligation under FOIA, which is

-- this is the problem, right. I mean, we're -- we're

modifying existing documents. He's got unsolicited

correspondence. In my case I've -- our agency deals with

classified information, which is not on a system available

to the public so you're now changing computers, computer

networks and that just can create, you know, a lot of

issues. So it seems like these two things are in tension

with -- or with each other, which is make available

[01:18:00] what we already have in the form and format it

is, you know, with the appropriate redactions and the codes

applied that the statute allows us. And another -- the

other side, which is the side you guys are talking about

today, which is make it available so everyone in any

possible way can see it in that format. And I think what

we're... I think what we recognize or we're failing to

recognize is, you know, our agencies -- at least my agency

specifically, we don't create a lot of things, I think,

with 508 in mind, which means when we come to FOIA we're

now dealing with thousands and millions of pages that are -

- they are what they are and then the question is what do

we do? And I think that's where we need guidance.

CHAMBERLAIN: What agency?

CAPOZZI: (inaudible) Homeland Security.

CHAMBERLAIN: (inaudible) coordinator?

CAPOZZI: Yeah, Homeland Se--

__: (inaudible).

CAPOZZI: Homeland Security probably has one of the better 508

programs.

CHAMBERLAIN: You need to talk to Bill Peterson.

CAPOZZI: Bill Peterson is the person to talk to. I mean,

they're one of the leaders in accessibility, so... Left-

hand/right-hand there.

PEREL: OK.

PUSTAY: It's true.

CAPOZZI: We don't want to take up your entire meeting

[01:19:00] but just a quick takeaway. I mean, I understand

how you're struggling with document accessibility.

Websites for the federal government have been required to

be accessible since 2000 so this shouldn't be news to a lot

of federal agencies. In terms of document accessibility,

it is a relatively new area of focus and I think when we

come out with our final rule updating the 508 standards you

will see a lot more detailed discussion about how to and

why -- about providing accessible documents. So -- and now

there's a lot more resources than there were before. You

know, in 2000 there weren't a lot of resources of how to

make documents accessible Now Adobe has a built-in

accessibility chapter. That didn't exist before. So there

are... There is more [01:20:00] resources available to

make things a little bit easier. And I understand that

people are going to struggle with it and it's not always a

binary yes/no answer. So...

GRAMIAN: So I think one of the things I heard you say -- this

is Nikki Gramian. I heard you say was that now the

individuals who are creating new documents are required to

tag those documents. And I think something that you said

was, you know, if it's not, you'll send it back and say,

you know, this isn't -- this hasn't been tagged.

CAPOZZI: We're not going to say --

GRAMIAN: Does the FOIA unit need to send this back to the creator and say, "Sorry, you didn't tag this." I mean, I could see the head of the agency go nuts and say, "Excuse me."

CAPOZZI: Well, to the document creator of the agency --

GRAMIAN: I mean, that's -- I mean --

CAPOZZI: -- not the... Yeah.

CREAGAN: The other thing about 508 is that it's part of -- it's part of a whole bunch of things you have to consider at the same time. [01:21:00] I think you made mention, Nikki... There is also the FOIA responsibility. So think about it. When you respond to FOIA, if you were just doing, you know, reproduction of photocopies, you know, you just photocopy it, right. You redact what you need to redact and you send it off. You're not interpreting it, you're not explaining it, just here it is. In a similar way, you have to balance that responsibility through the prism of 508. Remember when I talked about the whole issue with alt-tags. That has nothing to do with FOIA but the alt tag issue comes up because that depends on the circumstance. Is this being produced because I'm giving a diagnosis? Is it because I'm identifying what it is? You know, how -- where am I going on this? So there's a lot -- there's a lot to be thought

about with the institutionalization of 508 and the

materials. And like Helen and David and I have all been

saying, we can share the expertise with you. We can point

you in the direction [01:22:00] of agencies that have

particularly good policies who've thought about this a lot.

Homeland Security is certainly one of them. HUD is

another. Social Security Administration. They all have

thought about this a lot and they put a lot of their

guidance on the web.

PUSTAY: I want to thank you all so much. We knew that you'd

get a lot of questions and we appreciate it. We don't mean

to have it be like a -- you know, coming at you from all

angles. We really do appreciate it because obviously it's

very -- it's complicated. It's not easy. It's like you

said, there's grad-- there's standards, there's gradations,

there's just lots to it and we really do appreciate you --

your time, especially, explaining it to us. Thank you.

GRAMIAN: And do we have a copy of your slides so that we could

post it on our website, as well?

CREAGAN: Sure.

GRAMIAN: OK, that would be great.

MOULTON: Just a quick question before --

GRAMIAN: Yes, of course.

MOULTON: -- we move off this.

CAPOZZI: (inaudible).

MOULTON: One of the things I'm wondering is if a document
isn't... If a document's released to me in a FOIA request,
obviously it doesn't have to be made 508 compliant. And so
I guess what I'm wondering is if there was an index, an
online index of FOIA released materials, sort of a card
catalogue that named the document and was -- and that index
was accessible and could be done by readable -- and you
could check off the documents you wanted and thereby were
requesting them and they were sent to you, would it be
required that all documents inside that library be 508
compliant then or could they be made 508 compliant upon
request?

CHAMBERLAIN: You (inaudible).

CAPOZZI: (inaudible).

MOULTON: Right now if I request something through FOIA or
[01:24:00] another means it doesn't have to be 508
compliant before I request it.

CAPOZZI: Are you saying that the documents exist but you can't
see them or...?

MOULTON: Yes. I'm saying it's a card catalogue or an index.
Emails between Secretary Clinton and so and so and I say,
"I would like that document." I click on a checkbox and
the document has to be sent to me through my email.

CAPOZZI: So long as nobody can get it online then everybody's in the same boat.

MOULTON: No, no, not online. I'm saying it would be sent to me electronically.

CAPOZZI: I understand what you're saying. My question is so long as nobody can get it online, and all is they can see is the title, then the title has to be accessible. If the document is not physically on the website there's no obligation because you haven't provided a document to anybody.

HERSHBERG: But can you provide it on the website?

CAPOZZI: If you put it on the website then it has to be accessible.

HERSHBERG: Listen, I just... You know, listen. Accessibility to people who have a need for accommodation is important but accessibility to the general public is important, too. [01:25:00] The point of FOIA is to make as much as possible, as quickly as possible, to the maximum audience and following up on Tom's comment... Again, I'm new to this issue -- 508 should not be an excuse or a reason to delay release of material. And, again, for recently produced material there certainly should be an obligation to make it as accessible as possible in conformance with 508, especially since the law came into

effect. But historians are waiting on material 50, 60, 70

year old and more. The CIA was created in 1947. We are

still waiting for documents produced then. There's no

reason why material that might be difficult or time

consuming or very costly for which Congress might not have

mandated funds to produce completely accessible versions

of... There's no reason why material can't be put online

while a good faith effort is made to make it more

accessible. [01:26:00] To use it to deny access to

whatever percentage of people don't need the complete

accessibility provisions really contradicts the whole point

that the archivist was talking about, that the purpose of

FOIA is maximum openness and transparency.

__: Right (inaudible).

CAPOZZI: It sounds like you all need to have some discussion

amongst yourselves. We're trying to --

HERSHBERG: No, I'm just talking for me as a historian.

CAPOZZI: That's fine. We're trying to provide you with

information about what the law requires. You have two

laws. The FOIA act and section 508. They both stand on

their face. And we provided you with some information

about how to make documents accessible. You all, it sounds

like you need to have some more discussion about the

implications of both laws.

PUSTAY: Yeah, we -- again, we appreciate you all coming and --

Moulton: Very much.

PUSTAY: -- explaining it to us. Thank you. Thank you very

much.

GRAMIAN: Thank you very much. We can now... Yes, of course.

SUSMAN: What's the OIP -- or is it OIP or [01:27:00]

(inaudible) policy statement that was sent around that

(inaudible) referred to?

PUSTAY: You know, that's an internal thing we're talking

about, he's referring to.

SUSMAN: Internal to the Justice Department?

CAPOZZI: Is that just Justice?

PUSTAY: It's... He's talking --

SUSMAN: He let the cat out of the bag (inaudible) explain it

(inaudible).

PUSTAY: Yeah, yeah. It's part of... It's part of our

drafting of the released to one release to allpolicy.

__: (inaudible).

PUSTAY: We're checking in with them, obviously, for that.

Susman: Yeah, good idea.

GRAMIAN: Anyone else have any questions? All right. We can

now pause for a short break and resume --

PUSTAY: I think we need one. Yeah.

GRAMIAN: And resume in about 15 minutes. So please feel free
   to visit the Charter's Café and also the restrooms on the
   ground floor, which is two levels down. Thank you.

[break]

GRAMIAN: All right. Thank you all. I hope you all had a nice
   break. I should also say, before we start the next segment
   of our meeting, that there are some interest in addressing
   the 508 compliance from the members of the public. We will
   have comments -- time for comments from the members of the
   public, so if you would please come to the microphone at
   that time and make your comments. As I noted during our
   first meeting, our second term, your homework was to think
   about which of the areas you all identified during
   [00:06:00] our brainstorming session that you think offers
   the greatest area to deliberate on the toughest issues in
   FOIA. And you have this awesome opportunity to work
   together and make concrete recommendations. I would like
   to direct your attention to the meetings minute from the
   previous meeting, which are in your folder and also in
   attachment one, which are pages 14 and 15, that has all the
   topics you all identified. In attachment five to the
   meeting minutes is the list of themes that emerged during
   our brainstorming discussions. For the viewing audience, I
   will briefly read the topics that were identified. The

committee identified for deliberation the following topics.
One was commitment and awareness. Two was delays. Three
was volume specifically electronic records. Four was
funding. And the last topic, topic five, was [00:07:00]
technology. So one of the issues the committee identified
as potential topic to address over the next two years is
the 508 compliance. As you all heard, under the 50--
section 508 of the Rehabilitation Act of 1973, agencies
must give disabled employees and members of the public
access to information that is comparable to access
available to others. It was also suggested that the
committee continue the work from the last term regarding
proactive disclosure. Another suggestion was the committee
might want to setup ad hoc subcommittees to address issues
at particular agencies and there was also much discussion
about keeping pace with technology. Among some of the
issues identified for this topic, technology, was the
challenges that some agencies have to harness technology to
manage the ever-increasing volume of records and assist
with searches, database management and tracking [00:08:00]
and producing records electronically. Another theme that
was identified is awareness and commitment. Among the
issues and potential projects discussed under this area
were the buy-ins from the agency and administration

leadership and appointees, and also the creation of

transition documents on FOIA for the next administration.

We also considered creating a subcommittee that would focus

on identifying and encouraging agencies to adopt best

practices. Another potential subcommittee might focus on

requesters issue trying to use the FOIA process. And,

final -- the final suggestion on the list was setting up a

subcommittee that can address issues with a particular

request and I think Nate Jones equated this potential

subcommittee to acting as something like a FOIA

firefighter. Now, I would like to turn your attention

during the next 45 minutes to discuss these topics for

final selection and also [00:09:00] identify subcommittees

and members who will participate in each subcommittee for

deliberating on the selected topics for the next six

meetings. Would anyone like to open the discussion with a

particular topic?

RUSS: May I read Lynn's comments?

GRAMIAN: Of course.

RUSS: OK. So this is Kate Russ. I'm reading comments that

Lynn Walsh sent in. She's unfortunately unable to attend

the meeting by phone today but I'm going to read out three

things that she suggested. She said, "I would like to

advocate for breaking out technology in addition to these

three area subcommittee: Proactive disclosure, searches,
and management. I think focusing on these searches and how
FOIA officers are searching, what tools they use, et
cetera, could add some valuable insight, hopefully creating
some change. Maybe there are some best practices we could
find within some agencies that other agencies could adopt."
And finally she said, "I would be very interested in being
part of a subcommittee that focuses on technology searches
and management."

GRAMIAN: So one area that one [00:10:00] member has identified
is definitely technology. Right? Thank you. Anyone else?

EGGLESTON: Hi, this is Jill Eggleston of USCIS. Just to
follow-up on that recommendation. I think that under the
category of technology we could also look at the fact that
record practices of the agencies are not keeping up with
(inaudible) technology and I'm talking specifically about
things like email and text messages.

GRAMIAN: OK.

HOLZERLAND: I raised this issue briefly at the last meeting
but as far as the subject of technology goes, I still don't
know what aspect of that we're talking about.

GRAMIAN: It can be anything that the subcommittee --

HOLZERLAND: The lack of it, use of it --

GRAMIAN: Sure.

HOLZERLAND: What do we mean? I mean, it's a very broad

　　　topic.

GRAMIAN: It is.

HOLZERLAND: I suggest we narrow the focus.

EBAOLAHI: I think I have a -- this is Mitra Ebadolahi. I have a

　　　follow-up question that's sort of the flipside of the same

　　　coin, which is when we speak about [00:11:00] searches.

　　　Often that obviously implicates a technological question,

　　　as well, right. What is the database functionality, what

　　　is the search functionality. And so, I'm sorry, I'm not

　　　hearing the comma between searches, management, and

　　　technology, if there is one. Are we talking about searches

　　　and management or searches and technology or searches,

　　　management, and technology? What are we discussing?

　　　Because I think with tech, some of the questions I have, to

　　　help answer your question, is what are the technologies

　　　that are available agency by agency for running the

　　　searches? How do those technologies differ depending on

　　　the underlying databases that the agencies have to search

　　　in response to a FOIA request? That kind of information

　　　that would help both, I think, requesters make better

　　　requests and understand whether delays are or aren't

　　　justified in terms of resource capabilities and the like.

GRAMIAN: Anyone has any comments about this? [00:12:00]

Perhaps one of the things that we can discuss is to narrow the focus.

BEKESHA: This is Michael Bekesha. I mean, I think when you talk about technology you talk about records creation, records management, and then searching, processing, and technology when it comes to responding to FOIA requests. So, I mean, I think we would need to look at are we talking about the initial stages and when records are being created, how they're being managed, or then what technology is being used once a FOIA request comes in, because it's searches as well as processing. I mean, redactions. Are agencies using software to redact or are they talking a magic marker and blacking things out and then scanning and posting on the website? So, I mean, when you look at technology, you know, you have three dif-- very different aspects to it.

HOLZERLAND: Maybe -- and this is Bill Holzerland again. But maybe it makes sense to foc-- to the extent we're talking technology, maybe we talk about the functions of [00:13:00] technology we would like to see employed versus wading into and endorsing specific types of technology which we as federal employees really can't do.

GRAMIAN: That's true.

KNOX: And this is Chris Knox. Just to piggyback on that,
it's identifying the best practices and looking at the
existing technology and how you can overlay that on the
best practices to figure out how you can get the most out
of it. It's not looking at the technology and identifying
the best practices based on that technology. You got to
start at the practices level.

GRAMIAN: So it's all up to you to make that decision today.
What aspect of technology is it that interests most and
appears to be one of the challenges? And this should be
both from the requester's side as well as the agency side.
You are correct when you say technology is very broad. So
let's narrow it down.

JONES: Well... So here's [00:14:00] something that I've been
thinking about. I don't know if this goes in order but
I'll just throw out my ideas and then we can continue
discussing. But I think it would be beneficial if this
FOIA committee tackles tangible problems. I think last
time we had a tangible solution on fees that, even though
OMB is ignoring us, I think could eventually get more
documents out to more people more quickly. And they're
probably not ignoring us. They're probably working
diligently on it. So with that said, I think we just heard
about a big road block that potentially could blow up

(inaudible) in my opinion 508. So that could be a
potential fix that we can do. And another one I'll throw
out and we can discuss and take it up or not is -- I
believe... I think, from filing lots of FOIA requests, the
number one bottleneck is searches. And most of the time
the FOIA officers themselves can't do the search. They
have to beg and plead and plead and plead for other people
in the agency that ignore them [00:15:00] for sometimes
five or 10 years in our experience. So I would say if we
can fix or come to a solution or accommodation with 508 and
if we could improve the search mechanism, those are two
tangible things that I'd put on the table. And we can use
technology or not use technology to do either of those.
But...

GRAMIAN: Sean?

MOULTON: No, I was just... He actually clarified at the end.
I was asking -- I was going to ask if he was saying
searches as a technological challenge or as a management
challenge and authority challenge, which I think depends on
the agency --

JONES: Either, both.

MOULTON: -- as to what's -- what's, I guess, the barrier.

KNOX: This is Chris Knox again. And I think digging a
little deeper on the technology, I think technology's a

subcomponent to many of these. I mean, the 508 should

maybe even be its own, you know, release one, release to

many. And with ter-- and in term of 508, might be its own

subcommittee. But also, I would like to see some

discussion about process automation [00:16:00] or process

efficiencies through the use of technology, other

workflows. It's not technology in and of itself but it's

efficiencies and automations.

GRAMIAN: OK.

JONES: Including maybe searches?

KNOX: Search may be its own. Yeah, yeah. I think it's

possibly subcomponent of searches, as well, yeah.

HERSHBERG: I'm not sure what category this would go in --

under, if it would be practices or special topics. But,

you know, I'm mostly interested in the historical

perspective. But especially the commitment and awareness,

I guess, it would be under because, you know, I've

certainly encountered at CIA -- mostly at CIA, you know,

stubborn resistance and also... My most request, just

(inaudible) one brief anecdote. I filed a request for my

current book project that deals with the Cold War in the

early 1960s and I was delighted to relatively promptly

receive a nice fat envelope from the CIA. [00:17:00] And I

excitedly ripped it open. What they had done, it couldn't

have taken more than two minutes, was simply go to the

publicly accessible CIA FOIA website, type in the key words

relevant to my request, and print out what I had printed

out years earlier, the exact same documents. And I'm sure

that went into their statistics as fulfilling a request,

which completely violated the spirit of the law, which was

supposed to allow for investigation. And one thing I was

wondering about, is there any liaison, formal or informal,

between this committee and the historical advisory

committees of the State Department and the CIA, I don't

know if the Justice Department, you know, and FBI or any

other agencies have historical advisory committees, so

information can be shared about problems relevant to FOIA

that, you know, could be maybe de-- considered

collectively? Because this is an important group and it

should be communicating with these other advisory groups.

GRAMIAN: [00:18:00] So I do believe that there is a chief FOIA

officers council that, you know, we are -- we co-chair.

HERSHBERG: Well, I'm -- this is something different. I'm

talking about -- the CIA and the State Department, I don't

know if any other agencies, have a historical advisory

committee with a distinguished historian as the chair, this

has been true for 20, 30 years, which meets several times

and reviews that agencies fulfillment of its historical

obligations to open materials. Which include FOIA. But I
have no idea whether or not any liaison exists between this
group and those groups. It sounds like there should be,
unless you would like me to be that liaison, since I'm a
historian. Or Nate and I. But, you know, we shouldn't all
be separately trying to deal with the same problem. If we
could put out a collective voice if it's relevant, you
know, that would make sense.

GRAMIAN: Sure. Right. Yeah. [00:19:00] Yes.

SUSMAN: First just an observation. I would not use the CIA as
an example to extrapolate from in terms of the work of the
committee because I -- it's such a unique agency. Accounts
for just a small number of requests. Important ones. But,
you know, having done business with them and sued them a
few times, they're *suis generis* in the FOIA world.

HERSHBERG: OK. That's probably good news. OK.

SUSMAN: I wonder whether best practices couldn't be an
umbrella for both technology and searches because... You
know, just for example, learning that there are actually
people in Homeland Security who are doing something that
one of our members said, "Gee, this is a problem," suggests
that elevating the best practices to a higher level of
visibility among agencies for whatever it is would be a
useful thing. In terms of technology [00:20:00] I do think

that there's a problem of what is -- you know, how do you

define what the technology -- what are you going to use it

for? But some agencies obviously do wonderful things with

it for searching emails, for redacting, and those are best

practices from the technological perspective that should be

shared. And, finally, on the same -- on the searches, boy,

I'm always struck. I read the case summaries every two

weeks and there are probably more lawsuits challenging

inadequate searches than any other issue. And it's just

amaz-- and so in terms of saving time and money for

agencies and requesters, if we could be helpful in

providing a level of comfort to the requester that the

agency has followed appropriate best practices in carrying

out a search, I think that would have a magnifying effect

in terms of time. Not just timesaving individually but

across government.

GRAMIAN: [00:21:00] Anyone else? So do you guys want to vote

on a particular topic?

MCCALL: I do have one thought.

EGGLESTON: This is Jill Eggleston, USCIS. I would have one

other suggestion for a possible subcommittee topic and that

would be legislative fixes.

PUSTAY: Ooh.

__: (inaudible).

PUSTAY: We just got the FOIA -- the FOIA just was amended to --

SUSMAN: Yeah, no. I -- having been involved in legislative fixes going back to 1970, I think that that would -- that's more than we need to bite off and less than we could ever accomplish. There are at least three or four organizations in town working on legislative fixes and I don't know that... I think we are -- our time is better spent focusing on agency [00:22:00] practices than on Congress, which is -- needs to be fixed itself.

MCCALL: This is Ginger McCall. We spoke at length last time about issues of resources and efficiency and funding. I do think that that would be a useful place for us to focus our attention. It could be that some agencies are adequately resources and they're just not efficient, perhaps, and it could be that many agencies are inadequately resourced and inadequately funded and don't have adequate staff to be able to manage the backlog that they already have or the volume of requests that they've been receiving more recently. I think it would be helpful for this committee to look at ways that agencies can increase efficiency. And if an agency is already efficient but is still under-resourced, for this committee to make a recommendation for greater funding, because there are a lot of new reporting

mandates that come out with every iteration of FOIA bills and FOIA reform and not any new funding.

HERSHBERG: [00:23:00] OK. I wonder if this might not be a topic for practices and maybe Tom can tell me if it's relevant for other agencies besides the CIA especially because, again, I deal with foreign policy history. And the CIA -- one thing that's been very frustrating for historians, is they've come up with a number of theological exemptions to FOIA. In other words, for decades they said all presidents daily briefs, the daily reports to presidents, that's like a lawyer/client communication. We're not going to release -- we're not even consider -- and then they decided, "Well, maybe we can," and they released hundreds of thousands of pages of them and predominantly they were safe to declassify. Another example is they have had a policy for several decades of not releasing any biographical profiles. That it's a --

SUSMAN: One of my (inaudible).

HERSHBERG: -- literally -- a piece of literary craftsmanship. And yet before that policy went into existence a number of CIA profiles have been released in other files [00:24:00] of other agencies. Ninety percent of this stuff you can get from the *New York Times* Man in the News or Woman in the News profile. In other words, the

best practice would be to seriously consider can the
information be safely released or is it detrimental to
privacy, national security, or some legitimate category
under FOIA? So I think -- I don't know if other agencies
come up with theological exemptions to simply say this
whole category is off-limits.

PUSTAY: No, I mean --

SUSMAN: Not nearly that often.

PUSTAY: No, no. I mean, there's no such -- we really... I
mean, there is no such thing as a theological exemption.

HERSHBERG: Well, I just use --

PUSTAY: There are nine --

HERSHBERG: -- that as a term of art. I mean categories.

PUSTAY: I mean, I know... I know. But, I mean, they're --
they're withholding the information because it's classified
under an executive order. There's tons of review
procedures for that.

HERSHBERG: No, but you know very well classified is a
completely subjective adjective.

PUSTAY: We had decided last time with our advisory committee,
and I don't -- I -- this came up -- comes to my mind again.
[00:25:00] We -- with the first term of the advisory
committee we just said the issues with classification were
something that we weren't going to try to address because

there's a whole slew of different bodies. There's ISU,

there's different organizations even within NARA that deal

with classification. So we had decided on the first term

that issues of classification didn't -- were not a likely

productive source of -- a topical source for the advisory

committee.

HERSHBERG: OK.

PUSTAY: And I still echo -- would echo that, too.   What --

one of my comments was -- since I have the floor -- I

grabbed the floor from you. I'm sorry.

HERSHBERG: Please. Please.

PUSTAY: One thing that I think that we have not done yet, and

I'm not sure exactly how to do it, but I feel like we --

sort of the beauty of the advisory committee is that it's

half requester -- it's half agency/half requester. And I

feel like there's something there that we -- would be nice

to be able to tap, where we do something... And maybe, you

know, something sort of [00:26:00] analogous. But

something to collectively make changes. And like one --

the one thought that comes to my mind is demand. We always

talk about... You know, we always talk about agencies

responding but is there something we could do to help

reduce demand, help reduce the pressure on FOIA. Is there

something there that the requester is -- is there something

we could do with that?

__: Yes.

JONES: Put more documents online with fewer redactions.

SUSMAN: Exactly. Proactive disclosure.

__: Yeah.

GRAMIAN: Yeah. Well, I mean, that's --

PUSTAY: Well --

GRAMIAN: -- proactive. That's proactive dis--

PUSTAY: Yeah, yeah, yeah. Well, obviously we're leading the

release (inaudible) release also. I mean, you know, you're

talking to the choir with that. I guess I'm thinking more

about alternative sources of access. Are there... You

know, are there statutory schemes that would help?

BEKESHA: Well, I mean... This is Michael Bekesha again. I

mean, that's why we shouldn't disregard [00:27:00]

legislative fixes so quickly. I mean, we have a body here

of FOIA requesters as well as FOIA professionals from

within the government and there are no other organizations

out there that are addressing both sides of the problem and

what legislative fixes could be. So, I mean, that could be

something that this committee could tackle with the

experience on both sides that simply is not being

addressed. Because when it comes to legislative fixes you

have FOIA requesters putting forth what they think is great and then the government putting forth what they think is great and there's no discussion between the two about what can make the statute so much better and fix a lot of these problems. So I'm not sure we should just disregard quickly legislative fixes.

KWOKA: This is Margaret Kwoka at the University of Denver. I'm sorry that I don't know who was speaking two -- two speakers ago because I'm on the phone. But I wanted to echo the thought of that speaker about thinking about ways [00:28:00] that we can reduce the pressure and demand on FOIA and I think affirmative disclosure is a key to that but it goes beyond release to one, release to all. That we should be looking at ways in which agencies can be anticipating whole categories of records that can be released, that are going to be in high demand so as to reduce the pressure on one-by-one FOIA requesting and needing to respond to those. And so related to that, I actually think and I would strongly support having a subcommittee that continues the work on affirmative disclosure from the previous term because that committee never, you know, reached ultimate recommendations and I think it (inaudible) important to continue that work and I think that would be the most fruitful avenue to go in. And

related to that, I also that for the technology piece, it
would make more sense to me for technology -- technology to
be a central component of the work of every subcommittee
[00:29:00] that is (inaudible) rather than to have one
committee that is simply working on technology because it
does cover so many areas. So, for example, (inaudible)
subcommittee would address technology questions that arise
in that context, which would likely include (inaudible)
issues. I think another subcommittee on search would be a
terrific topic for the reasons that Tom mentioned in terms
of the number of disputes that arise over inadequate search
and technology would be a piece of that subcommittee's
work, as well. So I think the organization -- in my mind
it would make more sense to (inaudible) off these topics
and have technology be an integral component of the work of
the committee across the board.

GRAMIAN: I think that's an excellent idea. Anybody?

PRITZKER: This is David Pritzker. Ginger McCall spoke about
looking at efficiencies or inefficiencies and I think that
she was mainly linking that to funding. But I'd like
[00:30:00] to suggest linking it to Tom's suggestion
earlier about identifying best practices. Seems to me it
would be potentially fairly useful to identify which
agencies are really handling their FOIA operations

efficiently and recommend what they're doing to the others.
But, by and large, agencies don't have any means, other
than perhaps what I've just suggested, to know who's doing
it better.

PUSTAY: Well, actually, though -- Melanie Pustay -- we do have
-- DOJ has been doing a best practices workshop seminar.
It was part of our commitment under the national --
actually, the second national action plan. So we have had
a series of best practices where we identify agencies that
do really well and we've had technology, we've had backlog
reduction, we've had customer service. Tom was on that and
Sean was on that panel. It was -- that was one of our
better [00:31:00] programs. The speakers were cap-- they
were captivating. So -- but what we could do, maybe to tie
this together, because we did -- the whole point of that
was to identify agencies doing well and have that -- them
share their best practices and then we have a page on our
website where we identify the best practices so it's a
resource. We could have ideas for best practices workshops
be -- you know, be generated through the advisory
committee. I mean, I think that would -- that would be a
great, you know... Those are a great way to link the two
enterprises.

PRITZKER: And part of what I had in mind as an ultimate product

is recommendations to agencies that these resources exist

and let them know that they exist and how to take advantage

of them.

GRAMIAN: So would one of the challenges be best practices?

Show of hand?

PRITZKER: [00:32:00] Best practices as link-- particularly

linked to probably other issues, as well.

PUSTAY: Yeah, just like on any best practices -- on anything

connected with FOIA, improving FOIA, best practices to

improve FOIA.

EBADOLAHI: Well, and I think -- this is --

GRAMIAN: So what --

PRITZKER: Well, yeah, but --

EBADOLAHI: This is Mitra Ebadolahi again. And I think the

value of that is... Again, I think, you know, part of our

objective should be to try to make FOIA more accessible to

people in a way that's not going to replicate the problems

that are burdening the agencies now in terms of poorly made

requests or duplicative requests or whatever. And so I

feel like the umbrella term of best practices is an area

where we can do something proactive and concrete and

develop materials that would actually help both sides of

the FOIA equation do its work more efficiently.

PUSTAY: Yeah. See, I love the idea of the -- helping people make -- formulate better requests or more clear requests or that's an example of something that can be on the other side.

MCCALL: Ginger McCall. I also like this idea a lot because it's... [00:33:00] Instead of creating sort of pie in the sky proposals what we're looking at is what actual agencies have done and what has actually worked as a practical matter. So I think that this is a good idea. Thank you, David.

PUSTAY: And I would think like that some of the requesters could -- you'll -- you'd be able to identify, "Oh, we really like this. You know, we have this experience with this agency or this experience with this and then that can be the shi-- that can help us build out one of these workshops.

PRITZKER: We had one example here earlier this morning when the people from the 508 -- from the Access Board pointed out a couple of agencies. They said, "Look at their sites. Look at what -- how they're dealing with 508." How would we have known that? And that -- linking the problems with the agencies that have found solutions, it seems to me, is a positive contribution we could make.

LAZIER: So -- this is Raynell. I was actually [00:34:00] listening along and when folks found that there's an interconnection between technology and any issue that we address, I also felt the same way about best practices. So where I think it was suggested that, you know, any committee or subcommittee take a look at technology as a part of the issue, that's the way I would have recommended looking at best practices. So any subcommittee who... You know, maybe clearly there's going to be a 508 subcommittee. OK. So then we would look at technology. But we would also look at best practices just to keep us focused. I think if we have a subcommittee that is best practices it can go into a lot of different areas. So I think that maybe just a thought would be to make each subcommittee or committee look at --

GRAMIAN: Best practices as part of its --

LAZIER: -- best practices as part of it, as well as technology, and maybe, you know, anything else that somebody comes up with. But I think best practices, you know, would be a good [00:35:00] way to write a suggestion or recommendations for change.

LAZIER: So --

MOULTON: This is Sean Moulton. I think that could work very well. I was also worried about the very wide scope that a

best practices... It's a great idea and I do want us to
get a lot of best practices. I think that as an outcome is
terrific. My suggestion was going to be a little
different. I was just going to say I think maybe the best
practices subcommittee would then have to basically setup
sort of a rolling agenda where they did best practices in a
particular area and moved on to another area rather than
just kind of constantly talking about random best
practices. If we wanted to do searches and, you know,
websites or technology --

GRAMIAN: Technology issues.

MOULTON: -- or -- then we could do that. But they could -- you
know, they could move on after two or three [00:36:00]
sessions. They might have these are the best practices,
this is our report back in this area. We're moving on to
another area now. And the same thing for 508 compliance.
I think it is a good topic because if we can get some
recommendations there it could be very helpful. But I also
don't know if we're going to make it two years on 508
compliance. So I think it would be great if we had it as a
subcommittee and then wrapped it up, you know, in less than
a year and then moved on -- those people onto something
else.

PUSTAY: I kind of like -- Melanie Pustay. I keep forgetting

to say my name. I do like the idea -- from being -- those

of us who were on the committee last time. There is some -

- there is, I think, an advantage to having things in

cycles, like -- so that like we do something like a best

practice and then we have a report by the next committee

meeting. Or so that instead of talking about it and then

having a report at the end of two years, we have something

-- it's increme-- build in. And maybe this is a suggestion

[00:37:00] just overall for any of our subcommittees, that

we have built-in milestones along the way so that we're

actually making progress toward some goal.

GRAMIAN: Any comments? Anybody?

JONES: Well, I would just say in general, before we vote, I'd

like to hear all the ones on the table. Such a lot of good

ideas.

GRAMIAN: Yeah, sure. Again, if you all would turn to your

attachment two of your meeting minutes. It has all the

topics that we identified, or the themes that we

identified, commitment and awareness, delays, volume,

funding, technology. And it has bullets under each theme.

If you would please spend a few minutes and kind of go over

these. [00:38:00]

SUSMAN: Doesn't attachment five boil down --

PUSTAY: Yeah.

GRAMIAN: Yes, it does.   Yeah.   But...

__: (inaudible).

GRAMIAN: Yeah, that's true, except...   Yeah.

PUSTAY: It's this little short guy.

GRAMIAN: Yeah, that's correct.

PUSTAY: Yeah.

GRAMIAN: That's correct.

PUSTAY: That's a nice resource.   Yeah.   OK.   So if you look at
       attachment five, the potential topics; 508 compliance,
       proactive disclosure, agency specific subcommittees on a
       rolling basis, awareness and commitment, best practices and
       actual FOIAs [00:39:00], practical emphasis.   OK.   I'm just
       going to go by the list.   How many folks are interested on
       508 compliance?   Please, show of hand.

JONES: I --

EBADOLAHI: Sorry, I don't -- is this meant to be the
       comprehensive list because like certain topics aren't even
       on it, like search and other topics, like 501 compliance is
       perhaps a short-term issue.   Best practices we just had a
       proposal that that be a thematic glue and not a committee.
       I don't think this is what Nate is asking for.   I think the
       first thing we need to do is maybe generate a list right

now of actual committee topics and then we can go around

and --

GRAMIAN: OK. I like that idea.

KNOX: So just taking notes from what everybody said, just

some of the themes that I pulled out were search -- and

understanding the best practices in technology being a

subcomponent of each one of these. Search --- and some of

these will last the entirety, some a couple of meetings.

Search, 508 compliance, [00:40:00] resource efficiencies,

whether it's funding or the human element and proactive

disclosure. That's not exhaustive. That's just what I

pulled out.

GRAMIAN: That's correct.

PUSTAY: And then there's one way of looking at this, like then

under each one we would be looking at both best practices

for that topic and technology --

GRAMIAN: And technology.

PUSTAY: -- for that topic.

EBADOLAHI: Correct.

GRAMIAN: OK.

PUSTAY: That's kind of a nice way to package them.

KNOX: And maybe also -- maybe also identifying the agencies

that are doing that particular topic well.

PUSTAY: Yeah. Yes.

KNOEX: And bringing real world practicality into it.

PUSTAY: Yeah. So it's sort of three things for each topic.

HERSHBERG: OK. Jim Hershberg.

KWOKA: This is Margaret Kwoka, University of Denver. I think that's a really nice list, a nice way of breaking up the (inaudible).

HERSHBERG: Couple of things. I see that agency specific subcommittee is listed but there hasn't been any discussion of that. [00:41:00] Did anyone have anything particular in mind because, you know, I mean, again, Tom and I have had an exchange about the CIA, you know, whether it makes sense, you know, having another voice to nag the CIA to be more open, you know, whether that would help, hurt, or be a waste of -- you know, just a pure waste of time. And the other thing is the be-- is the idea for a best practices subcommittee, also a worst practices subcommittee. In other words, pinpointing problems and failures that, you know, really need to be redressed. In other words, not just aspirational but pointing out issues, you know, where either across the board or specific agencies, you know, are really causing problems, you know, that could be redressed.

GRAMIAN: I mean, I think, personally, if we identify best practices, perhaps that's something that... You know, of course, Melanie will be posting on, you know, the best

practices website. That for agencies that are not doing --
you know, are not... [00:42:00] You know, worst practices,
I guess, would be able to sort of see and adopt the best
practices rather than pinpoint, you know, what are the
worst practices.

HERSHBERG: OK. You don't think it would be... Jim
Hershberg again. It would be useful for us to shame
particular agencies?

MANY: No.

MANY: No.

PUSTAY: No, it's not.

HERSHBERG: Or to shame Con-- or to shame Congress for not
funding, you know, what needs to be done.

HOLZERLAND: And, Nikki, this is Bill Holzerland. I think
there's some challenges for the federal employees on this
board and this committee --

PUSTAY: Right.

HOLZERLAND: -- with those ideas. Just puts us in an
untenable kind of position. But my understanding of the
purpose of engaging in subcommittee work is that ultimately
we can come up with recommendations --

GRAMIAN: That's correct.

HOLZERLAND: -- to the archivist for addressing certain
issues. So I don't know that coming up with a list of

[00:43:00] -- you know, a naughty list on certain topics is
really going to... I mean, we --

HERSHBERG: No, I was being flippant. I mean, problems that
can be addressed.

HOLZERLAND: Sure. Sure. Well, some of the things I think
we're trying to make --

PUSTAY: We have to get used to you on the committee, that's
all.

HOLZERLAND: -- recommendations on how to solve the problems.
We all agree -- a lot of us agree that there are these
problems.

GRAMIAN: Yeah. And I think one of the things that can come out
of this is... You know, I heard legislative fixes. You
know, perhaps during the best practices discussions in your
subcommittees, one of the things that could come out of it
is perhaps a guidance from OIP that, you know, provides
guidance to agencies. And most agencies do follow those
guidances. So, you know, by identifying best practices or
perhaps, you know, discussion of -- you know, it would be
best to fix this legislatively, right now maybe something
that OIP can do is provide guidance to agencies [00:44:00]
and say, "OK, this is the best thing that we've heard.
This is what the committee recommends and here's this
guidance."

PUSTAY: I have to say, too, with the -- even teasing the two committee members who were on our customer service best practice seminar, they have -- it has really been incredible to listen to the ideas and the things that agencies are doing and it's surprising sometimes the things that people have come up with. Smaller ag-- we had a best practices from smaller agencies and you would -- it was so nice to hear all this innovative things that the smaller agencies with low volume FOIA had still done a lot of thinking and had some nice ideas. So I do think in a way -- it just kind of -- it doesn't fit nicely with the idea of, like, let's look across the whole federal government at what's going right and capitalize on it.

EBADOLAHI: This is Mitra Ebadolahi. I have a point of clarification. It was really helpful to have that list. So search, resource efficiency, 508 compliance, and proactive [00:45:00] disclosure. And my question is about the proposed concept of a resource/efficiency something, committee. My question is... I'm looking at attachment two, the longer attachment and I'm trying to figure out, as perceived by members of the committee right now, does the concept of a subcommittee that focuses on resource efficiency, does that also look at delays, both in terms of poorly made requests and handling of requests? To me

that's a natural place for that concept but it's otherwise

not reflected in the list. It's also, I think, a place to

think through limited resources or... Like, for example,

if there's a smaller agency that has a li-- a smaller

office, if we understood that better as requesters it could

inform the way that we make requests for information. It

could help further the process and speed things up. That's

not per se efficiency in the more narrow sense of the term

[00:46:00] but it certainly is in the broader sense and

goes back to this concept of how can we as a committee with

real experience on both sides of FOIA help be a resource to

the public seeking to make FOIA work for them? So I just

wanted to ask that point of clarification. And if delays

aren't most organically in that subcommittee, ought we have

another committee or subcommittee that focuses on some

aspect of that issue?

GRAMIAN: So I think the -- you know, that's a really good

analysis. To me, both volume and delays play some part.

You know, if you were talking about these very, very broad

and very -- I think broad is the term.

PUSTAY: Broad, yeah.

GRAMIAN: Requests --

PUSTAY: Sweeping.

GRAMIAN: Sweeping, sweeping.

EBADOLAHI: Complex versus simple. Yeah.

GRAMIAN: Yeah, exactly.

EBADOLAHI: Yeah.

GRAMIAN: Which requires the agency to spend so much time

searching for [00:47:00] records and then the volume

itself... Any and all... I mean, now there's no time

limit, there's no focus. That could be very burdensome for

the agency. So that plays into volume and it also plays

into delay. And --

EBADOLAHI: Right. And as someone who's made those requests,

I'll tell you that one of the reasons I do it is because I

don't know what I'm looking for.

PUSTAY: Yeah, I know.

EBADOLAHI: And that's something that the gov-- it's like a -

- there's a one-sided --

PUSTAY: I know.

EBADOLAHI: There's an information asymmetry. If I knew

better how the record -- what records existed, how they

were maintained I could make a more precise request. But

because I don't, I'm groping around in the dark, you get

the any and all complex FOIA. And so that's where I think

there's real work to be done in a committee like this to

try, as much as we can in the limited time that we have, to

narrow this problem a little bit more and make the statute

more functional for both parties involved in it.

MCCALL: [00:48:00] Ginger McCall. The FOIA public liaisons

office, I believe --

PUSTAY: That's what I was thinking.

MCCALL: -- is supposed to serve that function and they should

reach out, obviously. But I certainly think that delays

and volume could be factored into the efficiency and

resources question, to look at agencies that have a high

volume but still manage to process those request would be

helpful. In the last version of this subcommittee we had -

- or the last version of this committee we had three

subcommittees. And what I heard when Chris listed off

things that we've talked about today as potential

subcommittee topics, searches, 508, proactive disclosure

and resources inefficiency. 508 and proactive disclosure

certainly are two things that go hand-in-hand with each

other. I think we could combine those into a single

subcommittee and then we could have the other two topics,

which would sweep in also delays and volume --

GRAMIAN: As one.

MCCALL: -- and to have three subcommittees.

JONES: And I just want to -- just for the record, [00:49:00]

I want to add some of our colleagues proposed legislative

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fixes, so I think that should at least be on the table if we vote.

MCCALL: That --

JONES: I just don't want that to get excluded from the list.

MCCALL: Oh, yeah, definitely. And, also, that might be a thing that fits in best... Like we've discussed having best practices in technology as a facet of every subcommittee. Legislative proposals, I think, would be an excellent thing to come out of a subcommittee --

PUSTAY: Right, sure.

MCCALL: -- report.

PRITZKER: This is David Pritzker again. When I have a problem, seek assistance, one of the principals that I've found applies is if the person that I want to help me doesn't understand the problem, I'm never going to get useful solutions. And with the same thought in mind, it seems to me... Well, we -- one of our attachments, attachment four, was how can the committee be effective in tackling the hardest issues? And several of these items say fix or improve the problems, focus on what's working and what's not working [00:50:00], identifying the technology problem. It seems to me that our approach to finding what's working and not working oughtn't be -- and I understood that it was a matter of rhetoric -- shaming or not shaming. It's not

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who are the good guys and who are the bad guys. It's
what's causing the delays. Tom said earlier that most of
litigation is about inadequate searches. What's causing
inadequacy of searches? But, in that sense, if we identify
what the problems are that would help us to link them up
with potential solutions.

PUSTAY: I just -- just -- it's Melanie again. I mean, I --
obviously I review all the FOIA cases, as well. And just
so that it's not -- we're not morphing what Tom said into
several steps. I mean, I certainly see plenty of cases
where searches are challenged but plenty of times the
government wins. The search is challenged but the search
is upheld. [00:51:00] So it's -- and it's so case
specific.

PRITZKER: But my point, Melanie, was that if one of the problems
is that searches are inadequate, what we can do, perhaps,
to be helpful, is to identify what's making them inadequate
and look for ways to improve that.

PUSTAY: Well, I mean, I think search is a great topic as a
best practices. Best practices in searches, finding
efficiencies for searches, using technology to assist
searches. You know, I think it's certainly a topic in that
sense. I just wanted to correct sort of the impression
that...

SUSMAN: This is Tom. It's not an impression that I intended
to give because it does to me that education of requesters
is an important element in reducing litigation. And if the
agency follows the best practices, is known to follow the
practices, and comes back and says, "We couldn't find
anything," then that should be the end of it. But because
it's spotty and because [00:52:00] some agencies don't then
it's not the end of it. But I want to come back to the
legislative... I mean, when I introduced myself I said
American Bar Association. I run a 16-person legislative
affairs staff. That's all I do in my day job. And, I
mean, with all due -- you know, the requester community
can't even agree among itself what the next legislative
agenda should be. And, frankly, in 50 years now the
government has never agreed with the outside world with
what the next legislative -- well, 1986 slightly, OK.
There were some compromises on both sides. But that was
it. So I really feel very strongly and hate to repeat
myself but I think it is a just gross waste of our time to
look at the legislative issues. And some may derive from
some of the things... I mean, it may be that we would
suggest -- the 508 committee may suggest that -- working
with the Access Board, that a slight fix to [00:53:00] --
you know, could facilitate dealing with that issue or

something of that sort that would come out of our
examination of specific problems. But to sort of start
with a here's a piece of paper, where do we start with the
legislative fix I think is a not likely to yield
constructive results.

GRAMIAN: And who knows? Maybe the topics that you guys pick
could end up later on to be a legislative fix once you all
deliberate on it. You know, whatever that may be. If it's
a 508 issue, you know, it could later on be a legislative
fix. But as Tom said, having a subcommittee as -- for
legislative fixes, I think that's -- it's not doable.

LAZIER: Maybe it could be a sub-- this is Raynell. Maybe it
could be a subcommittee on -- like what has been proposed
here, awareness and commitment of the senior leaders. I
think that's [00:54:00] a good way to address the resource
issues that Ginger brought up. Maybe some of the issues
that were brought up as far as delays. I think because
FOIA is typically buried under a lot of... Somewhat the
lower levels of government and probably doesn't get the
respect or attention it deserves until it's on news. I
think that's a clever way to kind of get senior leaders to
buy in and give them some clear recommendations on how to
run their programs internally for the FOIA office as well
as the requesters. So I think that will be a good

subcommittee, in short, the one on awareness and commitment
of the senior leaders of each agency.

GRAMIAN: Shall I ask and see if --

PUSTAY: Yes. If people are ready to --

GRAMIAN: Vote on... OK. [00:55:00] All right.

PUSTAY: Give it a shot.

GRAMIAN: I know.

PUSTAY: Give it a shot.

GRAMIAN: So best practices, which will include also technology.

PUSTAY: And exam-- highlighting examples, positive examples.

GRAMIAN: And I think highlighting examples.

MCCALL: The specific agency.

GRAMIAN: Show of hands?

JONES: Oh, can we read through them all first?

PUSTAY: Oh, that's a good idea.

GRAMIAN: You mean --

JONES: So all the options.

GRAMIAN: So all the options.

PUSTAY: These are on the table.

GRAMIAN: OK. So what I have is best practices, funding, which
would be resources, and then within that it would also
include delays and volume. Then we have proactive
disclosure and within that the 508 compliance. We have
search, which would include best practices, technology use,

education of -- you know, for the [00:56:00] request--

requesters. We talked about legislation. And 508

compliance, which is part of proactive disclosure. Am I

missing something else?

HERSHBERG: Can you explain --

GRAMIAN: Awareness and, of course -- I'm sorry.

PUSTAY: Did you say resource (inaudible)?

HERSHBERG: I'm sorry, Jim Hershberg. Can you explain why

508 is part of proactive disclosure?

GRAMIAN: I thought that's what we discussed, because proactive

--

EBADOLAHI: But (inaudible).

GRAMIAN: -- disclosure, you know, it --

EBADOLAHI: I think on the theory that -- to the extent that

what is happening at least some of the time is that

proactive disclosure --

GRAMIAN: Disclosure.

EBADOLAHI: -- is being affected by the --

GRAMIAN: Exactly.

EBADOLHI: -- potentially competing obligations that the agencies

are trying to balance under 508.

MCCALL: That was -- yeah, it was my suggestion, Ginger McCall,

to combine those two things because it seems like 508 is,

as Mitra just said, oftentimes tied to proactive

disclosure. It's a hurdle that agencies bring up when the
requester community brings up the [00:57:00] proactive
disclosure proposal.

HERSHBERG: OK. Just (inaudible) that 508 is broader than
that (inaudible).

MCCALL: Yeah.

SUSMAN: Could -- could the re-- it seems to me that you've re-
- you've formulated resources, including delay in volume,
and that's kind of beginning with putting the cart before
the horse, maybe. I mean, if the issue is delay in volume,
resources may be an answer, it may not be an answer. I
mean, I hate --

__: (inaudible).

SUSMAN: I don't want to start with resource is the problem,
now let's look at what it causes. So I'm not -- I'm trying
to think of how to formulate that one so that it would
include resources but not be subsumed by it.

MCCALL: I think focusing -- this is Ginger again. Focusing on
delays and backlogs and perhaps comparing the ways that
agencies use their resources, technological resources,
human resources, monetary resources would be a good way to
structure that. Because I had suggested resources and
funding but perhaps focusing on the problem and the
downstream effects [00:58:00] of inadequate resources or

inadequate funding would be a good place to start. You

look like you still have a question.

SUSMAN: Well, I -- yeah, this is Tom again. It sounds to me

like you're saying the resources are -- is now merging into

best practices because if you...

MCCALL: Well, as we've already discussed, best practices would

be an aspect of every committee that we're looking at.

SUSMAN: OK, all right.

MCCALL: My interest in talking about resources and

efficiencies is looking at actual practices within

agencies. Who is able to handle their backlog and why?

You know, which agencies allocate more or less resources?

What's the effect of that? What sort of technological

resources are being harnessed by agencies? And if we find

that there aren't enough budgetary resources being given to

an agency to enable the agency to harness technology and

people power to manage their backlog and current request

load, then this -- the committee, the subcommittee would

make a recommendation [00:59:00] for more resources. I

mean, that -- that's what I am interested in focusing on

but I think that the backlog, if we want to start from the

other end and look at backlogs comparatively and processing

and volume comparatively and how agencies manage those

things, that would be helpful.

SUSMAN: Yeah. This is Tom again. I think efficiencies before resources.

MCCALL: Yeah.

SUSMAN: I liked starting with efficiencies in describing it. And it also seems to me that the subcommittees can work out -- you are going to involve best practices in each of these and if there's a separate subcommittee on best practices they're going to have to figure out amongst themselves so there's no overlap. But I'm OK not resolving that in the next (inaudible).

MCCALL: Yeah. So, I guess, Nikki, to amend my proposal with budgets and funding, I would change it to efficiency because I think that's what I'm -- what I'm getting at there.

GRAMIAN: All right. So [01:00:00] --

EBADOLAHI: And then -- sorry, just one quick clarification. So the list had best practices at the top but we did have a conversation about potentially incorporating that theme into every subcommittee and this goes to Tom's point, which is that if there's a best practices committee and then each subcommittee is already also looking at best practices we're going to have some weird overlap. Are people around the room comfortable with eliminating best practices as a

standalone subcommittee? Anyone dissent? Raise your hand

maybe?

SUSMAN: That's what houses technology right now, though.

Where would that go?

MANY: No.

EBADOLAHI: No, every committee --

__: Technology's in each --

SUSMAN: Oh, technology's going in each --

GRAMIAN: And -- as well --

EBADOLAHI: So tech and best practices are consistent themes-

-

PUSTAY: In each one.

EBADOLAHI: -- themes in every subcommittee.

GRAMIAN: That's right.

KNOX: Yeah, we were talking (inaudible). We were talking

about adding best prac-- underneath each subcommittee there

be a component of best practices, technology, and

identifying what agencies are actually doing, as well.

SUSMAN: So that would leave us with 508, efficiencies and

resources, and then search, legislation and awareness as

the ones to choose from?

__: Yeah.

SUSMAN: OK.

MOULTON: I think so.

GRAMIAN: OK. I think I'm going to have to (inaudible) -- write

this down.

SUSMAN: Is that right, Madame Chairman?

GRAMIAN: [01:01:00] OK. Efficiencies and resources.

MCCALL: There was a mention by Raynell also of awareness and

commitment. I think that we could look at that under the

umbrella of any of these topics, too, to look at agencies

that have done a good job of getting buy-in from

management.

GRAMIAN: So the three items that can be looked at for each

subcommittee would be best practices, technology,

awareness, and commitment.

MCCALL: Yeah. And potentially legislative fixes if the

subcommittee decides that that would be useful.

GRAMIAN: OK. So that narrows down --

MCCALL: Some people are still buying into the democratic

process, Tom.

SUSMAN: (inaudible).

GRAMIAN: Yeah, it does. And it really narrows it down.

SUSMAN: There's nothing to vote for it at this point.

PUSTAY: There's nothing to vote. It's funny.

GRAMIAN: Yeah. So it's --

PUSTAY: We did it by consensus.

GRAMIAN: We've got efficiencies and re-- exactly. So we've got

three, I think, that came out of it. Efficiencies and

resources, which touches upon the funding; proactive

disclosure; --

__: 508 (inaudible).

GRAMIAN: -- [01:02:00] and 508 compliance. Searches, right?

MANY: Yeah.

EBADOLAHI: That's right.

GRAMIAN: And I think that's it.

PUSTAY: And that's it.

GRAMIAN: OK.

SUSMAN: All right.

GRAMIAN: So we've got... All right. Let me write this down.

Efficiencies...

EBADOLAHI: And could the people who were on the committee

the last time maybe explicate whether you're -- you -- do

people just select one or is it two or how does it work?

GRAMIAN: I am really sorry. I wasn't --

EBADOLAHI: No, that's OK. Just for those of us who are new

members who weren't on the previous iteration of the

committee, are members -- do they choose to be on one

subcommittee or two subcommittees or...?

GRAMIAN: So that's going to be something I'm going to talk

about right now.

EBADOLAHI: OK.

GRAMIAN: So as a reminder, each committee member is expected to

participate at least in one subcommittee. Each

subcommittee will have a maximum of nine [01:03:00]

committee members. And the subcommittee chairs will head

up the work on these projects and will contact the team to

discuss the next steps, which might include setting

subcommittee meetings or phone calls, you know, however you

guys want to work that out. Again, all subcommittees must

include Kate Russ, the designated federal officer, on all

subcommittee matters to ensure that the committee is

complying with the FACA requirements and so what we can do

right now is sort of... I will invite the vol-- members to

volunteer for, you know, serving on these three

subcommittees that we identified. So do we have any

volunteers to chair the subcommittee on resources and --

I'm sorry, efficiencies and resources?

MCCALL: I will volunteer. Ginger McCall.

GRAMIAN: So she is going to be our chair.

MCCALL: We'll have a co-chair, right? We had co-chairs last

time.

RUSS: Yeah. So just a point of order. [01:04:00] This is

Kate Russ. There needs to be one government co-chair and

one representative co-chair for each subcommittee.

KNOX: I'll co-chair that one.

GRAMIAN: OK. Ginger and Chris. OK. Anybody of the members
               here want to serve on this subcommittee? We have a show of
               hands? Kate, are you...

RUSS: Yes, I'm...

GRAMIAN: And people on the phone interested on serving on the
               subcommittee we just identified? Resources -- I'm sorry,
               efficiencies and resources? Guess not.

MOULTON: And the people who aren't present, they're going to
               get an opportunity after the meeting to sign on?

GRAMIAN: That's correct, that's correct. OK. So how many
               folks do we have?

RUSS: Just five.

GRAMIAN: [01:05:00] Five total? OK. So do we have any
               volunteers to chair and co-chair the subcommittee on
               proactive disclosure, 508 compliance issue? Nobody?

KWOKA: This is Margaret Kwoka, telephoning from the
               University of Denver. I would co-chair.

GRAMIAN: OK. And I need a government member, please.

HOLZERLAND: This is Bill Holzerland. I'll co-chair.

GRAMIAN: Oh, fantastic. OK, members who would like to
               volunteer? So we have one, two, three, four, five... We
               have five, I think. [01:06:00] Anyone on the phone? Jill?
               OK.

EGGLESTON: No, I'm holding out for the search.

GRAMIAN: Fantastic. OK. OK. So topic three is subcommittee
    on search. Anyone who wants to chair?

JONES: I'd be willing to.

GRAMIAN: OK. Nate. I need a government member, please.

PEREL: I can do it, Nikki.

GRAMIAN: All right. Logan. OK. Who -- how about the members
    who want to serve on the subcommittee. We have one, two,
    three... Did -- did you get them all, Kate?

EGGLESTON: And this is Jill Eggleston. I'd like to be on
    the search committee (inaudible).

GRAMIAN: Did you get everyone?

RUSS: (inaudible). Has everyone volunteered for one? Yeah.
    So if you haven't volunteered for a committee you have to
    [01:7:00] or (inaudible).

HERSHBERG: Excuse me. Jim Hershberg. Nikki, can't some of
    the membership issues be settled by email afterwards? You
    know, isn't that something that --

PUSTAY: Yeah, that's true. Maybe people want to think about
    it.

HERSHBERG: I mean, (inaudible) -- I mean, to save time and
    get to public comment.

PUSTAY: Yeah. Yeah.

GRAMIAN: Sure, we can do that. So those of you who didn't

volunteer, you do have the time to think about it and then

maybe send us an email volunteering on serving on one of

the subcommittees. OK. All right. Great. All right. So

now we're going to go to public comment. At this time I

would like to turn to the members of the audience. For the

next 15 minutes we will take comments and comments from the

folks in attendance. But before we turn to the audience I

do want to alert the members about a couple of emails we

received from FOIA requesters or other members who asked us

to print -- to print their emails [01:08:00] for the

members to read. In each of your folders you will see an

email from other individuals who've had concerns about a

FOIA request or the handling of a FOIA request. I will say

that in one of the emails you will read OGIS was also

involved and we were able to provide the assistance that

the requester had asked by going to the agency. So please

review the emails. If you wish to discuss it further for -

- you know, maybe in any of your subcommittees, please

contact Kate.

JONES: One quick comment on the emails. I would like to

state publicly that it's -- one of them is a long problem

but I will comment that using the B5 exemption to withhold

a document that already was released and in the public

domain is not acceptable and we see it all the time.

EBADOLAHI: Yeah.

GRAMIAN: Thank you. OK, so with that said, I request that

those of you with questions and comments to please approach

the microphone. And for the record, please state your name

and any [01:09:00] organization that you're affiliated

with, if that's appropriate. Great, thank you.

CAFARO: Hello.

GRAMIAN: Yes.

CAFARO: It works. Wonderful. Hi. My name is Cindy Cafaro.

I am the departmental FOIA officer for the Department of

the Interior but I speak in my personal capacity. I would

like to say congratulations and thank you to the committee

for working on the issue of 508. Over two years ago the

issue was raised and I think it was a bit of a surprise to

some people. As Mr. Susman mentioned, I think a lot of

folks hear about 508 and the concern is is this an excuse.

Is the -- you know, are agencies using this as a -- some

kind of get out of jail free card? And I think what we

heard really clearly today is -- or what I heard very

clearly today is we haven't been exaggerating. Yeah. We

heard people say very clearly that if it can't be made

accessible under 508 standards then it shouldn't be up at

all [01:10:00] or it should be taken down and that that

is...   That is what the agencies have indeed been hearing

and that is indeed the fear that we have. And so when we

hear wonderful suggestions like what OIP is working on with

Ms. Pustay and, you know, all these many things, for many

of us it is the exact same people who are doing the FOIA

processing that are doing the 508 processing. We all do.

Yes, we have a 508 person who's the designated

representative but in many cases they have no staff. And

so it's -- you know, it's nice that we have a contact that

we can ask questions of but that's not to say that, you

know, they can provide us assistance. And so every moment

that we're spending on 508 accessibility, for many

agencies, is time that we are not spending on providing

materials for FOIA. So I truly appreciate that you're

going to be addressing this really important issue and best

wishes and the best of luck. [01:11:00] Thank you.

GRAMIAN: Thank you, thank you.

JONES: (inaudible} can I respond?

GRAMIAN: Yes, of course.

JONES: Thank you, Cindy. I remember you -- we talked about

this years ago. I remember fondly. So hopefully we'll get

it done. But just a quick response and clarification. I -

- well, maybe we'll have to go back to the tape. But I

think when we asked them they said of the million of documents online that potentially are not 508 right now, do they have to come down, I think they said, "No, they don't have to come down." So that's a small victory hopefully.

CAFARO: Well, it was an interesting point because you may have noticed that... You know, one person was saying, "Oh, no, absolutely not," and one person was saying, "Oh, yes, they absolutely do." And so it was also the idea that was mentioned about... And I don't want to get too deep into your weeds. But one thing that was brought up... Well, you can put up a disclaimer. I can tell you, we are actively discouraged from putting up disclaimers. You know, the idea is is that some people think of that as if, you know, we're trying -- some people think we're trying to circumvent FOIA, some people think we're trying to circumvent 508 and the idea of putting up a waiver is seen as if we're doing that, then we're not really fully complying with our obligations under [01:12:00] 508. And so we feel like we're between a rock and a hard place and I think, as we saw today, there is some -- even within the 508 community, their gut reaction was quite different than I was seeing, you know, just from the body language of the heads going yes, yes, yes and no, no, no. So you'll be --

JONES: Well, I'll have to do some research to see when we can

use disclaimers and we'll have to see what defines an undue

burden. So we've got our work cut out for us. Thank you,

Cindy.

HERSHBERG: Nikki, one quick response and I'm a complete

twentieth century ignoramus as far as up-to-date

technology. But is one possible way to address some of the

508 issue -- instead of each agency, grossly understaffed,

having to deal with this individually, if there is

technology and especially software that can deal with whole

categories of documents. Why not have the government

simply make that software available to download on request

and it could be the requester who does the processing

[01:13:00] instead of the office that is responsible for

the processing?

HOWARD: You're suggesting offloading the burden of OCR to the

requester community?

HERSHBERG: Yeah.

HOWARD: That's an interesting idea. I'm here from the --

HERSHBERG: And, again, instead of each individual agency

having to figure it out individually. If there's --

HOWARD: Oh, I'm --

HERSHBERG: -- a technological fix let the requester deal --

do it.

GRAMIAN: But I don't know if someone with blindness or -- can make that kind of --

HERSHBERG: Well, make the site that would offer the technology uber-accessible, especially through the association. If someone's blind they're spending their whole life blind.

__: So --

HERSHBERG: You know, so they would have organizations that they deal with --

GRAMIAN: (inaudible).

HERSHBERG: -- for accessibility purposes.

SUSMAN: (inaudible) address this issue not (inaudible).

HERSHBERG: OK. But I just wanted to put it on the table. I'm hearing each individual agency having to address this incredible burden.

HOWARD: Hi, Alex Howard from the Sunlight Foundation. I'm -- I have to twitch when you say uber-accessible because [01:14:00] you -- if you actually were --

HERSHBERG: I don't mean uber itself --

HOWARD: Well, but uber in fact is hostile to accessibility and I don't mind saying that on the record.

HERSHBERG: I wasn't referring to the organization.

HOWARD: Because they are, in fact, I think looking at some of the same issues, where you have a technology company that

has extraordinary twenty-first century technology that may be taking on paratransit functions in cities and there's real questions about whether they are replacing taxis that are providing accessibility to the public. And so it's -- it's a completely random thing. I don't want to dwell on it.

HERSHBERG: Let the record reflect that I have changed the word uber to extremely in my comment.

HOWARD: Yeah. I wanted to bring a comment on a somewhat different issue. One of the stories I wrote before I joined Sunlight was about open FDA. And if you haven't looked at it, take a peek. It was an approach where they tried to put immense amount of adverse reactions on the internet in an open [01:15:00] machine readable format as the president ordered. Something that hasn't come up at all today for some reason. And to do so with millions of records. And they had a huge backlog of actually digitalizing these things. So they went to a California based, Silicon based -- Silicon Valley based startup called Captricity, which was founded by someone who'd worked in the aid and development space, was frustrated by trying to get papers forms into digital form and actually came up with a combination of crowd-sourcing, machine learning, and optical work. You basically take a picture of it, it pulls

it onto the internet. It then has people look at it,
identify what's in certain fields, and then is output as
machine readable data. That was manifestly faster and
cheaper than what the federal government currently had on
avail-- available to it and that data is now online and is
now being used to calculate trans and adverse reactions and
understand [01:16:00] where and how different drugs could
kill somebody. That is the kind of approach that should
be, I think, front and center here. It feels like process
and not stepping back a bit to pu-- push towards
recommendations which look at IT modernization and
adaption, adoption and pushing for things which enable FOIA
officers to be creating records in concert with other
people that are digital by default, that are open by
default. If you create data that's open by default, that
has -- and then put it into a picture and then release that
as a PDF, then you have a problem. And that's exactly what
the IRS was doing with nonprofit tax returns that were
filed in digital form to begin with. It took a FOIA
lawsuit against the IRS to win but now that data is in an
open machine readable format, hosted on Amazon at
dramatically less cost to the American taxpayer [01:17:00],
providing insight into what's a $2.1 trillion segment of
our economy. Now, 40% of the tax returns still aren't

there because they're still filed on paper. Until that part of the process gest fixed then there's an issue. This comes back to whether something is created open by default. I saw the conversions for 508 in there. They were for .doc, .xls, .pdf, .ppt. What do all those things have the same? They're all proprietary formats made by huge technology companies. If you all publish plain text on the internet on HTML pages, this issue goes away. It's accessible by default. This committee itself is still putting PDFs on the internet, not webpages. I think the extent to which this modernization issue and this question of whether something is created open and accessible by default at the beginning will address [01:18:00] a lot of the problems down the road that you're talking about. And the more that you're trying to chase after the issue of getting PDFs meant to be metatagged and kind of going through them and OCRing it, like that's valuable work. There should be a national scanning initiative. We're sitting in an institution which is putting up platforms to enable the American people to look at scanned documents and identify what's in them and to make them accessible for everyone. That's something we should do. Sunlight is 100% committed to making access to information accessible to everybody. It'll never back away from that. But when I

hear the idea that we should be taking down documents from the internet because they're not accessible, it's exactly the wrong direction. When I hear the idea that 508 could be used as a barrier for putting up documents on the internet, I say that's the exact wrong direction. If we want to really get to the heart of this, it's still about power and it's still about putting up roadblocks to making sure that FOIA requesters get [01:19:00] what they want in a timely fashion and I am sure that if the mission is to say, "Well, we need to make sure this document is accessible," and there's a huge collaboration of people across the country and, frankly, across the world who would be willing to work doing that. Go look at what the Smithsonian and the Archives has already done with crowd-sourcing conversion of images and documents already and think how could that be put to use digitizing and converting images. I want to be careful in my language here because it's an honor to be here and get to speak to you but it's farcical to claim that accessibility should be a barrier to putting these things online. Don't let that happen. Make sure that there's no impediment to making sure that people's access to information isn't stepped on because of this. This is something that modern technology can help with. I was at Facebook within the last year and

I watched a blind scientist show me how [01:20:00] their
new machine learning algorithms can tell you not only
what's in a picture but how the person feels about it.
That's where we are with technology now. So are we really
going to say that we can't figure out how to digitize
documents and get them online? We can't do open formats by
default? I don't think so and I hope you won't say that
either in your recommendations.

GRAMIAN: Thank you, Alex.

RAVNITZKY: My name's Michael Ravnitzky (sp?). I'm speaking
as a private individual seeking employment. Thank you very
much for the opportunity for public comment, especially
about the important issue of section 508. I'm glad you're
talking about this issue. Most FOIA material is
preexisting records, not the creation of new records, so a
lot of this discussion about creating [01:21:00] new
records is not terribly relevant to the primary issue at
hand. And, sadly, section 508 is used sometimes as an
excuse or a red herring to make certain decisions. I agree
with the previous speakers on that. But increased access
under 508 has the side benefit of improving access for
everyone. Just like the example of the curb cut, it helps
everyone who happens to be needing to bring wheels over a
curb, not just a wheelchair user. And in the same way,

when you make things accessible under 508 or you OCR them

or you make them better, more easily accessible on the web,

you help a hundred other people as opposed to every single

person that may be visually impaired or otherwise. It's

really for everyone else, too, and it's significant. When

you take into consideration 508 obligations it helps people

like me who find that we need reading glasses and distance

glasses and we have to try to juggle them because we're not

ready to go to bifocals yet. [01:22:00] Most discussions

about 508 in the FOIA context I've seen descend into

complaints about resources and IT departments and lack of

institutional support and I think that's a really wasteful

way to go about this decision because that's a false binary

choice. It's not either/or. When you put more stuff up it

can get crowd-sourced privately, even if the government

isn't intending to do that, and then it's made available in

a synthesized form that's more available to everyone,

including people who are unable to access in the original

non-508 format. So, in a sense, the perfect is the enemy

of the good here. But things can improve today with some

simple steps. As more and more requests are fulfilled

electronically, requesters have been receiving some pretty

horrendous records. I hear this from a lot of people.

There's skewed pages, sideways pages, upside down pages,

missing pages. There's the teeny, tiny print problem,
where a file is released. Maybe it was an Excel file and
it's released as a PDF, where the print is so small that
even if you blow it up you can't really see [01:23:00] it
and something that some blogs have publicized and shown
examples of. There's speckled documents, which make file
sizes unnecessarily huge and they also make it very
difficult to impossible to OCR a document. But that could
have been avoided just by setting a contrast a little
differently during the scanning process. Requesters
receive files that are gigantic but contain only a few
pages because they were scanned and converted without due
care, without the advantages of thinking about it a little
bit before you stick it in the scanning machine. OCR
documents and FOIA releases are not as frequent as they
should be. OCR is optical character recognition, as you
know, and that's where a text has been recognized and shows
up as the ability, importantly, to search a document for
key words and copy and paste text. Everyone uses that,
even people who are not visually impaired. When a reporter
is writing a story and they can cut and paste a quote, it
saves them time and it helps. If they can search a large
document of a thousand pages for particular keywords, that
helps them, too. [01:24:00] These days, OCR is built-in,

it's easy. It's built into every scanner, industrial

copying machine. It's available on every -- nearly every

desktop computer. So why is it so rare in FOIA releases?

OCRing is a major factor in whether a document moves toward

508 compliant, and I'm not saying achieves, but moves

toward, and OCR helps everyone. But so few FOIA offices

take the step of providing OCR documents on a routine

basis. Sometimes FOIA offices tell requesters that only a

particular unhelpful format can be provided because the

software they use, the standard FOIA software used by the

agency only allows output in a particular manner, such as a

PDF. For example, if someone asks for an Excel file or a

CSV file, they're handled a PDF file because of that

limitation, making it much less useful and violating the

provision of law that allows people to get records in the

form that they are stored, if possible. Most egregiously,

there's locked or password protected files, and this has

been happening more and more and more. I've been hearing

from a lot of people. [01:25:00] In many cases it prevents

document recipients from making the records more

accessible. This is a way of -- it's almost like blocking

508 compliance by making it difficult without extraordinary

workarounds and a lot of work to make the file available.

The requester's told that this is agency policy and the

file cannot be released in ordinary form or unlocked form or non-password protected form. The apparent fear is that someone might make a change to the record. I think this is misguided. Sometimes files are password protected because they're transmitted to a requester, even though they're released essentially to the public, because of privacy reasons. Well, I can understand that for a privacy act request or a first party request but this is done for everything because the agency policy and the IT department policy is to make sure that everything is password protected that gets transmitted, even if it's on a CD or a flash drive or emailed. So this adds needless [01:26:00] layers of digital encrustation to records, making it more complex to receive them, to open them, and to use them. And there's many people who get these records and can't open them because they don't have the password, the password doesn't work, or some other reason. Locking all the files, though, means that requesters and others can't do OCR, they can't merge together several files into one for usability. Concatenation is what it's technically called. They can't make the file searchable and they can't make it useful or practicable use for anybody. This is agency policy we're talking about. While I'm not suggesting this is done intentionally to impede the use of

released records, it certainly has that effect and it

should be regarded in the -- it is and should be regarded

in the FOIA requester and open government community as

digitally obnoxious. So the problem of 508 compliance is

not one that the FOIA advisory committee can solve itself,

not can it be solved by FOIA officers or FOIA professionals

in the government, nor really, even, by records managers.

It's much bigger than that because it requires massive

[01:27:00] resources, IT support, and institutional

commitment, which is good, but it's not something you guys

can necessarily accomplish yourselves. What can be done,

though, is to correct some of the common problems that

requesters face on a day-to-day basis. These are problems

that can be handled in many cases at the juncture point in

the FOIA offices where records are scanned, redacted,

prepared for release, and transmitted. Many times

documents are passed along from one part of an agency to

another, repeatedly scanned and printed out, faxed and

scanned, printed again until the documents are illegible

and unreadable. Such multiple generation copies, sometimes

within an agency, sometimes between agencies, and sometimes

within an office itself, do cause problems. And I

understand there are exceptions to -- there's instances,

like, within, for example, an agency that handles national

security information where they may be limited from easily transmitting from one computer system to another. That I understand. But this happens throughout the government. The FOIA office is not the only place where things can improve but it's the best starting [01:28:00] place for ensuring readability and quality in records and documents being supplied. The FOIA process can be a bridge between less accessible documents and documents that are accessible and can be made accessible by members of the public. Often there are unsung heroes among FOIA staff who try to do this but their efforts generally go unrecognized or unappreciated. Recently I had the chance to avail myself of several request to the Department of Energy and the Nuclear Regulatory Commission for a book, a three-book series that was -- the first book was just published, *Hacking the Atom*, and the other two, *Fusion Fiasco* and *Lost History* will be published next month. These are books around the history of nuclear science and I think they're important and DOE was incredibly helpful on this. Very, very helpful and I think it's led from the top there. And NRC was incredibly helpful, as well. In fact, DOE recently took a whole bunch of really poorly imaged documents and fixed them up and made them look beautiful on the history of the Manhat-- from the history of the Manhattan Project,

[01:29:00], posted this massive archive online without any fanfare and accomplished something really, truly miraculous because they made this stuff all available. So here's a few steps. First, there's a need for instruction on how to scan by FOIA professionals and staff so that documents that -- are most likely to be 508 compliant or nearly 508 compliant. FOIA staff should scan documents at a reasonable resolution, preferably 400 dpi, no less than 300 dpi, something that can be done on any scanner but typically is not always done. Documents should not be scanned as a color scan unless they're actually in color. This is something that really burns people up who are getting these things because there's these gigantic files and they're very small and they're totally unusable because they are scanned in color because that's the default on the machine and they put everything through a color scanner. It's not actually color. It looks black and white, it's just all fuzzy. There should be more attention given to the quality [01:30:00] of the scan and the orientation of the pages so the resulting product resembles the original document. Password protected or locked files should not be used unless there's a legitimate privacy reason for doing so. The default should be no password protection and no locking of files being given to requesters unless there's a

legitimate need. FOIA software used by agencies should

allow digital records to be provided in forms other than

just one type that's designated by the man-- by the

manufacturer of the software. And, finally, sometimes

things just go wrong despite everybody's best efforts.

Agencies should be willing to reexamine an initial decision

when a requester points out that it has resulted in records

that are not particularly legible when compared with the

original records. This is not disputes over what gets

redacted and what's not, it's just can you read it. Is it

possible to go back to a previous generation, add a little

bit of extra effort and come up with something that's

postable online, usable by everybody, and readable? So I

would like to see the FOIA Advisory Committee find ways to

encourage those simple, basic, and cost-effective

[01:31:00] steps across the government, which would also

serve to move meaningfully toward 508 compliant. Thank

you.

GRAMIAN: Thank you so much.

MOULTON: Michael, have you submitted that? I mean, obviously

you had written comments that you were reading from. Have

you submitted that?

GRAMIAN: To the committee?

RAVNITZKY: No, I have not. I just wrote those up this morning.

GRAMIAN: Well, it will be transcribed.

MOULTON: OK.

GRAMIAN: So...

HERSHBERG: Yeah. Nikki, I was just going to say if -- maybe there's a standard procedure but these are, you know, such informed comments I hope that you'll solicit written contributions from them for the minutes.

GRAMIAN: We're happy to do so. Is that OK? Sure, great. Thank you. So this is it. Thank you guys for all your work today. We invite everyone to visit our website and social media for more information about our activities and how you can participate. Before exiting this room please note that [01:32:00] all of you must undergo the National Archives exit screen procedures to leave this building. So for security purposes, security staff will inspect your bags. And thank you all for coming and we will see you at our next meeting Thursday, January 26th in the McGowan Theater. And we'll post all of our future meeting dates and, you know, other information on our website so you'll be able to see when the meetings will be held. Any questions, concerns? Yes, Sir?

PRITZKER: I would just suggest that the staff send information

guidance to the members of the committee as to what's

permitted and what's not permitted by way of communications

among the subcommittees.

GRAMIAN: We'll do so. Thank you.

SUSMAN: Everything's permitted. It's called the First

Amendment.

GRAMIAN: All right. Thank you. We stand adjourned.

__: [01:33:00] (inaudible).

[END OF MEETING]