

National Archives and Records Administration

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FOIA Advisory Committee Meeting

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DAVID S. FERRIERO >> Good morning and welcome to the National Archives and thank you for joining us at the McGowan Theater for the FOIA Advisory Committee. I'm David Ferriero, Archivist here. A special welcome to the committee, thank you for being here. At the inaugural committee meeting of its third two-year term this September, the committee established three topics to explore over the next two years. Time and volume, the vision for future FOIA, and records management. Subcommittees for each of these three topics are busy meeting and gathering information to prepare recommendations on ways to improve the administration of FOIA. The subcommittee's quest for information about FOIA fits squarely with the presentation today by two professors who will discuss their work at how examining recent trends and data can inform future research. I'm pleased to welcome Khaldoun AbouAssi from American University and Tina Nabatchi from Syracuse University to discuss their research involving data from FOIA reports. I'd also like to welcome James Stocker, a historian from U.S. foreign relations in modern Middle Eastern history who I recently appointed to this committee to fill the seat vacated by Andrew Johns. Mr. Stocker, who teaches at Trinity Washington University here in D.C., has filed hundreds of FOIA requests and Mandatory Declassification Review requests and is no stranger to this building, our facility in College Park and to nine presidential libraries where he has conducted research. Welcome to the FOIA Advisory Committee and I look forward to your perspective and contributions to an important committee. Last week in celebration of Sunshine Week I had a conversation on the stage with Beryl Howell, Chief Judge for the District Court for the District of Columbia. Judge Howell reminded us that FOIA officers and personnel are unsung heroes of the Freedom of Information Act who aren't told thank you very much and need support of agency leadership, including increased resources. So I thank all of you for the work that you do to improve FOIA through perspectives from both inside and outside in government. Your time and continued efforts to improving the

FOIA process are greatly appreciated. Now I will turn you over to Alina Semo, director of Office of Government Information Services.

ALINA M. SEMO >> Good morning, everyone. Thank you all for joining us for today's third meeting of the 2018-2020 term of FOIA Advisory Committee. Whether you're here in person, via telephone or via live stream and hopefully we have two committee members on the phone. Actually I would like to check in to make sure. Sarah Kotler, are you there?

SARAH KOTLER >> I am.

ALINA M. SEMO >> Hi, Sarah.

SARAH KOTLER >> Hi.

ALINA M. SEMO >> Abi, are you there?

ABI MOSHEIM >> Yes, I'm here.

ALINA M. SEMO >> Good morning.

ABI MOSHEIM >> Good morning.

ALINA M. SEMO >> So I'm very excited to kick off this meeting. It is hard to believe that June 6th, 2019 will mark the halfway point of this committee term so hopefully everyone is very busy. I really look forward to hearing from the subcommittee as to progress and I particularly want to thank everyone for getting back to work so quickly, especially after many of us affected by the 5-week government shutdown, kind of put everyone back in a lot of ways. We completely understand that everyone is a little backed up. A warm welcome Dr. James Stocker, everyone now knows, the Archivist appointed earlier this month after Andrew Johns resigned. We will miss Andrew but we have an important seat to fill. James filled the seat representing interest of historians and history related organization. As David mentioned, he fits both of those of frequent user of FOIA to research U.S. foreign relations and modern Middle Eastern history and a member of the Society for Historians of American Foreign Relations and we have posted a complete biography of James on FOIA Advisory Committee page. If you don't like it, let us know. [LAUGHTER] Today we barely made a quorum and makes us a little bit nervous but unfortunately Lizzette Katilius, Chris Knox, Ginger McCall and Melanie Pustay are not able to join us today but we do have a quorum. Good news. We do have a very robust agenda today, hopefully everyone has a copy and as I always do, we will try to move things along and make sure we end on time or perhaps a little bit early. Few housekeeping notes that I always have to go through. Bear with me. As most of you know the FOIA Advisory Committee which reports to the Archivist of the United States provides a forum for public discussion of FOIA issues and offers members of the public an opportunity to provide feedback and ideas from improving the FOIA process. We encourage public comments, suggestions and feedback that you may submit at any time

by emailing FOIA dash advisory dash committee at NARA dot gov. At end of today's meeting we will have time for public comments and we look forward to hearing from any non-committee members who have thoughts or comments to share with the committee. OGIS staff member, Sheela Portonovo, hi, Sheela, will be monitoring the live stream throughout the meeting so if you are watching us on NARA's YouTube channel and have any comment or questions please submit them and we will be able to read them. Promoting openness we post committee updates and information to website, blog on Twitter at FOIA underscore ombuds and stay up-to-date on latest news, activity and events by following us on social media. I have a special note from Kirsten to mention that today we just posted the weekly blog, Patricia Weth, is featured as a Getting to Know the FOIA Advisory Committee and take a member every few weeks to feature and Michael Morisy is up next, so we will try to -- we need a government person next and we're trying to take turns. Bradley White volunteered for the next one, so your turn will come. Information about the committee including members biographies, committee documents are all available in the FOIA Advisory Committee web page under 2018-2020 term link on the OGIS website. We are live streaming this meeting and we will make the video, transcripts and meeting material available on the page as soon as possible. We expect to have all materials related to this meeting available on the website within 30 days.

Before I introduce the guest today we need to approve the minutes from the last meeting, which Kirsten sent around to everyone. We did receive some clarifying edits which Kirsten incorporated. She and I have certified the minutes to be accurate and complete which we are required to do under the Federal Advisory Committee Act within 90 days of the November meeting. So do I have a motion to approve the minute?

>> So moved.

ALINA M. SEMO >> No second required. Happy to take one anyway. Thank you. All in favor?

>> Aye.

ALINA M. SEMO >> Anyone opposed? Those on the telephone, Sarah and Abi? Voting aye.

SARAH KOTLER & ABI MOSHEIM>> Aye.

ALINA M. SEMO >> So approved and we will posted them on the website. We will take a break at approximately 11:15 a.m. during which time you may purchase food or drink at the Charters Cafe located on this level. As reminder no food or drink allowed in the theater and also please note restrooms directly outside the theater and others near the cafe. Also I'm going to once again give a quick but very important message from our sponsors. The AV folks, who make things run so smoothly. We did have issues as some of you know in the first meeting so trying very hard to look and memorize the instructions on the sheets that we have put by the microphone. It makes for easier sound

and easier transcription of the minutes down the road and they are important. I have to confess I sometimes forget them so keep looking at them and most importantly keeping wireless devices away is important, I think it sets it off. Move the mic back when you're done speaking and you can read the rest. Don't sneeze, sigh or clear your throat. That's another one of my favorites. I will work to check in frequently with Sarah and Abi on the phone. If I forget, Sarah and Abi, please remind me. I know there's a little bit of lag time between the time the mics go off in the room and folks on the phone can be heard, so be patient on that. Please remember to state your name before speaking every single time. Again, I'm guilty on that. Working on that very hard. This also helps tremendously with the post-meeting minutes. This meeting is also being closed-captioned and by following all the instructions we will be able to make the public meeting accessible to all, making it easier as I said for the meeting minutes to be more efficient afterwards. Any questions? So I am now ready to launch into our first presentation. We have some wonderful speakers with us today and welcoming Professor Khaldoun AbouAssi of American University and Professor Tina Nabatchi of Syracuse University. OGIS introduced itself to the professors last summer after they published the research on recent trends in FOIA administration in the American Review of Public Administration. At that time we had a lively discussion about their work and how it intersected with OGIS' interests as well as the work of the FOIA Advisory Committee. Their research, they hope, will inform future research by identifying areas that deserve additional attention. I understand since the article was published last May, Professor AbouAssi and Professor Nabatchi have studied more recent data in the annual FOIA reports. As a reminder Annual FOIA Reports are mandated by the statute and I understand that they have some additional findings they will share with us today. We thought that bringing them together with FOIA Advisory Committee would be mutually beneficial. In addition to asking questions that we will be asking them, hopefully everyone has come up with some, they have some questions for us. I have no idea what they are. They did not tell me in advance. We do hope this will lead to an interesting and lively discussion for the next hour and one by no means has to end today. Can certainly continue in the future and very much welcome that. Their slides of their PowerPoint are in your packet, as all other slides in today's meeting and we will be posting them on the website under the FOIA Advisory Committee '18-'20 tab. One more minute I will now introduce your backgrounds. So bear with me. So Professor AbouAssi is an assistant professor of public administration of policy at the School of Public Affairs at American University where he has taught since 2015. We have a couple American University alums here, so they are very happy to see you. Also, a research fellow at Arizona State University Center for Organizational Research and Design and focuses on nonprofit and public management from a comparative perspective, examining organizational capacity, resources and inter-organizational relations. Dr. AbouAssi serves in several leadership organizations including American Society for Public Administration and the Association for Public Policy Analysis Management. He earned his Ph.D. in public administration at Maxwell School of Syracuse University and Master's and Bachelor's degrees at the American University Beirut, Lebanon. The rest of the bio and CV are available on the American University website. Professor Tina Nabatchi is the Joseph A. Strasser Endowed Professor in public administration and associate professor of public administration and international affairs at Syracuse University. She is also a faculty research associate at PARCC. I love that acronym.

Program for the Advancement of Research on Conflict and Collaboration, an area near and dear to OGIS' heart. Her focus on citizen participation, collaborative governance, conflict resolution and challenges in public administration. She is on the editorial boards of numerous public administrative and conflict resolution journals and serves as the co-chair of International Institute of Administrative Science study groups on co-production of public services and quality of governance. Something that caught my attention is she is a central member on civil society team that assessed progress on the Obama Administration implementation of the public participation commitments in the Open Government National Action Plans. As most of you may recall, this very committee was born out of the December 2013 National Action Plan 2.0 where there was a commitment made to establish a FOIA modernization advisory committee. She earned her Ph.D. at Indiana University in Bloomington and Master's degree from University of Vermont and Bachelor's degree from American University. Please welcome Khaldoun and Tina, the floor is yours.

TINA NABATCHI >> We are thrilled to be here. I'm not sure if I should be looking at audience or committee. I will try to pay attention to both as we are talking. It is pleasure and honor to talk about the FOIA research. We understand the committee has received a copy of the paper and we are happy to share that paper with anybody else that would like it. It has been published at American Review of Public Administration. We want to spend a little bit of time talking about some of the findings but also talking with you about what next steps we might take in advancing particularly empirical research around FOIA and administration of FOIA in our Federal agencies. As you all know, FOIA is the law that keeps citizens in the know about their government. It has a long and rich history over the past 50 years. It is really become seen as pillar of Democratic governance, not just in the United States but nations around the world that have freedom of information laws. FOIA is seen as law that the helps improve transparency, accountability, responsiveness and citizen trust in government. It is also thought to reduce corruption, to reduce other ethical violations and shape economic activities. And we have seen since 1966 numerous amendments in FOIA acting as kind of pendulum swinging back and forth between enabling public access to information and constraining that access protecting government secrecy. Khaldoun and I become really interested in this in 2016 because it was the 50th anniversary of FOIA and we thought what an interesting time to start examining Freedom of Information Act, looking at what's happening, especially as transitioning out of Obama Administration that put a premium on transparency and moving into a new administration we thought it would be great to assess where we are and started look through literature and realized there was very little empirical research done with FOIA. Quite bit of legal research around FOIA, research around political aspects of FOIA, research around normative claims of FOIA and what FOIA does and very little that assessed what the empirical impacts of FOIA. So we thought wow, this would be great opportunity for us to start asking the question of what do we know about FOIA. Because we are public administration scholars we love what happens inside the bureaucracy, thought it would be great to look particularly at administration and management of FOIA. What happens inside those agencies? But we quickly discovered that doing that research is actually quite difficult because the data doesn't exist for it and hard to collect. So we started looking through FOIA.gov and what we decided we would

do is conduct empirical analysis of aggregate trends. We thought this was important because regardless of what the political winds are around transparency and access to information thousands of public managers are engaged on detail basis in the management of FOIA activities and we thought it was important to understand what that looked like to help improve the processing of FOIA. So we wanted to look at aggregate trends in the FOIA.gov data to discover commonalities and anomalies across agencies and key characteristics in the process and create benchmark for future efforts. When we started out we wanted to do either in depth case studies or more targeted empirical analysis but we couldn't do that until we had a big picture understanding of what was happening in the government as whole and so that's where we started with this research. So we milked FOIA.gov. Actually Khalidoun did. Incredible case of FOIA cases and downloaded and curated data from 102 Federal agencies, collated all of that into Excel spreadsheet and used all the data on the website at the time from 2008 to 2016. We know this is a limited time span, right, with eight years of data and descriptive statistics, can't do causal inferences now and caused something else and aggregate level analysis and don't have data on limited cases. Despite that we thought it was important to see what was happening in FOIA. And so we took all the data and we broke it into two broad categories. One category that is about case load, the case load data, the number of requests that come in, how many exemptions are granted, how many denials there are, appeals, backlogs and then had category around management capacity and using the term loosely but to capture number of staff involved in FOIA administration, financial cost of administering FOIA and processing times. And so here are some of the things we found. We will start with case load data first. So this is a chart showing the number of requests and -- FOIA requests received and number of cases in the backlog from 2008 to 2016. You can see that there has been a fairly steady increase in both the number of requests received and backlog requests over time. And this is interesting but we thought wouldn't it be nice to understand where the requests are going? So this is a chart, very colorful chart, showing the top 10 -- the -- top 10 agencies that receive the most annual request per year and you can see NARA is on there quite frequently, the little yellow box. There are six agencies that are on this list every year including five cabinet level agencies, Department of Justice, Department of Homeland Security, Department of Defense, Health and Human Services and VA and one independent agency, the Social Security Administration. By far when break it down and look at it Homeland Security receives the most requests with over 200,000 requests each year. That's a lot of requests to manage. We see far more variation of the bottom of the top 10 list. What we think is really interesting here though is that most agencies on this list deal with individual Federal benefits or claims. So health and human security -- I'm sorry. HHS, VA, EEOC, Equal Employment Opportunity and deal with law enforcement and security issues like DHS, DOD, DOJ. This really suggested to us the nature of the request and perhaps the nature of the work performed by the agency itself were really important variables to examine when studying FOIA administration. We also looked at the number of requests that were granted or denied and we looked at fully granted, full denied and then those partial granted partially denied requests. The percentage of fully denied requests has remained fairly stable over time. Perhaps with that exception 2016 when about 45% of the requests were fully denied but interesting is this middle category of partially granted partially denied requests has changed sharply over time. It is unclear whether the changes are a

function of external issues, things around the types and nature of the requests made or if they are about internal management issue in the agency. We just don't have the data available to suggest this. We would need to really get collect additional data to understand what's happening there. We thought it would be interesting to look at the reasons for denials and only one of the reasons on here, the absence of records needed, is it had falls within the realm of agency control. So the most common reasons for denials of claims are issues around things having to do with the process itself or the request that is made by the requester, right, so more of external issue that needs to be addressed. Although, we still think there are really interesting issues to look at how agencies manage the application processes and we will talk about those in just a minute. All in all when we think about caseloads we have a couple observation and that's really that a minority of agencies are receiving and managing a majority of requests and appeals and they handle a majority of that backlog. As we started really looking through the at a time we believe that the nature and purpose of the request, the nature of the work performed by the agency, really important variables in determining not only the number of -- that case load content but also how those are managed. The denials relate more to the requester in the application process rather than the agency, which we think is actually good news and changed within processing but case load is not distributed across agencies and we thought for this reason it was really important to look at management capacity. And by the way, if there are any questions, feel free to jump in and ask them. So we started looking at management capacity and one of the first things we did was look at staff. So this chart shows the ratio of FOIA employees both full time and equivalent full time employees to FOIA cases. What we can see throughout across the Federal government there's one employee for approximately every 188 FOIA cases, FOIA requests. That seems like a really big difference there to manage. We have almost 65% of FOIA staff located in six agencies, the VA, HHS, Department of Justice w Department of Homeland Security, USDA and DOD, with you really still appears to be this imbalance in the total number of full time staff and number of cases. By the way, 19 agencies have no full time employee staff at all which we thought was very interesting. We also looked at the cost of FOIA and we want to be very, very clear here that we are not making any normative arguments about this. We are just simply reporting facts. We are not making judgments here about the cost of FOIA being too much or too low. We looked here at two types of costs. One processing costs and these are the costs of things like duplicating expenses, the personnel time needed to review documents, pull documents, reproduce documents, search for them and then litigation cost, cost associated with litigation when initiated by requesters in response to a full or partial denial. What we see here are some studies and fairly large processing and litigation costs. The total cost of FOIA, for example, in 2016 were over half a billion dollars. So this -- total cost of doing that. And there does not appear as we do more data analysis to be a correlation between the number of requests appeals and employees and costs. We also looked at costs in terms of the fees collected and uncollected. As many of you know, fees can be charged for FOIA work to recover the cost of three FOIA related activities. Document duplication, searching for documents and reviewing document to determine whether any portion is exempt from disclosure. You can request a fee waiver under two fairly district conditions as request not served personal or commercial interest or request serves a broader public interest. What we see here is that the collected fees, which are the red lines, constitute less than 1% of the total

cost of administering FOIA. So quite a number of uncollected costs with FOIA management. Finally, we looked at the time. Average processing time in days. APT for both simple FOIA requests and complex FOIA requests. What we see is over time the number of days required for simple requests has been fairly stable. Although you see great fluctuation when you start looking at individual agency data, some agencies have incredibly high APT's for simple requests, some agencies made tremendous progress in reducing that the processing time over the past few -- several years, but complex requests have varied pretty tremendously from a low of 69 days in 2009 to high of 123 in 2013. There's a lack of correlation here when we start looking at the number of requests received and processing time, so really raises very interesting questions about what's happening inside an agency that some agent sees are better able to process the requests than others. Is that a management issue, is that a nature of request issue, what's happening? Again, we don't have the data but these data and these findings suggest interesting places to look. So some final observations about management capacity. It is pretty the capacity at least in terms of staff is not equally distributed across government agencies and relationship between the staff time and FOIA cases, it is not straightforward. There's a lot of internal processing things that are shaping what's happening here in terms of costs and time. And we see tremendous variation here. This really leads us to think that we have to do some more in depth case studies to understand what's happening with FOIA administration. So I will say a couple more things and turn it over to my colleague to talk about the future research. But we know as we are doing this, this is just straightforward reporting of numbers. There's a lot that's unaccounted for. FOIA and number of FOIA requests responds to all sorts of external things happening in society. So historical events, politics, economic issues, all of these shapes and number of requests to come into agencies and we are not accounting for that here. We are doing straightforward number -- straightforward reporting of numbers. We also realized that there are huge cost and capacity issues with FOIA. FOIA is not in missions and it is not reflected in performance measures and budgets so this is -- I don't want to call unfunded mandate but something agencies have to do that also require a tremendous amount of resources. It is done for social benefit so we are not making normative claims there, but creates some really interesting very we think juicy tensions in agencies. There's also a tremendous need for more research, right? Aggregate research of what's happening at the Federal government level at whole and also in depth case studies looking at what's happening in particular agencies. If we can learn about what some agencies are doing to help better manage FOIA requests to be more responsive and transparent and processing things faster they can be shared with other agencies and ultimately improve the administration and management of FOIA. So we really feel that there's a need to continue data collection around FOIA and particularly FOIA.gov, so we want to see this expand into the future and we will also have a little bit of self-interest in figuring out how we can retrofit some data into FOIA.gov. We know we have data in the agency reports and not easily accessible there. Can we start transcribing that and get into FOIA.gov and historical record and understand the shifts over time. So with that I will turn it over to my colleague to talk more about the future research.

KHALDOUN ABOUASSI >> So based on our space and presentation that we made in several places there were some questions -- some questions that came up and probably

these other questions that we had like to ask you. These are not raised but statements versus questions. As Tina mentioned, FOIA appears to be on top of all the missions that organization has to fulfill, so other layer that they need to attend to and as we mentioned earlier -- as Tina mentioned earlier, not making normative statement here but the cost is off almost a half billion. Is FOIA a financial burden and who's cutting the burden, the agencies or taxpayers? The question -- first question is the fact is FOIA for information sharing or information dissemination or is FOIA a tool for engagement, engaging the public with the Federal agencies without ignoring the fact that FOIA can also be used for various advocacy lobbying purposes. All of that we need to keep in mind and that is going to somehow affect the way we might want to think about introducing changes to ensure efficiency and margin of FOIA and as Tina mentioned in terms of time it is taking backlog that we are witnessing, so what kind of changes that might be introduced that can help better serve or better -- better serve the purpose of FOIA as twofold information, engagement versus advocacy and somehow lessen the financial burden on agencies. So based on all of this we started asking ourselves is FOIA -- administration of FOIA really impacted by certain processes characteristics or organization characteristics? Is related to agency itself and what kind of capacity does the agency have or is it related to the process and request and requesters in nature of the request and so on. So we developed organizational and process characteristics. For organization and characteristics we are talking about the field or nature of the work of each agency. We are talking about the capacity in terms of the number of staff going full time for staff as well as total number of FOIA staff. Talking about the structure of the agency itself, how large or small the agency is but also how FOIA is administered in each agency. One central office that is responsible, one kind of structure the office has and so on. On the other hand, the process characteristics, talking here about the type of requester, is it an individual, an organization, what kind of an organization, what is the purpose of the request? Again, is it for individual purposes, research purposes or other purposes? Clarity and complexity of requests and again, this was reflected in some of the data. Cost of the request -- if there's cost associated with the request and for the coast, if fee was waived or coast was actually collected. The last process characteristic as the request, how FOIA being submitted. We know agencies are moving to the online submission through FOIA.gov and means of submission. Here as Tina mentioned, it would be interesting for us as researchers to have data that goes back to the 1980s where we will be able to compare what was the submission process back then, how it was and how it changed throughout the year and if it has affected administration of FOIA. So what we did that we did -- basic analysis for at this stage to take -- to see if there's any kind of correlation between what we are seeing in terms of the number of requests received as well as the backlog, taking some of the organizational characteristics into account and we focus on the number of requests received throughout the years from 2008 to 2016 as well as the number of FOIA backlog and this is again these are simple correlations among some valuables, so we notice that number of requests received is highly correlated and significantly correlated with the number of full-time FOIA employees, the total number of FOIA -- full time FOIA staff as well as gross BA which is the funding available for allocations as well as outlays which are the actual expenditures of each agency. In terms of number of FOIA backlog we only found that there's high and significant correlation and positive correlation between backlog and number of full time FOIA employees and

number of full time FOIA staff. What this tells us and these are really basic preliminary results is that if we think about FOIA -- number of staff, even the budget of the organizations in terms of the gross BA and gross outlays and organizational -- measurement of organizational and size and also indicative that the size is positively correlated with both number of requesters, so the bigger the organization, more number of requests received -- organization receives during the year. But if we also think about the number of staff as a measurement of organization of capacity, the results contradict what we might expect because organizational should be correlated with number of backlogs but here we are seeing the more -- the more staff or more employees the higher the number of the FOIA backlog. So this is something that requires future investigation and we are -- we are trying to work our way around these results and trying to understand them. I hope that the questions that we posted before as well as the issue of organizational capacity and organization size might be subject for you and help in future steps. Thank you.

ALINA M. SEMO >> Thank you. That was a lot to absorb, I think we are all kind of absorbing still. I just want to open up the floor to the committee and feel free to ask questions, engage, run away in horror. [LAUGHTER] Anyone have any first thoughts or observation?

THOMAS SUSMAN >> Tom Susman talking. Although this is a public assessment talking, you got some great stuff, terrific material but I would love to see a little more analysis and judgment on it. I mean, for example, you talk about cost and the high cost and fact that, you know, cost -- it is non-mission based funding at a half billion dollars and people reading that would say wow, that will blow us away, maybe we should be doing less. I just went online. Military bans half billion dollars non-mission based. Okay? So I mean in context it is a lot less frightening.

TINA NABATCHI >> Absolutely. Half billion dollars is drop in the bucket when you think about things. We stress we didn't want to make normative judgment in this because we believe FOIA to be totally transparent about that, FOIA is critical law, freedom of information and access of information it is a pillar of democracy, we absolutely believe in that. So we wanted to hold off on making those judgments, particularly with the kind of data that we had. Right? Because we didn't have enough to understand what's going on and working through the list of organizational characteristics, quite painstaking to create database for 102 agencies and that's where we are at and we will give you judgment in the future.

THOMAS SUSMAN >> Second observation which I thought was really interesting, you talk about personal information, benefits and claims constituting the most requests along with I guess national security and criminal law enforcement issues. And then few pages later you talk about cost could be reduced were there more proactive release and that's something that this committee has been very interested in proactive release, but those two don't match.

TINA NABATCH >> Right.

THOMAS SUSMAN >> You can't proactively release information on cost which suggests that something else needs to be done in those agencies with high numbers of requests for individual information. And I guess that's an area for -- for recommendations in judgment because that's a tougher problem, especially in the benefits and cost area because we have members of the committee involved in immigration and Social Security areas and those shouldn't be case-by-case request and response FOIA issues.

TINA NABTCHI >> Right. I think that's such -- sorry to jump in but I think that's such an interesting observation and I don't know that we would have been able to identify that without doing this kind of aggregate level work and so in the paper we have a lot more nuanced reporting of what our findings mean and potential suggestions that we didn't go into here. I think exploring that what could potentially be done with the agencies that are getting high numbers of individual requests, looking at their processing time, we now know that's an area to look at. The committee hopefully now knows that might be somewhere where you could suggest changes to processing, but prior to the analysis we didn't know it was an issue.

KHALDOUN ABOUASSI >> And, just quickly, we did not have the data for the proactive releases because it was only available actually after we published the paper. So it is something we also might want to look into see how it might be correlating or interacting with other data that you have.

BRADLEY WHITE >> We're number one. [LAUGHTER] I have two questions. First one of the things that we did the DHS are trying to track in part because of our huge caseload is the number of pages that each of our components and DHS as a whole tracks. Do you know if any other agencies are tracking that data and have you thought to look into that at all?

KHALDOUN ABOUASSI >> I don't think the data is available. We might submit FOIA request for the data.

BRADLEY WHITE >> Do that to everyone but DHS and we're good. [LAUGHTER] And my second question is when looking at staffing and workload rates, I have to confess I think when it was one-to- 88 requests, I thought wow, that's really low only because when I worked for ICE, for example, we had weekly -- weekly quota we had and have looked into variance between DHS for example and one of the small agencies?

KHALDOUN ABOUASSI >> So we have not in this paper but that is something on our to-do list.

TINA NABATCHI >> It had be great I think to look really more closely what's happening inside the agencies because that ratio probably fluctuates tremendously depending where you are and as for the pages it would be grade if the data were available. So if you want to add that to FOIA.gov we approve.

PATRICIA WETH >> Patricia Weth NLRB. I wanted to say I'm really impressed by your research. As somebody that works on annual report and process to see it held altogether and nothing you said surprised me. All seemed right on the money but there was one point in your discussion topics you have cost and capacity issues. FOIA is not central to agency missions and not reflected in performance measures and budgets and you used a term called juicy tension I believe is what you said, and I have seen that at agencies and I think it takes -- it takes getting leadership on board to educating the leaders. Yes, may not be the agency's mission but, you know, it's a statute we have to comply with so it is very important and educational piece for us there and that helps us increase the budget so we get the resources that we need but the other thing that you had mentioned is it is not reflected in performance measures. Could you speak a little bit to that?

TINA NABATCHI >> Sure, I think it is -- FOIA is a juicy tension, creates tensions between these core public values we want to see in public administration. On the one hand we value efficiency, we want the agencies to be efficient in their processes and products in the workload they are doing, but FOIA, which is representative value of transparency, it puts those values in conflict, transparency and efficiency and when we talk about agency performance there are all about performance metrics out there but agencies aren't being evaluated or assessed or appraised of their ability to effectively manage FOIA requests. They are not being celebrated or criticized for whether the responding to FOIA request in a timely manner. Whether proactively releasing information they can, so without the kinds of performance incentives, it is just -- it doesn't -- it is not central to what the agency does, I guess.

KHALDOUN ABOUASSI >> I want to add first thank you for working on the reports because makes life of some of us easier, although they are -- I would like them to be more accessible way. But you mentioned really something important is you need leadership to be on board. So this is important to actually take a look at as mandatory on research agenda, how much leader she up plays at all but something we might want to consider in our future research is going to be also the employees in Federal agencies and how much that the relates in certain way to this -- to do the backlog, so in your case if you have 50 cases a year -- a week, right, how much happy going to be at end of each week. We have some data from the surveyed from the section of the Federal employees that we can actually combine with.

PATRICIA WETH >> Patricia Weth. I just sat through meeting regarding evaluation for my branch, so always bittersweet. I learn a lot. So yeah, I can see that being helpful. There was one other point that you made which I believe was interesting. You had talked about who was carrying the burden of the cost of FOIA. You said this is the government or taxpayer. I feel it is both. You know, the taxpayer paying our salary, so you all know well from your research that any cost that we received FOIA does not come even close to covering.

KHALDOUN ABOUASSI >> Right. Not at all. Yes, you're right. You're right. Because covered by the government and taxpayers. Again, so if we don't -- since we don't have information about the requesters, we have for idea who might be paying that amount. Is it organizations or individuals? So that's what we are also interested in.

PATRICIA WETH >> Thank you very much.

EMILY CREIGHTON >> Emily Creighton at the American Immigration Council. I wanted to just ask a question that I think maybe you can help me better understand how if you are working with aggregate data there may be a way for you to FOIA or to at least speak with agencies how they keep the records to better understand how to get at some of the data that is individual data. We have a research department and that's a struggle on our end as well to best understand and head of our research department often said I don't want to see the aggregate data. We will have to wait until we get the individual data to really make sort of conclude things about how the immigration system works, so I wondered if there was an opportunity to FOIA if there was a sample size or some way that you could do that without asking for everything. Then when you talk about the costs, I wondered -- I mean we do -- we are at some point litigating some of the FOIAs and I know when you look at actual dollars, I'm wondering if the litigation itself, it might be a rich area for research and might not be that this is something that you're able to undertake to think about not just the dollars, but the resources and how intensive it is for the offices to manage the litigation and how it is prioritized and how it is -- how that sort of fits in apart from the dollars that the actual men and women time and analyzing those and addressing those lawsuits.

KHALDOUN ABOUASSI >> So we are -- as Tina mentioned at the beginning, the whole idea was we wanted to do more of a case study, take a case -- take a Federal agency and going to view them and see what was going on. Then we said before we do that we need to get bigger picture, but it is on our to do list as well for all the agencies be which might not be too practical, we might select specific agency and do interviews and also FOIA request and we invite -- we would like to work with you on the next thing.

EMILY CREIGHTON >> Please reach out to the requester community. We have a lot of information about and work that we have done to better understand how records are kept at the various agencies and Department of Homeland Security you mentioned that there's law enforcement angle there and connection to the number of requests and I would just mention there that large number of requests to DHS have to do with individual files for individual records on behalf of individuals and how the immigration system works and that's how they access the data, that is the only way they can access their records so keep in mind agency specific realities that requester could help educate.

KHALDOUN ABOUASSI >> So you're tapping into really great issue that Khaldoun and I debated back and forth for weeks when we decided to starting to that. Do we look at the agency as a whole, all of HHS, or start looking at units within the agencies because there's going to be variation within the units as well and so then we thought okay, well then let's pick one agency and we didn't know which would be the sexiest agency to look

at because we didn't know what all the aggregate data were. So I think with a lot of this it helps form sampling strategies around where might be -- strategies to look at and look at AB&C. If more interested in process and nature of the request look at EF&G. So it was aggregate stuff that allowed us to really start thinking about protocol and excited about for stage two.

KHALDOUN ABOUASSI >> And, Also if we go that route then might want to compare between at least two agencies depending like -- even within the same agency and two different departments and across agencies and regarding second question about -- there's more data probably on FOIA.gov that we did not include in this paper. There's a nonprofit at Syracuse that has compiled the litigation cases and this is again on our to-do list in the future. It is a good idea.

TINA NABATCHI >> TRAC, you're referring to TRAC?

>> Yeah, TRAC.

ALINA SEMO >> I know there are two folks lined up but I just want to look to the folks on the phone. Sorry, this is Alina Semo. Sarah, Abi, do you guys have any questions? I don't want to ignore you.

SARAH KOTLER >> No questions from me, thank you.

ALINA SEMO >> Thank you, Sarah. Abi?

ABI MOSHEIM >> No questions from me either.

ALINA SEMO >> Okay. I think Jason is next and then Lee.

JASON R. BARON >> I'm in private practice. Two slides on caseloads request granted denied and reasons for denial, I -- when I first saw the slide the first thought I had was you were talking about requests that were granted in the sense that actually records were released to requesters versus records withheld. That's not what's going on here. It is simply a denial on process grounds and fully granted, fully denied and then partially. The question I have is have you looked at and would you find to be of interest in looking at the rates at which agencies actually grant -- give access to records or withhold records or partially withhold records? Because statistics here at first blush fully granted you could make conclusion 2008 those are 41% down to 21%, that's bad, but if it looks bad but if it entered out to be of those 21% more records were actually being released than in 41% then that's a different story. Have you looked at that separate question?

KHALDOUN ABOUASSI >> No, we have not. Again, it is matter of data available and it's what we can include in this specific paper connecting and you're right.

TINA NABATCHI >> Those data just aren't on FOIA.gov.

JASON R. BARON >> I'm sorry. You said that they are not?

TINA NABATCHI >> They are not.

JASON R. BARON >> They are not. So that raises interesting question for me is to whether there's the capability of gathering those statistics and I don't know whether DOJ does in FOIA reports in terms of percentage request records partially provided or all withheld and that's a question that we should explore.

LEE STEVEN >> Lee Steven. Just a couple comments I wanted to reiterate what both Emily and Bradley said about looking at aggregate versus individual cases, performance of reviewing the information. Bradley mentioned that he was, you know -- looked at the number of requests per FOIA officer and thought the number 188 was actually pretty good and same comment on slide in terms of average processing times and days and simple request in processing over 20 days, certainly under a month, and complex request anywhere three to four months. I can tell you from the requester side if I had all of my requests answered in four months I would be thrilled. So clearly -- I do know this from personal experience, some agencies are very quick and they do respond if not exactly within 20 days, that's -- for us that's clearly unrealistic, although the statue says it, nonetheless they do respond quickly relatively speaking and other agencies we know going in that -- if we get any type of response in couple years, that's a good thing. So I think it is really important to look at agency on individual basis for that as well as the number of requests for officer. The other question or comment I wanted to make was about how you assess costs. I know it is a complicated thing but when you look at litigation costs in particular, the cost actually may be higher than -- I don't know exactly how you're calculating that and higher or lower for two reasons. One is A, the people doing -- actual lawyers doing litigation are often DOJ lawyers or U.S. attorneys, not individuals from the agency. So that's perhaps added cost you need to calculate or assess when looking at that. On the other hand there's a potential for at least a wash because the time that the FOIA officers who are participating with the DOJ lawyers, for instance, in processing the request subject to litigation, they would be doing that same amount of work if not in litigation and question is that's complicated question, I'm not saying one way or another. I'm just saying it's another factor or available that should try to assess when addressing because amount of work the agency does it is not necessarily any more than they would otherwise do but then there's also this added cost of lawyers who are from the outside agency. Thanks.

TINA NABATCHI >> Both of those are really great points. There is tremendous variation processing time with the agency and when we started looking at other agencies, some agency processing times have gone down, some have gone up and we would like to know why that is. Is that function of nature of request they are receiving, function of number of staff they have versus total number of request going on and really -- we don't know, we need to do more in-depth work about that and point about litigation cost we think is spot on. You know, we are again just reporting the data that we are available on FOIA.gov and don't want to keep saying that, I feel a little bit bad doing that the but really it is the first time that we know of where somebody has looked at trend at

aggregate level and more nuanced data along a lot of these pieces whether it is cost, processing time, staff, would be fantastic to have and we had love to hear from you if you have suggestions or ideas how to collect that data, that would be really helpful to us. So we had love your suggestion. Not just where to go for additional direction and research and how to collect data with the research would be very helpful.

JAMES STOCKER >> James Stocker Trinity Washington University. I had a comment and a question. The comment is as individual requester I've actually very grateful the fees don't end up covering the cost of information of requests because if they had to it would make it very difficult for me and many other academics and members of the public to get access to government information so that is at least good thing for my perspective and I know you're not trying to be normative but at some point in time there's research into the positive benefits of that essentially subsidy. The question is this. I guess the focus of your future work, you mentioned that you were trying to figure out the whether to look at agency or departments within agencies and wondering if real difference will be between different administrative units or based on type of request, versus simple versus complex request. I could imagine simple requests across agencies having a lot more in common on the way they are processed. Like, for instance, how DHS would look at immigration records or veterans administration might deal with access to veterans' health records. Those could be fairly similar in the way they are processed, fairly straightforward, whereas complex request, request for information on the subject that requires searching through multiple groups of records. Those would seem to have, you know -- at least have more potential to be different. So I wonder if maybe -- I don't know how you would conceptualize unit of analysis, I guess type of request, but that would seem to me to maybe be a fruitful line of inquiry for future research.

TINA NABATCHI >> That's a great suggestion.

KHALDOUN ABOUASSI >> It is going to require data. And probably the hardest data that we will -- hardest data that we -- data that is hardest to get is going to be the nature of the request. We need to -- that would be our unit, which is hard.

ALINA SEMO >> So in that corner over there, there are folks vying and Suzanne I think was next. You're so polite, thank you.

RYAN LAW >> Ryan Law from Treasury. Just briefly, a couple points people made around the types of requests and so looking at the chart of the 10 most frequently requested agencies it occurs to me and I think it is a point Tom made earlier that these agencies -- the majority requests they receive are from individuals, for their records, right?

TINA NABATCHI >> We actually don't know that. We know that type of work that agency does, but not the types of requesting they are getting, seen there's a correlation.

RYAN LAW >> What I suggest is you mentioned a data source was missing to this piece and I know a lot of agencies post online the FOIA logs, list of requests that have

been made to the agency. It is no the requirement under the statute but many agencies do that proactively, including I believe DHS and Treasury does as well. I think it doesn't -- I think it would require a student or intern to sit in front of computer for very long time to categorize each request and bucket them, but data does exist and for many agencies and I think it would be worth diving into that.

TINA NABATCHI >> Fantastic suggestion FOIA logs. We have the students.

[LAUGHTER].

SUZANNE PIOTROWSKI >> Suzanne Piotrowski. Hi guys, I can look at you or talk into the mic, so I will talk into the mic so I don't get yelled at. To piggyback on what a lot of people are saying about the nature of the work and type of requester, nobody mentioned commercial requesters but they play a role that you need to think about. If you are going to go forward with the data as opposed to going back, I think we need to think about the data starts right about when OGIS starts, so there may have been -- let's hope OGIS has had some impact, I don't know how but on the nature of FOIA processing. So something to think about. Maybe dig a little bit more into the data, folks at table might be able to tell you some more and my understanding FOIA reports are self-reported by the agency and there's a lot of variation there into how those numbers are developed and so there might be some serious reliability and validity issues that you would want to look into.

TINA NABATCHI >> Great points.

ALINA SEMO >> Michael's next and then Joan.

MICHAEL MORISY >> Hi. Michael Morisy. Wonderful presentation again. One of the things that kind of listening to this that I think that is I didn't appreciate until getting to talk to a lot of different FOIA offices how many apples to oranges so many requests are. And even if you have the pages released it is still very apples to oranges and if people want a copy of press clippings you've collected that's going to be a lot less work and redacted copies of internal reviews of some kind of malfeasance or something and requires much more intensive work. So I think one thing that could be really interesting to look at is points where the FOIA offices, how they are impacted by the rest of the agency's operations. I think FOIA offices kind of handed -- .they are not given whole lot of control over sort of the material they are handed or given whole lot of say in sort of how records are managed throughout the rest of the agency, so if an agency has really good records management good records search ability, the FOIA office benefits from that and if the agency has really poor records management, the FOIA office has to kind of clean up that mess and hope for the best. So I think figuring out ways that we can sort of look at how that impact could be very fruitful area to kind of research and also kind of base other policies so getting a fuller picture and FOIA offices have blunt of the blame for stuff that's out of their control, even when they are doing really good work, even when they are well managed, sometimes there's a lot that's out of their control. One thing that kind of occurred to me was looking at FOIA logs as suggested and natural

experiments, two agencies on the same data system, one upgraded data systems, looking at requests that would touch the data system and at one agency and not another and other kind of natural experiments where looking at subset of requests and might give greater review of how things outside the FOIA office control whether management or whether technology can pay off in investments.

TINA NABATCHI >> Fantastic. Great suggestions. Thank you.

JOAN KAMINER >> Joan Kaminer, EPA. I just want to reemphasize something that Bradley said that the really touches on the point that people are making. Going back to the page count for EPA more the document count when you're addressing I think the cost -- defining how many requests are processed by individual FTE's I mean all the way through litigation cost as well as the differentiation between simple and complex requests, really plays a huge part in the explanation of an agency's processing time when you're able to look at the number of hits or the number of records that are being processed because you might have a request that end up with, you know, 100 or so records provided but an agency is processing, you know, 50,000 records. Maybe this is more of a point for the committee and what we can do through the recommendations, but I think this is really essentially number to get across in explaining the time and resources an agency is expending. Particularly on litigation costs because that's what I'm involved mostly on, you might -- I'm not sure how the FTE are defined exactly in the reports but not only do you have with some of the larger agencies or even midsize agencies like EPA, a large number of attorneys who are working fully on FOIA litigation that's the entirety of their jobs, but you're also utilizing the FTE's that process initial FOIA requests and, you know, with increases in litigation that we are seeing, you're seeing this FTE number that an agency that is resources for being expended for a larger percentage toward appeals and litigation. I don't think that's separated out enough in the information that you have and I would love to be able to get that for you but I don't have it either. More stuff you need that would enhance research and suggest through the committee and agencies to collect.

TINA NABATCHI >> That's a great point. More nuanced data and being able to separate thing out. The aggregate stuff is fantastic but the more nuanced I think helps inform the research more and inform the practice of FOIA.

KHALDOUN ABOUASSI >> We understand that the all of these are really great suggestions and the data that would help us understand what is going on might be different kinds of data, it might be aggregate data, it might be experiment, it might be case studies interviews so talk to the staff who are doing that kind of work. That would allow us or give us a more comprehensive picture which then would then allow us to make certain clear -- clearer judgments and observations with your help.

THOMAS SUSMAN >> Those are great discussions. Would you put together a recommendation of the data? I mean every time FOIA amended they often add datasets to be reported and it is done by congressional staff, egged on by who knows who and I was on the staff when the first data requirement was put into effect in 1974. It just seems to me the insights that can be gained the kind of analysis that you're doing of data is --

would be -- is extremely important, very useful and if we could know more do you want data on unit basis, are some agencies not reporting it, are the agency reports adequately translated into FOIA.gov? I mean is there -- there are all sorts of questions that a number of people have raised and seems to me you're in a great position to pull together for us and might well consider as addendum recommendation that would go to agencies and the Congress.

TINA NABATCHI >> I -- we -- would be delighted to. If we can talk afterwards, Alina and others, about

THOMAS SUSMAN >> Love to.

TINA NABATCHI >> About what the best format for making that available. We would be delighted to help with that.

THOMAS SUSMAN >> Is that okay with you?

ALINA SEMO >> Absolutely. Wonderful idea.

SUZANNE PIOTROWSKI >> Suzanne Piotrowski following up from Tom and maybe Alina can answer too. Not data but really defining how the -- what the data is. How it is going to be collected, so it is collected consistently across the agencies. I don't know if that's already done, not that I know of, maybe it is, but that's something I think we would have to work on to make sure that we then can make the comparisons. If you want to do that.

TINA NABATCHI >> It is a great point.

ALINA SEMO >> Anyone else have any other thoughts, questions? Did we answer some of the questions Khaldoun and Tina that you came with for the committee?

KHALDOUN ABOUASSI >> Yes and answered more questions.

ALINA SEMO >> Great. All worked out.

TINA NABATCHI >> Thank you so much for having us. We appreciate it.

KHALDOUN ABOUASSI >> Thank you.

[APPLAUSE]

ALINA SEMO >> So we will take a 15-minute break. Please come back at 11:32 if that's at all possible and we will see you back in 15 minutes. Remember the mics are still on live so watch your side conversations.

[BREAK]

ALINA SEMO>> We will get back to our business. We will have a presentation by OGIS Deputy Director, Martha Murphy, and we decided that it would be odd Kirsten or I to give a presentation and sitting up here in a different role. Just a little background, this presentation grew out of a request from the Vision Subcommittee. As may recall the subcommittee voted on a vision statement that included reconsidering the model of Office of Government Information Services within the FOIA community. We subsequently learned that other committees were interested and rather than doing it twice, we thought we would do it once. Copies of Martha's PowerPoint presentation is in the packet and we also posted it on the website. Also in the packet is a handout from the Sunshine Week event that we hosted here last week. Before Martha gets started, I want to take a quick opportunity to express the gratitude to Thomas Susman and Jason Baron who each did an outstanding job moderating two very successful panels during the Sunshine Week event. OGIS and NARA are grateful for your time and participation. I also decided after Tom's observation I will be ordering T-shirts with the logo OGIS groupie and I will take orders if anyone wants to get in on this. Pages eight through 10 of handout from the Sunshine Week event is one page summary of OGIS' 2019 annual report on fiscal year 2018 which is now available on our website at no extra charge and a two-page list of highlights of OGIS which this year we celebrate the 10 years as FOIA ombudsman and now send over to mic to Martha.

MARTHA MURPHY >> I will start off the presentation by giving you some background about the creation of our office and our mission. Explain how we help agencies and requesters to settle dispute through the dispute program and compliance role and several other efforts undertaken by OGIS to support the overall mission of improving the FOIA process. Ways to improve customer service and FOIA process has been around for a number of years Congress embraced dispute resolution in the OPEN Government Act of 2007. Through the passage of the Act, OGIS was created by Congress and at the time of the passage and since Congress referred to OGIS as the FOIA Ombudsman. Congress gave us two very clear missions. We are charged with providing mediation services to help resolve disputes between requesters and Federal agencies as well as responsibility for reviewing FOIA policies and procedures and compliance and identifying procedures and methods for improving FOIA compliance. As the FOIA Ombudsman, we may important role in educating the public about FOIA. We help to train FOIA professionals to resolve disputes and through the compliance program, we help agencies to improve their FOIA processes, which ultimately helps to resolve FOIA disputes as well. We also educate the customers through the use of advisory opinions and FOIA Ombuds Observers. So most often, we act as facilitator to help agencies and requesters better understand the issue and each parties' positions. But we formally opened the doors in 2009 with the staff of two. OGIS's first director Miriam Nisbet was surprised to see requests for mediation already waiting for her on her desk, so office prioritized dispute resolution program as the first step. The first thing to know about our dispute resolution program is that we do not dictate solutions. Or tell agencies that they have to turn over records. Mediation services are completely voluntary and as such are dependent on both agencies and requesters to agree to participate and most is by requesters but agencies will also come to us with issues that they have. The statute specifically says the mediation

services are nonexclusive alternative to litigation and we try to prevent litigation by explaining the FOIA process, how the search is conducted, or explanation of the records withheld under a certain exemptions and that type of information. There's nothing in the statute that prevents a requester from filing a suit after going through our process but a lot of times the explanations we provide let the requester to better understand the agency's response. So we look at agencies -- sorry. So then how does -- we look at agencies to help us to provide that kind of detailed explanation when request comes in. We have seen number of times where requesters are telling us they understand why the information was withheld even if they are not happy about the fact. Generally, once the case is in litigation we do not get involved. At that point, we have to step aside. So, of course, I also should explain to you in addition to what we do do and not do, cannot tell agencies release documents, how to process a request or act as FOIA police. We do not issue tickets. A lot of people would like us to but we do not issue tickets. We don't process requests or review appeal so often have to inform requesters we don't have access to the records that they are interested in. We don't help with issues outside the realm of FOIA. This happens quite often that requesters will have FOIA request they have with sort of the motivation for the FOIA request they have. We don't dictate a resolution to a dispute. We help the parties to come to resolution themselves. Despite the limitation, requesters ask for our help because process works in variety of instances. Not all the issues we deal with are complex. One of our most important functions is as FOIA Ombudsman to educated people about the FOIA and FOIA process. Many of our simple cases call on us to address misunderstanding between requesters and agencies and educate requesters about the way the FOIA process intended to work and often give requesters status information and try to give additional information about the agency backlog and does not make them any happier about the delay but we have had requesters say it helps them to understand why the agency has not responded within the 20 working days. Fairly often requesters want to know their request is not in a black hole and treated fairly. At OGIS, we handle both simple and complex cases and simple case fall into role as educator or FOIA Ombudsman. We provide requesters with more information about what a FOIA exemption means. We also help requesters to obtain information about the status of their requests, as I said. For more complex issues our reputation as neutral party with subject matter expertise helps us to work with the parties to identify the issues and develop solutions. The reason that the people file FOIA litigation are complex and diverse and do not have any way to track how many lawsuits have been prevented by the mediation program. We do know that there are requesters who have changed their minds about filing a lawsuit after going through the process just anecdotally. We also know of cases where parties have been able to settle parts of the dispute, which then narrows the issue for litigation saving the court from having to deal with some of those issues. We have also helped mediate discussion about use of discretionary exemptions and helped agencies coordinate the response to requester who files multiple similar requests across the government. So in short, OGIS works. So now, you have a little bit of background about the approach to dispute resolution. I would like to tell you a little bit more about the nuts and bolts what we do when someone asks us for assistance. Both requesters in the agencies again can ask for assistance and although most of the cases brought by requesters agencies have also approached us for assistance. The first step in our process is to reach out to both parties involved in the dispute. Generally, the point of contact at

the agency is the FOIA Public Liaison. One important thing to note is mediation services are confidential. We don't share anything that one of the parties tells us without permission to do so. Once we have all the information we need about the case, we can begin to identify the problem areas and work with the parties to identify possible solutions. When we close our complex cases, we write closing correspondence that's sent to both the agency and the requester and this letter explains the facts of the case and resolution that was reached. So now we talked a little bit about the how the process works, I would like to talk about how recent changes to the law impacted the operations. The FOIA Improvement Act of 2016 made several changes relevant to OGIS. Just a moment ago, I described our roles nonexclusive alternative to litigation. In light of this description, OGIS was originally thought of as belonging at very particular place in the FOIA process after the requester had gone through the agency's administrative appeal process but before they had filed a lawsuit. In fact, OIP issued guidance soon after we opened the doors directing agencies to include a description of our services in their responses to administrative appeals. The FOIA Improvement Act turned this concept of where we belong in the FOIA process on its head by directing agencies to inform requesters of our services much earlier in the FOIA process. Specifically, when the agency makes an adverse determination to an initial request and when an agency cites unusual circumstances and will need more than the 10 days provided in the statute in addition to the 20 to respond to the request. Initially we found that this change created a good deal of confusion both among requesters and the agencies. We received a great deal of communication that was intended for a different party. We still will have requesters send appeals to us directly sometimes and things like that, so that's sort of ongoing challenge that we have. We explored this issue during the Chief FOIA Officer Council's meeting earlier this year. In case you're not familiar with the Chief FOIA Officer's Council, the body was created by the FOIA Improvement Act of 2016 and co-chaired by OGIS and OIP. During that meeting, we discussed updated language that we recommended agencies to use to meet the new notification requirements and to clear up confusion. The largest effect FOIA Improvement Act of 2016 had was to drastically the number of requests for dispute resolution services that were received by OGIS. Between the first quarter of 2016 and the fourth quarter of 2018 request for assistance increased pretty dramatically. Quarter three of fiscal year 2018 was the busiest ever. As you can see we experienced significant increase in request for assistance immediately following the passage of the Improvement Act in 2016 and that is due as I mentioned earlier large due to do the fact Congress affirmatively increased OGIS's role during the FOIA administrative process and requesters able to come to us at any point in the FOIA journey. We closed 4,681 requests for assistance in fiscal year 2018, about 11% more than the 4,199 requests completed in fiscal year 2017. We ended fiscal year 2018 with 308 requests for assistance that had been pending more than 90 days. That's more than double the 149 requests that have been pending more than 90 days at the end of fiscal year 2017. So we continued to explore ways to meet demand of the growing case log and we have added several to several process that helped to address the demand for services. However, we have also seen advantage to this increased volume and for being involved earlier in the FOIA process. We now have more data to help us to determine where the FOIA process could be improved and that informs our compliance program. In fact, OGIS plays a key role in assessing and identifying procedures to improve compliance

with the statute. There's admittedly overlap between the functions of OGIS and Office of Information Policy at the Department of Justice. FOIA charges OIP with encouraging agencies compliance with the law. However, Congress clearly intended a distinct and separate role for OGIS. One of the best indicators of this distinction is Congress' choice to establish OGIS in the National Archives and Records Administration. One of NARA's strategic goals is to make access happen in making agencies -- this agency natural home for the FOIA Ombudsman. Also unlike the Department of Justice, which represents agencies when they are sued under FOIA our location with NARA, allows OGIS the neutrality required to mediate FOIA disputes objectively and assess FOIA compliance. The FOIA Improvement Act of 2016 reaffirmed the critical role that OGIS plays in the FOIA process. Congress increased our independence and further highlighted our neutrality by giving the ability to share the frank observations and challenges to effective FOIA implementation directly to Congress and the President. In 2015, OGIS launched the formal compliance program that assesses agency compliance with the FOIA and identifies issues common to many agencies. We now have a fairly robust agency assessment methodology. Assessment reports, which are all on the website, include thorough review of the agency's management and communication practices, their use of technology and recommendations for improvement. The process is voluntary. Agencies come to us to request our assistance in a compliance assessment. We follow up with the agency 120 days after the report is issued to see what steps they have taken to address the recommendation. So far, we have reviewed FOIA programs at the National Archives and that was actually my FOIA program when I was at the National Archives that was reviewed. DHS FOIA Privacy Office, U.S. Coast Guard, Customs and Border Protection and Federal Emergency Management Agency, Immigration and Customs Enforcement, Transportation Security Administration, US Secret Service, U.S. Citizenship and Immigration Services, Consumer Financial Protection Bureau and U.S. Postal Service. We are currently wrapping up the Department of Education right now. At this rate, it is going to take us about 25 years to get through every agency. While we know there's no one-size-fits-all solution for managing a FOIA program, we work with the knowledge that effective programs generally do three things well. They manage their resources effectively, they make smart investments in technology, and they communicate effectively with requesters. At this point, the FOIA programs we have reviewed have addressed over 97% of the recommendations. In addition to the agency compliance evaluations, we have also conducted issue assessments regarding government-wide FOIA issues. To date we have completed one regarding still interested letters and one regarding agency compliance with required dispute resolution notices. In an effort to assess FOIA programs government wide we have included FOIA questions through the annual Records Management Self-Assessment, also known as RMSA. The RMSA allows us to connect with every agency subject to FOIA through partnership with our NARA colleagues in the office of the Chief Records Officer. Federal agencies are required to conduct the self-assessment and submit the findings to NARA and goal is to determine whether Federal agencies comply with the statutory and regulatory records management requirements. The 2016 and 2017 RMSAs included several requests pertaining to FOIA. For two consecutive years we issued summary of answers we received from agencies and posted those on our website. The RMSA has been a really valuable tool that helps OGIS expand review of agency FOIA policies and procedures, identify potential compliance

issues that merit further exploration and set OGIS' goals and priorities. Self-assessment survey process also encourages coordination and collaboration between FOIA officers and agency records officers. There was initially some push back when the records officers said don't know the answers to these questions and I think it was a nice thing to say go talk to your FOIA staff because that is the communication that benefits everyone. Another way that OGIS fulfills its mandate to review FOIA policies, procedures, and compliance and identify methods for improving FOIA compliance is by reviewing proposed amendments to agency FOIA regulations, which we have been doing since 2010. In the last two fiscal years, OGIS has reviewed updated FOIA regulations from 64 departments and agencies. In addition to our dispute resolution and compliance programs, we also work to give agency FOIA professionals the skills they can use to prevent a dispute from occurring in the first place. We offer a day-long dispute resolution training skill session several times a year every fiscal year. The purpose of the course is not to make attendees trained mediators but give the FOIA professionals practical skills they can use to improve their communication with requesters. During the training session we also give attendees a chance to try out the skills during role playing sessions. We have also received a fair number of requests for agency specific training. For example, this fiscal year we will have at least five agency specific training sessions. But our education and outreach doesn't end with dispute resolution training. One of several initiatives we continue to work on is to develop some additional information in background materials for our customers. For example, we developed an info graphic that helps requesters to make better decisions about whether they should be open to case with us or seek assistance from the agency's FOIA Public Liaison. They are individuals designated by Chief FOIA Officers who requesters can contact or raise concerns about the service received from the FOIA Requester Service Center. Especially in early in the process agency FOIA Public Liaisons are in a much better position to help the requester. The agent FOIA Public Liaison will have understanding type of files the agency holds and certain excitement. The liaison can use the knowledge to help requester to narrow a request or formulate in way that's less burdensome for the agency, which could speed the process. We are always happy to facilitate the discussions though and we have found that stepping into facilitate can be a particular assistance if communication has broken down between the agency and the requester. The infographic that we discussed earlier is available on the website if anyone is interested in that. This past year we also rolled out the FOIA Ombudsman Observer. As FOIA ombudsman, we are uniquely situated to observe and examine the interaction in the Federal government and note common questions for issue that arise in the FOIA process. The FOIA Ombudsman Observer addresses questions and issues that are frequently seen in the individual cases that we receive. Our goal is to provide information to our customers and increase efficiency and transparency in the FOIA process. Our first advisory opinion was released last year regarding agency communication with requesters and just a word on advisory opinions, prior to the passing of the FOIA Improvement Act OGIS could only issue advisory opinions for individual disputes if mediation had not resolved the dispute. For several years, OGIS struggled with how to reconcile to advisory opinions with its ability to be impartial neutral party that can facilitate resolution of disputes between requesters and agencies. We are grateful that Congress recognized the tension and with the FOIA Improvement Act gave OGIS the power to issue advisory opinions at its discretion.

OGIS intends to utilize this now modified advisory opinion power to issue opinions that address the most common disputes, complaints and trends that we uncover through dispute practice and that are most likely to lead to litigation. Our plan is to build a body of advisory opinions available online for both requesters and agencies to consult that will help to head off disputes before they fester and lead to that litigation. As the FOIA Ombudsman, we believe engagement is critical component of our work and our office plays active role in educating the public about the FOIA process. We work directly with FOIA requesters and Federal agencies. We listen to concerns and facilitate better understanding of all points of view. We hosted the National Archives Sunshine Week event for several years and a forum on access and immigration records last summer. And have active blog and Twitter feed. OGIS also provides leadership to two bodies that allow us to address challenges to implementation of FOIA and improve the administration. This committee and Chief FOIA Council and host annual open meeting and publish an annual report. The fiscal year 2018 annual report is now available on the website; in our report to Congress and President, we discuss trends and findings. Annual report this year we made a legislative recommendation stemming from one of seven recommendations made by the second term of the FOIA Advisory Committee, the previous FOIA Advisory Committee. Our interactions with such a wide range of agencies and requesters through resolution and compliance programs combined with leadership of the chief FOIA Officers Council and FOIA Advisory Committee make us well suited for challenges and implement of the FOIA and United States. That was a lot of information. I'm sorry to throw it all at you so quickly. Does anyone have any questions?

LEE STEVEN >> This is Lee Steven. Thank you for the presentation and I can attest that requester that our interaction with OGIS in disputed resolution has been very positive. I was pleasantly surprised at how responsive the agency was in facilitating the help. But furthering the theme of gathering the proper kind of data or the kind of data that had help improve the FOIA process going forward and kind of get down to more granular level, I'm wondering in addition to the aggregate information that you have provided, how detailed your tracking disputed resolution process in terms of results and to explain and more particular concrete example that I'm thinking about. The very first time that we engaged OGIS it was a great experience up until the closing letter which was a good resolve there at both the agency and my organization engaged in that mediation process and we reached a resolution and then the agency ignored what they had promised or, you know, whether it is -- whether it is legally binding promise or not, they did reach a settlement in that mediation process and then ignored it. So we ultimately sued in that particular case and, of course, that left whole dispute resolution process in my mind to be -- left me feeling like how useless is this. It was a great experience going through it but at end the result was just -- ended up being a 6-month delay in the whole process because the agency although they participated they ignored the final result. So that's one example. I'm not necessarily saying that's the only example. Maybe that's the only time it ever happened. I kind of doubt it. It might be. So maybe it is not that big of a problem. Idea here is to say are there ways to track and gather the data on a little more granular level, those types of result and so I would encourage that in your reporting

because I think that also helps -- that would also help the analyses of how to improve the FOIA process altogether.

ALINA SEMO >> I'm just curious thank you come back to OGIS to let you know this was -- probably before my time -- to let them know the agency wasn't complying?

LEE STEVEN >> No, we didn't. We just went ahead and sued. The closing letter is that's all we can do, OGIS is done and acknowledged that. We didn't even think about that actually.

ALINA SEMO >> I would encourage that for next time.

LEE STEVEN >> I will definitely --

ALINA SEMO >> I mean there's not much we can do if we don't know that there's a lack of compliance.

MARTHA MURPHY >> I'm just trying to sit here to think in my own mind we don't really right now gather data on what happens after we walk out of the process. We are increasingly gathering data on the category of requests that are coming in because one way trying to streamline is creating templates for those situations where we feel that giving more information about the FOIA exemption can help to clarify and tracking data and type of information that's coming in but don't right now really track too much the end result and I would have to think about how we can do that the, a good idea.

LEE STEVEN >> On that point I agree that it would be good practice for the requester to follow up with OGIS but the other way that that could be tracked, at least a little bit, at least potentially, is for OGIS to say after three months or after certain period of time anyway, after closing letter in which there's some result that the agency is going to have to do as agreed. You had categorize the results in that way three months later you could send letter or make contact and give update on how this turned out and at least another data point.

ALINA SEMO >> OK. Thanks.

THOMAS SUSMAN >> Thomas Susman, first an observation and then question. The subject of OIP comes up and you mention overlap to some extent. It might be interesting to the group to understand some of the history of that because OIP was given its authority through the amendments that I drafted in '74, and at that time, the Justice Department had a separate office. It was actually first in the Office of Legal Counsel and then Office of Legal Policy that was giving FOIA advice to agencies. Completely separate from both the Justice Department administration of the FOIA and litigation. And when OIP was created and merged those various functions, the neutrality of what we saw in Justice -- I mean in the Justice advice giving function. Justice was very good. This is the years of Bob Salison those that are 100 years old and justice was very independent and those were the years when Attorney General Richardson came in to strengthen the Freedom of

Information Act and so OIP's role haven't been changed since then but morphed into adversarial and advocacy function and I have had personal experience begging them to do ombudsman work before OGIS was created and they really demurred on that even though I wish Melanie was here -- she and I have had the conversation so it won't be any surprise to her when she reads the transcript. First remind me what legislative request was and add to that the second two wishes in terms of I'm now running Congress and I can it had your wish is -- your wish is my command and you get three wishes to improve OGIS and what are they?

MARTHA MURPHY >> Alina? I'm going to defer to my director on at that one.

ALINA SEMO >> Martha was going to cover that a little bit later and I know you have to leave a little bit early, Tom but we passed on recommendation about addressing a legislative fix to the dilemma and interception of section 504 -- 508 of the Rehabilitation Act and posting that the agencies are required to do either in response to three or more requests or even proactive disclosures and provided three suggestions for folks to think about but the idea was we just wanted to start the dialogue and that's what we were tasked to do and that's what we wanted to do. We have gone up to meet with committee staffers and have started that dialogue but it is all in our annual report, we put it in there. So my wish list -- can I get back to you?

THOMAS SUSMAN >> Yes. Think about it because obviously that's relevant -- Thomas Susman talking still -- and trying to analyze and we have -- you should play a major role in prodding our thinking provoking us to new heights.

EMILY CREIGHTON >> I just wanted to make a much smaller point and I'm not sure if you're collecting from requesters has to do with no response from the agency --

MARTHA MURPHY >> We are collecting that data.

EMILY CREIGHTON >> That's important.

JOAN KAMINER >> I'm going to be a broken record I think for a lot of these meetings on voluminous requests and volume of records agencies are dealing with, but to what extent are OGIS staff either trained or have expertise in the like search syntax development or negotiation on the developing of, you know, parameters for searches, what I find that a lot of the issues that could be resolved with FOIA request before litigation really center around the development of the search itself and having mediate that negotiation which we now do in litigation would be incredibly helpful.

MARTHA MURPHY >> We have noticed and one thing we talked about a lot is the capability of the search with any agency will depend on technology that they have and so there's no one answer to that. So I know they really depend on connection with the FOIA liaison because they hold that expertise. If what we can do is open the dialogue between the requesters and liaison then that's probably the most appropriate role because there's no way we can know what the parameters are. Now, if agencies would like to publish more

information about hey, here is a good search for us given, for instance, our e-mail search capability or that type of thing, I think that could be helpful and more information we have we are happy to convey that directly to investors. I know from my experience on the FOIA side running a FOIA office and from the experience we have had working with different agencies that, you know, there's no standard for that the search. That we will talk a little bit about the recommendations and where we are with that. One of them is to have a change to the requirements for acquisition that will sort of demand that FOIA capability be the part of any acquired new technology. Ideally that would lead to some sort of standardization there which would help us out and I think the liaison play important part and agencies that we work with have very engaged liaison and given the time to do their job really pays dividends.

SUZANNE PIOTROWSKI >> Hi, Martha. Suzanne Piotrowski, could you tell us more about the advisory opinions?

MARTHA MURPHY >> I am going to back to the Alina on advisory issue. Sorry.

ALINA SEMO >> It's been several months. Maybe Sheela will help me. We decided again based on trends we really needed to address what agencies are putting in their letters. So content of very important about spelling out and very clear manner who requester contacted at any point in the process. That was something that we actually addressed that Chief FOIA Officers Council meeting last year as well. What we were seeing a lot was a lot of -- this is my term -- a lot of mushed letters and what was happening was that a lot of agencies were dropping their contact information and only contact information requester was getting was ours. And that became a significant issue, part of the issue why we have increase in workload after the FOIA Improvement Act, so there was no contact for the agency. So the requester didn't know what to do, they would call us and, of course, going to help them but that was really a very important procedural aspect of trying to address that and improving that part of the process. We have seen an improvement and we are continuing to keep an eye on it, I wouldn't say it is perfect. We are still getting mushed letters sometimes. When we do see them, we call it out to each other, we run to Kirsten, Kirsten is compliance team lead, just a team of one right now. She needs help. And we are keeping an eye on it. Sheela, did I cover that correctly? It has been a little while. Thank God. We did give feedback that we forgot to number the FOIA advisory issue so we will number it when we issue the next one.

SUZANNE PIOTROWSKI >> So if I'm clear there's been one advisory opinion. Then the plan is another one would come out as needed?

SHEELA PORTONOVO >> Yes, the plan is we are -- we are now --

MARTHA MURPHY >> Use the mic.

SHEELA PORTONOVO >> Sorry. I apologize. We are now reviewing our caseload and identifying those topics that we think would be best suited for advisory opinions and

plan is to start issuing them this summer, so not a set schedule but it is really as we see those issues that we think would be best addressed for advisory opinions.

MARTHA MURPHY >> I think we would also like when an opinion comes out to also perhaps have FOIA Ombudsman Observer which we put on the website which is directed toward requesters because I think with a lot of these issues there's advice basically for the agency and then there's other side of it there's advice for the requester and look to make it sort of comprehensive whole. Although tools that we have to try to get the information out.

SHEELA PORTONOVO >> Martha does make a good point. It is really our view of it it is we have the opinion but we want to show what the opinion is based on, so we have like a compliance report but that would go with it. We would have like advice that goes out to the requester so it is really -- it is not just putting an opinion out there. It is really we want to be able to put an opinion but actually show you what given rise to that opinion, why we are issuing it, what advice we can give to as many people as we can. So it is really comprehensive approach that we are trying to take to these things.

ALINA SEMO >> Alina Semo, first observer that we put out, tie to immigration form last year because we really have a lot of requesters that come to us who are just plain confused about what agency they need to go to in order to get a particular kind of record. And we really thought that was an important need to address and tried to really spell out the if you want this kind of record, you go to ICE, want that kind of record go to CBP and hopefully it is helping folks. I don't think we are keeping data on whether it's been super effective and less requests because of that but we really wanted to make sure we were addressing a need that we were seeing among the request for help that we were getting in.

EMILY CREIGHTON >> I know we're short on time. I just want to address what you just mentioned, Alina, that was really informative forum. I can't say the agencies have all sat together and explained how the FOIA process works in a way that was so comprehensive. I think to Joan's point though, something similar to that where requesters heard how the agencies actually process request, how they search for -- use search term, how they look for records, how they keep records will be extraordinarily helpful. I think that through the process of litigation a select group of people, you know, sort of understand that process and still feel very much in the dark, speaking for myself, in many aspects, so I think something like that would be extremely helpful, certainly not Department of Homeland Security but other agencies like that as well I'm sure.

ALINA SEMO >> Any other comments? Don't want to ignore the folks on the phone. Sarah and Abi? Questions for Martha?

SARAH KOTLER >> I don't have any. This is Sarah.

ABI MOSHEIM >> I don't have any either. This is Abi.

ALINA SEMO >> Thanks, Abi. Kevin?

KEVIN GOLDBERG >> This is Kevin. Hopefully you have a lot of advisory opinions to start planning out how they will be easily searchable, probably along the lines of head notes with topic areas because I was -- I just picked up the -- looked back to see if it was in there. You have executive summary but five years, 10 years from now you're going to want something along the lines to lay records search -- you know records request with that sort of thing.

ALINA SEMO >> So you're volunteering to help us with that?

MARTHA MURPHY >> That's great. That's great advice.

ALINA SEMO >> That's good.

ALINA SEMO >> Martha, thank you. Round of applause for Martha. We are running a little bit late and continue to sail along. This is the opportunity to have the subcommittee co-chair's report out. I don't want to rush anyone so feel free to take as much time as you need. We have reports from Time/Volume, Vision, and Records Management and I believe that Kirsten deemed it that Emily and Bradley go first. I want to mention and forgot to mention that we should applaud Bradley White for receiving the DHS FOIA Officer of the Year award during Sunshine Week last week.

[APPLAUSE].

ALINA SEMO >> Congratulations. Very well deserved, I'm sure. But on that note, I'm going to turn it over to you guys and tell us what's going on in your subcommittee.

BRADLEY WHITE >> Bradley White, thank you all very much. Much appreciated. When we initially got the subcommittee together we came up with seven action items and broke the team up accordingly. After the last meeting we kind of realized that four of those areas really blended together and would lend themselves to much more concentrated group effort. Emily will talk about those. I get the other ones. So the first action item we had was tracking progress on past recommendations, particularly related to the question of resources for FOIA and Patricia has been looking into that for our team and she will continue to track and monitor progress. I note that we will have a presentation on all of that just after this so we are absolutely looking forward to that. And we have been looking into other reports that OGIS has provided for us. The second action item was to analyze complex requests and we are going to review the Annual FOIA Reports from the agencies to see if there's any trends we can identify with the number of complex requests reported over time and then look at the increase particularly in complex requests and OGIS was helpful enough to offer help from Carrie who -- am I getting this right? -- she is on detail from one of the presidential libraries.

AILNA SEMO >> Johnson Library.

BRADLEY WHITE >> Thank you. I know she is looking into that beginning that process and we are looking forward to it. It was harder to spot the trends than we thought it was, which honestly isn't too surprising considering how much data there is, so when we do get that, we will be excited to receive it and to go over it.

ALINA SEMO >> Sorry to interrupt you. This is Alina. I want to point out it appears not all the FOIA reports are out yet. A few agencies haven't been cleared by OIP. Luckily, OGIS gets to be in on the act and so we are keeping track but obviously the shutdown affected and contributed to the delay.

BRADLEY WHITE >> Absolutely.

ALINA SEMO >> Hopefully they will be coming out soon.

BRADLEY WHITE >> Thank you. Then the third action item is on international research looking at other country's models with regard to the time, volume in FOIA requests and Patricia has joined that group along with Abi, who's running it, and Ginger was on it as well. We were discussing effective ways to go about conducting that research and we have also identified outside folks that have expertise in the area at schools and commissions that we can reach out to as well and begin the work and hopefully have something good to report.

EMILY CREIGHTON >> Emily, following up on that, I know we have committee members as well that have expertise and so we will be reaching out to them as well. The remaining action items we have as well and preface the reporting I'll be to go and understand some of the action items will be changing and roles of the committee members will be morphing as some of the work is done, which is great news and I should also say subcommittee has really stepped up and each has been doing their part and coordinating and working together really well. So I really appreciated all the work that everyone is putting into this. In the next -- next few weeks we are thinking through how to finalize some of the survey -- two surveys that we -- that committee members have developed and surveys are to be distributed to requester community and to agencies as well. We talked about the last committee meeting and talked about some of the criteria that we would be considering and coming up with the survey questions and happy to distribute the surveys we have drafted to the entire committee and providing feedback and as reminder and agency reached out to and submit the survey to and requesters that we will be reaching out to fit some criterion and reminding everyone the list of agencies we really wanted to take into consideration those that had large backlogs and able to achieve reduction in the backlogs and OGIS has stepped in again, huge kudos to the staff at OGIS, tiny but mighty staff has been helping us with the work, to conduct research including data around agencies and backlog data that had to do with success in bringing down backlogs and we have some of that data and we are going to arrive at final list and next short while hopefully to better understand what agency we should be submitting surveys to. Kirsten is also helping us review surveys from the committee that have been submitted in the past and to see what agencies have responded to surveys that have been developed in the past. So sort of along the lines as well, quick conversation with Suzanne

today and we will be thinking about methodology and the best way to conduct the surveys that will have the best data and most reliable data we can and sort of what I understand to be not having the background here around survey methodology but just it is sort of an anecdotal response to a survey but we hope that two be instructive nonetheless. So we are similarly developing a list of requesters to be surveyed based on criteria such as how frequently they submit complex requests and how frequently prevail in litigation which I understand people have different opinions about that and those have requests large amounts of data and Alina and others have been helpful in gathering some information to help inform that -- help form that list. The survey for requesters will address how they understand the existing resources for assistance in drafting request and submitted with the agency and elsewhere best practices for drafting a request, use of search terms, understanding of the agency's search and processing and production function. How to search communications like e-mails versus other types of records and what is the best practice for disseminating information, what they viewed to be the best practice for disseminating information from the agencies to requesters. So the surveys have been drafted and they are far along and seeking input as I mentioned from the entire subcommittee before finalizing. Kirsten will investigate and may have news about whether we need to sign off from OGIS on the surveys before they are distributed or disseminated and we also discussed some of the issues I believe Ryan raised some issues, some good concerns around the paperwork reduction act and to what extent survey can be distributed to the requester community from this committee and we found what we hope is way forward which is to work with the association for access professionals and to distribute survey through that organization and also will be exploring how we can also distribute the survey in other ways, maybe through other contact through requester community. So Claire Stanley and I, executive director at ASAP had a conversation and she is open to this and hopefully that we will be able to work with them to distribute a survey. She did mention that the, you know, this had have to be presented to their board, so, you know, I would love input here or from, you know, outside this meeting about that process. I know that that meeting is happening next week, so we are hoping to finalize the surveys if that is able to move forward. And all of that -- so the distribution of the finalizing distribution of the survey is really the next big step for our committee and again, if there's interest and we should just do it anyway, but to distribute the survey to the whole committee so everyone can take a look and provide some input. Is there anything I have missed from the committee members? Great. OK. Is there any initial feedback to that? I don't know if we could talk any survey related thoughts --

ALINA SEMO >> This is Alina Semo. I was asking our DFO whether in circulating that draft, if you circulated the entire committee we will have to post it online, so I just want you to think about that.

EMILY CREIGHTON >> OK. Does anyone have any thoughts about that?

THOMAS SUSMAN >> So it can go to less than then the entire committee without being posted? Well leave me off and send it around.

[LAUGHTER].

ALINA SEMO >> You guys are good?

EMILY CREIGHTON >> Yeah.

ALINA SEMO >> Any other questions?

EMILY CREIGHTON >> I got the information I need. Thank you.

ALINA SEMO >> Michael?

MICHAEL MORISY >> Regarding the survey, was the idea that the subcommittee would have the -- this is Michael Morisy. Would the subcommittee generate the survey or provide the question and get aggregate data back? In terms of who's putting together the Survey Monkey or whatever survey tool you use. We have not figured what tool makes sense. Welcome input there and love your input there. I know you probably have some great thinking about the best way to go about doing that. I think -- I think part of what related question we still have is how many surveys we are going to be distributed, to whom, those questions are the next -- the -- I think we had in mind some key individuals from variety of agencies but not too too many because I had say there are 10 to 15 questions on the survey. So do you have any thoughts now or I had be happy to get -- I would be happy to get thoughts after.

MICHAEL MORISY >> This is Michael again. I think maybe for flexibility in terms of providing questions to survey partner like ASAP which I can speak on behalf of but I'm a member of their board, I think maybe that gives more flexibility in term of maybe sort of making sure to protect participants anonymity and provide aggregate data back and flexibility to have a tool that works for the membership. I know a lot of FOIA offices, for example, they have strict filters in terms of what websites they can access and that sort of thing. So leaving that in the hands of survey partners and if they are willing to kind of distribute the aggregate data publicly maybe that can get around some of the challenges there.

EMILY CREIGHTON >> I think that's the idea. That's how we sort of arrived at the solution.

MICHAEL MORISY >> OK.

EMILY CREIGHTON >> So I think -- yeah, I think that that's the way that we are going to explore moving forward. The only question I continue to have is my understanding is that a lot of the members of ASAP are agency employees and so I'm not -- I want to make sure that we have a robust response from the requester community and I want to continue to explore that and what we need to do to make that happen.

MICHAEL MORISY >> Definitely -- this is Michael again -- love to get the word out with the requester community as well.

EMILY CREIGHTON >> Great. Thank you, Michael.

ALINA SEMO >> Thank you very much. I will move on to the Vision Subcommittee and Joan is going to report today since Chris is not here.

JOAN KAMINER >> Joan Kaminer we have another meeting tomorrow that finalize a lot of what I'm reporting out today with the exception of confirming that we are looking at 10 year timeframe on the recommendations that we are making. We have put the ask out -- thank you to those that have responded -- for individuals in subcommittee to identify which of the areas for recommendation they would like to, you know, be identified with. If you haven't responded, please do so, that would be great. And once we have confirmed the individuals with which part of the mission statement they are looking into tomorrow we are going to be following up at our meeting on our next step. So hopefully at the next meeting we will have significantly more to report out.

ALINA SEMO >> Thank you. Questions for Joan? Anyone on the phone? Sarah, Abi? I want to make sure I'm not excluding you guys.

SARAH KOTLER >> We feel included. Thank you. Nothing from me.

ALINA SEMO >> OK. So now last but not least Records Management Subcommittee Jason and Ryan.

JASON R. BARON >> Jason Baron. Ryan and I have been talking and discussing with our subcommittee members three areas of interest to pursue. The first is we have been looking into how well the FOIA statutes provision at 5 USC 552(g) and making available certain reference materials, how well that has specifically helped in acting as a requester's guide to records management materials, the records that are actually maintained by agencies. Provision itself talks about the heads of agencies with index of major information systems descriptions of information record locator systems at handbook, otherwise known as FOIA reference guide, obtaining different types of information. What we are looking at is reviewing agency websites for how well they inform the public been the general matter of where to find Federal matters at agencies including most notably whether the site provides any pointers or links to specific agency record schedules and impression while they have done good job of providing kind of step-by-step guide on filing FOIA requests, the materials that have been put upon line may not be optimal with respect to providing a road map to what I consider the Federal records universe including record schedules. For example, the Department of Justice has a very in-depth site with many FOIA resources online for the requester both as general matter with the department and individual components. They make information available on major information systems, how to make FOIA requests, privacy access systems of records, specific records management pages, open data pages, even have a page on social media accounts at DOJ, individual subcomponents have some of these but it is still difficult to find actual record schedules or for the public to be clear about types of records that they had be particularly interested in including Capstone, e-mail repositories, same true as number of other agencies and we will continue to review agency websites and

write up the findings. Second endeavor for us to review various types of reports that are either issued by the National Archives or that have been -- or supplied to the National Archives, specifically focusing on what NARA takes into account by way of access considerations including FOIA access when assessing how well Federal agencies are doing on -- in managing their Federal records. So these reports include but are not limited to, that's a lawyer thing, Records Management Self-Assessment, RMSA reports, senior agency official for records management SARM reports, Federal e-mail management reports and other issuances for Federal electronics management issue known as FERMI and in position as subcommittee to make recommendations on additional requests and specifications at National Archives might consider and access considerations when managing Federal records. Thirdly, NARA has graciously provided subcommittee with liaison with Laurence Brewer, his name is Kyle Douglas, and he was on the phone last at week's meeting to discuss about Capstone e-mail policies and how being implemented and Kyle was responsive to the subcommittee's questions and look forward to having a lively exchange of information with him and with NARA over the coming weeks and months. Let me also say speaking only for myself, not for Ryan, there are any number of other years that I'll interested in pursuing and I will be making processing time portals for the subcommittee to pursue and getting into the areas of records management training specifically for FOIA officers, something that I don't believe NARA highlights in their extensive records management trainings. I would like to follow up on remarks that were made at November 29th, 2018 meeting that I unfortunately missed by being in India with respect to inspectors general representatives coming here and talking about FOIA issues being put on the agenda of SIGIE, Council of IG for Integrity and Efficiency and going to suggest that we look into that. How we can work as whole as this advisory committee with SIGIE and NARA working with SIGIE and additional recommendation and best practice suggestions that were set in the 2016 to 2018 FOIA Advisory Committee final report with respect specifically to records management issue I would like to pursue that. I heard it from the other subcommittees today is to how we can jump start compliance with those recommendations. I think that's a very important mission of this subcommittee. Finally, two of us, Ryan and I, planning to attend something called FRON to talk about their thoughts about tightly integrating FOIA concerns in world of records management. I have other recommendations but I think I will stop there.

ALINA SEMO >> Ryan, do you have anything to add?

RYAN LAW >> No. This is Ryan and Jason nailed it.

[LAUGHTER].

ALINA SEMO >> That was easy. Well, thank you again, everyone, for the reports. I know everyone has been working very hard. I'm extremely grateful for that. I did have this moment of panic that I wrote Kirsten a note about. I promised to some of you that today we had try to roll out a schedule of when we want the final report to be done and working backwards with some milestones and we probably should have done that and we have not, but we would definitely have it by the next meeting. So hopefully that will help and certainly send by e-mail in between. That will hopefully give the subcommittees

guidelines to work with. And I believe Martha will come back up and have update on the past FOIA recommendations. Martha has been tracking them and working directly on couple of them.

MARTHA MURPHY >> This will be quick. I know we are ready to go. I will walk through these like I did last time. The first recommendation had to do with establishing a CFO Technology Subcommittee. The subcommittee has been established. Although they were a bit delayed by the furlough, they still are working toward their goals as outlined in the last meeting and they are currently looking at new ways to gather information and possibility of sending survey to Chief FOIA Officers to drill down a little further on technology use. So they are moving along. Number two was of course completed and this question was included in Chief FOIA Officer's Report. We will be reporting out the responses we receive once we receive them from OIP. Again, that report has been a little bit delayed by the furlough as well. Recommendation number three said something I'm working on personally, NARA on schedule to deliver a business plan suggesting a change later this spring and working to incorporate that into a plan that also working on with Chief Records Officers Council on some records management issues, so this is nice to hear. We are trying to dovetail these as much as possible. If the FAR Council decides to take it up, assigned for FAR for further development and keep you posted on that. Recommendation number four there's no change. We anticipate that the subcommittee for the chief FOIA officers that I just mentioned and updates to update the FAR will cover some of the goals and we will revisit. Recommendation number five and actually number seven as well with both of these, these are in OGIS's court. There's though change from our previous reporting on this. These efforts are likely going to depend on whether we can get additional compliance team staffer hired and on board time to complete the research necessary but it is on our agenda. This one is complete. The recommendation is in OGIS' annual report and that one is done. Talked about that one. Finally just following up on recommendation from the 2014-16 term, it was completed when the Archivist sent letter in 2016 but since then we have continued our efforts to follow up with OMB in moving forward and haven't ended with the letter and report back to you all. That's all I have. Anybody have any questions?

AILNA SEMO >> Questions for Martha? Thank you, Martha. Two things before we open the floor up. One and Jason mentioned this to me and I want to encourage because we are always looking for speakers. I don't feel the need to have a speaker every time but we feel as though if we can bring you speakers helpful to the subcommittees we are doing we want to facilitate that, so please let Kirsten or me know and we will be happy to look into it. The other thing that I'm supposed to remind you about, folders, we need them back. They are now extremely coveted. We are probably not going to be purchasing more because they are expensive. So if we could get them back we will recycle them and give them back out to you for next meeting. So at this time I think we are pretty much on schedule. Good job, everyone. I want to open up the floor to public comments. The -- I request anyone that wants to make a comment or ask a question to come up to the microphone to state your name and affiliation if appropriate. If there are no public comments, then -- do you have any from the live stream? Anyone else from the audience? Okay. That was easy. So just going to adjourn. Thank you all for your work

today. We invite everyone to visit our website for more information about everything that we have talked about today. Kirsten is reminding me the next meeting is right here on McGowan Theater at June 6th at 10:00 a.m. and if everyone can stick around for a minute I want to talk -- I want to suggest an administrative issue for the next meeting. So don't go anywhere. I definitely want to thank everyone again for their time and if there are no questions or concerns, we stand adjourned. Thank you.