

Public Comment

Ms. Gramian opened the floor to public comments. She noted that two emails were sent to the Committee regarding FOIA requests, which are in the member's folders.

Mr. Jones noted that one of the emails mentions FOIA Exemption 5. He said that using Exemption 5 to withhold a document that is in the public domain is not acceptable and he sees it all the time.

Ms. Cindy Cafaro, from the Department of the Interior, spoke within her personal capacity regarding the 508 issue. She said there is always the question if agencies are using the 508 compliance as a "get out of jail free card." She said she heard the presenters today say if agency documents are not accessible they cannot be posted, or should be taken down. She noted that FOIA processors are often the parties doing the 508 compliance and the agency's 508 contact doesn't have the staff do the work. She stated that every moment they are spending on 508 compliance is time that is not spent on providing materials to FOIA requesters. She appreciates that the Committee is going to be looking at this issue.

Mr. Jones clarified that the presenters said of the documents already posted that are not compliant, agencies do not have to remove them from the website.

Ms. Cafaro noted that there was disagreement between the two speakers one said yes pull them down, and the other said no you can keep them up. She said she has been actively discouraged from putting up an accessibility disclaimer/waiver. Some people think the agency is trying to circumvent FOIA or 508 and putting up a waiver may signal that they are not fully complying with their obligation under 508. She stated that agencies are between a rock and a hard place.

Mr. Jones said the agency will have to research when agencies can do disclaimers and what the standard for undue burden is.

Dr. Hersberg asked the question instead of agencies having the responsibility for this, if there technologies out that do this work, why can't the Government make that software available so the requesters could have the responsibility to do the 508 compliance rather than the agency.

Mr. Alex Howard of the Sunlight Foundation, asked Dr. Hersberg if he is suggesting offloading the burden of OCR to the requester community? He said it was an interesting idea.

Ms. Gramian noted that she wasn't sure someone with a disability, for example a blind person, would be able to make a document accessible.

Dr. Hersberg said maybe there are associations that could do this to make it uber accessible.

Mr. Howard noted that Uber the company is not an accessible company. Mr. Howard said he wrote a story about openFDA, a database for adverse reaction to medicines. He said the FDA went to a Silicon Valley company, Captricity, to outsource the digitization of the records, which was faster and cheaper than anything the Government was using. He said that type of approach

should be front and center in Government. He said they should look at IT modernization-adaption/adoption and pushing for things that enable FOIA officers to be creating records which are digital by default, open by default. He said the Government should create data that is open by default and gave the example of the Internal Revenue Service (IRS) lawsuit about non-profit tax returns which were born digital records, but converted in an unusable format. He noted that the presentation at the Committee went through the remediation of proprietary formats - .doc, .pdf, .xls. He noted that the Committee itself is posting PDFs rather than webpages. He asserted if data is created open and accessible it addresses many of the issues they are discussing down the road. He said there should be a national scanning initiative, and noted that the National Archives and the Smithsonian are currently crowdsourcing to make their holdings accessible. He stated that removing records from agency websites because they are not accessible is going in the wrong direction. He said it is farcical that accessibility should be the limitation for posting things online. Modern technology can help with this—he gave an example of his visit to Facebook working with a blind scientist. He noted that the technology is available.

Mr. Michael Ravnitzky, speaking as a private individual, noted that most FOIA requests are for existing records, so a lot of the discussion about the creation of 508 compliant records is not terribly relevant to the primary issue at hand. He said that 508 compliance is used as a red herring and agreed with the other speakers. He said increased access under 508 is a good practice and helps everyone. He stated that when you make things more accessible on the web you help more than just the people who physically need the accessibility. He said that most discussions about 508 compliance lead to discussions of lack of resources, and support. He said that's a bad way to go about this decision because it is a false binary choice. He mentioned crowdsourcing as well and said that agencies cannot let the perfect get in the way of the good. He mentioned issues with record reproduction within agencies, such as pages being skewed, too small, upside down, not produced in a usable format. He mentioned the benefits of OCR and that few FOIA offices OCR their documents. He gave the example of using OCR so that you can copy and paste or search a document for keywords. He said OCR helps agencies move towards accessibility. He said often agencies use their technology and policies as an excuse for not providing the responsive records in a format they asked for, because the agency has redaction software which only allows for certain formats. He also spoke of challenges regarding agencies issuing FOIA responses which are locked or password protected, which can limit combining files for usability (concatenation). He noted password protection makes sense for Privacy Act requests, but shouldn't be part of agencies' policies for FOIA requests. He stated that the 508 problem cannot be solved by the Committee or by FOIA officers themselves, not by records managers. He said he has worked with some great FOIA processors who do everything they can to get good quality releases out; he gave the example of the Department of Energy's release of Manhattan Project documents. He offered a few suggestions for correcting common problems requesters face on a daily basis: agencies should scan in a resolution of 400 dpi or better, only scan in color if the documents have color, the resulting product should resemble the original, eliminating password protection unless absolutely necessary, technology should allow for release of records in native format, and agencies should reconsider requests for more legible documents. He would like to see the Committee recommend some of these steps.

Mr. Moulton asked if Mr. Ravnitzky submitted his comments to the Committee's email.

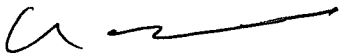
Ms. Gramian noted that meeting is being transcribed.

Dr. Hershberg said it would be helpful to have all his comments.

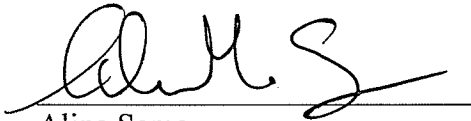
Closing Remarks

Ms. Gramian thanked members for their work. She reminded Committee members that the next meeting is on Thursday January 26, 2016, in the McGowan Theater. Ms. Gramian adjourned the meeting.

I certify that, to the best of my knowledge, the foregoing minutes are accurate and complete on January 27, 2017.



Amy Bennett
Designated Federal Officer, 2016-2018 Term



Alina Semo
Chair