

September 6, 2018 Meeting Transcript

Freedom of Information Act (FOIA) Advisory Committee

Thursday September 6, 2018

DAVID S. FERRIERO>> Welcome to the National Archives, or welcome to my house, as I like to say, for the first meeting of the 2018-2020 term of the Freedom of Information Act Advisory Committee. The National Archives plays a unique role in our democracy. We preserve the past to protect the future. The FOIA Advisory Committee's task of advising on improvements to the administration of FOIA complements NARA's strategic goals of making access happen and connecting with our customers—from federal agencies to the American public.

The National Archives is pleased and also proud to charter, host, and support this important Advisory Committee.

Today's meeting marks the start of the third term of the FOIA Advisory Committee, which the National Archives established in 2014 to facilitate dialogue between the executive branch and the requester community. The establishment of this third term signals NARA's commitment to charting a path for a FOIA process, policy,

and law that works better for all. The committee's goals—then and now—are to identifying key challenges to implementing FOIA across the federal government and providing me with recommendations and advice to address these obstacles. It is essential that we examine the FOIA landscape across the government, learn from one another, and recommend new approaches and solutions to ensure the American public's right to access government records in an efficient and timely manner.

The 2016-2018 Advisory Committee earlier this year submitted to me its final report and recommendations in which it made seven unanimous recommendations to improve FOIA in the following areas, search technology, accessibility, and performance standards.

I've directed the Office of Government Information Services to conduct two compliance assessments in these areas and promote a number of best practices. Furthermore, OGIS staff will be working on FOIA issues related to technology and federal acquisition rules across the government. As members of the 2018-2020 committee, you are tasked with further identifying challenges and difficulties we face in implementing FOIA

and in developing practical recommendations to address these obstacles. I want to thank all of you on the committee for sharing your time and knowledge. And for your commitment to improving FOIA.

I look forward to your progress. And I will now turn you over to Alina Semo, the director of the Office of Government Information Services. Good morning.

ALINA SEMO>> Good morning, everyone. Can everyone hear me out there? Okay.

So again, welcome to the McGowan Theater, and thank you all for joining us, whether you're in the audience, in person, we do have some members on the phone, and we will say hello to you in a minute and let you introduce yourselves. Or via livestream. As the director of OGIS and this committee's chair, it is my pleasure to kick off this inaugural 2018-2020 meeting of the FOIA Advisory Committee.

[Beeping]

I am excited to chair the third term, we have a fantastic panel of committee members who I am confident will work very hard to explore issues in the FOIA arena and eventually develop recommendations for improving the

FOIA process. As everyone knows, the Advisory Committee reports to the Archivist of the United States who earlier this year renewed the committee's charter through two more years, through 2020. OGIS serve as the chair and the staff provide the administrative and logistical support. So I want to take a minute to thank the entire staff for pulling together to ensure that everything went smoothly this morning and the meeting is going to go smoothly today.

To my left, she will also introduce herself again later is our Designated Federal Officer, DFO, not official, just officer, Kirsten Mitchell, who has agreed to serve as the DFO for the committee and

[Beeping]

I know we keep her very busy.

We do have an ambitious agenda today, but before we get started I just want go through housekeeping rules and outline today's meeting agenda a bit. As everyone knows this committee provides a forum for public discussion of FOIA issues and offers members of the public an opportunity to provide their feedback and ideas for improving the FOIA process. So the at the 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. We are also monitoring the livestream, so if you have any comments, you may submit them and Sheela Portonovo, OGIS's attorney advisor, will read them out loud during the public comment period. I want to remind everyone if at all possible try to remember to identify yourselves by name and affiliation whenever you speak, that will help Kirsten down the road in taking accurate minutes of the meeting.

Also this is a reminder to everyone and to myself, when folks are speaking on the phone, we have to remember there is a slight delay between the time members on the phone speak and when the microphones in the room are turned back on. So this ensures that the livestream captures all audio so we just have to pause. I'm very bad at it too, so, yeah, I think we just have to practice that.

To promote openness, transparency and public engagement, we post committee updates and information on our website, our blog, and on Twitter at FOIA underscore

ombuds, the URLs should be on the slide behind me. Stay up to date on the latest OGIS and FOIA advisory news and activities and events by following us on Twitter. Information about the committee, including members' biographies and documents are available on the website. As I stated earlier, we are live streaming this meeting, we'll make the video transcript and media materials available on the committee's web page as soon as possible. We expect to have all the meeting material available on our website within about 30 days.

So thank you in advance for your patience and understanding. To outline the agenda, there will be a 15-minute break halfway through the meeting. I try to take it at approximately 11:30 AM, hopefully that will be a logical break. But unfortunately, as reminder, you cannot bring food or drinks in the auditorium. You can go to the cafe, located on this level to purchase food or drink. And for those audience members reminder there are restrooms directly outside of the theater and another set downstairs by the cafe.

So our primary order of business for today is to conduct a brainstorming session to discuss what issues

the current committee will be taking up for consideration this term. And the ultimately goal is to select the top issues that we want to look at, select subcommittees and subcommittee co-chairs.

And I am pleased that our own Carrie McGuire—where are you? Hi, Carrie, she is our Mediation Team Mead, she has agreed to lead the introduction of the committee members and our brainstorming session. So she'll be up momentarily. But before we get into that, Kirsten, Mitchell has several items she would like to cover. So over to you.

KIRSTEN MITCHELL>> Thank you, Alina, and welcome. Good morning, I'm the Designated Federal Officer for this committee. I'm going give you a brief overview of the committee, the responsibilities of committee members, and operating and voting procedures.

So thank you all for participating in the FOIA Advisory Committee. One of the things I love most about working with at OGIS is bringing together FOIA requesters and federal agencies and I'm thrilled to see the committee bridge that FOIA community. This is the third two year term of the FOIA Advisory Committee that was

first, the committee was first established in 2013 by the Open Government National Action Plan and directly ties to OGIS's duty to, quote, identify procedures and methods for improving FOIA compliance, end quote. That's directly from the statute.

The committee is governed by the Federal Advisory Committee Act, which is why I'm here—more on that in a few minutes.

Your duties are straightforward. Study the FOIA landscape across the government, solicit public comments and recommend improvements which can include legislative action, policy changes or executive action, to the Archivist of the United States.

[Beeping]

Archivist David Ferriero signed the 2018-2020 charter on May 15, 2018. There are eight government members and 11 nongovernment members, and our chairperson, of course, is Alina M. Semo, the ninth government member. You all come from a range of cabinets, a range of agencies from department-level cabinet agencies to small, independent agencies.

And the nongovernment representatives, there are requesters who fall into various fee requester categories as well as representatives from historians and academia.

So a copy of the committee's charter the committee's charter with the details is in your packet.

So a little bit about the committee administration. Miranda Andreacchio is the Committee Management Officer here at the National Archives. She oversees all five Advisory Committees. And if you're interested, the National Archives also has advisory committees on presidential library foundation partnerships; records of Congress; national industrial security; and state, local, tribal, and private sector policy. So each one of these committees has what's called a Designated Federal Officer, or DFO, and I'm the DFO for this committee.

All committee communications must include the DFO at the following address—for record keeping purposes—FOIA dash advisory dash committee @ NARA.gov, so if you all would when you email me include that, and I will do the same when I email you.

Okay. A little bit about the responsibilities. We heard from Alina, who is the chairperson. She leads the committee. She determines the quorum. A quorum is two thirds of committee members or 13 members, so we obviously have that and more today. Which is wonderful.

Alina will open and preside over meetings and certify the meeting minutes. So what are my responsibilities as DFO? I will schedule and attend all committee and subcommittee meetings, prepare and approve meeting agendas, maintain records of committee activities, and chair any meeting when directed to do so by the Archivist. And I have two National Archives colleagues who are not here today but they are assisting me behind the scenes, Carrie Smith with the Johnson Presidential Library out in Texas, and Liz Pickford, who works in our College Park facility.

So what are your responsibilities? Attend meetings of the committee and subcommittee. Submit items for committee and subcommittee agendas. Deliberate and advise the Archivist on FOIA related matters. And then for federal members, submit financial disclosure forms

annually for an ethics review. And thank you all so much for doing that so quickly. We got all of those.

One thing that's not on this slide that I just would like to say is stretch your mind, enjoy this unique opportunity, and have fun.

Okay. Subcommittees: Each subcommittee will have two chairs, one is from the government side, one is from the nongovernment side. And they will be doing the bulk of the work in supporting the committee's function. I think the archivist mentioned we had three last term efficiency and resources, proactive disclosure and searches.

And the responsibilities of the subcommittee co-chairs, work with me, the DFO to schedule subcommittee meetings, set the meeting agendas, open and preside over meetings and make sure you copy me on all subcommittee correspondence. And there's that email address again, FOIA dash advisory dash committee @ NARA.gov. That's helpful for recordkeeping purposes. I'm going to go over the bylaws quickly. They're included in your folder. I invite you to read them. If you think they need amending, let me know, let Alina know. We think they look

fine, but let us know. Basically the committee meets up to four times a year, meetings are held when a quorum is present. Open meetings is a very big thing for federal Advisory Committees. Closed meetings are only to be held in very limited circumstances. And in accordance with the Federal Advisory Committee Act and the Government in Sunshine Act. That has never happened, I don't foresee it happening, but I thought I'd mention it.

And then all meetings of the Advisory Committee will be published in the Federal Register at least 15 days before the meeting. So as Alina mentioned, I will prepare the minutes. Public comments, that's also an important part of what we do here. The public may comment at open meetings and the public is also invited to submit written statements to the committee at any time.

And as Alina mentioned, we will post meeting materials on our website.

Deliberations and voting. There is a one-page sheet in your packet that should run through all of this. But basically any committee member, including the chairperson, may move that the committee vote. No second

is required, which is a little bit odd if you know Robert's rules of order, but no second required. And only the chairperson and members may vote on an issue.

There are two types of votes. Voice votes, show of hands, obviously voice vote, important for our colleagues on the phone.

And then there are three types of decisions, unanimous, every member except those absent, which I think also deviates a little from Robert's rules, general consensus is at least two thirds of total votes cast and then general majority, which is simple majority.

And finally, here is our contact information. And in the each of your packets you have Alina's card, you have my card, and before I turn it over, I'm just going to mention FOIA dash advisory dash committee @NARA.gov. So I'm going turn it back over to Alina. Thank you.

ALINA SEMO>> Before you leave, anyone have any questions for our DFO? She threw a lot of material at you, so if you're still absorbing it. No questions. Okay.

Thank you very much.

So, Carrie, I believe you're up next. We're now going to get started. We're actually way ahead of schedule already, thanks to the Archivist who kicked us off early. Maybe we'll leave early. Going to be a good thing.

>> Efficiency is good.

CARRIE MCGUIRE>> Yeah, my name is Carrie McGuire, I lead our Mediation Team, and I'm here with you today to first of all give a framework for you all to introduce yourselves to those who are watching and to one another. And then we will move into the working portion of this meeting, which is going to be a two-part brainstorming session that's structured. So we will work through that together.

But we're going to begin with introductions.

If you will look in your folders, what you will find is a little half sheet that has some cues on it. The purpose of this introduction so to give you all a chance to say more about yourself than your job title, which as we know in Washington doesn't always give the best, full illustration of what it is you do, particularly as it relates to why we're all here today, which is the Freedom

of Information Act. So if you look at that, what we're going to be asking you all to do, we're going to start with folks on the phone, but we're going to go around, have you give your name, your organization, department, agency, whatever it is, how your work relates to FOIA. So what is it that you do in your position that relates to FOIA? And then also just tell us why did you join the federal Advisory Committee, the FOIA Advisory Committee. So I joined the FOIA Advisory Committee because...

So that should give us a little more information of who you are and why you're here. We'd like to start with folks on the phone. And have—do we know if they're with us?

>> [away from mic] with us.

>> Yes.

CARRIE MCGUIRE >> Good morning, Andrew.

ANDREW JOHNS>> Good morning.

>> Would you like to go first?

ANDREW JOHNS>> Sure. My name is Andrew Johns. I'm associate professor of history at Brigham Young University. I am also the President this year of [indiscernible] branch of the American Historical

Association and work closely with the Society for Historians of American Foreign Relations.

My work relates to FOIA, I have put in—I can't even count how many—FOIA requests in my research for my own work, and also representing the concerns of the historical organizations that I work with and represent. And I joined the FOIA Advisory Committee because these issues are important to historians and other scholars and given my position, these organizations I felt like that I could represent their interests, as well as my personal interests on the committee.

CARRIE MCGUIRE >> Thank you, Andrew. [indiscernible]

LIZZETTE KATILIUS>> Yup, I'm here. Good morning, everybody. My name is Lizzette Katilius. I am at the Securities and Exchange Commission. And I am really on the front lines with FOIA. We my branch, I'm one of four branch managers here, the way we're set up, and first before I go on, can you hear me okay?

CARRIE MCGUIRE >> Yeah.

LIZZETTE KATILIUS >> Okay. So I oversee the all the intake of the requests here, we're a centralized program. And we have about 13, 14,000 requests per year.

So I see almost every request that comes in, as well as I have a staff that processes requests. So I love that. I love processes, and being involved in that.

So this FOIA Advisory Committee gives me great chance to listen to other ideas for, you know, feedback and input from obviously the government side, but the requesters' side as well, to try to implement, you know, any or identify any best practices that we could try to do here. As well as share what we're doing with my colleagues on the committee.

CARRIE MCGUIRE >> Thank you. [indiscernible]

GINGER MCCALL >> Hi, this is Ginger, should I go next?

>> Yes, please.

GINGER MCCALL>> Okay, great. My name is I'm sorry. Did is the volume the audio sounds very low for me.

CARRIE MCGUIRE >> No, we can hear you though, Ginger.

GINGER MCCALL >> Okay.

>> Okay.

GINGER MCCALL >> I will mute.

GINGER MCCALL >> Yeah, I don't know what I can do on my end, I'm speaking into my phone directly. But I can speak up a little if that helps.

>> [indiscernible]

GINGER MCCALL >> Can you hear me a little bit better now?

>> Yes.

GINGER MCCALL >> Okay, great. My name is Ginger, McCall, the Public Records Advocate for the state of Oregon, which means I'm working largely with Oregon's public records law. I have three basic duties under that law to provide alternative dispute resolution between requesters and government agencies, state agencies, as well as local agencies. To provide training on Oregon's public records laws and also provide training on FOIA to the public. And to work with an advisory council that's actually very similar to this committee in composition to try to come up with proposals for changes in policy and law that will improve the functioning of Oregon's public records law and improve transparency in the state. But I started off my career, I work for six years for the Electronic Privacy Information Center where I was making

Freedom of Information Act requests and litigating them in Federal Court here in DC. Then after that I worked for the U.S. Department of Labor for almost three years defending FOIA lawsuits in Federal Court. So I've been on both sides of the aisle there. Which I think is a big part of the reason why I wanted to be on this committee, I've been on this committee for two prior terms for serving as a representative of the government and then serving as a representative of first serving as representative of the requester community and then as a representative of the government. And I really enjoyed the work of the committee. I think there's a really meaningful opportunity here to make proposals that will have an impact and will really improve a law and a process that I care a lot about. And I think I also have a unique perspective because I've been both a requester and someone on the government's side.

CARRIE MCGUIRE >> Great. Thank you very much.

GINGER MCCALL >> Thank you.

CARRIE MCGUIRE >> And [indiscernible] join us (too low to hear).

CHRIS KNOX >> Good morning, this is Chris Knox, first I apologize for not joining in person, but my schedule simply wouldn't permit it this week. I'm forensic managing manager with Deloitte risk and financial advisory. Technology and analytics background, focus on disclosure and transparency within federal, state, and local agencies and higher education. I joined the FOIA Advisory Committee because I'm passionate about innovating FOIA disclosure and transparency through the use of technology and process efficiencies, in other words, to do more with less. And I appreciate the time to join the meeting today.

CARRIE MCGUIRE >> Great. Thank you. And thanks to those who joined us on the phone. We'll make sure you're also [indiscernible] in the brainstorming [indiscernible] so we're going move now to the committee members who are in the room. Michael I'm going to start with you because I can read your name tag from here. So we'll have you start. Thank you.

MICHAEL MORISY >> I'm Michael Morisy [indiscernible] (very far from mic).

>> Yeah, please.

>> Thank you.

MICHAEL MORISY >> I'm Michael Morisy, the co-founder and chief executive of MuckRock, nonprofit based in Cambridge, Massachusetts that produces open source software that helps people file, track, and share public requests. About 40% of our work is with the federal Freedom of Information Act, 60% is state and local records. And we serve about 30,000 users directly, requesters and news organizations, nonprofits and just sort of ordinary citizens who are trying to better understand government. And we produce sort of informational resources that are accessed by millions of people each year.

We I'm also a not here in an official capacity, but also serve on the boards of the American Society of Access Professionals as well as the National Freedom of Information Coalition, the former of which is an organization of FOIA professionals and the latter is state and local focused public records organization.

And I joined the FOIA Advisory Committee because I want to ensure that we're setting the framework for a FOIA that works for everybody. One that is responsive to

sort of changing expectations and needs but also one that works for ordinary citizens without access to legal expertise or deep pockets or infinite time. I also believe it's important to build a Freedom of Information Act ecosystem that provides the resources and respect that hard working civil servants need to actually do the job that's important to keeping an informed democracy.

So I'm really looking forward to working with this committee to provide that and to chart a course to make sure it continues to work for everybody.

CARRIE MCGUIRE >> Thank you.

SUZANNE PIOTROWSKI >> Great. Hello. Suzanne Piotrowski, Associate Professor at Rutgers University in New Jersey. I'm also the Director of the Transparency and Governance Center there. And what I do with FOIA, I research FOIA and have sort of a history of researching FOIA. And I use FOIA in my research, so I also file FOIA requests as part of my research. And importantly, I teach students and I teach them about FOIA and that's something I'm interested in talking some more about too, raising awareness there. And so I joined the FOIA Advisory Committee because I fundamentally believe in transparency

as a value, and if I can help in some small way to improve FOIA implementation, I'd be thrilled and, you know, to learn from all of you.

CARRIE MCGUIRE >> Thank you.

SUZANNE PIOTROWSKI >> Thank you.

BRADLEY WHITE >> Good morning, everyone, I'm Bradley White, I'm the FOIA officer for the Department of Homeland Security's Office of Civil Rights and Civil Liberties, I have a unique position where I'm also co-located in the DHS Privacy Office, which is the DHS headquarters FOIA office. And I do nothing but FOIA in my entire federal career. Right now I focus on the Privacy Office primarily on litigation. I also have had the opportunity to conduct a lot of FOIA training for DHS senior leadership and all of my office in CRCL. And I joined the FOIA Advisory Committee in part just because I'm a FOIA nerd, I love this stuff!

[Laughter]

And I want to learn as much about my job and my career and my field as I can and also the opportunity to influence it and learn and find new ways to make our job more efficient. As you know, or most of you should know,

DHS has the largest FOIA caseload in the entire federal government, and anyway we can make that process more efficient, to get through those FOIA requests to lower the backlog and to have a better relationship with the requesting community that we serve, I'm here for.

CARRIE MCGUIRE >> Great. Thank you.

ABIOYE MOSHEIM >> Hi, my name is Abi, I serve as the Chief FOIA Officer at the Consumer Product Safety Commission. I also work on records, management and privacy and see how all of those things are related. I was hired to improve the workflow, all of the processes in the FOIA department at Consumer Product Safety. And put out fires. And coach a specialist and I really love what I do. I joined the committee because I want to help improve the process and I think the work that the committee does is great and I just wanted to be a part of that.

CARRIE MCGUIRE >> Thanks.

TOM SUSMAN >> Good morning. Tom Susman in governmental affairs at the American Bar Association. And my work doesn't really relate to FOIA as much as my life relates to FOIA.

[Laughter]

I started giving advice to agencies from the Justice Department in 1968 doing oversight and legislative drafting during the '70s from the Senate Judiciary Committee. Litigating, advising clients, debating throughout the '80s and '90s when I was in private practice. And now mostly working with nonprofit organizations here and abroad to expand transparency. And so this is a continuation of what I am passionate about and when you're my age, you'll be a real nerd.

[Laughter]

SARAH KOTLER >> I'm Sarah Kotler, I'm with the Department of Health and Human Services Food and Drug Administration. I am a FOIA officer for the FDA, so I'm basically 24 hours a day FOIA all day, all the time. Like literally it wakes me up at night.

[Laughter]

So that's how my job relates to FOIA. And the reason why I joined the committee, and I did serve on a portion of the last term, I had taken the position of someone who left the committee, is I wanted to be

involved this time from the beginning of the term, but also FDA is a little bit different or has some different issues than some other agencies in that we're a non-cabinet level agency with a very large FOIA program, we get about 11,000 FOIA requests per year, we also have a primarily commercial requester base, and a very sophisticated requester base. And our records are highly scientific and technical and filled with all kinds of confidential commercial information and trade secret information, which means that I we have some issues that others aren't always dealing with and it's important to me that those types of issues aren't forgotten when we're talking about FOIA in general. So I would like to make sure that our voice is heard.

JASON R. BARON >> I'm Jason Baron. I spent 33 years in the federal government, including at the Justice Department, civil division, federal programs, with Alina, as well as 13 years as director of litigation here at the National Archives. So in that time I was lead lawyer in the White House email case known as Armstrong versus EOP, involving Oliver North's records and during my time both at Justice and NARA was involved dozens of FOIA lawsuits

defending. Now at Drinker Biddle and Reith, where I've been for the last five years, I have actually filed my first FOIA request. And it was denied.

[Laughter]

And we are waiting on appeal.

So I have an interest in on behalf of commercial requesters now in how FOIA works. I'd like to say that I joined the committee for two reasons: One is to try to help expand on and implement archivist David Ferriero's vision, he has said that record keeping is the backbone of open government. And I'd like to have a discussion in this forum about more tightly integrating the goals of the Federal Records Act with the Freedom of Information Act.

Because I think that will advance the FOIA purposes of this committee. And secondly, because I've been a discovery lawyer, I have a few views on using technology to advance the purposes of FOIA, and I'd like to have a conversation in this committee about that as well.

MELANIE PUSTAY >> I'm Melanie Pustay, the Director of Office of Information Policy at the Department of Justice. I've been the director for over a decade now.

To my great great source of pride to me. I have worked in FOIA many years before that. So I like all the people who have introduced themselves so far, I'm completely passionate about FOIA and like nothing better than to be sitting next to people who are self-professed FOIA nerds or FOIA geeks, so to me this is just a perfect place to be. Because my job is to encourage compliance with the FOIA, obviously that's the number one reason why I am happy to be serving on the committee.

>> [indiscernible]

ALINA SEMO >> Okay. I guess I have to introduce myself too.

CARRIE MCGUIRE >> Yes.

ALINA SEMO >> My name is Alina, I am the Director of the Office of Government Information Services. Jason alluded a little bit to my résumé. I started in the Department of Justice in 1991 in Federal Programs, Civil Division. Jason and I worked on some email related cases. And after that I spent almost 15 years at the FBI. I stood up the FOIA units, the FOIA litigation unit there. And left and followed in Jason's footsteps, I just can't seem to escape him, and took over as the

Director of Litigation here in the Office of General Counsel at the National Archives and I became director thanks to David in December of 2016.

So of course I have sort of a cute pat answer as to why I want to join the FOIA Advisory Committee, because I have to.

[Laughter]

It's in the charter and the bylaws, I don't think I have much choice, but like everyone else I've been working with FOIA for a long, long time. I actually failed to also reference my long time relationship with Melanie, I started out when I was in law school as a law clerk as OIP. I was there for a year and so Melanie and I were colleagues, yes, I was just a lowly law clerk, but she was an attorney there. So I've been in the FOIA all my life, I can't keep escaping it somehow. I also want to take the opportunity to read some responses that we got from Lee Steven, who is our twentieth member, who unfortunately was not able to join us today. He is from Cause of Action Institute. And I asked him if he could share with us a little bit about what he does, and I'm just going read his email, if you don't mind. We are

nonpartisan, nonprofit government oversight organization. And among our goals we work for greater government accountability and transparency. With our primary focus being on federal agencies.

He says that he hopes that his work with the committee will help further those goals, as well as give him greater insight into agency side of the FOIA process.

So with that, I'm going to turn it over to pass the mic down.

JAMES JACOBS >> Hi, I'm James Jacobs, I'm the government information librarian at Stanford University. And my work relates to FOIA in that I support researchers, faculty, students and our local community in accessing government information in all its guise that includes public information as well as archival records.

Many people come to me not thinking that they're looking for archival records, and that's when I have to discuss about FOIA and so I joined the Advisory Committee so that I could learn more about the FOIA process from the agency side of things so that I could give better

public access and better public information to the FOIA requesting process.

I also have a side interest, I guess, in free government information, I'm a blogger for free government information, and free is both an adjective and a verb in my case.

[Laughter]

So I like to also collect FOIA'ed information. I harvest web based FOIA information and try to make that more publicly accessible.

JOAN KAMINER >> Good morning, my name is Joan, I'm an attorney advisor with the Office of General Counsel at the Environmental Protection Agency. And I mean also a FOIA lifer. My job entirely revolves around FOIA. Primary I handle FOIA litigations for at the agency counsel. I also provide counseling on information law related issues such as confidential business information and controlled and classified information. As well as records management.

My office we also handle FOIA appeals, so we're all about FOIA.

I joined the FOIA Advisory Committee because I think we all see a dramatic increase in both the number of FOIA requests as well as the volume of records that agencies are dealing with. I think it's important that the FOIA committee both from the government side as well as the requester side continue to adapt to this changing landscape and in order to adapt you have to have a seat at the table, so that's what I'm doing here. So thank you.

CARRIE MCGUIRE >> Thanks.

>> Hi, I'm Kevin Goldberg, and I am here as I assume the legal counsel for the American Society of News Editors, which is one of my titles. I'm actually an attorney in private practice for a law firm called Fletcher, Heald and Hildreth, but I am the sole legal counsel to the nation's largest trade association for news editors which is about to get larger and I spend if not a plurality usually a majority of my time every week on their matters, which of course includes FOIA.

You cannot work for an organization for 22 years that is comprised of editors without doing a lot of FOIA work, and it is also a personal passion, and I think it's

impossible to go to a college and law school named after founding fathers and not be interested in government transparency, the First Amendment, free speech and journalism. And that is sort of why I joined the FOIA Advisory Committee. I do believe in FOIA, I believe in journalism, and I believe in journalism and FOIA working together. I think both have a lot to offer each other. Obviously FOIA have a lot to offer journalists, I think I can help be a conduit between the two. A large part of my work is talking to and even training reporters and editors around the country, and students, on better use of FOIA, and I'd like to take what they have to say and bring it here. And bring what we have to say and take it to them as well. Thank you.

CARRIE MCGUIRE >> Thank you.

PATRICIA WETH >> Hi, I'm Patricia Weth and I'm deputy assistant general counsel at the National Labor Relations Board for the FOIA branch. My work is I oversee the FOIA branch. We handle requests, appeals, and also assist with FOIA litigation. I'd like to say it is such an honor for me to be on this committee and I'm thrilled to be here and work with each of you in this important

work. The reason I joined, wanted to join the FOIA Advisory Committee is because I'd like to contribute to this united goal of improving the FOIA. You know, we all know that there's problems here and there, but the idea to come up with solutions together I think is huge, and I look forward to working with you.

>> Hello. My name is [indiscernible] [away from mic] my name is Emily, I'm a deputy director at the American Immigration Council, I'm thrilled to be here. My work involves FOIA in that we have seen and I hope are meeting a growing need amongst immigration lawyers on behalf of their clients and the pro se community, so noncitizens who are not represented to better understand the FOIA process. And that is immigration lawyers for litigating FOIA, submitting FOIAs, litigating FOIAs but who are also very interested in the implementation of FOIA. So while we talk about the law quite a bit, I think that what we're very much interested in and better understanding and part of my reason for being here is to see how FOIA is implemented in the process and how to improve the process. My office was involved in a class action lawsuit that did affect

the backlog with CBP, so I will take Bradley aside later, we can discuss DHS FOIAs, and so most of our FOIAs and our FOIA work involve immigration agencies or agencies that touch immigration. And so it's very vital work for immigrants who in many cases have no other way of understanding what the government knows about them, except through FOIA. It is the de facto discovery process for non-citizens and removal proceedings. So it's very, very important. I think that the American Immigration Council and other big, national nonprofits understand the importance, but I think the noncitizen who otherwise is not represented I also feel like I'm here on their behalf as well. So I think that pretty much covers it. Thrilled to be here.

RYAN LAW >> Good morning, everyone, my name is Ryan Law, deputy assistant secretary for private transparency and records at the Department of Treasury. My role, I oversee a team of employees, do a number of things, including the treasury library, the privacy team, a records team. We also have our FOIA team, which is responsible for the general oversight and management of FOIA at the Department of Treasury, including its

bureaus. I'm also a lifetime FOIA person. I'm also a self-professed FOIA nerd, I love the stuff. So I joined the committee because I believe in FOIA and what we're trying to accomplish here and really wanted to personally be involved in the future of this great law. But also I couldn't pass on the opportunity to represent hard working FOIA professionals at the Department of Treasury as well. So look forward to working with all of you.

CARRIE MCGUIRE >> Thank you, everyone, for your combination of brevity and openness. I think we have a good sense now of the different perspectives that you all represent. It's a really wonderful opportunity today to hear from you and to get to know more about where you are coming from.

So at this point we are going to start to move into our first brainstorming session. And we're going to begin our work today by collectively building a vision of sort of an ideal FOIA that works in the way from your perspective. So the way you would like it to work.

So we're going to get to obstacles in a few minutes, but begin by talking about what could work in an ideal world; what an ideal FOIA would look like.

So in front of you, you will find a pad of sticky paper and also a black marker. So go ahead and grab those and what we want you to do is respond to the cue "I want a FOIA policy or process or law that is ..." and that's the part you fill in.

So we want you to take a few moments to write down a couple of ideas on different sheets.

And folks on the phone, we are going to include you as well. If you could please email your ideas to Kirsten, whose email address you have, that would be great. So let's go ahead and respond to this cue, "I want a policy, process, or law that is..."

Once you have filled out a couple of sheets we will be moving over to the big board over there. I will meet you over there. And you can put your sheets up there. So we're going to have about five minutes to do this first session.

[Silence]

(Talking in the background).

CARRIE MCGUIRE >> I think we have one more coming in on the phone.

Sorry to kick you out of your seat, Tom.

Okay. So maybe not in a surprised anyone who is FOIA nerd, efficiency is far and away our greatest goal. The idea of looking at resources is a little woven in here as well. So the idea of a FOIA that is realistic, efficient, fast and proactive is a very brief summary that I like very much. Thinking about efficiency in dealing with specific types of records, such as historical records and up here so we're all thinking about efficiency and how it serves all sides, right? So both government and requesters.

Over here we had a few people touch on the idea of resources and also fairness. So thinking about a FOIA that balances the needs of both agencies and requesters and even ways that requesters and agencies can sort of work together to come up with some new ideas. I like this one as well, easy to understand by non-lawyers. Something to strive for in FOIA.

There are some calls toward sort of law, ideas dealing with the law. Real—having a FOIA that's realistic. So calls to take a look at the 20-day time limit. Consistency across agencies, consistency in the following process and in response so looking across

agencies and saying what can be standardized. And I sort of grouped records in there as well. So looking at how to define a record, making that consistent. And then sort of tucked in here in the side something we all talk about a lot, which is the idea of FOIA is for everyone. So thinking about a FOIA that's embraced by all employees, not just FOIA employees, but all federal employees.

Transparency, helping the public understand, sort of in the middle. So again balance between the needs of federal agencies and the needs of requesters. And then we get into process. So technology, we have some calls for better use of technology, technology, human machine readable technology, and how that sort of bleeds into the idea of sustainability.

So we have a pretty strong vision to start with of what FOIA could look like in a perfect world. And I think it's pretty reflective of a lot of what we've heard from our folks today.

So have we Kirsten, we've gotten the feedback of everyone who is not with us today? All right. So any questions about this so far? Or ideas that anyone wants

to elaborate or feel like I did not cover your own contributions and want to speak more to them?

>> [away from mic]

CARRIE MCGUIRE >> Alright, so at this point would you like to take a break or just keep going? Yeah, I think before we get into the second brainstorming session I think we've listened a lot, it might be nice to get up and stretch our legs.

And so in the second round what we're going to be talking about is more of the obstacles, so we will get there.

ALINA SEMO >> Let's take a 15-minute break. It's now 10:55. Let's try to come back by 11:10. Just a reminder we have the Charters Cafe downstairs if anyone wants snacks or drinks. For those in the audience, restrooms are outside the auditorium and also by the Charters Cafe. So let's take a break. Also remember mics are still on for everyone.

(15 minute break).

[Beeping]

CARRIE MCGUIRE >> We're ready to get started again on brainstorming. All right. Thank you all for the

vision that you created and shared in the first round of brainstorming here.

Just to kind of re-summarize where we ended up in our vision of a FOIA that works: We collectively created a vision of a FOIA that is efficient, that is realistic, that is consistent, that is balanced, that is prioritized, and that is efficient. So that is as we put our heads together, that is where we sort of shook out on what the FOIA could look like.

But at this point as we move into our second round of brainstorming, we're going to consider some of the obstacles that stand between this where we are now and this efficient and consistent and prioritized, et cetera, vision of FOIA.

So this second round of brainstorming is going to look a lot like the first. We're going to again take out our little sticky pages and use those black markers again and at this point we are going to respond to the statement: "A challenge in FOIA is..." So we'll write those up and then there's another board that I'll pull over for us to put them up.

Again, those on the phone, email your ideas to Kirsten, we will make sure they get on the board, and also Alina received responses from Lee, so we'll make sure his responses are on the board. And I also wanted to mention, we have a few members here who served on the previous committee or committees, and this is and then those of us who of course read the reports from those committees. And if there are loose ends or items that you feel like need to be picked back up from those committees that we should be sort of looking at here to resolve in this current committee, this is a great time for you to re-share those, you can put them on a Post-it. I just ask for my benefit that you put a star on those if it's something carried over from a previous committee so we can kind of pick them out more easily.

So go ahead, write up two to three responses. I'm going to pull over the other board. And again, we will put your responses to the phrase "a challenge in FOIA is ..." up on the second board.

[Silence]

CARRIE MCGUIRE >> Good job, everybody, we're getting our steps in today.

All right. So here's how this is going to work: I want to tell you a little bit about the challenges that you all came up with. And then we're going to talk about what we're going to do after this, narrow this down.

So you all had a lot of great ideas, it was an interesting challenge to put these into groups, but basically what we came up with was, first of all, the idea of resources. So you see some dollar signs over here, possibly not lots of them, in fact, maybe not surprising. But then other types of resources that were discussed: Staff, technology. Retaining staff, not just hiring staff. And then kind of a twist on that, agency unwillingness to move away from simply throwing more staff at the problem. Right? So a little twist there. So resources being a big one.

I broke time out from the idea of resources, though it is a resource, because boy are you all passionate about time right now. So time in terms of the challenges faced by agencies with increasing volume of both records and requests, but then also the issue of requesters waiting longer and longer for responses or feeling like

time is a deterrent to filing requests. So time sort of gets its own its own category here.

Including email, right? So the proliferation of email sort of being a factor in here. And creating some obstacles for the system.

Down here we have a little bit about agency leadership and vision. So making sure that agencies see FOIA as a priority and the challenges that come with that not being a factor.

Education is another factor that we heard quite a bit about. Interestingly, both education well, from sort of three different sides, education of folks working in FOIA, education of agency people who have FOIA as part of their job as they all do, but perhaps are not as versed in it as would be useful. And then education of requesters. So better understanding in requester community of some of the realities of FOIA.

Records management. A few items over here. Knowing what records are collected and available. Thinking about proactive disclosures. Ensuring that electronic records are comprehensively and effectively searchable in response to FOIA requests. And then finally we have

communications and training we talked about this one. Prior recommendations, following up on prior recommendations from this committee and others, I think Alina is going to talk a little bit more about that later. And then technology.

So thinking about FOIA websites, how they can be organized better. Search capabilities and how to maximize those. And collecting responsive records from program office custodians, kind of put that in there as well.

So where we're ended up is with these sort of broad categories, I want to ask now for those of you who filled out slips, are there do you feel like is there a slip that you created that you feel like is not reflected in these categories? That sort of is a that I didn't see that is sticks out? Okay. So these categories yes, Alina?

ALINA SEMO >> I think I have maybe the lone suggestion of

CARRIE MCGUIRE >> Oh, good.

ALINA SEMO >> It's up there, Congress and the judiciary should be subject to FOIA.

[Laughter]

ALINO SEMO >> I want a change in the law.

CARRIE MCGUIRE >> Yes. And I'm glad you said
that

ALINA SEMO >> Like every our country.

CARRIE MCGUIRE >> It reminds me, there was another,
I saw political influence also mentioned in our previous
round in terms of a vision for a FOIA that is free of
political influence. So here we have minimizing political
influence.

So these are the categories that we have. Right now
Kirsten is creating more Post-its that reflect these
categories, and we if there is no discussion at this
point, if everybody's happy with the categories we have,
I want to make sure you know that

ALINA SEMO >> Can we pause for a second? Just ask
the folks on the phone if anyone has any comments on the
phone? Also this is my opportunity to say that Andrew
has had to sign off.

CARRIE MCGUIRE >> Okay.

ALINA SEMO >> He had to go teach class. And I don't
think he's rejoining us today. But we'll fill him in.

But Ginger, Chris who else is on the phone? I'm sorry.

>> And Lizette.

LIZZETTE KATILIUS >> No, I'm good, Kirsten captured mine.

CHRIS KNOX >> I'm good as well. This is Chris.

GINGER MCCALL >> This is Ginger, she got mine as well.

>> [away from mic]

CARRIE MCGUIRE >> So for those who might be watching from home, the question was about the standardization of information on of released records, perhaps?

>> [away from mic]

CARRIE MCGUIRE >> On agency websites. Okay.

>> [away from mic]

CARRIE MCGUIRE >> Great. Thank you. So we did have something on FOIA websites yeah. Okay. So what we're going to do at this point is vote on these on these topics. And so what we've done is put these broad categories on Post-it notes. This is the point where we're going to kind of try to create some consensus

around which subcommittees we want. So we're looking to sort of weight these topics.

But don't worry about we're not going to lose the granularity of your comments on the previous side. When these subcommittees form, we'll be providing that detailed information to the subcommittees so they can see your thoughts on that. So even though we've sort of taken this up a level, we're not going lose what you came up with in that previous round.

But as I said, we have these categories, technology, education, political influence, prior recommendations, resources, time, volume of records requested, agency leadership and vision, communications and training, remember, that's kind of both sides, right? And records management.

So in your yes?

>> [away from mic]

CARRIE MCGUIRE >> So what we

>> [away from mic]

CARRIE MCGUIRE >> Let me speak back and take a look.

>> Yeah. [indiscernible]

>> [away from mic]

CARRIE MCGUIRE >> I think we can group them. Yeah.
Great.

>> Say group them, yeah.

CARRIE MCGUIRE >> Thank you, that's a really
good feedback. So let's put these together.

>> [away from mic]

>> Great, yup. Those two, yeah. All right.

Thank you!

So that brings us down to seven, which is
great. All right. So among your things you will see red
dots, and they are little stickers, and what we're going
to have you do is, again, approach the easel and place
your dots next to the issue or issues where you believe
the committee should really focus its work through
subcommittees.

So you could choose five issues, you have five dots,
zero or if you're really committed to one of them, you
can sort of weigh your votes as you see fit. Right?

So folks on the phone, we're going to ask you to
send your virtual dots to Kirsten and she's going to put
them up there. So the only thing we ask is just to if
you can, keep them on the Post-it rather than on the

board. So at this point I'm going ask you to come up.

Yeah, Kevin?

KEVIN GOLDBERG >> There are six dots

CARRIE MCGUIRE >> Does everybody have six?

ALINA SEMO >> No, just the way the rows were, I'm
sorry.

CARRIE MCGUIRE >> Okay.

ALINA SEMO >> I was cutting last night

KEVIN GOLDBERG >> So just for clarity how many do we
have?

ALINA SEMO >> You can have six.

CARRIE MCGUIRE >> Let's do six.

ALINA SEMO >> Let's do will six.

CARRIE MCGUIRE >> Early and often.

>> [indiscernible]

CARRIE MCGUIRE >> We got lots of categories, you got
lots of dots.

JAMES JACOBS >> And Carrie, to be clear, you can
vote for one something multiple times.

CARRIE MCGUIRE >> Put all eggs in one basket if you
wish, or spread it out, however you see fit. So we will

give you about five minutes to do this voting and then we will see where we end up.

[Silence]

CHRIS KNOX >> Excuse me, Carrie, this is Chris Knox. Is it possible for those of us on the phone, can you read back through the categories real quick?

[Silence]

(Background conversations).

CARRIE MCGUIRE >> Okay, we had a request from folks on the phone to reread the categories. So we have technology, resources, which is kind of a money and staffing thing, time or volume of records requested, and again, time can include the length of time it takes to get a response or time in terms of agencies facing increased volume and back logs and those sorts of things. Agency leadership and vision, which we combined with this idea of political influence. Records management. Prior recommendations, and another super group of communication/training and education.

So we're just yeah?

>> In terms of the prior recommendations are these reflected in the prior recommendations to a certain

extent? Would that be helpful, if some of these other categories are reflected there?

CARRIE MCGUIRE >> Alina, are you going to address that? Did everyone hear that question? The question was did the prior recommendation, are they any of these reflected in the prior recommendations.

ALINA SEMO >> I can certainly also look to my other colleagues who were on previous committee. I think there is definitely overlap. That doesn't mean that there are not carryover issues that need to be looked at, and I know Tom was going to address that at some point a little bit down the road just to make sure we kind of weave in leftover topics that perhaps the prior three subcommittees did not have a chance to address.

So

EMILY CREIGHTON >> I think one of them was agency resources.

ALINA SEMO >> Uh huh.

EMILY CREIGHTON >> So...

>> [away from mic]

[Beeping]

[Silence]

CARRIE MCGUIRE >> Are we waiting okay.

[Laughter]

ALINA SEMO >> By the way, good job, everyone, for following directions and not putting the dots on the whiteboard, because we had to borrow it from innovation services upstairs.

CARRIE MCTUIRE >> Yeah. And

ALINA SEMO >> [indiscernible] can't get them off maybe, it would wreck the board.

CARRIE MCGUIRE >> And thank you to everyone at home for sort of watching online, sort of bearing with this process. [indiscernible]

CARRIE MCGUIRE All right. So, wow! So now we have a three-way tie. Interesting. All right. So I'm going to sort of go over what we voted on here. So technology was number one, with 21 votes. We then have a records management has 17. We then have a three-way tie between resources, agency leadership and vision and political influence, communications, training, and education.

Then time/volume of records requested and finally, prior recommendations.

Did I cover them all? Yeah. All right.

So Alina?

ALINA SEMO >> Yes.

CARRIE MCGUIRE >> Are you ready for me to turn this over to you to sort of further narrow it down or how would you like to handle this?

ALINA SEMO >> Sure. Yes, I'm happy to do that. I would like to have Tom just talk briefly, I know he had talked to me about this at the break, just to cover some topics that we thought were sort of leftover. And I just want to invite everyone to think about whether these topics end up being generally what you're interested in working on, if it's reflective of what you came here to do. Because I think that's obviously very important.

So we don't want to leave anyone out. So Mr. Susman.

TOM SUSMAN >> So thank you. A couple observations that I started last Advisory Committee sort of semi-obsessed about the fact that there had been no progress over the course of the full two years on the previous Advisory Committee's recommendations. And so I've talked to a number of OGIS staff about and I think while they're I didn't even vote for the proposal of prior

recommendations because I think that should be built into a report each time we meet about what's going on. The Archivist mentioned that there's a plan implementation plan in his opening statement, so I think that that's in fairness to our colleagues who went before us, it would be good to have a doesn't have to be lengthy, it could be in writing, but something that maps out where we are on specific recommendations. So I want to set that aside.

ALINA SEMO >> I will be happy to do that.

TOM SUSMAN >> It also seemed to me that some of the we spent a lot of time in the earlier committee on the subject of searches. And that really is bound up here with technology, with the resources, with the time and volume. And so I have in some ways we are deconstructing the search, and so I think a lot of those things are going to come back to sort of echo. There are I guess a couple of other thoughts in reading some of the materials that have come out since the report, OIP had an end of year record. GAO had a report on FOIA. And a couple of things struck me. And I don't know where they fit in here, but I made a list of things that bothered me. One was the keeping agency regulations current and sort

of every time there's a report 64 out of 80 agencies surveyed have implemented the 2008 law. What happened to the other 16? Or the same with OIPs, you know, we found a you know, 85% compliance with our guidance on such and such. I mean, that always leaves me with a, wait, these are government agencies, these are laws, or these are recommendations, they may not be binding, but they're obviously important to the public, and why is there no accountability or consequence for agency failure? And that to some extent may fall within the agency leadership arena that maybe agency leadership or enforceability or something like that.

I also personally am a great devotee of OGIS. I was there actually not just at the founding but making recommendations for its creation in the early '90s, and I think this committee, it's not on there, but this committee might consider trying to take a close look at OGIS and make some recommendations about how to strengthen its activities that's one area where I think the under lying law we could address. I wouldn't approach addressing FOIA to the Congress or courts or things of that sort, but I think OGIS spends its life trying to

help and look at other people and assess and evaluate and mediate, and we might be helpful being able to assess and evaluate and make recommendations relating to OGIS. And I don't know that that falls anyplace on there.

ALINA SEMO >> I did not pay him to say that. Just want to make that very clear.

[Laughter]

TOM SUSMAN >> Two other quick things. You know, the FOIA Public Liaison officers probably falls also maybe within the agency leadership, it's just unclear I mean, they're there, they have to be what do they do? How do they do it? Do they do how can they be more helpful? Maybe I just am uninformed about that, but seems to me we're missing out by not knowing more about how they could be empowered.

And I have probably a half dozen more, but I'm going stop there for now, because I think part of the challenge, which Alina suggested, is taking some of these issues and fitting them into subcommittees that have broader themes that people think is a good idea. And just for your information, in the last committee, we had a proactive disclosure subcommittee. And but we focused

a lot of time and energy on Section 508, accessibility, as being a possible barrier to proactive disclosure. So that's sort of a model which Sarah knows well of how to take a broader issue and say, wait a second, we have something here that really requires special attention and carved out sort of a sub subcommittee who took a look at that. So that's thank you for allowing me to vent.

ALINA SEMO >> Thanks very much. I just want to let Melanie, Sarah, and Chris, if they want to comment?

MELANIE PUSTAY >> Yeah, thank you.

ALINA SEMO >> Sure.

MELANIE PUSTAY >> I just have one an easy, response, Tom on FOIA Public Liaison. There are several things we have on FOIA on the national FOIA portal, all the FOIA Public Liaisons are identified for every agency and every component of every agency. And OIP also has issued guidance on the duties and responsibilities both of the liaisons and the FOIA Requester Service Centers. So what those the job, the functions of those two resources are set out in our guidance. And then we also ask agencies and the Chief FOIA Officer reports include the number of times an estimate of the number of times that their FOIA

Public Liaison has been used. So we do know a lot about FOIA Public Liaisons and [indiscernible] all those [indiscernible].

SARAH KOTLER >> I just want to say thanks, Tom, I agree with what you said. Especially that a lot of what we did discuss during the last session does seem to infiltrate some of these topics. Again, [indiscernible] long term issues that shockingly were not entirely solved for two years.

[Laughter]

So I'll look forward to revisiting some of those issues again.

ALINA SEMO >> Yeah, please.

>> [indiscernible]

ALINA SEMO >> Yeah.

SUZANNE PIOTROWSKI >> Okay. Suzanne Piotrowski. I was the one that put the prior recommendations up there because I was told to do homework. And I read. Right? And I was like, wow, what are we supposed to you know, like they covered a lot. And that was my number one sort of take away. And then I was looking and all these you know, other groups have made recommendations. And that

was what prompted that. And I'm not necessarily suggesting that that's a subcommittee to work on, but that's where that came from. I was told to do my homework, and I did it.

ALINA SEMO >> Completely appreciate that.

SUZANNE PIOTROWSKI >> Okay. And then I was just going to sort of I guess sort of piggyback on Tom's point about looking at OGIS and the Alina's point about maybe considering expanding the law. I think those could go into the top middle category, maybe, agency leadership vision political influence, politics around FOIA.

ALINA SEMO >> Chris Knox on the phone, or Ginger, do you guys want to weigh in?

GINGER MCCALL >> This is Ginger, I mean, I think we pretty fairly addressed a lot of things in our prior recommendations, including, of course, proactive disclosure inefficiency, but I don't think we really addressed the resources piece, which factors into the ability of agencies to buy technology, to hire additional staff, to deal with these high volume requests and so, I mean, I think that that is one that remains even after we had a resources inefficiency subcommittee last time.

ALINA SEMO >> Chris, did you want to chime in with anything?

CHRIS KNOX >> I'm actually going to second what Ginger just said. I do think that the we've made quite a few recommendations around technology and I know Jason referenced the idea of e-discovery technologies in his introduction. But we haven't fairly addressed the topic of affordability and honestly, the leadership level, the vision and funding for these types of activities.

ALINA SEMO >> Okay. Anyone else want to chime in with anything?

KEVIN GOLDBERG >> [away from mic] This is Kevin Goldberg. I think part of the problem is I'm looking at this I agree, one of the first things I ask even before I did the reading, has anyone looking back to what they did before. So I think that should be freestanding, the problem I'm seeing in sort of resolving these different categories is they aren't equivalents. So some are substantive and some are procedural. And I think we have to try to think about going one way or the other. Like technology is part of records management and it's also part of a lot of things. Resources as Ginger said a

moment ago is underlying all different things. So you can either look at it by having buckets that are, subcommittees that are substantively focused and will take on technology, resources, record management or look at the big overarching like procedural issues, and subcommittees of subcommittees that deal with the problems, we just have to figure out which is more important to us here.

EMILY CREIGHTON >> [away from mic] what would you call substantive, just because I think the way that we are all defining in our mind might be a little bit different?

KEVIN GOLDBERG >> I would say like I'm sorry. This is Kevin again. I would say records management is a little more substantive and technology is a little more sort of process. Or kind of in viewing all of them in a way.

ALINA SEMO >> Yeah, I'm not sure I totally agree with that, but, like, I can make arguments for both sides. So that's fair. Also I just want to say I think Tom alluded to this earlier, we formed the three subcommittees in the last term, but the subcommittees

were really kind of trying to explore, you know, within their realm what they wanted to look at. So and as it turns out there's a topic we didn't even come up with that occurs to that subcommittee as they move forward by all means. This is all about exploring and trying to about gain better understanding of each of the issues.

So I don't want to limit anyone. And that's not the purpose of this exercise. In fact, the contrary, was to try to funnel all of our ideas and merge them and try to come up with some themes that whether they're substantive or procedural that we want to roll up our sleeves and work on.

So any other thoughts, comments? Yes, please.

JOAN KAMINER >> [away from mic] Joan Kaminer. So can you revisit the more detailed challenges under the records management theme? Because similarly, I find that the technology in records management issues that I consider significantly overlap, but I wanted to make sure I had a better understanding of how we address them in more detail.

CARRIE MCGUIRE >> So under records management we have knowing what records are collected and available,

ensuring that electronic records are comprehensively and efficiently searched in response to FOIA requests due to either lack of awareness on the part of FOIA staff and/or a lack of access to available technology. So there's that intersection.

Collecting responsive records from program office custodian. I threw limited search capabilities down here, but it sort of bleeds over into tech.

Finding and using information that has already been released. Again, overlaps. Proactive disclosures in technology. So that's more breaches of PII, also in there.

JOAN KAMINER >> So based on that, I argue while not entirely overlapping, I think there is such a significant influence of technology in the records management area that it might be a little duplicative to separate them into two committees. I think that a single committee that possibly with the two subcommittees addressing various areas that would cover those two lists of concerns might be more appropriate.

TOM SUSMAN >> Someone probably has—Tom Susman. Someone probably has to answer the question for me,

because it does seem to me there may be at least two separate areas where technology would come into play, and I don't know whether we're talking about the same technology. One is records management, you know, here it is. The other is the I would say FOIA management. That is, a request comes in, what happens, referral out, redaction, disclosure review, and search obviously being maybe the most important one of those. So I don't know whether it's the same in the—Jason may know the answer—whether it's the same software that does both or whether you really need a continuation a continuum of technology to be able to when the record comes in later to be able to search it using artificial intelligence or whatever. I mean, these are all things I'm going to learn about in the next two years.

CARRIE MCGUIRE >> And, Tom, I would added that the outlier on technology there was FOIA websites, so kind of the outward facing technology. So just make sure we don't lose that as we kind of blend these things.

PATRICIA WETH >> Hi, this is Patricia Weth. So one thought that I had, because technology is so broad, and not just in the world of FOIA, but [indiscernible] we all

need technology. So looking at the categories, I mean, I think technology fits into many of the categories. And if I'm not mistaken in those who were on the committee last go around may be better to speak to it, but I believe they used technology as a component to discuss as a component for each of the committees. And because technology is so broad and there's so many areas where we use it in searching, in proactive disclosures, you know, in our communications, maybe that's a thought so each of the committees touch upon technology.

RYAN LAW >> If I could add, Ryan Law. Joan's point I think was very important about technology and records management overlapping. I think the next several years are going to be really important as agencies begin to implement NARA's direction on managing records electronically. I believe there's a goal of no longer accepting temporary records at the Archives, that agencies will be required to manage those temporary records. As agencies begin managing those themselves and not putting them on the shelves at NARA, most will be done electronically. So agencies likely are looking at technology now to manage those resources or looking at

existing technology to modify them in order to meet those goals. So any recommendations that we have in the next two years could have an impact on that. So think it's an important time to discuss that.

MELANIE PUSTAY >> This is Melanie. I thought I agree that technology is sort of a natural subset of any topic that we would discuss. Much so like rather than it makes sense to me as well rather than have it be a stand-alone topic, it's just integrated within a substantive topic to use that term.

But I also thought that in particular the makeup of this committee where we have several experts on records management and because we haven't really tackled in the prior committees the actual issue of records management, to me that seems like those two things together are really strong indicators that records management as a topic is would be a really important thing for us to address.

ALINA SEMO >> Yeah.

JASON R. BARON >> Jason Baron. I think it's a Venn diagram where technology and records management intersect, and I think we could construct a committee

that combines that intersection. What I have in mind, to pick up on Ryan's point, is that there's very important record keeping policies that are currently going on. There are three deadlines of the Archivist has put out. One happened already, on December 31, 2016, agencies were supposed to manage email electronically, and hundreds of agencies have told the Archivist that they are in the process of effectuating a capstone approach to email, which means that millions, tens of millions, hundreds of millions of emails are being preserved across the government under a capstone policy. We should talk about how FOIA officers can be aware of that phenomenon going on in records management, not treat it as a universe over here, but to integrate our conversation so there's greater awareness on the part of the FOIA community and the tools to do searches, which should not be siloed in an e-discovery community when lawyers are searching against those archives or repositories, we should have a conversation about the FOIA access issues to those repositories. And so I think that is one aspect of policy. I'll name another aspect, which is that we have all experienced, I think, the fact that we communicate on

a variety of electronic messaging platforms that go beyond email. And I have a great interest in having a conversation both about the records management implications of record keeping in the 21st century where government employees are talking on various applications way beyond email, some of which are self-destructing in nature, so pose a potential existential threat to government record keeping. So we should have that conversation as well as the conversation in parallel about how the public knows what the government is doing if it's communicating on electronic messaging apps that go beyond email. Those are aspects of technology and records management that intersect, and of course I will support Tom's point which is that I believe we should have a conversation about artificial intelligence and machine learning and advanced search methods as part of that conversation about how to implement best practices, both in FOIA and records management.

ALINA SEMO >> Okay. Any other thoughts?

ABIOYE MOSHEIM >> It just came to me in listening to people talk about records management, thinking about training the public. I think that would be it would

influence the amount of time and resources that are taxed if people knew how long agencies had to keep records when they put in requests for any and all records going back to the beginning of time if they knew that certain records are only kept for seven years and then they're destroyed, knowing that, you know, off the bat, that might improve the process a lot. So records management and how it intersects with education and communication, even posting it on websites, like putting your records schedules out there on websites for people to know when they go to your FOIA page before they even make a request. I think that would be helpful.

ALINA SEMO >> Okay. Anyone on the phone want to add anything?

[Silence]

ALINA SEMO >> Okay. We lost one person [indiscernible] she'll be back. Okay. So Carrie, now are you turning it back to me?

CARRIE MCGUIRE >> Alina, I'm going turn it back over to you.

[Laughter]

ALINA SEMO >> I'm just clarifying, I want to make sure. Can we give a round of applause to Carrie? I think she did a really great job. Thank you, Carrie.

[Applause]

ALINA SEMO >> So what we would like to do at this point is the try to drill down and pick some subcommittees, guys, I think it's time. I'm sure everyone is already chomping at the bit to volunteer to be a co-chair. I know you've already been thinking about this as well. That's why Emily probably left.

[Laughter]

And folks on the phone, of course I'm going to invite you to do the same. We can take a voice vote, if that seems to be the most amenable. We can honor the votes that have already been taken by using the red dots. I'm very open to suggestions. What does everyone prefer to do?

I need a motion.

JOAN KAMINER >> So prior to taking a vote, I mean, maybe a pre vote I'm not sure how it works, the proposal to integrate the technology, technology aspect into the

committees as opposed to a stand-alone, is that a decision that should be made ahead of time or as

ALINA SEMO >> That's a good idea. Do you want to move? Can I have a motion?

JOAN KAMINER >> What do I say?

MELANIE PUSTAY >> Yeah, we're pretty relaxed about how you do it.

JOAN KAMINER >> I want to move to

JOAN KAMINER >> I move to strike the technology as a separate category and with the understanding that it would be integrated into the committees when designed.

ALINA SEMO >> Okay. We don't need a second, but if anyone wants to second, because they just feel the need thank you! So let's take a I'm sorry, Tom?

>> [away from mic]

ALINA SEMO >> I want to just say also with the understanding that each of the subcommittees will consider technology. Right? As part of their work. Is that is that fair to say? Okay. Jason, is that

JASON R. BARON >> I put my six red dots on records management, not technology, so

ALINA SEMO >> Okay, then it's all good.

JASON R. BARON >> With the understanding that it would be integrated. So I'm on board.

ALINA SEMO >> Good. All right.

MELANIE PUSTAY >> We need to vote before you do it.

ALINA SEMO >> That would have been terrible!

MICHAEL MORISY >> This is Michael

ALINA SEMO >> For everyone who's seeing this at home, Tom just struck technology as one of the categories. Mike?

MICHAEL MORISY >> So I know a few people talked about using machine learning, artificial intelligence and other sort of advanced technologies. Do people who kind of submitted those feel like they those kind of more forward-thinking approaches to using technology employed fit into other categories or do those...

JASON R. BARON >> If I'm a member of a subcommittee that's on records management, I will make sure that that topic comes up.

BRADLEY WHITE >> This is Bradley White. I think to answer Mike's question, that machine learning thing would definitely fit under the resources section. So we can if

that makes it through, I think that would be the natural fit.

ALINA SEMO >> Okay. So my DFO is telling me we need to take a vote. You want to start with a voice vote and see how that goes? So can I have all in favor of establishing a records management subcommittee. Please say aye.

>> Oh, the phone.

ALINA SEMO >> Oh, I'm sorry, I apologize, I thought we had already voted on that.

>> No.

ALINA SEMO >> No, I didn't take that vote. Sorry.

(Several people talking at once).

[Laughter]

ALINA SEMO >> Jumping the gun, yes, I apologize. We have not voted on Joan's proposal that the technology will not be a stand-alone subcommittee but will instead be a topic that's going to be integrated into each of the subcommittees' work. So let's take a voice vote on that. How many are in favor? Say aye. And folks on the phone, can you please vote?

>> Aye.

>> Aye.

>> Aye.

ALINA SEMO >> Okay. Anyone against that recommendation? Anyone wants to abstain?

Okay. So I think the ayes have it. Sorry that I jumped the gun. So now we're going to go forward and it seems like records management got the most votes. Is everyone in favor of that? Can I have a motion now to consider the subcommittees that we want to form? Do we need a motion? Or do we just take a vote?

>> [away from mic]

ALINA SEMO >> Okay, thank you, Emily. Emily has so moved. Let's take a vote on records management as being one of the subcommittees. All in favor. Anyone folks on the phone?

>> Aye.

>> Aye.

>> Aye.

ALINA SEMO >> Okay. Anyone against? Anyone abstaining?

[Silence]

Okay. So it seems like records management is our first subcommittee. Now, the trickier one is this combined one, right? The next one, which is resources, agency leadership, and slash vision. What am I going to say? And communications and training. Right. Does anyone want to talk about whether it makes sense to group those together or should we separate them? Can anyone

GINGER MCCALL >> This is Ginger.

ALINA SEMO >> Suzanne?

GINGER MCCALL >> Can you hear me?

SUZANNE PIOTROWSKI >> Were they grouped together or just all had the same number?

ALINA SEMO >> They had the same number.

SUZANNE PIOTROWSKI >> Okay.

ALINA SEMO >> I don't I don't think they necessarily all should be grouped together.

SUZANNE PIOTROWSKI >> Okay.

GINGER MCCALL >> This is Ginger, can you hear me?

TOM SUSMAN >> [indiscernible] can I ask I understand resources is an issue, but I've always been a little hesitant to get us into an area where Congress is the last word because I think we are our time is better

spent addressing agency process and policy and things of that sort. So I think I mean, I guess I would almost say that will any final report we could agree today would say that agencies need adequate resources to handle this, whether it's technology, cutting time, cutting delay, handling et cetera, et cetera, et cetera. And I'm not sure what more we're going to do in that by spending time and energy on that subject.

KEVIN GOLDBERG >> This is Kevin Goldberg. Is this on? Yeah.

ALINA SEMO >> Yes.

KEVIN GOLDBERG >> I would agree. And actually I would just say to me resources is kind of the equivalent of technology in that it is a part of every you know, every one of the other that's kind of why I was giving maybe the analogy wasn't right earlier, substantive to procedural, it's a part of technology and the decisions that are going to be made on what technology to choose, what resources do you have and how we allocate them. And there may be others like to as well on the board still.

SARAH KOTLER >> This is Sarah. I think the other two that were tied with it are very closely tied to resources

because agency leadership is about how an agency is going to use its resources and what it's going to use them for and the are they going to [indiscernible] FOIA or not. And same with things like training and communications, I think that resources can be quite clearly tied to that as well [away from mic]

>> [away from mic]

GINGER MCCALL >> This is Ginger, can you hear me on the phone?

ALINA SEMO >> Sure, you may so move.

>> [away from mic]

>> Okay.so we have a motion to delete resources as a separate stand-alone subcommittee topic. Let's take a vote on that, a voice vote. All in favor ...

GINGER MCCALL >> Can anybody hear us on the phone?

ALINA SEMO >> Oh, I'm sorry. Hold on. Carrie?

>> [away from mic]

GINGER MCCALL >> this is so frustrating it, whoever operates the phone isn't actually actually letting us get through. Can anyone hear us on the phone?

ALINA SEMO >> Ginger, I'm sorry, okay, we're going to

GINGER MCCALL >> Yeah, I mean, I've been trying to interject for the last five minutes, and I'm having a very hard time getting through, whoever operates the phone isn't actually allowing us to get through.

So my comment is I do think we need to address resources squarely, and I do think it should be within our purview to recommend to the both Congress and agency leadership that they adequately fund FOIA in order for it to succeed. But I also agree that I think that that needs to be a part that conversation needs to be a part of any other substantive conversation that we have. So like technology resources could fall under the umbrella of any of these other topics, and in fact it should, because I think it's an essential piece and it's a place where we've kind of kicked the can on the last two committees. We've just been kicking this down the road without squarely addressing the fact that a lot of times there's just not adequate funding to even be doing the recommendations that we've been making about technology or about searches or about proactive disclosure. I mean, funding is really the important piece of that. And I do think it's within our purview to address that directly.

But I also agree that it should be done perhaps under the umbrellas of other topics.

[Silence]

MELANIE PUSTAY >> [indiscernible] to refine the question that we're voting on in light of Ginger's comment, I move that we take resources as a not as a stand-alone topic but we integrate it to within the substantive committees that we [indiscernible] [away from mic] the same as technology.

>> [away from mic]

ALINA SEMO >> So based on that motion that Melanie just made, let's take a voice vote on that. All in favor? Aye. Folks on the phone.

>> Aye.

>> Aye.

>> Aye.

ALINA SEMO >> [indiscernible] Anyone abstaining? Going once, going twice. All right. So I think that went very well. Tom, go ahead.

>> [away from mic]

ALINA SEMO >> So I

>> [away from mic]

ALINA SEMO >> One thought I had, I was just looking at the topics that were closely you know, that came in on a tie. If we think about the topics of communications more broadly, it could incorporate training, education, and agency leadership vision in terms of how that's communicated. Just a thought I'm going throw out. I don't feel strongly about it, but I'm trying to come up with a broader topic that perhaps is more of an umbrella that captures some of those thoughts. Reactions?

JASON R. BARON >> [away from mic] at least start a conversation here about what the outcome of an agency leadership subcommittee would be? What is the kind of recommendation that this committee would put forth?

SUZANNE PIOTROWSKI >> Suzanne Piotrowski. One recommendation would be all agencies need to include FOIA performance measures in their annual performance plan so they're actually held accountable for how they do on FOIA.

ALINA SEMO >> So just so you know, Suzanne, that was actually a recommendation from the last committee.

SUZANNE PIOTROWSKI >> Is it?

ALINA SEMO >> Yeah.

SUZANNE PIOTROWSKI >> I didn't see.

ALINA SEMO >> That's okay.

SUZANNE PIOTROWSKI >> Is it? I saw it on individual personnel.

ALINA SEMO >> We're going to be taking an individual assessment of looking at what agencies have actually implemented FOIA as a requirement.

SUZANNE PIOTROWSKI >> I have [indiscernible]

ALINA SEMO >> Plans for non FOIA professionals. But it's a very preliminary start.

SUZANNE PIOTROWSKI >> Wasn't it on individuals?

ALINA SEMO >> It was on individuals.

SUZANNE PIOTROWSKI >> On individuals. I'm saying agencies, not on individual personnel, like me being held responsible, but on the agency level.

ALINA SEMO >> Okay.

SUZANNE PIOTROWSKI >> A performance measure on FOIA. Does that make sense?

ALINA SEMO >> Yup. I'm hearing

PATRICIA WETH >> It doesn't make sense to me though. In what way?

SUZANNE PIOTROWSKI >> Okay. Well, there are performance measures on all sorts of things in the agencies' plans. And if we elevate something like FOIA into that level, then different agencies maybe don't have transparency in their mission would still spend more time it would highlight how an agency is doing on FOIA. I wouldn't necessarily recommend [indiscernible] some agencies do already.

PATRICIA WETH >> This is Patricia Weth, I don't know if this would answer the question, but for all of each agency we're required to file quarterly reports with DOJ and annual reports and the annual reports are we have to can't hide anything there.

SUZANNE PIOTROWSKI >> No, no, right.

PATRICIA WETH >> Everything is out

PATRICIA WETH >> It's all out there.

SUZANNE PIOTROWSKI >> But those are in the FOIA reports, right?

PATRICIA WETH >> Correct.

SUZANNE PIOTROWSKI >> I'm talking about the agency's broader performance plan.

ABIOYE MOSHEIM >> This is Abi Mosheim, do you mean like in the operating plan that an agency puts out?

>> We're trying to figure out what plan you're talking about.

SUZANNE PIOTROWSKI >> Vision, and then performance plan they do that list goals and specific I mean, we're in the weeds here so we I mean, we can get into it, I'm happy to show you this, so but I'm not thinking specifically on individual personnel, which I knew Joan DOJ I think has had that since when I've studied FOIA in the early 2000s.

>> Yeah, yeah.

SUZANNE PIOTROWSKI >> But something

>> Something different.

SUZANNE PIOTROWSKI >> Larger

>> Okay.

SUZANNE PIOTROWSKI >> To raise it as a priority. So it's a long discussion, because that's what I was thinking there.

ALINA SEMO >> I want to give Michael a chance because he's been waiting patiently.

MICHAEL MORISY >> So I'd love to I mean, I do see the sort of sense in the consolidation there, but when I kind of heard agency leadership and then sort of vision as also, you know, I'd love to see sort of more discussion about sort of longer term what is a vision of where FOIA can be so that I feel like we've been, you know, the FOIA community has been talking about putting Band-Aids on the process that was created in the '60s and evolved in the '70s and sort of the expectations of the process are I think you know if you talk to somebody who's grown up in sort of a digital age, their expectations of what FOIA process should be is set by Google, and we're talking about stuff where facts is cutting edge technology when the process was first being developed. And I would love to sort of I think having a vision of not just FOIA leadership vision within the agencies but also broadly sort of how can we have this so it's not just sort of, hey, FOIA offices are kind of tasked with dive into an agency, pull out the information, process it, and sort of think through in ten years I really hope in ten years FOIA looks radically different than what it looks like today. And I don't

think there's been I don't think agencies have been given the freedom and flexibility to sort of think through that because they have a mandate fulfill FOIA obligations as they're written today. But I would love to start you know, have a leadership, FOIA vision for tomorrow that's looking at in 20 years what do we hope that process looks like and then start thinking through what are the steps we can take to get there.

MELANIE PUSTAY >> Yeah, I this is Melanie. That's I think a really wonderful idea, and I love the way you say it, as somebody who's been involved in FOIA from the paper age, you're right, people nowadays, what is a fax even? What's mail? Why are we even thinking of FOIA that way? And like a fresh start, if we were creating FOIA now, what would it be like? I think that's really a a really important thing. And again, that's not anything we haven't looked at FOIA in that sort of really global way before as a committee.

EMILY CREIGHTON >> So can I just make one comment?

ALINA SEMO >> Yeah, please.

EMILY CREIGHTON >> I think that I would appreciate maybe we could think a little bit outside of the box in

terms I know that we're creating subcommittees, but I don't see any reason why recommendations, I mean—we just went through a strategic planning process at my organization—why we can't have a vision for I'm not sure it's this collaboration here, but for what FOIA looks like as a sort of a way of framing the rest of the recommendations that we make. I think that that's a really visionary idea. And I think that we could I really I would be in favor of that. I don't know what exactly what it would look like, but I think it would be helpful for framing some of the other recommendations as well.

MICHAEL MORISY >> Maybe even sort of reframing that and sort of instead of agency vision sort of, you know, a subcommittee to look at a vision for FOIA in 20 years.

ALINA SEMO >> In my notes I called it vision of FOIA process or something to that effect. That's kinds of what I was hearing you say.

ALINA SEMO >> Yeah.

>> [indiscernible]

JOAN KAMINER >> This is Joan Kaminer just to add as a reminder of some of the other items that were listed

under the subsection were political influence, the interplay of Congress it wasn't mine so I don't know if the intent was like a Congressional record, the understanding of that interplay. So it did go beyond, you know, leadership support and vision. And I want to keep those aspects in mind.

ALINA SEMO >> Tom? You've been waiting patiently.

TOM SUSMAN >> Yeah, I agree with that. I guess thought about it a little more granularly too. For example, you know, senior level review. Best practices for if you don't hear back in 30 days, do you release or do you withhold

JOAN KAMINER >> Right.

TOM SUSMAN >> until you hear? I mean, that's this you know, political accountability is I don't mean partisan, I mean political in the sort of global sense. And I mean partisan too.

[Laughter]

ALINA SEMO >> I certainly don't see any reason why that can't be worked into this vision of FOIA process subcommittee though looking at political influences and political accountability.

TOM SUSMAN >> And where does maybe no one else is embracing the notion of looking at OGIS, but is this the subcommittee that would actually because that provides a leadership role in the future of FOIA. So this would be the right subcommittee for that.

RYAN LAW >> Hi, Ryan Law. That was the question in my mind, like when when we say leadership, who are we talking about? Are we talking, you know, OMB, are we talking OIP or OGIS or the agency head or FOIA officer? You know, at what level do we want to look at? And will our recommendations have an impact on that basically within the scope of our mandate?

ALINA SEMO >> I mean, they can certainly address in terms of long term effectiveness of the recommendations, it certainly you know I'm going to now take off my cap as a chairperson and tell you as the director of OGIS, it is our goal to continue to push these forward. All recommendations from the prior committees and I'm hoping they do have an impact.

I think I don't know, Carrie left the stage already and maybe we can peak behind the board, but I thought the agency leadership concept was really more focused on you

know, within each agency how leadership is reacting to the work of FOIA professionals. That's kind of how I had read it. But anyone else have any different views? I don't know if that answers your question.

>> [away from mic]

>> I'm sorry?

>> [away from mic]

TOM SUSMAN>> We'll let the subcommittee work that one out. [indiscernible]

ALINA SEMO >> Right, the subcommittee can work that out.

>> [away from mic]

ALINA SEMO >> Thank you, Martha. Our deputy director Martha Murphy. Anyone on the phone want to chime in with anything?

[Silence]

All right. So where does that leave us? I think we're still trying to form a subcommittee that makes sense, that captures a lot of these topics, right? Did we have a motion that we hadn't voted on that we were in the middle of voting on? We were. And then Ginger wanted to chime in. To merge, right. Resource oh, no, we had

>> [away from mic]

>> We voted on resources. Does anyone remember if we were in the middle of a vote?

>> [away from mic]

ALINA SEMO >> All right. Good job.

So what are what are folks' thoughts on creating a subcommittee that sounds like or would look like the vision of the FOIA process? Or the vision of FOIA? However if you want to come up with a sexier title I'm totally open to that. Anyone want to make a motion in favor of that subcommittee.

MICHAEL MORISY >> I'll so motion.

ALINA SEMO >> Thank you. So let's vote on that subcommittee. All in favor? Aye. Folks on the phone, can you vote?

>> Aye.

>> Aye.

>> Aye.

ALINA SEMO >> I didn't hear Chris.

>> Aye.

>> No, it's

MELANIE PUSTAY >> No, it's like everything

ALINA SEMO >> It's like an umbrella. And anyone against this recommendation for the subcommittee? Any nays? Any abstentions? I think we have all all in favor. All right. So looks like we've got two subcommittees so far. Right? Vision I'll just call it vision for short and records management.

And what does that leave us with? That leaves us with time/volume. Can anyone talk to that in terms of what ideas were

SARAH KOTLER >> [away from mic]

ALINA SEMO >> Oh, I missed. I'm sorry. Oh, communications and training, yes. Thank you, Sarah. Communications training and education, that sort of all fell under that umbrella. How do folks feel about that as a separate subcommittee? I think that's a really worthwhile topic. Yes? Folks that suggested it are in favor. Should we do I have a motion to vote on that as a subcommittee?

>> [away from mic]

PATRICIA WETH >> Patricia Weth. I'll motion to it on that.

ALINA SEMO >> Thank you. Okay. So can I have a voice vote, please, on communications training education subcommittee, all in favor, please say aye.

ALINA SEMO >> Folks on the phone? Aye.

>> Aye.

>> Aye.

ALINA SEMO >> Ginger?

GINGER MCCALL >> Aye. Although I do think this is another one that could fall under the umbrella of a lot of other things. It's something that could be touched on, you know, when you're talking about time or volume of records requested, records management, but if others want to make this a subcommittee, I'm open to that.

ALINA SEMO >> Yeah, I mean, Ginger, I'm just going to remind you in the last term we also had a lot of overlap among the three subcommittees, so I think that's sort of a natural yeah, sort of organically how it's going to work out. But thank you.

TOM SUSMAN >> Can I ask a procedural question

ALINA SEMO >> Let me finish this vote if you don't mind.

TOM SUSMAN >> I was going to ask before the vote because

ALINA SEMO >> Oh.

TOM SUSMAN >> We're not establishing four subcommittees. We're only establishing three subcommittees. This vote effectively precludes consideration of time volume.

ALINA SEMO >> Right.

TOM SUSMAN >> So I thought I would bring that up before we unless we want to establish four subcommittees. Because I think there's been a discussion that prior recommendations need to be a separate subcommittee.

ALINA SEMO >> Right.

TOM SUSMAN >> Subcommittee.

ALINA SEMO >> Yes, we can [indiscernible]

TOM SUSMAN >> So then the question is

ALINA SEMO >> Time volume. Right. Well that's a fair point. So let's suspend the vote for a minute. Yes.

JAMES JACOBS >> James Jacobs. It seems like time/volume could be folded into records management as part of that. No?

ALINA SEMO >> Folks who went to that category, maybe they could talk a little bit about the thinking on that?

JOAN KAMINER >> I'm sure that this is Joan Kaminer [indiscernible] come at it from many different angle, but I think where I was coming from was the statutory time frame connected to the voluminous records that were [indiscernible]

RYAN LAW >> This is Ryan. Similarly to [indiscernible] volume of the volume of records being requested I think is significantly increased and that's caused increased amount of time to process requests. So I think that's one main focus. Increasing backlogs just the sheer volume of FOIA requests I think is another focus as well, an increase there, some agencies have gone up significantly in the past year or two. So those are the two areas I thought about.

SARAH KOTLER >> This is Sarah. (Audio is very, very low). Education part of the other one, because I think my concern and why I put the dots on that one was the idea of working more closely between requesters and agencies, say, listen, you probably didn't realize that when you ask for every record with the word "drug" in it, you

know, this was the impact. And that I think that that part of working with requesters actually very much education and communication and sort of like a training between the two groups is very closely connected to the time that an agency would have to spend to process certain types of FOIA requests [indiscernible] create more volume [indiscernible] records that are responsive.

KEVIN GOLDBERG >> And this is Kevin. And I actually agree with that, but also think it would fit under vision or where you want to be in the future as, you know, picking up on what Michael said about what does FOIA look like in ten years, the time volume is going to be the biggest component of that obviously, and probably fits under both.

GINGER MCCALL >> This is Ginger, can you hear me?

ALINA SEMO >> Ginger. Yeah.

GINGER MCCALL >> I think the time volume issue is probably one of the most pressing issues. I mean, I sat at an ASAP—the Society of Access Professionals conference a few weeks ago—and it was certainly the thing that was brought up the most by people who were actually working on the ground on FOIA requests. It was also the subject

of a very contentious forum with some FOIA requesters. So I think that this is one that we should address if at all possible.

MICHAEL MORISY >> This is Michael. And I agree that that's a more pressing you know, I think that's a time-sensitive issue, and I think it's something that I think this is the perfect convening of requesters and agencies and, you know, from a broad spectrum to help highlight that issue in a way that previous legislation hasn't truly addressed.

ALINA SEMO >> So I guess I'm trying to get a sense of whether folks are in favor of working that very important concept into the vision of the FOIA process subcommittee or do we want a separate subcommittee to be looking at these the time, statutory time limits, volume of FOIA requests, volume of work, et cetera?

BRADLEY WHITE >> Bradley White. I definitely think that the time and volume should be on its own and I'm saying that as a person from DHS where we get the most and we don't have nearly enough time. It's the biggest problem that is facing my agency right now. Communications and training are certainly important, but

I think those that's a topic that could probably be folded into something else. We need to communicate and train people on how to manage records.

We need to communicate our vision and then we need to train people on how to implement it. But the time and volume I think is a much bigger and more important issue.

SARAH KOTLER >> And this is Sarah

GINGER MCCALL >> This is Ginger, I agree completely with Bradley.

SARAH KOTLER >> I think time and volume can be rolled into [indiscernible] training and [indiscernible] time and volume as well instead of the other way around.

BRADLEY WHITE >> Absolutely.

>> Yeah.

GINGER MCCALL >> This is Ginger. Can you hear me? I completely agree with what Bradley just said. I think that's, yeah, very accurate.

>> [indiscernible]

>> I thought I could tell

EMILY CREIGHTON >> Emily Creighton. So I wonder this is just to back up and I know we already approved the vision subcommittee, but I wonder if I'm

just wondering if maybe it makes sense for members of the subcommittee to come together with a vision statement as opposed to having a subcommittee only devoted I just feel like the vision subcommittee will be wanting to plug into the other subcommittees or hear from them in order to do that work. I don't know if that means that subcommittee shouldn't exist separately. I'm interested to hear what Michael thinks about that.

MICHAEL MORISY >> So I I think I'd love to sort of have a subcommittee dedicated to sort of a longer-term vision, setting that vision across. And I think with the time and volume that's kind of a spiraling crisis, I think with the FOIA community right now that because it leads to higher turnover, it leads to frustrated requesters, it leads more litigation and a compounding issues that needs to be addressed ASAP. So I think having a committee that having sort of a shared value of this is a vision broadly but also having a committee that is sort of saying in ten years this is where we want to go to, that doesn't have to worry about the current time volume crisis, I think that would be helpful to have those separated out.

EMILY CREIGHTON >> Right, I yes, I agree with that. I just wonder where we are with a number. Did we agree that it was three?

ALINA SEMO >> No, we did not agree

EMILY CREIGHTON >> I think that would be my question.

ALINA SEMO >> I want to remind everyone last term's committee had three subcommittees, that doesn't mean that's the number, the magic number for today. We could very well come up with four subcommittees that we could have a separate subcommittee on time volume and one on communications training education. Or we could weave in communications training education and Sarah suggested earlier into one of the others.

EMILY CREIGHTON >> That's helpful.

ALINA SEMO >> I'm very open to having four subcommittees if folks are willing to do the work. Thoughts?

PATRICIA WETH >> This is Patricia Weth. I'm just going throw this out there. I know right now we have for our subcommittees two buckets, two additional components, and that would be to look at technology and

resources. Do we want to do the same with communications and training? I'm not sure I'm a huge fan of having good communications and proper training, I think it just makes, it's so important, it really helps the process. So I think I mean, that's one thing we could do is have it as a component. But I think I would like to see a subcommittee on that. That's just my 2 cents.

>> Separate.

PATRICIA WETH >> I would like to see as a separate subcommittee. But if we don't feel that we should have four subcommittees, perhaps that can be a component for each subcommittee to incorporate.

TOM SUSMAN >> So this is Tom Susman. Unlike I mean like resources, once we say we need better communications and training, how much more is there for a subcommittee to do? Develop training modules? I mean, that's been done. Undertake to tell I mean, I I agree it's important, but I just I'm trying to think of what that report would look like. Better training. More communications. Okay.
End of

PATRICIA WETH >> Well, I yeah, I do hear what you're saying, and I know DOJ has done a great job putting

together training modules, and at two of the agencies I've been at I've made sure that it's been uploaded onto our e-training platform. But getting people to actually do the training, you know, educating federal government employees, political appointees and requesters about the FOIA process I think is huge. But another way that we could improve communications and training I think is our different agencies FOIA web pages. I know several years ago DOJ-OIP and OGIS did a joint workshop giving great examples of it, but I think there could be a lot of improvement in that area too. And additionally, outreach to the requester community. Again, on the FOIA process and letting them know, for instance, my particular agency, we have a lot of records available on our agency website, it's not all on our agency FOIA web page. So I think there's a lot we could do in educating people about the process and developing better communications.

MELANIE PUSTAY >> So I this is Melanie. Obviously I'm a big fan of training and communication. The one thing so it's definitely really important and a key part of every FOIA program. But the one thing I I can't help but think of in terms of like what would the committee do

is that thinking about the our chief FOIA officer reports and our yearly assessments and we just came out for agencies for last year and one of the things we score agencies on is training and the percentage of employees that they train. And agencies really overwhelmingly are training 90, 100% of their people. So I actually think that is an area where agencies are doing really well. So it's as opposed to some of these other areas where we haven't really, like, obviously records management is such a big area that has not yet really been addressed. My thought in terms of just the use of the time of the committee is that communications and training I think is better folded into other things as part of but not but isn't necessarily need to be a stand-alone.

ABIOYE MOSHEIM>> This is Abi. When I think of communications and training, though I think of communicating and training the communicating with and training the public, I think that we do a lot to train our staff, but I do get the sense from the public that and I believe in it, in open government, and I'm with them on that, but they think that requests don't have limitations. That there are no limitations in

putting this down and you've got to, you know, meet this demand. And they don't know what an Exemption 3 statute is, they don't know when we explain that we have to go out to manufacturers and request comments on what we're proposing to release and this takes time and no, the statute says 20 days and you have to give it to me in 20 days. So I feel more can be done to educate requesters and also to understand where they're coming from, so that the the communication between the agency and the requester is clearer because sometimes it seems like we're on different planets.

>> [indiscernible]

JASON R. BARON >> Jason Baron. To that last point, I think one could integrate the time and volume issues and the education of the public for the FOIA requester community in a way that is a best practices for agencies interfacing with the public and so I would support a committee on that.

ALINA SEMO >> What would you call it?

I need a name.

>> [indiscernible] and volume. I think it's still a time and volume.

ALINA SEMO >> It could be time volume.

JOAN KAMINER >> This is Joan Kaminer. I think having a stand-alone committee for the communications and education might potentially take away from the addressing communication education within records management as well as the vision and particularly with the time and volume. So while I think it's incredibly important particularly with the requester community to encourage that education and communication, I think it should, I think we should have our stand alone committees and as Patricia was saying have defined overarching themes that each committee should address, technology, resources, and communication and education.

KEVIN GOLDBERG >> That's well, sorry, this is Kevin, that's what I was going to say. It seems like we've defined the subtopics within each topic that at a minimum need to be discussed because they are kind of flowing through every one. Made it easier for each committee already.

ALINA SEMO >> Kirsten is telling me someone on the phone has a comment? Maybe? Comments on the phone?

[Silence]

All right, well, seems like we're ready to vote. If I actually don't have anything to vote on yet, because I need a motion. So may I have a motion to integrate time volume and communications training? Right? We're sort of morphing those?

MELANIE PUSTAY >> No.

ALINA SEMO >> No?

MELANIE PUSTAY >> Integrate communication and training into each of the subcommittees.

ALINA SEMO >> Oh.

MELANIE PUSTAY >> Just like technology.

ALINA SEMO >> I thought I heard you say

>> [away from mic]

ALINA SEMO >> Okay. So may I have a motion on that?

>> So moved.

>> So moved.

ALINA SEMO >> Thank you. So let's take a voice vote on that. Communications training education will be integrated into each of the subcommittees.

>> Yes.

ALINA SEMO >> All in favor? Aye.

ALINA SEMO >> Folks on the phone?

>> Aye.

>> Aye.

>> Aye.

ALINA SEMO >> Okay. Anyone against? Anyone abstaining? Okay, we have a unanimous vote.

So that I think just naturally devolves into time volume as our third subcommittee. Yay. Let's make a motion on that just so we're all clear about that. Can someone make a motion?

>> So moved.

ALINA SEMO >> What are you moving?

TOM SUSMAN >> That time vision be a subcommittee.

ALINA SEMO >> All right. So based on that motion, let's take a voice vote. All in favor, please say aye.

ALINA SEMO >> Folks on the phone?

>> Aye.

>> Aye.

>> Aye.

ALINA SEMO >> Anyone against? No.

Anyone abstaining? No abstentions. All right.

So we now have our three subcommittees, very exciting. Yay!

[Applause]

ALINA SEMO Good job, everyone. It was a lot of hard work. I know you've all been burning with desire to tell me who is interested in co-chairing the subcommittees, last committee term we had and the first committee term as well we had one government and one nongovernment co-chair. So how do we want to do this, DFO?

>> [away from mic]

ALINA SEMO >> No, should we ask for like [indiscernible] shout out? Like I would like? Volunteers! The DFO says we'll take volunteers.

JASON R. BARON >> [indiscernible] records management.

ALINA SEMO >> Thank you Jason.

GINGER MCCALL >> This is Ginger, I'll volunteer for the time and volume.

ALINA SEMO >> Okay.

Ginger is

RYAN LAW >> Ryan Law. I'll volunteer for co-chair of records management.

ALINA SEMO >> Okay. So we have our two co-chairs for records management.

RYAN LAW >> Let me first ask my friends at NARA if that's okay, since

ALINA SEMO >> Of course, absolutely.

RYAN LAW >> Okay.

ALINA SEMO >> Yeah, and I also just want to tell everyone, even if you're not going volunteer to be a co-chair, there's opportunities to work on every subcommittee, and I all encourage everyone at every meeting make sure you sign up for one or more subcommittees, there's no prohibition on serving on more than one.

>> This is

ALINA SEMO >> I'm looking at Michael

ALINA SEMO >> Oh, someone on the phone, thank you.

>> Yes.

>> Yeah.

ALINA SEMO >> Go ahead, Ginger.

GINGER MCCALL >> No, Chris, go first, it's fine.

CHRIS KNOX >> This is Chris Knox, I would like to volunteer to co-chair the vision as the nongovernment representative.

>> [away from mic]

GINGER MCCALL >> And this is Ginger. I will volunteer to co-chair the time and volume.

ALINA SEMO >> Okay. That was Ginger, right?

GINGER MCCALL >> Yes.

ALINA SEMO >> Okay. I so well, so far we're we've determined Ginger is serving in a government slot for the time being.

>> Yes.

ALINA SEMO >> So I need a nongovernment for time and volume.

[Silence]

Not all at once.

>> [away from mic]

ALINA SEMO >> Okay, great, thank you. So Chris and Joan. And I still need a volunteer for time volume from the requester community.

EMILY CREIGHTON >> [away from mic] I'll volunteer for the time volume.

ALINA SEMO >> Okay, thank you. All right. So we're going to post all of this so everyone is clear about what subcommittee co-chairs we have. Michael, I encourage you to participate as much as you want to on the vision, and

I'm sure Chris will be happy if you write the report for him.

[Laughter]

Just throwing that out as an option.

And is everyone sort of happy and pleased with what we've come up with? I know

[Applause]

Not always easy to reach consensus, so okay.

>> Alina

ALINA SEMO >> I know we're kind of wrapping up, I we have about ten minutes and we don't have that many folks in the audience, but I do want to take the opportunity to have public comment period. If anyone has any questions or comments that they would like to raise with the committee, please come up to the mic, state your name, and affiliation. And Sheela, if we have anyone on livestream that has comments or questions, do you want to go ahead and read them out loud? Yes. I don't see anyone jumping up to the mic.

SHEELA PORTONOVO >> We had a few comments that came in, but I think the one that was most relevant to what

was happening today was just a comment about making sure that the prior recommendations are not ignored.

ALINA SEMO >> Okay.

SHEELA PORTONOVO >> [indiscernible] them.

ALINA SEMO >> Tom must have paid that person too.

Anything else you want to go over?

Yes.

>> [away from mic]

ALINA SEMO >> Sure.

>> [away from mic]

ALINA SEMO >> Stray or straight?

JASON R. BARON >> I don't know whether—it's Jason Baron. I don't know whether there is a worth a conversation of invited speakers for

>> No.

>> Coming up?

>> [indiscernible] talk about that.

JASON R. BARON >> I would like to propose that a representative of the inspector general community be invited.

ALINA SEMO >> Okay.

JASON R. BARON >> From the council on councils to have a conversation about how inspectors general at agencies can help with oversight of FOIA at those agencies.

ALINA SEMO >> So very timely topic, Jason, thank you. We just had the opportunity to be added to the CIGIE agenda, recently, is and we gave a presentation to inspectors general from across all over government. So we have good liaison contacts there, and I'm happy to reach out to them. But on that note, I also just want to encourage everyone else to start thinking about speakers that we want to invite that would be germane to the topics we're going to be looking at. Not only does it make our time more fun and exciting, but I think I can confidently say the speakers we've had have really enriched our discussion and have really given us a lot to think about.

So by all means, you know, please think about that, send me an email, send Kirsten an email, and let everyone know your thoughts.

Emily.

EMILY CREIGHTON >> This is Emily. Quick question. Do you have a list of speakers you've invited in the past? I guess it wouldn't matter anyway, we haven't heard them all.

ALINA SEMO >> Yeah, they're actually I believe they're in the

EMILY CREIGHTON >> Oh, they are?

ALINA SEMO >> The final report on recommendations, right? And that doesn't mean we don't we can't re-invite them.

EMILY CREIGHTON >> Okay.

ALINA SEMO >> Some of them were fascinating and I'm sure they're doing continuing research and they want to add to the discussion. So I'm certainly open to that.

We did have one speaker in mind for our next meeting, which, by the way, everyone write down, is November 29th. It's sort of a tough time of the year, we recognize that, we tried to squeeze it in after Thanksgiving, before the all the holidays commence. But this is a two professors who recently did a paper and I'm just looking at Kirsten to help remind me about the topic. But it was looking at the FOIA process and the

effectiveness of the FOIA process in the landscape, and I'm sorry I'm not doing a better job, but I will preview it in more detail by email and we will post it on our website. One is from American University and one is from Syracuse University.

SUZANNE PIOTROWSKI >> Tina Nabatchi and
[indiscernible]

ALINA SEMO >> Thank you, yes.

>> [indiscernible] [away from mic]

ALINA SEMO >> Yes. Yes. Do you know a little do you remember the title of that paper? I don't want to put you on the spot.

SUZANNE PIOTROWSKI >> I don't remember it, but it was just published online in ARPA, the American Review for Public Administration.

ALINA SEMO >> Right.

ALINA SEMO >> Yeah. So I think they're very eager to come and talk to us.

SUZANNE PIOTROWSKI >> Yup, they're both very bright and

ALINA SEMO >> Yeah.

SUZANNE PIOTROWSKI >> And eager

ALINA SEMO >> They have a lot to share. So I was going to extend that invitation to them. But again they don't have to be the only ones for the agenda for next time. I'm open to other folks as well.

ALINA Okay. Any other comments from the audience? Just want to make sure we got everyone's public comments. Sheela, we're good? Okay.

Kirsten, our DFO, would like for me to remind you that we will be following up by email to form the subcommittees. We will just recirculate the subcommittee co-chairs. And invite everyone to join each of the subcommittees. Please join as many as you want to. Any questions about anything we've talked about today? Or concerns? Or comments? Or yes?

JAMES JACOBS >> [away from mic] James Jacobs. Do we have a listserv or something that we can communicate so I don't remember all 15 of your emails? Like a group listserv, something like that?

KIRSTEN MTICHELL >> We don't have a listserv, per se, but I can make sure that all of the members' emails are in one place. Does that work?

ALINA SEMO >> So you know in a normal world I would like to tell you that's a great idea, but we also have FACA rules that we have to be very careful about. And so we can't be deliberating amongst ourselves via email without the benefit of the public being involved. So we haven't really formed a listserv in the past because of that, Kirsten will send out reminders and administrative types of things, and the subcommittees can deliberate as much as they want to without you know, without having to convene a public meeting. But otherwise were you going to ask that question?

>> Yeah.

ALINA SEMO >> And I just want to add, all the work and I think the folks who were on the last terms can speak to this, all the work gets done at the subcommittee levels. Not to say we're not doing work as a committee, which we will, we're going to have a lot to tackle, but I think all of the substantive initial work is done at the subcommittee level.

Kirsten.

KIRSTEN MITCHELL >> I just wanted to follow up a little bit about what I said earlier about copying FOIA

dash advisory dash committee @ NARA.gov. If you all are communicating amongst yourselves on the subcommittee, it's still important to copy that email and to copy me on it. Because it's for records management purposes.

TOM SUSMAN >> The really easy way to make that happen this is Tom and it happened the last time around, is that I guess the FACA officer would send to the subcommittee to all of the people and include the email address advisory committee email address and then you just use that to cut and paste on to emails going forward so you have your subcommittee group together and there's always the central thing on there. So you don't have to worry. It's the next best thing to a listserv I think.

ALINA SEMO >> Yeah. Any other requests? I want to encourage everyone if you want to approach the co-chairs informally after the meeting to volunteer, please do that, but let Kirsten know so she can keep track of who wants to work on which subcommittee.

Any other concerns or comments? Folks on the phone, I want to give you one last opportunity.

[Silence]

ALINA SEMO >> Very quiet.

>> [indiscernible] other meeting dates?

[indiscernible]

ALINA SEMO >> We do, we've reserved for days into 2019. You're looking at me like you're in a panic, we have reserved the McGowan Theater through 2019, but I think the panic look on our DFO's face is because we may not recall them off the top of our heads right now, but we will post them very shortly.

(Hard stop at 1:00 ET.)