

NATIONAL ARCHIVES: ADVISORY COMMITTEES AND THEIR EFFECTIVENESS

HEARING

BEFORE THE
SUBCOMMITTEE ON INFORMATION POLICY,
CENSUS, AND NATIONAL ARCHIVES
OF THE
COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES
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NATIONAL ARCHIVES: ADVISORY COMMITTEES AND THEIR EFFECTIVENESS

TUESDAY, OCTOBER 20, 2009

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INFORMATION POLICY, CENSUS, AND
NATIONAL ARCHIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 2 p.m. in room 2154, Rayburn House Office Building, Hon. Wm. Lacy Clay (chairman of the subcommittee) presiding.

Present: Representatives Clay and McHenry.

Staff present: Darryl Piggee, staff director/counsel; Jean Gosa, clerk; Frank Davis, professional staff; Yvette Cravins, counsel; Charisma Williams, staff assistant; Anthony Clark, professional staff member; Leneal Scott, information systems manager (full committee); Adam Hodge, deputy press secretary (full committee); Gerri Willis, special assistant (full committee); Adam Fromm, minority chief clerk and Member liaison; Howard Denis, minority senior counsel; and Chapin Fay and Jonathan Skladany, minority counsels.

Mr. CLAY. Good afternoon. The Information Policy, Census, and National Archives Subcommittee of the Oversight and Government Reform Committee will come to order.

Without objection, the Chair and ranking minority member will have 5 minutes to make opening statements, followed by opening statements not to exceed 3 minutes by any other Member who seeks recognition.

Without objection, Members and witnesses may have 5 legislative days to submit a written statement or extraneous materials for the record.

Welcome to today's oversight hearing entitled, "National Archives: Advisory Committees and their Effectiveness." The purpose of today's hearing is to examine the National Archives' use of Federal advisory committees. We will consider several important topics, including the statutory requirements of Federal advisory committees, the impact of the advisory committees on NARA decision-making, relevant developments in Presidential libraries, and compare NARA's use of two very different committees.

The National Archives' stated mission is to serve American democracy by safeguarding and preserving the records of our Government. As we will hear from our witnesses today, in order to help them fulfill their mission successfully, NARA employs advisory committees made up of outside experts and subject to the Federal

Advisory Committee Act. We will examine two of those committees this afternoon, one for the Electronic Records Archives and one on Presidential libraries.

Before we go to our witnesses, I would like to address the role of advisory committees under FACA at the National Archives.

Presidents and executive agencies have utilized outside expertise since George Washington's Presidency, and Congress has exerted legislative control over advisory bodies since 1842. Responding to increasing concerns that Federal advisory committees were inefficient, inaccessible, and imbalanced, in 1972 Congress enacted FACA, which requires that committee membership must be fairly balanced in terms of the points of view represented and the functions to be performed, and the committee should not be inappropriately influenced by the appointing authority or by any special interest. Additionally, FACA requires nearly all committee meetings to be open to the public.

This subcommittee is concerned about NARA's Advisory Committee on Presidential Libraries, both as regards its effectiveness at this critical time for Presidential records and libraries, and in terms of NARA's compliance with FACA.

As we will hear from our witnesses, the Committee on Presidential Libraries is very different in important ways from most Federal advisory committees, including another important NARA Committee on Electronic Records Archives.

NARA claims that the membership of the Advisory Committee on Presidential Libraries must be limited to representatives of the private foundation that build and support the libraries because they have been deeply involved in the development of the various libraries and can speak with authority on issues that arise in connection with establishing new libraries or administering existing ones.

Obviously, the expertise of the foundation is quite valuable, given the rare world that they live and work in. After all, there are currently only 12 open Presidential libraries in the Federal system, and understanding how to prepare for, build, maintain, and support one requires a very specific set of skills and experience. However, that the membership is so narrowly limited concerns this subcommittee in light of FACA's clear requirement that committees be fairly balanced in terms of the points of view represented.

The advisory committee does not include any other relevant stakeholders, historians, archivists, preservationists, curators, and other museum performances, educators, researchers, whose experience, perspectives, and skills could greatly assist NARA.

Also troubling is the fact that the committee appears no longer to meet. There are many serious issues surrounding the Presidential libraries, not the least of which are the current plans for the next library for former President George W. Bush, and yet the Advisory Committee on Presidential Libraries last met in January 2006, almost 4 years ago. As far as this subcommittee knows, there are no plans for the committee to meet again, even though NARA continues to reauthorize the committee and appoint or reappoint members from the private foundations.

The challenges faced by new and existing Presidential libraries are not limited to fund-raising and construction. There are serious questions of prompt and proper access to Presidential records; the

records management policies and practices of Presidential administrations and executive agencies; the care, preservation, and exhibition of priceless artifacts and other national treasures; the security of Presidential collections at the libraries and at other NARA facilities; the role of the libraries in the education of our young people; the historical balance, or often lack of balance, within permanent and temporary museum exhibits; just to name a few.

It is this subcommittee's hope that through our hearing today we will gain a better understanding of NARA's reasons for treating this advisory committee so differently and will provide the National Archives with some valuable information they can use in order to make their advisory committees more efficient and effective.

[The prepared statement of Hon. Wm. Lacy Clay follows:]

*Opening Statement
Of
Wm. Lacy Clay, Chairman*

*Information Policy, Census, and National Archives
Subcommittee
Oversight and Government Reform Committee*

*“National Archives: Advisory Committees and their
Effectiveness”*

*Tuesday, October 20, 2009
2154 Rayburn HOB
2:00 p.m.*

Welcome to today’s oversight hearing on
“National Archives: Advisory
Committees and their Effectiveness.”

The purpose of today’s hearing is to
examine the National Archives’, or
NARA’s, [*PRONOUNCED NAH-
RUH’S*] use of federal advisory
committees.

We will consider several important
topics, including the statutory

requirements of federal advisory committees; the impact of the advisory committees on NARA decision-making; relevant developments in presidential libraries; and compare NARA's use of two very different committees.

The National Archives' stated mission is to "serve American democracy by safeguarding and preserving the records of our government." As we will hear from our witnesses today, in order to help them fulfill their mission successfully, NARA employs advisory committees, made up of outside experts, and subject to the Federal Advisory Committee Act (FACA). We will examine two of those committees this afternoon – one for the Electronic Records Archive and one on Presidential Libraries.

Before we go to our witnesses, I would like to address the role of advisory committees under FACA at the National Archives.

Presidents and executive agencies have utilized outside expertise since George Washington's presidency, and Congress has exerted legislative control over advisory bodies since 1842. Responding to increasing concerns that federal advisory committees were inefficient, inaccessible, and imbalanced, in 1972 Congress enacted the Federal Advisory Committee Act. FACA requires that committee membership must be "fairly balanced in terms of the points of view represented and the functions to be performed," and the committee should "not be inappropriately influenced by the

appointing authority or by any special interest.” Additionally, FACA requires nearly all committee meetings be open to the public.

This Subcommittee is concerned about NARA’s Advisory Committee On Presidential Libraries, both as regards its effectiveness at this critical time for presidential records and libraries, and in terms of NARA’s compliance with FACA. As we will hear from our witnesses, the Committee On Presidential Libraries is very different, in important ways, from most federal advisory committees - including another important NARA committee, on Electronic Records Archives.

NARA claims that the membership of the Advisory Committee On Presidential

Libraries must be limited to representatives of the private foundations that build and support the libraries because “they have been deeply involved in the development of the various libraries and can speak with authority on issues that arise in connection with establishing new libraries or administering existing ones.”

Obviously, the expertise of the foundations is quite valuable, given the rare world that they live and work in. After all, there are currently only twelve open presidential libraries in the federal system, and understanding how to prepare for, build, maintain and support one requires a very specific set of skills and experience.

However, that the membership is so narrowly limited concerns this Subcommittee, in light of FACA's clear requirement that committees be "fairly balanced in terms of the points of view represented."

The advisory committee does not include any other relevant stakeholders – historians, archivists, preservationists, curators and other museum professionals, educators, researchers – whose experience, perspectives and skills could greatly assist NARA.

Also troubling is the fact that the committee appears no longer to meet. There are many serious issues surrounding the presidential libraries – not the least of which are the current plans for the next library, for former

President George W. Bush – and yet the Advisory Committee On Presidential Libraries last met in January 2006 – almost four years ago. As far as this Subcommittee knows, there are no plans for the committee to meet again – even though NARA continues to re-authorize the committee, and appoint or re-appoint members from the private foundations.

The challenges faced by new and existing presidential libraries are not limited to fundraising and construction. There are serious questions of prompt and proper access to presidential records; the records management policies and practices of presidential administrations and executive agencies; the care, preservation and exhibition of priceless artifacts and other national treasures; the security of presidential collections at the

libraries and at other NARA facilities; the role of the libraries in the education of our young people; the historical balance – or often lack of balance – within permanent and temporary museum exhibits; just to name a few.

It is this Subcommittee's hope that through our hearing today we will gain a better understanding of NARA's reasons for treating this advisory committee so differently, and will provide the National Archives with some valuable information they can use in order to make their advisory committees more efficient and effective.

Now, on to today's topic.

Mr. CLAY. Now on to today's topic. I will now yield to the distinguished ranking minority member, Mr. McHenry of North Carolina.

Mr. McHenry, you are recognized.

Mr. MCHENRY. Thank you, Mr. Chairman. Thank you for your leadership.

Thank you all for being here today. I know it is not easy to make the trek up to the Hill, but we certainly appreciate your time and your testimony, as well as the written testimony you have already submitted for the record.

We will also be exploring pretty important subject matter today that goes often unnoticed, and that is Federal advisory committees. As we will hear testimony today, in 2008, 49 Executive departments and agencies utilized advisory committees consisting of over 63,000 committee members serving on more than 900 committees and providing advice to Government officials and employees.

These Government advisory committees are governed by the Federal Advisory Committee Act [FACA], as the chairman mentioned, which was passed in 1972 as part of a good Government initiative. As the chairman said, advisory committees go significantly further back, obviously, than 1972, and Congress' role in oversight of those advisory committees is certainly important.

FACA requires that committee members be "fairly balanced in terms of the point of view represented and the functions to be performed," and the committee "not be inappropriately influenced by the appointing authority or by any special interest."

FACA is designed to ensure both the even-handedness and transparency of Federal advisory committees. Moreover, FACA provides for multiple tiers of oversight by the President, Congress, and the GSA, which we will certainly hear from today, and the agencies, themselves, which additionally we will hear from today.

It is in this oversight vein that we are here today to explore the operations and efficiencies and efficacy, furthermore, of the advisory committees, giving advice to the National Archives and Records Administration [NARA]. To that end, we will be hearing from NARA officials responsible for the agency's committees, the General Services Administration, and the committees, themselves.

It is up to us as Members of Congress to ensure that NARA's advisory committees, which are often made up of members outside of Government, are living up to the good Government standards set forth under FACA.

The National Archives, much like advisory committees, in general, is an agency that conducts invaluable work, that is certainly true, but not always with the highest level of public scrutiny, as often important agencies are lost to public scrutiny. Perhaps because of this lack of transparency and sunlight, the agency has suffered multiple egregious security lapses as of late.

Mr. Chairman, while I believe that the recent National Archives security breaches represent a much more urgent call for appropriate oversight hearings by this committee, as we have previously had—and I appreciate your leadership on that—I look forward to today’s testimony so that we can ensure our advisory committees are acting in a balanced and transparent manner.

Thank you, Mr. Chairman. And I thank you for your testimony.
[The prepared statement of Hon. Patrick T. McHenry follows.]

Statement of Ranking Member Patrick McHenry
Subcommittee on Information Policy, Census, and National Archives
*“National Archives: Advisory Committees
and their Effectiveness”*
October 20, 2009

Mr. Chairman, thank you for calling this hearing today, during which we will be able to explore important, but often-times unnoticed groups – Federal Advisory Committees.

As we will hear during testimony today, in 2008, 49 Executive departments and agencies utilized advisory committees consisting of over 63,000 committee members, serving on more than 900 committees and providing advice to government officials and employees.

These government advisory committees are governed by the Federal Advisory Committee Act, or “FACA,” which was passed in 1972 as part of a “good government” initiative.

FACA requires that committee membership be “fairly balanced in terms of the points of view represented and the functions to be

performed,” and that the committee “not be inappropriately influenced by the appointing authority or by any special interest.”

FACA is designed to ensure both the even-handedness and transparency of federal advisory committees. Moreover, FACA provides for multiple tiers of oversight by the President, Congress, the General Services Administration and the agencies themselves.

It is in this oversight vein that we are here today to explore the operation and efficacy of the advisory committees giving advice to the National Archives and Records Administration, or “NARA.” To that end, we will be hearing from NARA officials responsible for the agency’s committees, the General Services Administration and the committees themselves.

It is up to us, as Members of Congress, to ensure that NARA’s advisory committees, which are often made up of members outside of government, are living up to the good government standards set forth under FACA.

The National Archives, much like advisory committees in general, is an agency that conducts invaluable work, but not always with a high level of public scrutiny. Perhaps because of this lack of transparency and sunlight, this agency has suffered multiple egregious security lapses of late.

Mr. Chairman, while I believe that the recent National Archives security breaches represent a much more urgent call for appropriate oversight hearings by this Subcommittee, I look forward to today's testimony so that we can ensure advisory committees are acting in a balanced and transparent manner. Thank you.

Mr. CLAY. Thank you, Mr. McHenry, for your participation in this hearing and in previous hearings, and your cooperation on these issues. It is one thing that I think you say about this subcommittee is that we do work together and that we do understand the importance of these issues. So thank you for your service.

I would now like to introduce our panel.

Our first witness will be Sharon K. Fawcett. Ms. Fawcett is the assistant archivist for Presidential Libraries. In that position she provides policy, direction, and oversight of the 13 Presidential libraries administered by the National Archives and Records Administration. Ms. Fawcett began working at the National Archives in 1969 as an archivist on the staff of the Lyndon B. Johnson Library. Ms. Fawcett is the committee decisionmaker under FACA for the Advisory Committee on Presidential Libraries.

Welcome today at this hearing, Ms. Fawcett.

Our next witness is Martha Morphy. Ms. Morphy is currently the chief information officer of NARA. She is responsible for all NARA information technology projects, including the acquisition of NARA's ERA system, a system that preserves and provides long-term access to uniquely valuable electronic records of the U.S. Government and transitions Government-wide management of the life cycle of all records into the realm of e-Government. Ms. Morphy is the committee decisionmaker under FACA for the Advisory Committee on Electronic Records Archive.

After Ms. Morphy we will hear from Dr. Christopher Greer. Dr. Greer is currently assistant director for information technology research and development at the White House Office of Science and Technology Policy and was previously Program Director for the Office of Cyber Infrastructure at the National Science Foundation. Dr. Greer is a member of the Advisory Committee on Electronic Records Archives.

Our final witness will be Robert Flaak. Mr. Flaak is currently the director of the Committee Management Secretariat, an organization that monitors and reports executive branch compliance with the Federal Advisory Committee Act, and is also Deputy Executive Director of the Office of Policy Initiatives at the General Services Administration. He previously served as the Deputy Executive Director of the Office of Administrative Policy and Office of Government-Wide Policy of the General Services Administration and as the head of the committee operations staff, and later Deputy Director of the Science Advisory Committee at the EPA.

I thank all of our witnesses for appearing today and look forward to your testimony.

It is the policy of the Oversight and Government Reform Committee to swear in all witnesses before they testify. Would you all please stand and raise your right hands.

[Witnesses sworn.]

Mr. CLAY. Let the record reflect that the witnesses answered in the affirmative.

I ask that each witness now give a brief summary of their testimony. Please limit your summary to 5 minutes. Your complete written statement will be included in the hearing record.

I have just been informed that Ms. Fawcett and Ms. Morphy have been replaced as committee decisionmakers of their respective

committees as of yesterday morning. We will let the record reflect that.

Ms. Fawcett, you may begin, please.

STATEMENTS OF SHARON FAWCETT, ASSISTANT ARCHIVIST FOR PRESIDENTIAL LIBRARIES, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION; MARTHA MORPHY, CHIEF INFORMATION OFFICER, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION; ROBERT FLAAK, DIRECTOR, COMMITTEE MANAGEMENT SECRETARIAT, GENERAL SERVICES ADMINISTRATION; AND CHRISTOPHER GREER, ASSISTANT DIRECTOR FOR INFORMATION TECHNOLOGY RESEARCH AND DEVELOPMENT, WHITE HOUSE OFFICE OF SCIENCE AND TECHNOLOGY POLICY

STATEMENT OF SHARON FAWCETT

Ms. FAWCETT. Chairman Clay, Ranking Member McHenry, I want to thank you for this opportunity to testify before you today on NARA's use of the Federal Advisory Committee Act. The Advisory Committee on Presidential Libraries was established by the former Archivist of the United States Don Wilson in 1988. The committee last met on January 26, 2006.

Former Archivist Don Wilson tasked the committee to provide advice to the Archivist on matters relating to the Archival Museum and public programs of the Presidential libraries. The original membership was composed of representatives of each of the foundations or families that had developed an existing Presidential library. It was intended that the membership expand when new Presidential libraries were created, and so it did. The meetings served as a forum for the discussion of issues relevant to NARA and the Presidential foundations.

Over the 21-year history of the committee, it provided the Archivist advice and recommendation in a number of areas, including the need for additional Government resources to support core programs; comments on a 1995 report on the relationship between the Presidential libraries and their support foundations; the responsibility for funding renovations, exhibits, and programs in Presidential libraries; ideas on marketing strategies for Presidential libraries; whether the National Archives Trust Fund Board should re-examine its trust fund investment strategy in order to increase returns on investments; and whether NARA should consider the possibility of allowing dual compensation for library directors who also served as executive directors of library foundations.

After the 2006 meeting, Archivist Allen Weinstein did not convene subsequent committee meetings. Representatives of the foundations, not the advisory committee, have chosen recently to meet among themselves to discuss issues of common interest and concern. Foundation and/or family representatives convened together at a Washington, DC, hotel in April 2008. Archivist Allen Weinstein and I were invited to provide an update on NARA and library activities following an evening reception, and we did so. We did not attend any of the discussions the next day, though it is my understanding that these discussions focused on budgetary issues,

including funding for core archival processes, digitization, and information technology.

I was asked to address whether NARA has received all the information from this advisory committee needed to properly evaluate the proposal for the planned George Bush Presidential Library. Neither Archivist Carlin nor Archivist Weinstein used the committee to evaluate new library proposals. NARA developed architectural design standards in 1999 which govern the design, building, and acceptance of a Presidential archival depository.

The Archivist invited representatives from the George W. Bush Library Committee to meet with the advisory committee in January 2006. At an informal lunch following the meeting, the library directors and members of the committee provided suggestions on best practices and mistakes to avoid. My office compiled a summary of the advice for the Bush Library Committee, which I have provided to you.

The Archivist encouraged the Bush committee to visit some of the Presidential Libraries and meet with library and foundation staff, which I believe they did.

As NARA laid out in our report, *Alternative Models for Presidential Libraries*, our relationship with library foundations is complex. The Government's role is to run the library, which involves preserving the collections, processing the records for public access, and working to ensure that the historical content of exhibits and education programs reflects an objective perspective of the Presidency, even as the private foundations have carried the major financial responsibility for funding our exhibits and programs. Exhibits today, which incorporate cutting edge technology and dramatic design elements, are costly, as much as \$10 million to design and install a new permanent exhibit. Five library foundations have recently funded or are currently raising money for new permanent exhibits.

While there are many positive benefits to the unique relationship NARA has with the foundations, the foundations and NARA's view of our stewardship responsibilities are not always aligned. Presidential libraries serve a broad constituency of users who hold divergent views on the priorities and mission of Presidential libraries.

I have long thought that the advisory committee representing these multiple stakeholder groups could provide the Archivist with advice on a broader range of issues; however, it is also important for the Archivist to have a forum in which to discuss important issues of concern to the National Archives with the foundations who provide substantial support to the libraries.

In late 2004 I discussed the issue of membership with Archivist John Carlin. Archivist Weinstein held two meetings of the committee. He and I discussed whether to make changes to the membership of the committee. In December 2008 the Archivist designed before making any decision about the future of the committee.

Earlier this year, Acting Archivist Adrienne Thomas considered not renewing the charter; however, as Carlin did previously, she decided to leave the decision to the next Archivist of the United States, and therefore elected to renew its charter for another 2 years.

Family members, former associates of the Presidents, and foundation members from the committees where we have libraries have served on the committee. It is my understanding that FACA does not bar an agency from establishing a limited purpose advisory committee with a more focused membership such as this one. The library foundations are an important partner, and the Archivist needs to be able to meet with them individually and as a group.

The FACA-established committee provides an open and transparent way in which to conduct these meetings. The next Archivist will need to consider the important question of whether to keep this advisory committee as it is currently constituted and/or establish a new committee with a broader membership to provide more divergent feedback and advice to NARA on its Presidential libraries.

Thank you. This concludes my oral statement. I will be pleased to answer any of your questions about the advisory committee.

[The prepared statement of Ms. Fawcett follows:]

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TESTIMONY

OF

SHARON FAWCETT

ASSISTANT ARCHIVIST FOR PRESIDENTIAL LIBRARIES

*INFORMATION POLICY, CENSUS, AND NATIONAL ARCHIVES
SUBCOMMITTEE*

OVERSIGHT AND GOVERNMENT REFORM COMMITTEE

“National Archives: Advisory Committees and their Effectiveness”

*Tuesday, October 20, 2009
2154 Rayburn House Office Building
2:00 p.m.*

Chairman Clay; Ranking Member McHenry, Members of the Subcommittee, I am Sharon Fawcett, Assistant Archivist for Presidential Libraries. I appreciate the opportunity to testify before you today on the National Archives and Records Administration’s (NARA) use of the Federal Advisory Committee Act (FACA), specifically addressing in my testimony the Archivist’s Advisory Committee on Presidential Libraries.

The Advisory Committee on Presidential Libraries was established by the former Archivist of the United States Don Wilson in 1988. This committee has not met in the past three years. The last meeting was held on January 26, 2006 (a copy of the minutes for that meeting has been provided to the Committee). The costs for that meeting were \$12,500. Since its creation this committee has scheduled 18 meetings and met 17 times

(at one meeting there was not a quorum). In addition, a Subcommittee on Promoting Presidential Libraries met one time.

No money is specifically allocated for any of NARA's advisory committees. Rather, funds from our general Operating Expenses (OE) account (or the ERA account for the Advisory Committee on the Electronic Record Archives, otherwise known as ACERA) can be used for this purpose, in the event an advisory committee meeting is held. If no advisory committee is held, then no funds are spent for that purpose. OE funds remain available for any other purpose authorized under the OE account.

The Committee was established by former Archivist Don Wilson to provide advice to the Archivist "on matters relating to the archival, museum and public programs of the Presidential libraries operated by the National Archives and Records Administration."¹ The original membership was composed of representatives of each of the foundations or families that had developed an existing Presidential Library. It was intended that membership expand when new Presidential Libraries were created, and so it did. Until the last three years, the Archivist convened the Committee approximately once per year. I have attended these meetings since 1997. The meetings served as a forum for the discussion of issues relevant to NARA and the Presidential foundations. Members of the Committee updated the Archivist and other members on major projects and activities in their Libraries, particularly those funded by each of the foundations. The Archivist also used the meetings as a means of communicating to the Library foundations information about NARA's strategic plans, the NARA budget and the limits of NARA's resources,

¹ Charter of the Advisory Committee on Presidential Libraries filed April 1, 1988.

the need to follow a NARA-driven plan for building renovations, and the need for Library foundations to provide substantial support for the library's exhibits and public programs.

Over the 21-year history of the Committee, it provided to the Archivist advice and recommendations in a number of areas, including:

- The need for additional resources for processing and declassification and encouraged the Archivist to provide the resources and to simplify declassification rules.
- The need for NARA to direct more resources toward digitizing the holdings of Presidential Libraries.
- A report in 1995 prepared by two Presidential Library Directors on the relationship between Presidential Libraries and their support Foundations.
- Funding sources for Presidential Libraries, including building new libraries, renovation of existing libraries, support for exhibits, digitization, and public programs, and support for "core" programs. (In 1998, NARA issued guidance still in effect on funding sources for Presidential Libraries.)
- Ideas for the Presidential Library of the future; the Committee recommended against a centralized depository.
- Ideas to develop system-wide initiatives and marketing strategies for Presidential Libraries.

- Whether the National Archives Trust Fund Board should re-examine its Trust Fund investment strategy in order to increase returns on investments. The Trust Fund Board subsequently created three investment categories to provide for better returns, especially on mid-term and long-term investments.
- Whether NARA should consider the possibility of providing dual compensation for Library Directors who also serve as Executive Directors of Library Foundations. (After review, NARA decided not to propose legislative changes that would enable additional compensation of government employees. No director is currently serving in a dual capacity.)

After the 2006 meeting, Archivist Allen Weinstein did not convene subsequent committee meetings. The Archivist, of course, met and communicated with individual foundation representatives in the course of regular business to get their individual views on particular issues. Representatives of the foundations – not the Advisory Committee -- have chosen recently to meet among themselves to discuss issues of common interest and concern. The CEOs of the Kennedy and Hoover Foundations convened a meeting of foundation and family representatives at a Washington, DC hotel in April 2008. Archivist Allen Weinstein and I were invited to provide an update on NARA and Library activities following an evening reception and we did so. Each of the foundation attendees also provided an update on their Library's activities. The next day consisted of internal discussions between the Foundations and family members. The Archivist and I were not invited to attend these discussions; though, it is my understanding from the agenda provided to me and a briefing on the meeting by the CEO of the Kennedy Foundation that

these discussions focused on budgetary issues, including funding for core archival processes, digitization and information technology.

I was asked to address “whether NARA has received all of the information from this advisory committee needed to properly evaluate the proposal for the planned George W. Bush Presidential Library from the George W. Bush Foundation.” Neither Archivist Carlin nor Archivist Weinstein used the Committee to evaluate new Library proposals. NARA developed Architectural and Design Standards in 1999, which, along with later revisions to the standards, govern the design, building and acceptance of a presidential archival depository. The Archivist did, however, invite representatives from the George W. Bush Library Committee to meet with the Advisory Committee in January 2006. At an informal lunch following the meeting, both Library directors and members of the Advisory Committee provided suggestions on best practices and mistakes to avoid. Following that meeting my office worked with the Library directors to compile a summary of the advice given for the Bush Library Committee. I have provided a copy of this summary to you along with my testimony. The Archivist encouraged the Bush Library Committee to visit some of the Presidential Libraries and meet with Library and Foundation staff, which I believe they did. A similar process of informal visits to established libraries and meetings with foundation representatives helped the Clinton Foundation representative in that Library’s design and building process.

I will add, though, that the National Archives itself has provided significant input into the concept and design phase for the building plans for the George W. Bush Library and is

responsible for approving the design and construction of the Library to ensure the building turned over to us meets our established standards. Those responsible for funding and building the George W. Bush Presidential Library and Museum have interacted regularly with NARA and have committed to making all changes or mitigations required by NARA.

As NARA laid out in our report on “Alternative Models for Presidential Libraries”, our relationship with the library foundations is complex. Each relationship is different, continually evolving, and not easily defined. The Government’s role is to run the Library, which involves preserving the collections, processing the records for public access, and working to ensure that the historical content of exhibits and education programs reflects an objective perspective of the Presidency – even as the private Foundations have carried a large part of the financial responsibility for financing our exhibits and programs. Exhibits today which incorporate cutting edge technology and dramatic design elements are costly. Library foundations must now raise \$10 million to design and install a new permanent exhibit. Many are doing just that. The George H.W. Bush Library and the Carter Library recently completed new installations of their permanent exhibits, which were paid for mostly by the foundation for each Library. The Roosevelt, Reagan, and Ford Foundations are now committing or raising funds for new permanent exhibits.

While there are many positive benefits to the unique relationship NARA has with the foundations, the foundations and NARA’s view of our stewardship responsibilities are

not always aligned, particularly with respect to issues that can revolve around ensuring the legacy of the former President. Presidential libraries serve a broad constituency of users who hold divergent views on the priorities and mission of Presidential libraries. I have long believed that an Advisory Committee representing these multiple stakeholder groups would provide the Archivist with advice on a broader range of issues and reflect interests that extend beyond the legacy of the former presidents. However, it is also important for the Archivist to have a forum in which to discuss important issues of concern to the National Archives with the foundations who provide substantial support for our exhibits and outreach program. When I became the Acting Assistant Archivist for Presidential Libraries in late 2004, I talked with Archivist John Carlin about the role of the Advisory Committee and whether it should continue in its present format or expand to include representatives from communities, public interest groups, professional organizations, and presidential scholars. Carlin's replacement as Archivist had been named and Carlin left the decision to make any change in the Committee to his successor, Allen Weinstein.

Archivist Weinstein held two meetings of the Committee (March 30, 2005 and January 26, 2006). He and I discussed changing the membership of the Committee. In December 2008, the Archivist resigned before making any decision about the future of the Committee. Earlier this year, acting Archivist Adrienne Thomas considered not renewing the charter. However, she decided to leave the decision to the next Archivist of the United States, and therefore elected to renew its charter for another two years.

In the March 4, 1988, letter to GSA signed by Deputy Archivist Claudine Weiher on behalf of Archivist Wilson accompanying the original transmission of the charter for the Advisory Committee on Presidential Libraries, Wilson stated that membership would include an individual associated with each Presidential Library and be drawn “from the communities where Presidential libraries are located, from among the scholars familiar with the libraries, and from among a former President’s associates or members of his administration.” It became the practice for each foundation to suggest a representative. At the time I became involved with the Committee in 1997, as the Deputy Assistant Archivist for Presidential Libraries, the membership was long established as a representational membership with representatives suggested by each of the Library foundations. Family members such as David Eisenhower, Caroline Kennedy, and Margaret Hoover have served or substituted for members of the Committee. Former associates of the Presidents such as George Elsey, Tom Johnson, Fred Ryan, Jim Cicconi, and Robert Lipshutz have been members of the Committee. Foundation members from the communities where we have Presidential libraries such as Stewart Etherington and Marty Allen have served several terms. It is my understanding that FACA does not bar an agency from establishing a limited purpose advisory committee with a more focused membership, such as this one. The Library Foundations are an important partner and the Archivist needs to be able to meet with them individually and as a group. The FACA established Committee provided an open and transparent way in which to conduct these meetings. The next Archivist will need to consider whether to keep this advisory committee as it is currently constituted, and/or establish a new committee with a broader

membership to provide more divergent feedback and advice to NARA on its Presidential Libraries.

Thank you. This concludes my statement. I will be pleased to answer any questions the Committee may have about the Advisory Committee.

**Thoughts on planning for a new Presidential Library
From comments by Presidential Library Directors**

During the January 25, 2006 meeting of the Presidential Library Directors and the Presidential Library Advisory Committee, the attendees expressed their thoughts, impressions, and advice pertaining to the creation of new Presidential Libraries. Following the meeting, many sent forward an extended version of their comments. This document, a collection of advice and other thoughts from the Directors of the Presidential Libraries and Presidential Materials Staff, contains information related to the following considerations:

- General Planning
- Location
- Design
- Museums and Exhibits
- Archival Issues
- Public Programs
- Non-profit Support Organizations
- Endowment and other Fundraising

General Planning:

Directors feel the most important task when planning a new Presidential Library is to remember that these institutions serve future generations - look beyond today. The life of the Library will have many stages, and therefore do not think about just what is necessary for today. For example, as Cynthia Koch, Director of the Roosevelt Library, pointed out what is most enduring about the Roosevelt Library is that people feel close to the president and his family when they visit. There is something of Roosevelt's spirit still very much connected to the Library and its surroundings. As planners address practical issues of fundraising and location, they should also consider how people would connect George W. Bush in his library. The best way for this to happen is for him to be very closely involved with all aspects of the planning process.

Another important issue raised by the Directors is that Presidential Libraries, the central office for Presidential Libraries (NL) and NARA are here to help in the planning process. NARA has a long and established history working with Presidential administrations to successfully plan, build and move records and artifacts to the Library. NL/NARA should be directly involved at every stage of building design and development as well as with future Library program development.

Other issues related to general planning of Library include the following:

- It is vital that appropriations for NARA over the next three years be sufficient to fund the White House move to the location of the Materials Project, the equipment, and the necessary staff. NARA's 2007 request includes funds to hire 5 positions that will transfer to the Bush Project in November 2008. In 2008 we will need to ensure that NARA has adequate resources to accept the Bush electronic records and in 2009 NARA will need funding for leasing a temporary site, the transfer of records, the hiring of additional staff, and other program costs associated with the start-up of a new library.
- As the planning committee chooses a museum designer, it is important to understand that the cost and long-term maintenance of electronic, interactive exhibits is extremely expensive. After installation, there will be continuing funding issues in the maintenance and updating of the equipment and technology.
- Planners should coordinate with NARA when accepting "gifts in kind" from donors. Such gifts, particularly IT services and equipment may be incompatible with other equipment and may not meet NARA/Gov specifications for security and maintenance.

Location:

Early selection of the Library site allows time to build connections with the community and brings focus to the development of resources. The location of the George W. Bush Library is important not only today but also in 65 years and beyond. Michael Devine, Director of the Truman Library, pointed out that the Truman Library in Independence, Missouri has the advantage of being only six blocks from the President's home and is located in the town where he spent almost his entire life. The Library, however, is not placed near a major expressway and is a 35-minute drive from the area's major educational and cultural institutions. There is virtually no public transportation that comes anywhere near the Library, making it very difficult for the non-driving public, out-of-state visitors, foreign visitors and researchers who come to the Kansas City metro area by plane or limo and stay in downtown Kansas City. There are not even any sidewalks connecting the Library to downtown Independence or adjacent neighborhoods.

Planners for the George W. Bush Presidential Library should consider locating the Library near the cultural and educational core of whatever community is chosen. Being near other institutions (museums, historical sites, universities and colleges) will allow the Library to develop mutual visitation. It will also provide opportunities for research, student internships, and cooperative programming in a wide variety of areas. Furthermore, there will also be considerable opportunities to play off one another's programs and audiences as well as to share facilities.

The Directors urge the planning committee to consider creating a single facility for the following reasons:

- The confluence of artifacts in the museum and the records from the archives creates a healthy environment of learning where the scholar and the general public mix, adding energy to the building.
- Because the 1986 amendments to the Presidential Libraries Act and its legislative history are clear that Congress intended there be only one facility.
- Less funding will be required to build and support one facility for both the government and the foundation. Examples of duplicate funding requirements included purchasing two sets of Government vehicles, two sets of utility bills to pay, two sets of maintenance contracts, etc. along with loss of staff time to drive between the two sites, gas expenditures just moving between two sites, etc. There would be higher construction costs to duplicate a director's office at each site, double conference, meeting & classroom spaces, double auditoriums, double kitchens, double staff & volunteers/docent lounges, etc.
- Building duplicate spaces because of two sites will likely trigger a higher endowment.
- Government funding for adequate staffing for both facilities will be difficult to maintain. Among other factors this will lead to archivists doing non-archival work, lack of 24/7 security at both sites, need for separate advertising for events, and absence of K-12 programming at one of the sites.

Other factors to consider when planning for location include:

- The presence of low-cost accommodations for researchers (hotels, B&Bs, etc.)
- Ease of access to public ground transportation
- Understanding regional and community plans for future developments and amenities in the surrounding area
- Whether the Library will be affiliated or collocated with a university and whether there is programmatic agreement/collaboration with the university in addition to any other arrangements that may be made regarding maintenance, etc.

Design:

The Directors strongly believe that the design of a Library is critical to its long-term success. The planning committee should be sure to consider the type of facility that is needed. From a museum and archives point of view, form does follow function. While many building standards are mandated by NARA, it is still important for the committee to consider what will occur in the building and then design walls around those functions. Issues such as visitor and work flow, programmatic use, flexibility of space, future growth and/or change, education programming, future research needs, office space for NARA as well as Foundation employees, security for Presidential visits (e.g., Landing zones, communication needs, protected areas, etc.) and building maintenance issues (heating, AC, cleaning, etc.) should all be carefully considered. Particularly with regard to security, be sure to address all issues early in the design phase and re-visit these issues through the construction phase of the Library. The committee should refrain from cutting corners or attempting to save money on security issues – future stopgap measures will prove more expensive over time. Keep NL/NARA and the USSS in the loop on all security issues involving the Library and the former POTUS's residence.

During the design phase, the committee should make certain adequate facilities exist for museum and archival functions as well as dedicated space for possible educational learning centers, traveling and special exhibits, a museum store, conferences, and amenities such as a cafe and sufficient restrooms.

Museum and Exhibits:

Directors stress the importance of providing a new Presidential Library with adequate space for temporary exhibits. No matter how appealing permanent displays are, they will lose the ability to create "buzz" after a few years. Strong traveling exhibitions will attract news attention and win repeat business from those who have already visited. About 5,000 sq. ft. will be needed to host major temporary exhibits. It is preferable (though no Library has it) to have enough space to house two shows at the same time, in order to not lose momentum when one exhibition is being assembled and dissembled.

Planning for museum exhibits should involve securing appropriate copyright/licensing museum features such as background music prior to opening the Library. The museum designers should assume responsibility for copyright/licensing fees as part of their contract. NARA/NL also should be in the loop on all copyright/licensing issues. National Archives General Counsel attorneys are able to provide guidance on these matters.

Archival Issues:

The planning committee should bear in mind that the core of Presidential Libraries remains their archives and the researchers that use presidential materials and other holdings to interpret the story of modern American history. Researchers' impressions of a Library, its collections, and the service researchers receive while using those collections will shape the Library's reputation far into the future. The Library's good reputation will be preserved among scholars if the research room is a good place to work and the archives staff understands the importance of good customer service.

History will always be at the center of what any Presidential Library is all about, and a Library will remain a successful research institution if it maintains a robust archival collection. It is therefore absolutely essential that the Library concern itself with collecting and preserving as much of the historical material related to the President and his times as possible. Efforts should be made to secure personal papers of the President's family members and associates.

Furthermore, a comprehensive oral history program should commence as soon as possible once the president leaves office. This was done during the end of the Clinton Administration, and this information, vital to American history, is now being made available to scholars. The Presidential Materials Staff is able to give advice on how to begin this process with the current Administration. Collecting the George W. Bush presidency and era will be an ongoing effort for decades to come, and it will tell the story of his leadership and his times.

There will be initial tension between historians wanting immediate access to the historical materials and NARA officials, library administrators and members of the president's administration who will be concerned about restricting access for a period of time for a variety of solid reasons. This tension is unavoidable, but open communication with all parties preserves the institution's credibility.

Public Programs:

Public programming, including education programs for grade school and college students, is an important part of the daily life within a Presidential Library. Every attempt should be made by the committee to consider public programs during both the design and construction phases of this project.

The Directors recommend the committee consider the following:

- A large, open, and flexible public auditorium is an essential part of a future Library. In this space the Library will be able to host lectures, symposia, and other public programs which will have the potential to broaden the Library's audience and to make important contributions to public discourse and scholarship.
- Funds should be raised for these types of programs, preferably endowed, to ensure that they will continue well into the future.
- The committee should attempt to develop a fund for repair and replacement of IT and interactive equipment in the museum and educational centers as well as for resources used for public programming. If interactive equipment is donated to the Library, the Committee should try to obtain agreement to provide continuing maintenance of the equipment. Such equipment will operate about 8 hours a day, 362 days a year, and it will wear out quickly.
- The success of public programs and other functions at Presidential Libraries depend on volunteers. Volunteers should be recruited as soon as work begins on the building. It is much easier to recruit during this period because of the publicity the new Library will generate.

Non-profit Support Organizations:

The Directors underscore the importance of a communicative and cooperative relationship between a Presidential Library and its non-profit support organization, commonly referred to as a foundation. A Library foundation and the NARA staff/director should be in concert throughout the processes of both construction and developing the foundation funded programs/endowments.

To assure a close, supportive and cooperative relationship between the Director of the George W. Bush Presidential Library and the Library's Foundation, the Library Director could serve on the Foundation board in a non-voting ex officio role. The Library and Foundation should work together to plan strategically for the Library's current and future operation.

It is very important for the Foundation to have a budget for on-going support of the Library. This is especially so when the Foundation supports other endeavors or projects.

The Endowment and other Fundraising:

A Presidential Library's endowment will be used far into the future to support Library enhancement and programming. It is vital that a new Presidential Library be given the initial financial support to be successful decades from now.

Endowed program funds should be raised either during the initial fund drive for the building, or as soon as the facility is given to NARA. It can be confusing to include funds for programs while undergoing a capital campaign

for the building and the mandated trust fund, so the committee may want to consider raising those funds after the Library is transferred.

Other fund raising issues to consider are as follows:

- Consider naming galleries, event rooms, or the auditorium for certain donors. Other naming possibilities include lecture series and educational programs.
- A fund to support research fellowships and travel stipends is important. It will encourage young researchers who will be working on the Bush presidency a generation from now.

Advisory Committee on Presidential Libraries

January 26, 2006

AGENDA

Opening Remarks	Tom Johnson and Fred Ryan
Welcome to George W. Bush Library Committee	
Report from the Archivist	Allen Weinstein and Sharon Fawcett
Congressional Briefing	John Constance
Dual Compensation for Library Directors	Fred Ryan and Allen Weinstein
Dell Initiative	Michael Becker (not confirmed)
Marketing update	Susan Donius, Deputy Director, Office of Presidential Libraries
Funding Strategies Discussion	All

January 26, 2006 - Presidential Libraries Advisory Committee meeting with the National Archives

Advisory Committee meeting in Archivist's Board Room, 1PM EST

In addition to the Archivist, NL staff and Library Directors, the following individuals participated in the afternoon meeting:

Tom Johnson	Representing the LBJ Foundation (Co-Chair)
Fred Ryan	Representing the Ronald Reagan Foundation (Co-Chair)
Margaret Hoover	Representing the Hoover Presidential Library Association
Amb. William vanden Heuvel	Representing the Roosevelt Institute
Milton Kayle	Representing the Harry Truman Institute
Stewart Etherington	Representing the Eisenhower Foundation
Marty Allen	Representing the Gerald R. Ford Foundation
Amb. Roman Popadiuk	Representing the George Bush Foundation
Bruce Lindsey	Representing the William J. Clinton Foundation
Don Evans	Bush II Planning Committee
Marvin Bush	Bush II Planning Committee
Ashley Kavanaugh	Bush II Planning Committee

Sharon Fawcett made remarks about the NARA strategic plan and how it will be incorporated in the Libraries. She outlined the necessity to raise the public's awareness of the Library system and discussed various initiatives that contribute to this goal including conferences hosted by the Truman, Eisenhower, and Kennedy Libraries, the opening of new Libraries (Clinton and Bush), product development, and the support of the Advisory Committee.

Tom Johnson noted time constraints that affected Secretary Donald Evans's schedule and requested that Sharon Fawcett give a brief overview of the marketing initiatives.

Fawcett gave a high-level description of the progress of the Harris Interactive audience evaluation study and the possible Dell partnership. Progress on the Dell initiative is contingent on Michael Dell's approval – have not yet received a report. Dell will be able to assist in developing project proposals, could create more interactive exhibits, and better education opportunities. Fawcett also reviewed the Presidential Time Line project.

Mr. Johnson gave a brief history of the Dell initiative and stated that it is possible Dell has found that the Libraries' needs are too complex or that solutions might cost too much.

He also noted that technology will play a key role in educating children and that the timeline, by accommodating archival records, sound, and moving image, may represent the best presidential learning tool that has been developed.

Discussion of the timeline continued including clarification of the timeline's location (internet) and scope. All Libraries will be involved initially – other non-Presidential Library presidents later (pre-Hoover).

Investment Report – Larry Post

Larry Post gave a general description of the history and function of the National Archives Trust Fund (NATF). He outlined how the Libraries' trust funds are, as a system, declining to the point that in ten years some Libraries' trust funds will be insolvent.

Tom Johnson noted that most fund raising is done for foundations and that there are no major products that would increase Library trust funds.

Sharon Fawcett discussed reasons for the lowered trust funds noting that the fund is now functioning in a way that was not intended due to earlier budget cuts that caused staff to be covered by the funds. This has resulted in a disproportionate number of Library staff being paid by Trust Fund.

A discussion of NARA's budget compared to the allotment for Presidential Libraries' began. Tom Johnson requested budget numbers for the last five years – both for NARA and for Presidential Libraries.

ACTION: NL will provide Tom Johnson with budget numbers as requested.

Fawcett stated that Libraries need advice from experts serving on Library boards about how to invest trust fund monies in order to get better returns. She noted that the Trust Fund is currently a very conservative fund with low yield. She also stated that foundations need to continue to support Presidential Libraries. Mr. Johnson noted that the private foundations consistently receive better returns on their investment, and Post outlined steps beginning next month that will increase yield.

Ambassador vanden Houvel suggested increasing admission prices. Several directors indicated this would not adversely affect attendance.

Duke Blackwood discussed the concern among the Library directors about when NARA might begin moving staff from Trust Fund to OE. He suggested that foundations should contact members of Congress in order to get more funding for Library staffing.

Marty Allen suggested that the goal has always been to move employees from TF to obligated (OE) funds, and the Archivist stated that this is a goal that he and Sharon Fawcett will work to make a reality. There was discussion of the fact that numerous positions are currently covered by appropriated operation expenses in support of programs at the downtown Washington Archives Building including exhibits specialists, public affairs specialists, etc. The same positions are supported by the Trust Fund at Presidential Libraries – a primary reason for the Libraries' declining funds. There was agreement that there should be equal treatment.

Sharon also discussed the Trust Fund subcommittee noting that Advisory Committee members may be asked to give advice on investments. Chris Runkel noted that advisory participation is acceptable if it is limited to advice and is not its own decision making body.

ACTION: NL will prepare a proposal for getting TF positions converted to OE.

Congressional Report – John Constance

John Constance thanked the Advisory Committee for its support to NARA and Presidential Libraries. He outlined several budgetary challenges including the maintenance of aging buildings and a tough budget environment in general. He noted that communication is key and budget requests need to be clear in scope.

Mr. Johnson inquired about Presidential Libraries' standing on key committees in Congress. The Archivist pointed out that Constance and his department (NCON) have worked hard to forge strong relationships with key members. Constance acknowledged that Libraries are looked upon favorably, but significant support comes from members who represent districts near a Library.

Constance noted that the budget is on a tough playing field given its current location within the large Transportation/HUD appropriation. While there is a lot of money available, it also contains many earmarks for this reason. The Archivist stated that this underscores the importance of combining requests into a package of funding needs.

Don Evans left after thanking everyone for the opportunity to join the group.

John Constance stated that communication with individual members off Congress is essential, and Milton Kayle requested a list of key members of Congress that could be asked for further support. The Archivist stated that NARA has worked hard to give tours to members and their families in order to show them the value of the Libraries.

ACTION: NL will work with NCON to gather a list of key congressional contacts for Advisory Committee.

Dual Compensation of Library Directors –

Mr. Allen noted that this is a key issue for the Bush II team as well as future Library projects.

Fred Ryan explained that the goal of dual compensation is to use the foundations to supplement the director's salary. He noted that multiple models could work, but that two directors (one for foundation and one for Library) didn't work at the Reagan Library. He noted that Duke Blackwood covers both roles and stated that Blackwood does an excellent job.

Bruce Lindsay inquired about whether this is a GS scale issue, and suggested that foundations could make a donation to the Library's trust fund in the amount of the compensation. Fawcett explained the Senior Level grade that many directors have. Chris Runkel stated that the way the rules have been interpreted, a donation to the Trust Fund would violate dual compensation because it is going to a specific person. Lindsey suggested that it might be easier to get Congress to reinterpret the Trust Fund rule than to make change that affects agencies across the government. Runkel stated that limits probably exist even on that change.

Mr. Johnson noted that the current ethical environment in Washington demands that the process is very open, and he stated that whatever occurs, everyone must work hard not to damage the reputation of the Libraries or NARA. Mr. Ryan stated that any agreement would have strict guidelines upfront and actions would be open and transparent. Gary Stern stated that the regulations are more limiting than they appear. He noted that the Clinton administration ran into problems when heads of agencies also ran non-profits. Mr. Ryan stated that the former Presidents Act was developed in this manner.

The Archivist suggested that an effort to convince Congress to change a rule would be more successful if it is part of a list of logical changes that would modernize the administration of Presidential Libraries. He stated that NARA wants to compensate directors but not at the expense of overall funding. Discussion of dual compensation continued related to alternative ways to compensate directors and other strategies for approaching Congress about the matter.

Marketing Update – Susan Donius

Sharon Fawcett explained that while Phil Dusenberry has generously given of his creative talents the production costs of a film will amount to \$140,000. The Advisory Committee and NARA need to evaluate funding options for this project.

Susan Donius discussed findings from the Harris Interactive audience evaluation and marketing study. Specifically, we've learned that there is significant name recognition for both the National Archives and the Presidential Libraries among the general public, but the public has a very limited understanding of what the Presidential Libraries do. Interest in visiting the Presidential Libraries nearly doubled when the public was informed about the museum program, exhibits, lecture series, education programs, etc., that are available to the general public. Donius also reported that we are learning our target audience should be families with children, particularly because they are seeking destinations that offer an educational component for the entire family. The Archivist emphasized that the study conducted by the National Archives in Washington yielded similar informational results regarding target audiences.

Donius also discussed progress that has been made in producing new marketing material including informational booklets for the system as well as brochure designs for the Truman, Ford, and Carter

Libraries this year. These products add to the large entrée of brochures already developed for the Presidential Library system and the Clinton and Reagan Libraries. Tom Johnson stated that the materials that have been produced are some of the best ever.

Donius also discussed the Vista admissions software and the souvenir tickets that are a part of the system, stating that the system will be deployed to the remaining three Presidential Libraries this year. She also briefly discussed new merchandise that features the Presidential Libraries logo.

Amb. vanden Heuvel inquired about the apparent discrepancy in visitorship versus awareness in the Harris study. The Archivist emphasized that declining interest in history is having an impact across the board. Donius advised that the full report will be shared with the Advisory Committee.

ACTION: NL will distribute the audience evaluation report to members of the committee.

vanden Heuvel inquired about whether the study showed that the internet affects awareness, and Donius stated that a separate web survey has shown that visits to Library websites increases the likelihood that a member of the public will visit that Library.

Donius then described a new traveling exhibit called "Play Ball Mr. President" that will examine how Presidents and America's pastime interacted during modern American history. Fred Ryan suggested that the Presidential Libraries contact Dale Petrofsky, President of the Baseball Hall of Fame. Stew Etherington suggested the Libraries contact an Abilene exhibit designer responsible for creating exhibits related to Negro Sports leagues.

Donius also discussed a traveling exhibit related to treasures of Library holdings. The Archivist stated that this could be part of a gala event honoring Presidential Libraries. The Truman Library is taking the lead on curating this exhibit, in coordination with NL.

Tom Johnson noted that each library has an impressive list of foundation board members that could be turned to for support. Mr. Etherington said that this and other events like the Vietnam Conference offer great opportunities to raise the profile of the Libraries and find more support.

As the meeting drew to a close, Mr. Johnson expressed disappointment that a Dell representative and Jack Valenti were unable to attend the meeting. He stated the Mr. Valenti will attend the next meeting, and a report from Dell should be available then if not before.

The meeting ended with a brief discussion of an upcoming study about Presidential Libraries written by Richard Norton Smith. He has left the Lincoln Library and Museum and will work closely with the Archivist and Sharon Fawcett to find ways to strengthen the system.

The meeting was adjourned with attendees thanking Tom Johnson for covering the cost of the day's lunch.

Mr. CLAY. Thank you, Ms. Fawcett, for your statement.
Ms. Morphy, you are recognized.

STATEMENT OF MARTHA MORPHY

Ms. MORPHY. Chairman Clay, Ranking Member McHenry, I am here as the designated Federal official for the Archivist Advisory Committee on Electronic Records Archives. I appreciate the opportunity to testify before you today on the National Archives and Records Administration use of the Federal Advisory Committee Act, and specifically the Advisory Committee on Electronic Records Archives [ACERA].

ACERA was established by then Archivist of the United States Allen Weinstein in 2005. This committee meets twice a year in April and November, and information about the meeting and the meeting minutes are available at the National Archives Web site. The last meeting was held on April 29, and 30, 2009. The costs for that meeting were approximately \$9,300, which included travel, per diem, and supplies.

Since its creation, this committee has scheduled nine meetings and met eight times. The ninth meeting will be held on November 4th and 5th of this year.

Archivist Weinstein established the committee to serve as a deliberative body to advise the Archivist of the United States on technical, mission, and service issues related to the Electronic Records Archives [ERA]. This includes but is not limited to advising and making recommendations to the Archivist on issues related to the development, implementation, and use of the ERA system. ERA is an information technology system being built to support the preservation of and access to electronic records that are complex in nature, diverse in format, and exponentially increasing in volume. The challenge that NARA faces in the area of electronic records is one that is shared throughout the Government and the private sector.

The original ACERA membership consisted of 18 members considered to have particular expertise, knowledge, and interest in electronic records. Today's membership consists of 17 recognized experts and leaders with active interest in records management, electronic records, information technology, and research in Federal and State governments, academia, and the public and private sectors.

The meetings serve as a forum for the discussion of issues relevant to NARA and the Electronic Records Archives, and are therefore not strictly structured to only provide formal recommendations or findings. The meetings are also an opportunity for NARA to communicate to and to seek feedback from the committee on NARA's strategic plans, the state of the Electronic Records Archives, the newest releases and developments of the ERA system, and any electronic records challenges encountered since the previous meeting. Committee members often add value to the meetings by discussing their own projects and activities that are relevant to electronic records and information technology.

Over the 4-year history of the committee, it provided informal recommendations and advice on the architecture and design of the ERA system and approach to processing Freedom of Information

Act requests for the Presidential electronic records, a review of the Hitachi Content Archive Platform to be used for processing records, a review of the Global Digital Format Registry initiative, discussions of the pros and cons of a Federated Electronic Management Model, and a review of the requirements for public access within the ERA system.

The November 2009 meeting agenda includes an overview of NARA's Center for Advanced Systems and Technology, a presentation on the use of ERA in Presidential libraries, strategies for communicating ERA progress, and a discussion of NARA's conceptual framework for digital preservation.

In my letter of invitation to this hearing, you also asked for my views on this advisory committee and if there was anything that should be done to improve its service to NARA. It is my opinion that this advisory committee is useful and necessary to the Archivist of the United States at a time when preserving and providing access to the growing volume of Government electronic records is made even more challenging by the rapid changes in technologies that create those records.

Government does not have all the answers to these challenges, but thankfully with ACERA we have a diverse group of experts who are willing to give their time to help us stay focused on feasible, cost-effective, and, most importantly, far-sighted solutions.

I am personally thankful we have ACERA, and I do not see any need for changes to its charter. It is my hope that the new Archivist will find this a useful forum, as well.

Thank you. This concludes my statement, and I will be pleased to answer any questions that you might have.

[The prepared statement of Ms. Morphy follows:]

TESTIMONY
OF
MARTHA MORPHY

ASSISTANT ARCHIVIST FOR INFORMATION SERVICES

*INFORMATION POLICY, CENSUS, AND NATIONAL ARCHIVES
SUBCOMMITTEE*

OVERSIGHT AND GOVERNMENT REFORM COMMITTEE

*2154 RAYBURN HOUSE OFFICE BUILDING
TUESDAY, OCTOBER 20, 2009
2:00 P.M.*

*“NATIONAL ARCHIVES: ADVISORY COMMITTEES and their
EFFECTIVENESS”*

Chairman Clay; Ranking Member McHenry, Members of the Subcommittee, I am Martha Morphy, Assistant Archivist for Information Services and the Designated Federal Officer for the Archivist’s Advisory Committee on the Electronic Records Archives. I appreciate the opportunity to testify before you today on National Archives and Records Administration’s (NARA) use of the Federal Advisory Committee Act (FACA) and, specifically, the Advisory Committee on the Electronic Records Archives (ACERA).

ACERA was established by the then Archivist of the United States, Allen Weinstein, in 2005. This committee meets twice a year in April and November and information about the meeting and the meeting minutes are available at <http://www.archives.gov/era/acera/>. The last meeting was held on April 29-30, 2009. The costs for that meeting were \$9,285

which includes travel, per diem, catering, and supplies. Since its creation this committee has scheduled nine meetings and met eight times (the ninth meeting will be held November 4-5, 2009).

Archivist Weinstein established the Committee to “serve as a deliberative body to advise the Archivist of the United States, on technical, mission, and service issues related to the Electronic Records Archives, known as ERA. This includes, but is not limited to, advising and making recommendations to the Archivist on issues related to the development, implementation and use of the ERA system.”¹ ERA is an IT system being built to support the preservation of and access to electronic records that are complex by nature, diverse in format and exponentially increasing in volume. The challenge that NARA faces in the area of electronic records is one that is shared throughout government and the private sector. The original ACERA membership consisted of 18 members considered to have particular expertise, knowledge, and interest in electronic records. Today’s membership consists of 17 recognized experts and leaders with active interests in records management, electronic records, information technology; and research in federal and state governments, academia, and the public and private sectors.

The meetings serve as a forum for the discussion of issues relevant to NARA and the Electronic Records Archives, and are therefore not strictly structured to only provide formal recommendations or findings. The meetings are also an opportunity for NARA to communicate to, and to seek feedback from, the Committee on NARA’s strategic plans, the state of the Electronic Records Archives, the newest releases and developments in the

¹ Charter of the Advisory Committee on the Electronic Records Archives filed August 31, 2005.

ERA system, and any electronic records challenges encountered since the previous meeting. Committee members often add value to the meetings by discussing their own projects and activities that are relevant to electronic records and information technology.

Over the Committee's four-year history, it provided informal recommendations and advice, on:

- ERA Architecture and Design – an overview of the ERA system architecture and design, concentrating on the hybrid approach being used for ERA where incoming data is held in a Data Storage instance that enables us to check for viruses and other problems, check classification levels, and perform other assessments of the incoming records.
- Open Architecture Approach – a means to leverage innovation and promote evolution in a multi-vendor environment.
- Advanced Distributed Learning (ADL) and Content Object Repository Discovery and Registration Architecture (CORDRA) – the ADL Initiative provides the Department of Defense personnel access to high-quality education and training, tailored to individual needs and delivered cost effectively, whenever and wherever it is required. CORDRA is a metadata² repository that provides information on how to find context and use it across Learning Management Systems (LMS). These initiatives were discussed in looking at how to provide ERA training.

² **Metadata** is descriptive information about the data held in a system. An item of metadata may describe an individual record or content item, or a collection of data including multiple content items and hierarchical levels, such as a database schema. .

- Freedom of Information Act (FOIA) Processing of Presidential E-Records – tools to assist archivists in processing electronic records created by office applications that could be used for processing Presidential records.
- The Hitachi Content Archive Platform (HCAP) – the HCAP tool allows for the rapid ingest and search of data.
- Global Digital Format Registry (GDFR) – an initiative to develop an architecture that will support a distributed global registry for file format information. Once deployed, the GDFR will provide services for the centrally-organized collection of format representation information, the distributed storage, discovery, and delivery of that information, and a basis for related services such as format translation.
- Federated Electronic Records Management (ERM) Model – the history of the Federated model³, the pros and cons of various ERM models and how NARA can use this model to do business.
- Interagency Working Group on Digital Data – this group was established to develop and promote the implementation of a strategic plan for the Federal government to cultivate an open interoperable framework to ensure reliable preservation of and effective access to digital data for research, development, and education in science, technology, and engineering.
- Public Access to ERA – the functionality and design of ERA’s online public access interface within the context of NARA’s Web presence and the Internet.

³ A Federated model is a system architecture that does not require all of the records to be in one (1) central repository and can support search of and access to records regardless of their physical location.

- ERA System Architecture and Evolution – the long-term view of ERA system development and the elements that drive the ERA system’s design.

The November 2009 meeting agenda includes:

- Overview of NARA’s Center for Advanced Systems and Technology (NCAST),
- Presentation on use of ERA in Presidential Libraries,
- Strategies for communicating ERA progress, and
- Discussion of NARA’s Conceptual Framework for Digital Preservation.

In my letter of invitation to this hearing, you also asked for my views on this advisory committee and if there is anything that should be done to improve its service to NARA. It is my opinion that this advisory committee is useful and necessary to the Archivist of the United States at a time when preserving and providing access to the growing volume of government electronic records is made even more challenging by the rapid changes in the technologies that create those records. Government does not have all of the answers to these challenges, but, thankfully, with ACERA, we have a diverse group of experts who are willing to give their time to help us stay focused on feasible, cost-effective, and, most importantly, farsighted solutions. I am personally thankful we have ACERA and I do not see the need for any changes to its charter. It is my hope that the new Archivist will find this a useful forum as well.

Thank you. This concludes my statement. I will be pleased to answer any questions the Committee may have about the Advisory Committee.

Mr. CLAY. Thank you so much, Ms. Morphy, for your statement. Dr. Greer, you are next up for 5 minutes.

STATEMENT OF CHRISTOPHER GREER

Dr. GREER. Good afternoon. My name is Chris Greer, and I am a member of the National Archives and Records Administration's Advisory Committee for the Electronic Records Archive. I thank the chairman and the ranking member for the opportunity to meet with you today.

I am here today representing myself as an individual member of the ACERA. I have been an advisory committee member since 2007. I am a scientist by training and was a faculty member at the University of California Irvine for more than 18 years before joining the Federal Government. I have been an employee of the National Science Foundation since 2003, where I recently served as senior advisor for digital data in the Office of Cyber Infrastructure. I am currently on assignment from NSF to the Office of Science and Technology Policy, where I serve as Assistant Director for Information Technology, Research, and Development. I also co-chair the Inter-Agency Working Group on Digital Data of the National Science and Technology Council's Committee on Science.

Your committee has asked witnesses to describe their advisory group's purposes, uses, and effectiveness, so let me describe each of these in turn.

First purposes: the ACERA is charged with serving as a deliberative body to provide advice to the Archivist on technical, mission, and service issues relevant to the development, implementation, and use of the Electronic Records Archive. The operative word in this charge is deliberative. The committee's central function is to analyze ERA issues, weigh options, and evaluate solutions. The committee's deliberations are typically intense and engaging.

Next uses: the committee is used to air ideas and opinions on strategic, technical, and implementation issues. My experience is that NARA uses the committee to probe the full spectrum of ERA issues. Recent topics have ranged from design concepts for the reference architecture through standards adoption and supported formats to details of the project time line and work status.

The committee typically uses an action items mechanism rather than formal recommendations, reflecting a spirit of partnership and an emphasis on real progress. Each meeting generates 5 to 10 action items, and the resolution of these items is tracked in the minutes.

Finally effectiveness: in my opinion, five factors have allowed ACERA to be effective. First, NARA places a high priority on the committee. The Archivist or acting Archivist and ERA project leadership attend nearly the entire 2-day meeting and actively participate in debate and discussion.

Second, the committee is consulted at each major project phase. The committee meets twice each year, a frequency that is about right for this multi-year project.

Third, ACERA is given the opportunity for full deliberation. Each meeting is conducted over 2 days, providing the time needed to tackle complex issues in a thoughtful manner.

Fourth, the committee is given the information it needs to provide informed advice. Briefing materials are complete and candid, and we get an honest look at all sides.

Fifth, ACERA is used to address questions of substance. Briefings focus on challenges, options, and implications rather than on defending a preferred choice. NARA leadership and staffers, alike, engage in honest debate and demonstrate a willingness to change course in response to a compelling case.

Because of these factors, I have found ACERA membership to be valuable and rewarding.

I hope these comments are helpful, and I am glad to answer any questions you may have.

Thank you.

[The prepared statement of Dr. Greer follows:]

Testimony of
Dr. Christopher L. Greer
for the
Information Policy, Census, and National Archives Subcommittee
of the
House Committee on Oversight and Government Reform
October 20, 2009

Good afternoon. My name is Chris Greer and I am a member of the National Archives and Records Administration's (NARA) Advisory Committee on the Electronic Records Archive (variously referred to as ACERA and the Committee below). I thank Chairman Clay, Ranking Member McHenry, and members of the Information Policy, Census, and National Archives Subcommittee for the opportunity to meet with you today.

I am here today representing myself as an individual member of the ACERA. I have been a regular member of ACERA since 2007. The professional experience that allows me to contribute to the ACERA mission includes the following. I'm a scientist by training and was a faculty member at the University of California, Irvine for more than 18 years before joining the Federal government. I've been an employee of the National Science Foundation (NSF) since 2003. I am currently on assignment from NSF to the Office of Science and Technology Policy where I serve as Assistant Director for Information Technology R&D. Prior to this assignment, I have served as Director of the National Coordination Office and Co-Chair of the Networking and Information Technology Research and Development (NITRD) Subcommittee of the National Science and Technology Council's (NSTC) Committee on Technology. I am currently Co-Chair of the Interagency Working Group on Digital Data of the NSTC's Committee on Science.

The materials provided by the House Committee on Oversight and Government Reform asked witnesses to describe ACERA's purposes, uses, and effectiveness. I describe each of these in turn below.

Purposes

The ACERA is charged with serving as a deliberative body to provide advice to the Archivist on technical, mission, and service issues relevant to development, implementation, and use of the Electronic Records Archive (ERA). The operative word in this charge is "deliberative". The Committee's central function is to analyze ERA issues, weigh options, and evaluate solutions. The Committee membership is diverse, providing a breadth of perspectives and the range of technical expertise to match the spectrum of ERA issues. The Committee's deliberations are typically intense and engaging.

Uses

The Committee is used to air ideas and opinions on strategic, technical, and implementation issues relevant to the Electronic Records Archive and to evaluate those ideas and opinions. My experience is that NARA uses the Committee to probe the full spectrum of ERA issues. Recent topics have ranged from design concepts for the ERA reference architecture, through standards adoption and supported formats, to details of the project timeline and work status.

Effectiveness

In my opinion, five factors have allowed ACERA to be effective.

- (1) NARA places a high priority on ACERA. The Archivist (or Acting Archivist) and ERA project leadership attend nearly the entire two-day meeting and actively participate in debate and discussion.
- (2) ACERA is consulted at each major project phase. The Committee meets twice each year, a frequency that is about right for this multi-year project. The interval is not so frequent that ACERA meetings devolve into details and not so infrequent that major transitions happen without an opportunity for input.
- (3) ACERA is given the opportunity for full deliberation. Each meeting is conducted over two days, providing the time needed to tackle complex issues in a thoughtful manner.
- (4) ACERA is given the information it needs to provide informed advice. Briefing materials are complete and candid. ACERA gets an honest and balanced look not just at the things that are going well but also at things that are difficult, as is inevitable for a project of this scope.
- (5) ACERA is used to address questions of substance. Issues are brought to the Committee before a decision must be made. Briefings focus on challenges, options, and implications rather than on defending a preferred choice. NARA leadership and staffers alike engage in honest debate and demonstrate a willingness to change course in response to a compelling case.

Because of these factors, I have found ACERA membership to be valuable and rewarding. I hope these comments are helpful to members of the Committee and I would be glad to answer any questions you may have.

Mr. CLAY. Thank you so much, Dr. Greer.
Now we will hear from Mr. Flaak.
Mr. Flaak, 5 minutes.

STATEMENT OF ROBERT FLAAK

Mr. FLAAK. Chairman Clay, Mr. Ranking Member McHenry, my name is Robert Flaak. I direct the Committee Management Secretariat at GSA. Thank you for the opportunity to be here today to discuss the important role played by Federal advisory committees in the work and missions assigned to the executive branch and, in particular, for NARA's advisory committees and the two in particular that have been mentioned already.

During previous testimony before this subcommittee, Mr. Chairman, I have had the opportunity on occasion to discuss how GSA and executive branch agencies and departments manage their responsibilities under the Federal Advisory Committee Act. I have also included that material in my prepared testimony, which I have submitted to you, so therefore I am not going to repeat those in my oral statements, but I want to cover the questions that you had asked me in your letter.

At NARA, just as any other executive department and agency, the agency committee management officer has responsibility for the implementation of FACA on behalf of the agency's head. Within NARA, individual designated Federal officers work with the CMO to implement the act's requirements at the committee level, and together the two of them are responsible for ensuring that NARA's compliance with FACA, GSA's regulations and guidelines, NARA's internal operating procedures, and any other applicable statutes and regulations are adhered to.

As both you and the ranking member both mentioned, FACA is quite detailed in specific procedures, and it does mention the requirement for balance in advisory committees. You both quoted section five of FACA in that membership of advisory committees is to be fairly balanced in the points of view represented and the functions to be performed by committees.

Now, FACA doesn't say much more about it than that. That is about as much as the statement exists. We have incorporated additional language in our regulations in 41 C.F.R. 102-3 on balance, and we specifically state that in the selection of members for the advisory committee, the agency will consider a cross-section of those directly affected, interested, and qualified, as appropriate, to the nature and functions of the committee. We also apply additional guidance in our regulatory package that lets agencies evaluate other ways of selecting and balancing their committees.

Mr. Chairman, in your letter to me you asked specifically about these two NARA advisory committees, the Advisory Committee on Electronic Record Archives and the one on Presidential Libraries. Both of these were established as agency authority committees, and as such they are discretionary and they report to NARA. The Advisory Committee on Electronic Record Archives was established in 2005. Its most recent charter was renewed in August of this year in 2009. It has 16 members, all of whom are special Government employees.

According to data submitted by NARA in our shared management system, which is our online FACA data base, from fiscal years 2006 through 2009 the committee met twice each year and expended an average of about \$38,000 each year. Cost figures for 2009 are still tentative pending reconciliation of that data through our annual comprehensive review.

According to its charter, the committee serves as a deliberative body on technical, mission, and service issues related to electronic record archives, as Dr. Greer mentioned.

I might point out that as a deliberative body I have noticed this committee does not typically use a formal recommendations mechanism. That is to say we don't see formal recommendations listed in our data base. We do see, though, in the minutes that are online for this committee a number of action items that are identified in the minutes, as Dr. Greer mentioned.

The Advisory Committee on Presidential Libraries was established by NARA in 1988. Its most recent charter was renewed in July 2008, with 12 members who are representative members. That charter is still active. It is a 2-year charter. It will expire next summer.

According to data submitted to us by NARA, the committee has not met during fiscal year 2007, 2008, or 2009, and, as mentioned earlier, they did meet in 2006.

NARA does report one recommendation issued by the committee during its lifetime in our system, and, again, that is the information that has been received by my office.

According to its charter, the committee is to advise the Archivist of the United States on matters relating to the archival, museum, and public programs of the Presidential libraries operated by the NARA and advises the Archivist on policies, procedures, programs, objectives, and other matters relating to the effectiveness of the Presidential library system.

Mr. Chairman, you had also asked me to address the degree to which NARA's advisory committees process gives NARA relevant information that it needs to conduct its business. I have to say that is a little difficult for us to determine at our distance. You did hear some of that from Ms. Fawcett earlier regarding her committee. GSA does rely on Executive departments and agencies like NARA to provide real-time data throughout the year and to wrap it up at the end of the year and verify it on their committees, and so we can verify that information by the close of the fiscal year.

In looking at advisory committees, though, from our perspective, we can estimate a committee's value to an agency in a couple of ways. One, if the committee is meeting frequently. Is the committee used a lot by the agency? Does it get a lot of opportunities to participate with the agency and the public? The number of recommendations issued by the committee and whether or not, most importantly, those recommendations are adopted by the Federal agency. Finally, if we get feedback from the agency through our desk officer program in my office. Last, since these committees in both cases have been renewed on a regular basis, from our perspective it would appear that NARA finds them both to be beneficial and will continue to renew these.

I am not sure whether the Presidential Library Committee will change as a result of the change in the Archivist. That is a matter up to the agency to decide. I defer certainly to NARA on that.

Mr. Chairman, that ends my oral statements. I would be happy to answer any questions you may have.

[The prepared statement of Mr. Flaak follows:]

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**STATEMENT
OF
ROBERT FLAAK
DIRECTOR
COMMITTEE MANAGEMENT SECRETARIAT
U.S. GENERAL SERVICES ADMINISTRATION**

***INFORMATION POLICY, CENSUS, AND NATIONAL ARCHIVES
SUBCOMMITTEE***

OVERSIGHT AND GOVERNMENT REFORM COMMITTEE

Tuesday, October 20, 2009

2154 Rayburn House Office Building

2:00 p.m.



Mr. Chairman, Ranking Member McHenry and Members of the Subcommittee, my name is Robert Flaak. I am the Director of the General Services Administration's (GSA) Committee Management Secretariat. Thank you for the opportunity to discuss with you today the important role played by Federal advisory committees in achieving the missions assigned to the Executive Branch, and, in particular, the use of such committees by the National Archives and Records Administration (NARA).

Genesis and Purpose of Federal Advisory Committees

In 1972, Congress passed the Federal Advisory Committee Act (FACA) (Act) to accomplish two important objectives: (1) to establish the means for providing Congressional and Executive Branch oversight over the number and costs of advisory committees; and (2) to ensure that advisory committees operate in plain view of the public. Simply stated, the Act's purpose is to illuminate how agencies make decisions based upon advice and recommendations from individuals outside of Government, while also making sure that the costs to support advisory committees are commensurate with the benefits received.

Today, advisory committees are used by 49 Executive departments and agencies to address issues that reflect the complex mandates undertaken by the Government. GSA and Executive departments and agencies are currently reviewing the fiscal year (FY) 2009 data on Federal advisory committees, however during FY 2008, over 63,000 committee members served on more than 900 committees and provided advice and recommendations on such diverse matters as vaccine research and safety, nuclear, biological and chemical threat reduction, civil rights, veterans' health and rehabilitation, management of natural resources, and strategies for national defense, protection of the environment and human health and welfare.

Implementation of FACA by GSA

Several important government-wide roles and responsibilities are assigned by the Act to GSA's Administrator and to GSA's Committee Management Secretariat which, taken together with those specific functions reserved for the Congress and Executive Branch departments and agencies, are designed to improve the management and accountability of advisory committees. Among the statutory responsibilities assigned to the Administrator are:

- Establishing a Committee Management Secretariat within GSA responsible for FACA oversight (section 7(a));
- Conducting an Annual Comprehensive Review (ACR) of the activities and responsibilities of each advisory committee (section 7(b));
- Requesting information from agencies to help GSA carry out its responsibilities (section 7(b));
- Issuing administrative guidelines and management controls applicable to advisory committees (section 7(c)); and
- Issuing guidelines on committee member compensation in conjunction with the Office of Personnel Management (section 7(d)).

The Secretariat provides agencies with tools to ensure successful oversight of their Federal advisory committee program, using a combination of shared management approaches, Web-based tools, interagency coordination, and the application of best practice guidance.

Compliance and oversight are managed by the Secretariat through the following programs:

- FACA Implementing Regulations (41 CFR 102-3) – The FACA Rule provides an agency with regulatory guidance on the implementation of FACA. The current rule was issued in July 2001 and was developed by

an interagency work group chaired by GSA. The guidance in the rule follows from the language in FACA and incorporates relevant case law.

- FACA Case Law Digest – This is a compendium of FACA Case Law that was developed by an interagency team chaired by GSA. It provides citations and summaries of FACA-relevant case law up through this calendar year.
- GSA FACA Desk Officers – All Executive departments and agencies with Federal advisory committees are assigned to a Committee Management Secretariat FACA Desk Officer. Desk Officers coordinate advisory committee establishments, renewals and terminations, providing FACA policy interpretation and best practice guidance with the agencies' Committee Management Officers (CMOs) and other senior agency officials.
- FACA Shared Management System (SMS) - The Secretariat uses a Web-based Shared Management System (also known as the FACA Database) to manage and compile meeting, membership, charter, cost and other administrative and operational data on all federal advisory committees. This system is visible to the public via the GSA website, providing data on FACA committees back to 1992.
- Annual Comprehensive Review (ACR) – The Annual Comprehensive Review of Federal advisory committees is required by section 7(b) of the Act. Committee Management Officers and Designated Federal Officers of Executive departments and agencies use the FACA Shared Management System to evaluate agencies compliance with FACA, and to document advisory committee costs, charters, and information on their meetings and membership. GSA FACA Desk Officers evaluate these data and display compliance with reporting requirements on GSA's website using a scorecard (red-yellow-green) following the close of each fiscal year.
- Performance Measures - The Secretariat has incorporated performance measures for advisory committees in the Shared

Management System. Data is collected from individual advisory committees during the ACR, with government-wide and agency roll-up. These measures examine advisory committee outcomes such as number of recommendations accepted by an agency, whether recommendations are acted upon, and the estimated value of the advice provided by advisory committees.

- Advisory Committee Engagement Survey (ACES) -The Secretariat periodically administers an online survey to advisory committee members and staff, and FACA decision makers. ACES measures the extent to which sponsoring agencies address factors that are critical to the success of advisory committees.
- Interagency Committee on Federal Advisory Committee Management (CMO Council) - Chaired by GSA, this 50-member interagency council brings all Executive department and agency Committee Management Officers (CMOs) together on a quarterly basis for discussions on FACA policy, best practices, training, and compliance issues. The Council hosts numerous interagency work groups to manage FACA issues of interest (e.g., updating the case law digest; developing regulatory updates; improving training programs; refining the ACES questionnaire; developing updates to the SMS; developing presidential transition packages for FACA programs; etc.).
- FACA Training Program – Since 1989, the Secretariat has conducted a FACA training program which includes a formal introductory FACA course given five to six times a year to approximately 300 Federal employees. GSA's introductory FACA course addresses the following topics: FACA history, laws related to FACA, legal and other ethics issues, recordkeeping, committee operations, membership processes, public interactions, and the use of the Secretariat's Shared Management System. The Secretariat administers annual CMO Training Seminars, a biennial FACA Training Conference, and is preparing to offer FACA Legal

Seminars beginning this fiscal year. All instructors are subject matter experts from agencies with FACA responsibilities.

Implementation of FACA by Executive Departments and Agencies

The Act also assigns specific responsibilities to Executive departments and agencies, including the National Archives and Records Administration, which sponsor Federal advisory committees. These include:

- Establishing uniform administrative guidelines and management controls (section 8(a));
- Appointing a Committee Management Officer (CMO) to provide oversight of the agency's advisory committee program (section 8(b));
- Consulting with GSA's Committee Management Secretariat regarding proposals to establish advisory committees (section 9(a)(2));
- Filing Charters with the Congress and/or GSA prior to initiating committee activities (section 9(c));
- Maintaining records, minutes, and reports covering closed meetings (section 10(b), (c), and (d));
- Appointing a Designated Federal Officer (DFO) for each committee (section 10(e));
- Maintaining financial records (section 12(a));
- Providing support services (section 12(b)); and
- Terminating advisory committees as appropriate, consistent with FACA (section 14(a)(1)(A)).

Agency CMOs are responsible for implementing FACA on behalf of the agency head. Within each agency, individual DFOs must work with their respective CMO to implement the Act's requirements at the committee level. Together, the CMO and DFO are responsible for ensuring compliance with FACA, the agency's internal operating procedures, guidelines issued by GSA, and any other applicable statutes or regulations, such as those issued by the

United States Office of Government Ethics (OGE), the National Archives and Records Administration (NARA), or the Office of Personnel Management (OPM).

Although the Act is quite detailed in the specific procedures agencies must follow with respect to the establishment of advisory committees, the conduct of meetings, and the availability of records, it provides substantial flexibility to agency heads in other areas, such as membership selection and tenure. The Act includes two important provisions designed to promote the objectivity of advisory committee deliberations. First, section 5(b)(2) requires “the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the committee.” Second, section 5(b)(3) requires “provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee’s independent judgment.” Thus, while the Act stresses the importance of assuring an advisory committee’s independent judgment, it also requires that the composition of advisory committees reflects the expertise and interests that are necessary to accomplish the committee’s mission.

The Act does not define those factors that should be considered in achieving “balance.” However, GSA has incorporated such factors into the FACA Regulations and Guidelines. The Regulations state that, “*...in the selection of members for the advisory committee, the agency will consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the committee. Advisory committees requiring technical expertise should include persons with demonstrated professional or personal qualifications and experience relevant to the functions and tasks to be performed.*” (41 CFR 102-3.60(b)(3)) In their efforts to balance the points of view of a committee’s membership, agencies focus primarily on the subject matter to be addressed by the committee; nevertheless, while not specifically required by

FACA, other factors may be appropriate in relation to a committee's function, such as geographical representation; racial or ethnic diversity; occupational affiliation; or the need to consult with State, local, or tribal governments. GSA describes these factors further in its Guidance which is contained in Section III of Appendix A to Subpart B, 41 CFR 102-3.

NARA Federal Advisory Committees

918 active Federal advisory committees were managed by Executive departments and agencies during FY2008, with expenditures totaling \$344,000,000. During the same year, the National Archives and Records Administration managed five Federal advisory committees with a total expenditure of \$82,000. NARA managed the same committees during early FY2009, terminating one committee in June 2009. Governmentwide and NARA totals for FY2009 are still being evaluated pending completion of the Annual Comprehensive Review conducted by GSA and Executive departments and agencies. The five NARA committees are the:

- Advisory Committee on Preservation (Terminated in 2009);
- Advisory Committee on the Records of Congress;
- National Industrial Security Program Policy Advisory Committee;
- Advisory Committee on Electronic Records Archives; and
- Advisory Committee on Presidential Libraries.

On June 30, 2009, NARA determined that the Advisory Committee on Preservation, a committee established by agency authority, had completed its mission, and therefore, terminated the committee. According to data submitted by NARA in the FACA Shared Management System, this committee did not meet nor did it expend any funds during FY2006 through FY2009, other than \$1,000 during FY 2007.

The Advisory Committee on the Records of Congress is a statutory committee. It was established by Congress in 1990 (44 U.S.C. Sec. 2701). According to data submitted by NARA in the FACA Shared Management System during FY2009, the Committee met once, and meeting costs have yet to be updated. In FY2008 it met twice, in FY2007 it met once, and in FY2006 it met twice. NARA expended \$20,000 in each of those three years on the Committee's operation. NARA reports that the Committee has issued one recommendation during its lifetime.

The National Industrial Security Program Policy Advisory Committee is a Presidential advisory committee established by Executive Order 12829 in 1993. The Committee met twice during fiscal years 2007–2009, expending an estimated \$25,900 each year. In FY2006, it met once and again expended \$25,900. NARA reports that the Committee has issued three recommendations during its lifetime.

Mr. Chairman, in your letter to me you asked specifically about two of the NARA advisory committees: the Advisory Committee on Electronic Records Archives, and the Advisory Committee on Presidential Libraries. Both of these committees were established as agency authority committees, as such, they are discretionary and report to NARA.

The Advisory Committee on Electronic Records Archives is an agency authority committee established by NARA in 2005. According to data submitted by NARA in the FACA Shared Management System, from fiscal years 2006-2009, the Committee met twice each year and expended an average of \$38,000 in travel costs each year. Cost figures for FY2009 are still tentative pending reconciliation. According to its charter, the Committee is to serve as a deliberative body to advise the Archivist of the United States on technical, mission, and service issues related to Electronic Records Archives (ERA). This includes, but is not limited to, advising and making recommendations to the Archivist on issues related to the development, implementation and use of the

ERA system. As a deliberative body, this committee does not typically use a formal recommendations mechanism and NARA reports no recommendations issued by this committee during its lifetime. Meetings minutes for the committee are available online at <http://www.archives.gov/era/acera/>. These minutes provide evidence the committee is active in its deliberative role (for example, 17 action items are identified from the minutes of the last two posted meetings alone).

The Advisory Committee on Presidential Libraries is an agency authority committee established by NARA in 1988. According to data submitted by NARA in the FACA Shared Management System, the Committee has not met during FY2007, 2008 and 2009. The most recent reported meeting data are for FY2006 when the Committee met once and expended \$12,500. NARA reports one recommendation issued by this committee during its lifetime. According to its charter, the Committee is to advise the Archivist of the United States on matters relating to the archival, museum, and public programs of the Presidential Libraries operated by the NARA, and advises the Archivist on policies, procedures, programs, objectives, and other matters relating to the effectiveness of the Presidential Library system.

Mr. Chairman, you had also asked me to address the degree to which NARA's advisory committee process gives NARA relevant information it needs to address its decision making. This is difficult to quantify. GSA relies on Executive departments and agencies, like NARA, to provide real-time data during the course of the fiscal year which GSA verifies at the close of the fiscal year. In general, we estimate a committees' value to an agency based on several factors – frequency of meetings, number of recommendations issued (and adopted by the host agency), feedback (if any) to GSA's FACA Desk Officers, and whether, in the case of discretionary committees, the agency renews the committee charter biennially.

As noted above, the Advisory Committee on Electronic Records Archives has been active, holding meetings and expending travel dollars. The Advisory Committee on Presidential Libraries has been less active, having held only one meeting in the past four years. Between them, NARA has only received one recommendation. However, given that NARA has renewed the charters of these two discretionary advisory committees and keeps them active suggests that NARA finds them both to be of value. In this matter, I defer to NARA.

Mr. Chairman, Members of the Committee, this concludes my prepared statement. Thank you again for the opportunity to be here today. I would be pleased to answer any questions.

Mr. CLAY. Thank you so much, Mr. Flaak. I appreciate your insight and testimony.

Let me start with Ms. Fawcett. In light of the broad and serious challenges facing Presidential libraries and the fact that they aim to serve many different kinds of groups and individuals, can you continue to justify limiting the membership of the committees solely to representatives of the private foundations?

Ms. FAWCETT. Well, I don't think in the end that is my decision. It would be the decision of the next Archivist. As I said in my testimony, we are interested in what other stakeholder groups have, and NARA reaches out on a consistent basis to talk with those divergent stakeholders. We held meetings of public interest groups with regard to the alternative models report, and our thoughts and recommendations, changes we might propose to the Presidential Records Act. As a result of that meeting, we chose not to propose certain changes to the act.

We meet regularly with educators, and we meet with historians and other special interest groups. Each of the individual libraries reaches out to many of the groups in their communities. They work with local school boards and local school districts in developing curriculum packages for visits by school children to the various libraries. So there is much that is done by NARA to continue to reach out to all of these groups.

On the other hand, you know, having a way and a forum in which to meet with the foundations is a strength and provides a useful forum for the Archivist when he chooses to do that. Archivist Carlin, for example, used the meetings that occurred during his tenure to focus on the issue of funding programs in Presidential libraries and to get the foundations to understand the necessity of their stepping up to the plate to provide for the exhibits and education programs and public programs that make a library a viable and vibrant entity. I think that very use was very helpful.

On the other hand, the foundations gave feedback to the Archivist, and I think members of the committee might be surprised to know how interested the foundations are in ensuring that NARA has the resources for core processes. Processing declassification was a very important issue to these foundations. They wanted to see the Presidential records open. They wanted to see records declassified. I think, as a result of their urging, the urging of many other stakeholder groups who talked to NARA, Congress did see fit to provide us with additional resources for processing Presidential records. We added 15 new archivists in the Presidential Records Act libraries, and we have the largest staff of archivists ever at the George W. Bush Library.

So I found the committee has been useful.

Mr. CLAY. So you do think we need to have historians, archivists, preservationists, researchers, curators, educators, and others?

Ms. FAWCETT. I think it is very important to hear from all of those groups, and NARA reaches out to them.

Mr. CLAY. Do you think they should be on the boards?

Ms. FAWCETT. I think that is fair. I think that is a perfectly reasonable thought to have them on board on this committee, and that is why Archivist Weinstein and Archivist Carlin and I both discussed the membership. But for various reasons it didn't occur. I

became Acting Archivist for Presidential Libraries just before John Carlin left the agency and just before Weinstein was sworn in.

Archivist Weinstein held two meetings of the committee, but I think that his particular style, he preferred a more individual one-on-one relationship with the foundations, and so he sought to interact with the foundations more on a one-on-one basis. I think that may have been one of the reasons why he had so few meetings of the committee.

Mr. CLAY. OK. Do you think they should meet regularly?

Ms. FAWCETT. I think it is useful for them to meet regularly. Yes.

Mr. CLAY. OK. When you reach out to other stakeholders, as you mentioned, are the contacts subject to FACA?

Ms. FAWCETT. Well, it depends. You can have a single-purpose meeting with other stakeholders and not be in violation of the FACA. We work very closely with our general counsel's office when we set up any of these kind of meetings to ensure that we are in compliance with the FACA.

Mr. CLAY. You take recommendations from the different stakeholders, right?

Ms. FAWCETT. We listen. Yes.

Mr. CLAY. OK.

Ms. FAWCETT. Yes.

Mr. CLAY. OK. And that all comes into the decisionmaking process under FACA?

Ms. FAWCETT. It becomes part of our decisionmaking process as we listen to people one-on-one or in small groups. We are not meeting with them on a regular basis on any one subject.

Mr. CLAY. Ms. Fawcett, has any of the following items occurred since the last meeting of the advisory committee? I've got a list here, so I want to ask you to respond.

Ms. FAWCETT. OK.

Mr. CLAY. Has NARA accepted any Presidential libraries into the system since you last met?

Ms. FAWCETT. When was Clinton?

Mr. CLAY. Would it be the—

Ms. FAWCETT. Clinton was already in the system since we last met. No. Yes, we have—the Nixon.

Mr. CLAY. Nixon.

Ms. FAWCETT. The Nixon Presidential Library was accepted into the system in July 2007. Excuse my memory blank here.

Mr. CLAY. OK. So that is pretty major. That is pretty major, correct, to get a new library into the system?

Ms. FAWCETT. Yes, it is.

Mr. CLAY. OK. Has any Presidential library undergone or announced plans for major renovations to their physical plant such as expansions or other kind of capital improvement projects?

Ms. FAWCETT. Yes, we are working on capital improvement projects in several Presidential libraries. Currently, Roosevelt and Kennedy. On dock are Johnson—

Mr. CLAY. And that is pretty significant, too, I mean, to go through a major renovation is pretty significant?

Ms. FAWCETT. Yes, but we don't depend on the advisory committee for advice on those renovations. NARA has architectural and design standards that govern the renovations of these buildings.

We work closely with our preservation staff, our facilities staff, with the library where the renovations are being considered.

Mr. CLAY. OK. All right. Let me go to Dr. Greer or Mr. Flaak.

There seems to be many areas where NARA's reporting is either incomplete or incorrect in the FACA data base. Is the agency responsible for providing accurate, up-to-date information for the public?

Mr. FLAAK. Yes, Mr. Chairman, that is correct. The agency enters the data into the system, which is a public facing system. The data is entered in in different ways by different agencies. Some agencies, the DFOs, the designated Federal officers for the individual committees, enter the data. In other cases, the community management officer, themselves, reserves that right to themselves. In any event, the agencies do it. They verify the data toward the end of the year during our annual comprehensive review process, which is ongoing right now through the end of next month. And then we work with them to verify that data at the end of that process.

Mr. CLAY. Why should we be concerned about compliance with information reporting requirements of FACA?

Mr. FLAAK. Pardon me, Mr. Chairman?

Mr. CLAY. Why should we be concerned about compliance with the information reporting requirements of FACA in this instance?

Mr. FLAAK. If the agency is reporting incorrect information, then either the Congress, ourselves, or other interested parties don't have an accurate understanding of what that committee might be doing, how much money they are spending, or how they are operating their committees.

For the current fiscal year that just ended, 2009, the data is still I would call it in raw form because it doesn't get verified until the end of the year. But if you look at previous years, 2008 and prior, that information has been verified by the agency and is complete, and therefore should be accurate.

Mr. CLAY. OK. Thank you for that response.

In talking about accuracy, I received a response from Archives yesterday pointing out six discrepancies in information that they supplied to this committee. One of them was on how to classify members of the advisory committee, as special Government employees or as representatives. Then they say we've changed the designation for these members in our 2008 report, and now they are all correctly listed as representatives instead of special Government employees. They talk about appointment type. Have you seen this letter?

Mr. FLAAK. I saw it this morning, Mr. Chairman.

Mr. CLAY. And it is six different areas that they had to correct. What do you think of this? This is pretty going by the seat of their pants pretty quickly here, aren't they?

Mr. FLAAK. Well, it is always good to get the data correct, but it is nice to have it right in the first place.

Mr. CLAY. Eventually you get it correct.

Mr. FLAAK. We'd like to think so, but there is a lot of agencies and a lot of advisory committees out there, and checking each of these over individually takes time.

Mr. CLAY. Thank you.

Mr. FLAAK. I might point out, Mr. Chairman, on the representative issue that you mentioned a moment ago, back in 2004 the Government Accounting Office, now the Government Accountability Office, did a review of the membership balance issues. I believe you are aware of that—

Mr. CLAY. Yes.

Mr. FLAAK [continuing]. And directed that both GSA and Office of Government Ethics step up their process on ensuring that members were correctly designated on Federal advisory committees, whether they be representative members of special Government employees. We have worked on that process with agencies back from about that time in the mid-2004–2005 timeframe.

For this Committee on Presidential Libraries it would appear to be appropriate that the members be representative members. Why they characterized them originally as special government employees, I don't know. But the change as it took place over the last couple of years was correct, and it was the correct direction for it to go.

Mr. CLAY. Thank you for your response.

Ms. Morphy, how important is the Advisory Committee on Electronic Records Archives to you, to the ERA, and to NARA?

Ms. MORPHY. As I stated in my testimony, very important. Whenever you are doing a large information technology project, you are very, very focused on doing that project and trying to meet deadlines, and it is always good to have an external opinion to make sure that our focus continues to be correct, and ACERA certainly has provided great guidance to us, and, based on the action items that we have received, we have made some changes in terms of the direction that we have gone with the system.

Mr. CLAY. Do you meet so often and for so long because of the complexity of the issues or because of the diversity of the membership views or both?

Ms. MORPHY. I think first the complexity of the issue. Actually, both. The membership, because they are from both the private and the public sector, from universities, people who have an interest in electronic records as well as information technology, when you have people with those skills all in a room together, the discussion really, really does get to a level to really help us make determinations on the direction the system should go.

Mr. CLAY. Can you give me a specific example or two of how the committee's advice or assistance has improved the Electronic Records Archive?

Ms. MORPHY. I think from my own experience in the area of public access, this is an area that I am very interested in. At our last meeting in April we provided a presentation on the direction that we were going toward public access, something that we are building right now, and the advisory committee offered several suggestions that we accepted and that have been added to our requirements, and also offered some possibilities in how we might share the development of the prototype with them as we go forward.

Mr. CLAY. Thank you for that. Do you think the committee could have provided NARA with such assistance if it were comprised only of individuals directly involved with NARA and only representing one general area of the ERA?

Ms. MORPHY. No, not at all. Having the blend of people who have different experiences and come from different organizations has really—and some of the things that they have experienced in terms of doing projects just have enhanced our ability to build ERA.

Mr. CLAY. Very good to know. Thank you for that.

Dr. Greer, in your experience as a member of the Advisory Committee on Electronic Records Archives, does the committee as a whole or individual members of the committee provide assistance, guidance, or advice in any other forum or by any other means than the committee's meetings?

Dr. GREER. Mr. Chairman, the question is: are there other mechanisms that are used to provide advice to NARA on ERA?

Mr. CLAY. Yes, I guess it would be e-mail communications, letters.

Dr. GREER. There are, of course, materials that go out in advance of each meeting to provide background for the members and scheduling issues, things like that. Otherwise, there is not a lot of formal back-and-forth.

Now, we are all of us involved in areas of digital preservation and access, and so we certainly run across one another individually and talk about general technology issues in the course of events.

Mr. CLAY. Here's the point: do you think the committee could be effective without meeting as a group or if it did not meet for several years at a time?

Dr. GREER. In the case of the Electronic Records Archive, which is a very broad scope project which is moving forward in a landscape of changing technologies, I think the only way to keep up in this particular instance is through regular meetings where people get together and have an active debate over things that don't have a single solution.

Mr. CLAY. OK. You said in your statement that the committee membership is diverse, providing a breadth of perspectives; however, one could argue that because the committee's work covers a very specific area, NARA's Electronic Records Archive, that the membership should be limited only to those with direct experience in such a unique field, and only from the experience with the National Archives. Do you think the committee could be as effective if its members were limited in this way?

Dr. GREER. The Electronic Records Archive, again, is a complex project that has the issues of ingest from the various Federal agencies, permanent preservation and access, in its archives function, and access to a wide variety of communities in order to make that information have value to the public. Because of that breadth of issues, I don't think any one person or group, interest group, could cover all of that.

So I think in a case of ERA, which is quite a unique project in NARA's history, the breadth of the project demands a group that has considerable breadth.

Mr. CLAY. Thank you for that testimony.

Ms. Fawcett, the membership of the Advisory Committee on Presidential Libraries consists solely of individuals who represent the private foundations that build and support the library; is that correct?

Ms. FAWCETT. Private foundations or family members.

Mr. CLAY. Or family members. OK. Are these foundations completely separate from the Presidential libraries and the National Archives?

Ms. FAWCETT. They are completely independent institutions, 501(c)(3)'s.

Mr. CLAY. OK. For instance, do any foundations receive anything of value from any Presidential library and/or NARA? Do we fund them? Do we give them any resources?

Ms. FAWCETT. Prior to the passage of the amendments of the Presidential Libraries Act in 1988, when foundations provided a library to the Government the Government then, in return, allowed them to use some space within the library, so a very few of our libraries actually house foundations within their space. After the amendments to the Presidential Libraries Act, that space is separate and apart from the National Archives. So yes, that would be, I suppose, a benefit to the foundations.

Mr. CLAY. So NARA covers the space, the utilities, computer equipment, Government phone lines?

Ms. FAWCETT. Not the computer equipment, not the staff. They cover the space and the utilities, but not the computer equipment or the staff.

Mr. CLAY. OK. Whose telephones are they? Are they Government or—

Ms. FAWCETT. It varies. I think in most cases it is their own system, but in some cases they do use our telephones.

Mr. CLAY. How about furniture?

Ms. FAWCETT. They gave the furniture in the first place, so they get to use it.

Mr. CLAY. How about office supplies?

Ms. FAWCETT. They buy their own office supplies.

Mr. CLAY. OK. Government e-mail addresses? No?

Ms. FAWCETT. There are a couple that use the NARA-net system, which is our internal system. Most have left NARA-net because they don't like the security requirements so they have their own systems. But I don't do think at—I think the Ford Library Foundation uses a NARA mail account.

Mr. CLAY. Does NARA have memorandums of understanding with these foundations for the goods and services the Government provides?

Ms. FAWCETT. We have joint operating agreements with the foundations. When they turn over to the Government a library, we have a joint operating agreement that outlines the tenets of our relationship.

Mr. CLAY. And then does NARA calculate the value of these goods and services, and is NARA compensated in all cases?

Ms. FAWCETT. Well, NARA is compensated through the funding of programs, etc. For example, the Johnson Library Foundation occupies a couple of offices and a little reception space in the library, but that foundation provides over \$1.5 million a year in support for processing staff, exhibits, public programs, etc. So yes, NARA does receive something in return for the foundations being able to use that space. They raise money on behalf of the library.

Mr. CLAY. OK. Other than vendors who are paid for their products and services—

Ms. FAWCETT. I am sorry? Other than who?

Mr. CLAY. Than vendors.

Ms. FAWCETT. Vendors.

Mr. CLAY. Vendors, who are paid for their products and services and groups that rent the facilities for a fee, are there any other organizations that receive anything of value from any Presidential library and/or NARA? Any other groups that receive anything of value that they don't pay for?

Ms. FAWCETT. Well, for example, we put on education programs for classrooms around the country, and so classes of students come to the library, experience our theater of decisionmaking, and there is no charge for that service.

Mr. CLAY. That wasn't what I was looking for.

Ms. FAWCETT. I don't know what you are—

Mr. CLAY. That is educational. I don't know how you put value on that.

Ms. FAWCETT. I can't think of any group that is receiving free services from NARA.

Mr. CLAY. OK. The private library foundations are the only ones who receive anything of value from the National Archives then?

Ms. FAWCETT. And only a very limited number of them have offices in our space.

Mr. CLAY. OK. All right.

Mr. Flaak, these private foundations have financial relationships with the National Archives. Does the fact that the leadership or other representatives of these foundations serve on the advisory committee present any conflict or the possibility of a conflict of interest?

Mr. FLAAK. Mr. Chairman, I can't speak to the relationship between the foundations and NARA, but with regard to the membership on the advisory committees, whoever that representative is from each foundation to the committee, under the guidelines put out by the Office of Government Ethics, representative members are not subject to conflict of interest rules. So, while there may be an appearance issue here, from a legal standpoint, Office of Government Ethics would not apply conflict of interest rules to those individuals.

Mr. CLAY. All right. Thank you for that.

Ms. Fawcett, has any representative from the George W. Bush Library Foundation been invited to join the committee formally or informally? If so, who are they and when did they join the committee?

Ms. FAWCETT. We invited the Library Committee to attend the 2006 meeting, but because we haven't had a meeting since then no formal invitation has been extended to the George W. Bush Library Foundation to have a member of the committee, so the answer is no, we have not.

Mr. CLAY. So you are waiting on the new Archivist to invite them?

Ms. FAWCETT. Well, at such time as the new Archivist or at such time as we would have a meeting, then we would look to have a representative name from that foundation.

Mr. CLAY. OK. Do you know who that person would be, who the contact person would be with the Bush Library?

Ms. FAWCETT. I know who I would contact at the Bush Library Foundation to make a suggestion. Whether that person would be the member or not, I don't know.

Mr. CLAY. Would you like to give a name?

Ms. FAWCETT. Mark Langdale. He is the CEO of the foundation.

Mr. CLAY. All right. Thank you for that.

Allen Weinstein was the most recent Archivist of the United States, but the advisory committee was established long before his tenure. How many meetings were held after Professional Weinstein began his tenure as Archivist?

Ms. FAWCETT. Two.

Mr. CLAY. Two. Do you know if Professor Weinstein supported and made use of the advisory committee?

Ms. FAWCETT. Well, at the two meetings held with Professor Weinstein, there was much discussion of marketing Presidential libraries and funding for education programs and IT initiatives. There was concern expressed by the foundation members that the libraries didn't have sort of the IT infrastructure that they needed to do far-reaching projects, digitization, etc. So there was that discussion, and then there was the discussion of creating a marketing plan for Presidential libraries, which my office later worked on and completed a marketing study.

Mr. CLAY. And do you think the next Archivist of the United States should support and make use of the committee?

Ms. FAWCETT. I haven't talked to Mr. Ferrero, so I don't know. I would certainly recommend that he think about how best to use the committee for whatever, however he is going to approach the issues in Presidential libraries. I think there are ways that the committee can be helpful, or there are ways that, depending on what his goals are, that other types of committees could be helpful.

Mr. CLAY. How often do you think the committee should meet?

Ms. FAWCETT. I think once a year, as a practical matter, is useful.

Mr. CLAY. Should membership be open to individuals outside of the private library foundations?

Ms. FAWCETT. I think that is something for the Archivist to consider. It is his committee. But I wouldn't object.

Mr. CLAY. OK. Thank you.

Mr. Flaak, in your testimony you said that the FACA regulations state that in selecting members of a committee the agency will consider a cross-section of those directly affected, interested, and qualified. Does the Advisory Committee on Presidential Libraries' membership, limited only to those appointed by the private foundations, meet that criteria?

Mr. FLAAK. For a committee like this one—and this is a discretionary committee, Mr. Chairman—it is up to the agency that is supporting this committee to make a decision on who should be on that committee. However, it would appear that this committee might be better served by broadening its membership.

Mr. CLAY. Thank you for that opinion.

Mr. FLAAK. There are certainly complex relationships between this committee and the agency.

Mr. CLAY. And that could possibly require some legislative direction for an agency in this case?

Mr. FLAAK. The agency could either make that decision on their own, or they could be directed to do so, certainly.

Mr. CLAY. I see. Under FACA, should the members of the Advisory Committee on Presidential Libraries be classified as representatives or special Government employees?

Mr. FLAAK. The current membership who are representing the foundations should be classified as representatives, which they currently are.

Mr. CLAY. OK.

Mr. FLAAK. If there were additional members who are experts in various fields, I would suggest those probably would be classified as special Government employees.

Mr. CLAY. And that was changed yesterday.

Ms. FAWCETT. Excuse me. Our charter—

Mr. CLAY. I am asking him. All right.

If a member of the committee is classified as a representative, does FACA require a conflict of interest check or any other kind of ethics-related screening?

Mr. FLAAK. Mr. Chairman, FACA is pretty silent with regard to ethics requirements, but I know Office of Government Ethics would not require an ethics check on a representative member.

Mr. CLAY. OK. Ms. Fawcett, for many years members of the Presidential Libraries Committee were designated as SGEs. In 1999 they were all changed to representatives, even though NARA continued to report them as SGEs for almost 10 years. When these members were designated as special Government employees, did they complete the proper requirements for reporting conflicts of interest?

Ms. FAWCETT. In 1999 our counsel, Chris Runkle, determined that, after I think it was an OGE audit, that these should be classified as representatives, and it is so reflected in our charter. The fact that our committee management staff failed to correctly note on the FACA data base that they were representational, I think that is problematic for us, but the fact of the matter is the charter, itself, declares that for the purposes of representation they are representational members. It was a mistake in the FACA data base. The charter is clear. The OGE audits are clear. The decisions have been clear since 1999. Prior to that I couldn't tell you.

Mr. CLAY. Wow, that is 10 years. That is almost 10 years of an oversight, as you call it.

Ms. FAWCETT. I am sorry.

Mr. CLAY. No real explanation for that?

Ms. FAWCETT. I have no explanation of why the committee management staff, which is not a part of my office, reported it this way.

Mr. CLAY. OK. Mr. Flaak, 11 of the 12 members of the Presidential Libraries Committee have no fixed terms of appointment, and 5 of the 12 have served for around 20 years. Is either common for Federal advisory committees?

Mr. FLAAK. In general, Mr. Chairman, no, that is not common behavior. Most advisory committees rotate membership terms of maybe 2 or 3 years and for the most part, keep members no more than perhaps 6. But there are exceptions, and this may be one of them.

Mr. CLAY. OK. For Dr. Greer or Mr. Flaak, the President has recently encouraged agencies not to reappoint lobbyists to Federal advisory committees citing the need to introduce fresh points of view. Do you think that service on an advisory committee for 10 or 20 or more years should also be discouraged in order to add new perspectives?

Mr. FLAAK. I think there are a couple of factors that go into advisory committee membership. One is continuity of understanding of the issues, so sometimes it is good to have somebody who serves on the committee for a fair amount of time. But at the same time, it is good to give new opportunities to other people to participate and get a broader perspective on what the issues are. So I think there is room for both.

Dr. GREER. I would second that. There is an issue of continuity, particularly on a multi-year project like the Electronic Records Archive. Understanding some of the architectural decisions that were made early on and the intention there is very helpful. So I would say a mix is appropriate.

Mr. CLAY. Thank you for that.

Ms. Fawcett, as NARA claims in its official justification, the advisory committees' assistance has been particularly useful in discussions of future financing of the libraries and the relationship between the libraries and their support organizations. If this is the case and these major events have occurred and continue to occur, why have you not called a meeting of the committee in almost 4 years?

Ms. FAWCETT. That is not my responsibility to call a meeting of the committee.

Mr. CLAY. OK. Whose responsibility is it?

Ms. FAWCETT. It is the Archivist of the United States.

Mr. CLAY. Have you advised the Archivist to call a meeting maybe?

Ms. FAWCETT. We have discussed having a meeting and he chose not to have one.

Mr. CLAY. OK. He chose not to have one. OK. And in the last 4 years have you tried to schedule a meeting or recommended that the committee meet?

Ms. FAWCETT. In the last 4 years have we tried to schedule a meeting? No, we have not scheduled a meeting in the last 4 years. As I said in my statement or in answer to an earlier question, I think Archivist Weinstein was more comfortable meeting one-on-one with the foundations and he chose that path and met regularly across the Nation with individual Presidential foundations to discuss issues, budget, governance issues, etc.

Mr. CLAY. Has any member of the committee requested that you call a meeting within the last 4 years?

Ms. FAWCETT. Not that I recall.

Mr. CLAY. In your testimony you said that members of the advisory committee communicate with and make recommendations to NARA without formally meeting. You also say that these members or other representatives of the library foundation have begun to meet and to invite NARA officials to participate in at least a part of those meetings. Do you have any concerns that this seems to indicate that the representatives of the private foundations are oper-

ating outside of the reporting and transparency requirements of FACA?

Ms. FAWCETT. Since our only role at that meeting was to deliver a fairly perfunctory report on NARA activities, I think that the foundations have every right to meet among themselves to discuss issues of concern to them. There were, I think, 32 or 33 members who came to that meeting, of which—and I had an attendance list, so I know who came—there were 5 or maybe 6 who had ever been to an advisory committee meeting, so most of the people who attended that meeting were not advisory committee members.

Mr. CLAY. OK. But, I mean, look at the process here. They are—

Ms. FAWCETT. We didn't govern the process, Mr. Chairman.

Mr. CLAY. They are calling the meetings and then NARA is participating. Could it be—

Ms. FAWCETT. NARA's participation was very, very brief.

Mr. CLAY. OK. It is really blurring the lines here.

Ms. FAWCETT. And we didn't participate in any discussions.

Mr. CLAY. OK.

Ms. FAWCETT. We participated in no discussions.

Mr. CLAY. OK. We are blurring the lines here of what is proper and transparent, I think. It really calls into question what we are trying to achieve here.

Ms. FAWCETT. Well, we didn't intend to blur any lines of transparency.

Mr. CLAY. Well, I am telling you what it is starting to look like.

Late yesterday we received a letter from NARA explaining errors and discrepancies in the reporting of information about your committee. How did that series of errors over the course of several years occur, and how were they identified?

Ms. FAWCETT. In preparation for this hearing, I actually became aware that there was this FACA data base. Over the years my staff would be asked periodically—specifically the designated Federal official on my staff, who was not me—would be asked to supply certain information, and he would be asked specific questions, and so we supplied that information.

But it turned out that we weren't asked all the information that is in the FACA data base, so therefore certain errors occurred. We had not reviewed the data base until recently, and mae culpa for not knowing of its existence and reviewing it on a regular basis to make sure the information was correct. But we will take corrective action, and I am sure that in the future that all the designations are appropriate and correct and timely.

Mr. CLAY. Thank you for that response.

Mr. Flaak, there seem to be many areas where NARA's reporting is either incomplete or incorrect in the FACA data base. Is the agency responsible for providing accurate, up-to-date information for the public?

Mr. FLAAK. Yes, it is, Mr. Chairman.

Mr. CLAY. Mr. Flaak, why should we be concerned about compliance with the information reporting requirements of FACA?

Mr. FLAAK. Well, when inaccurate information is reported, it is reviewed by many outside sources. It is the source of newspaper ar-

ticles, it is the source of mis-information. It results in hearings like this one.

Mr. CLAY. Thank you for that response. I just don't know. Maybe it is me, but I just think, you know, this system of Presidential libraries is very troubling. It is not well connected and transparent. I think that NARA needs to do a better job of being open and having a process that is open and that is more public oriented and more open to the public and is just—I am very uneasy about what we have discovered over the last couple of months of inquiry.

Ms. Fawcett, I look forward to the new Archivist coming in an explaining to us just how we will proceed as a Government with our relationship with Presidential libraries. It is kind of willy-nilly now, this whole process, and it is not clear. And we ought to be able to clearly define it in this new era of open Government and transparency, and I would like to see more openness from NARA on how we administer Presidential libraries or the relationship with those committees and the libraries.

Ms. FAWCETT. We made numerous suggestions in the alternative model report on how to have a better governance relationship with the Presidential foundations. I would be happy to refer you to that report or leave you with a copy of it.

Mr. CLAY. OK.

Ms. FAWCETT. We identified five particular models for the future for Presidential libraries that would cost less. Not all of them cost less, as it turned out, but model one, which was some variation of the present system, suggested that the Presidential libraries scattered across the country bring value to the country. The Presidency is the one office elected by everyone, and to have libraries established across the country where citizens have access to them mates the Presidency to these communities where many citizens, students benefit.

But the libraries, as I said, the relationship between library foundations and NARA is complex, and it could be more open and it could be better and it could be better established through a governance relationship that is stipulated either through NARA regulations or in statute. I agree completely with you that there are more things we can do. We have worked hard to be as open and transparent as we can. We meet regularly with people. We have not attempted to foster any secret meetings. We do meet individually with foundations.

I travel to the libraries and visit the libraries and while I am there visit the Presidential foundations, encourage them to work with the library directors on programs and exhibits and to gain, to have a more appropriate, a more nuanced historical perspective in the exhibits, and I am really pleased to say that we are seeing that happen as new exhibits are being planned.

I appreciate the chairman's concern and I know I will take that concern to the Archivist as we discuss the future of Presidential libraries, so thank you for your concern.

Mr. CLAY. Thank you for that response, Ms. Fawcett. You know, public Presidential libraries do bring a value to the public. Personally, I have visited several.

Ms. FAWCETT. I am glad for that.

Mr. CLAY. My children enjoy every one that they visit. We house one in Missouri, the Truman Library, in Independence. I think all of them bring value to the public.

This hearing has indicated to me that we need to have some clearly defined rules and statutes for which these libraries are to operate under, and the sooner the better.

Ms. FAWCETT. Right. I refer you to the paper we wrote on alternative models that has several suggestions.

Mr. CLAY. Please share that with committee staff.

Ms. FAWCETT. I think the committee staff may have a copy, but I am happy to leave another one with them.

Mr. CLAY. All right. That will be fine.

That will conclude this hearing. I want to thank all of you for your participation in this today. Thank you and God bless you.

Ms. FAWCETT. Thank you, Mr. Chairman.

Mr. CLAY. The hearing is adjourned.

[Whereupon, at 3:20 p.m., the subcommittee was adjourned.]

