

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL OPERATIONS

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December 13, 2017

Start: 1:09 p.m.

Recess: 5:35 p.m.

HELD AT: Committee Room - City Hall

B E F O R E: BEN KALLOS
Chairperson

COUNCIL MEMBERS:

DAVID G. GREENFIELD

MARK LEVINE

CARLOS MENCHACA

ANTONIO REYNOSO

RITCHIE J. TORRES

JOSEPH C. BORELLI

A P P E A R A N C E S (CONTINUED)

Amy Loprest
Executive Director of the New York City Campaign
Finance Board

Ken Ebie
Deputy General Counsel and Director of External
Affairs at the Mayor's Office of Media and
Entertainment

Doug Kellner
Co-Chair of the New York State Board of Elections

Michael Ryan
Executive Director of the Board of Elections

Dawn Sandow
Deputy Executive Director of the Board of
Elections

[gavel]

CHAIRPERSON KALLOS: Good afternoon and welcome to this hearing of the Committee on Governmental Operations. I'm Council Member Ben Kallos as many of you may know you can also tweet me at Ben Kallos, that's for folks at home who are watching live today, December 13th at 1:09 p.m. and you can tweet also for members of the media who are here. I'd like to recognize we've been joined by Gotham Gazette, feel free to send your questions in and we'll do our best as is our practice to pass those along. Today we have a two-part agenda, first we're holding a first hearing on Introduction 1779 sponsored by Council Member Joe Borelli of Staten Island who is a republican but that being said he still gets to have bills heard in this body and passed despite it being overwhelmingly democratic unlike some other bodies that may convene in the District of Columbia and I will leave Council Member Borelli to explain his bill in greater length.

COUNCIL MEMBER BORELLI: I thought you were going to ask me to explain why I'm a republican but it's, it's alright we'll save that for another day. I want to thank Chairman Kallos for allowing

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2 Intro 1779 to be heard. It, it will solve a very
3 simple problem and that problem is that a vast
4 majority of New York City residents did not have the
5 ability to watch the first mayoral debate on their
6 television because they were not subscribers to
7 Spectrum. I am one who does believe that we should
8 work with our friends in media to have sponsors and,
9 and have them host debates and moderate these debates
10 but I think it's equally important that everyone in
11 New York City regardless of your cable provider and
12 regardless of your ability to pay for a cable
13 provider should be able to see a debate. So, again I
14 want to thank Chairman Kallos for, for taking the
15 time to hear this bill and I hope we can get it done
16 before the end of the year. Thanks.

17 CHAIRPERSON KALLOS: Thank you Council
18 Member Borelli for being.. having the best attendance
19 at this committee and for your commitment to
20 democracy. I'd like to now call up our first and I
21 believe only panel on this legislation, if you are a
22 member of the public who is here to testify on
23 Introduction Number 1779 please feel free to fill out
24 an appearance card and hand it to the Sergeant at
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2 Arms. I will now direct our Committee Council to
3 swear in our panel.

4 COMITTEE CLERK: Raise your right hand.
5 Do you affirm to tell the truth, the whole truth and
6 nothing but the truth in your testimony before this
7 committee and to respond honestly to Council Member
8 questions?

9 AMY LOPREST: I do.

10 KEN EBIE: I do.

11 COMITTEE CLERK: Thank you.

12 CHAIRPERSON KALLOS: We will begin with
13 Amy Loprest, Executive Director for the Campaign
14 Finance Board followed by Kenneth Ebie, the, the
15 Mayor's Office of Media and Entertainment.

16 AMY LOPREST: Okay. Good afternoon Chair,
17 Chair Kallos and to the members of the committee. As
18 you know I'm Amy Loprest, the Executive Director of
19 the New York City Campaign Finance Board. Thank you
20 for this invitation to discuss the 2017 elections, if
21 you indulge me I'll talk about our work in the
22 elections and then talk about the bill that we're
23 hearing today. Many observers have characterized this
24 year's election as non-competitive. Much of the
25 commentary and news coverage has focused on low voter

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2 turnout. However, the number of voters who cast a
3 ballot in the November general election increased by
4 more than 60,000 or 5.6 percent, compared to the 2013
5 elections which featured open, competitive races for
6 all three citywide offices and council seats. In
7 fact, this is the first city election since 2001 in
8 which the number of voters who participated increased
9 from the previous election cycle. While there is
10 still much to be done to further improve voter
11 turnout, we have learned from our engagement efforts
12 that voters care about local issues and want more
13 information about their city elections, so they can
14 cast an informed ballot at the polls. Every election
15 cycle, we work to provide voters with that
16 information. As part of this effort, we undertook a
17 major redesign of our print Voter Guide to simplify
18 the presentation of candidate information. We asked
19 candidates to provide the top three issues they would
20 focus on if elected. We heard positive feedback about
21 this new feature. We had 234 candidates submit a
22 profile and 213 candidates film a statement that we
23 included, included in the Video Voter Guide. These
24 video profiles were included in the online Guide,
25 streamed on YouTube and broadcast on WNYC Media and

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2 local cable access channels. We mailed a printed
3 Guide to just over three million voters in the
4 primary election and 4.5 million voters in the
5 general election. We launched a citywide campaign,
6 "Vote for the City You Want," directing voters to
7 read the Voter Guide at voting dot NYC. The campaign
8 ran on social media, on TV, and in the transit
9 system. We were quite pleased with the results. More
10 than 225,000 unique viewers visited the online Guide
11 before the primary and more than 300,000 unique
12 viewers used the Guide prior to the general election.
13 In both cases these, these results represent more
14 than a threefold increase in traffic to the Guide
15 compared to 2013. Another encouraging note, of those
16 who visited voting dot NYC, 27 percent were between
17 18 to 24 years old and in total, nearly 60 percent
18 were under the age of 35, two age groups that
19 traditionally have lower turnouts in local elections.
20 We also began a new email and text message campaign
21 to alert voters to upcoming dates and deadlines and
22 point them to additional resources such as our
23 contribution maps or elected office explainers. In
24 addition to these platforms, we expanded in person
25 outreach to voters this year. We brought volunteers

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2 to register voters at city shelters in partnership
3 with the Department of Homeless Services and we
4 knocked on doors in NYCHA developments to get out the
5 vote. Volunteers helped us make over 13,000 phone
6 calls urging new voters to get to the polls before
7 primary and general elections. We also worked with
8 the Mayor's Office to post signs at locations that
9 were used as poll sites in the 2016 presidential
10 election but had moved before November 2017,
11 directing voters to call 3-1-1 or use voter... voting
12 dot NYC to find their new poll site locations. We
13 will conduct a comprehensive analysis of voter
14 participation and the impact of our efforts in the
15 coming months. As part of increasing voter
16 participation, it is one of our Charter-mandated
17 goals to make voting information accessible to
18 underrepresented groups, including those with limited
19 English proficiency. We commend the City Council for
20 working with the Mayor's Office of Immigrant Affairs
21 to provide translators in additional languages at
22 some poll sites in November. We translate all of our
23 voter education materials into Spanish, Chinese,
24 Korean, and Bengali to comply with the language
25 assistance requirements under the Voting Rights Act.

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2 After each election, we hear from voters about the
3 need for additional language assistance and we know
4 there are thousands of voters in New York City with
5 limited English proficiency. MOIA and the Center for
6 Economic Opportunity analyzed Census Bureau data and
7 estimate that there are as many as 216,000 voters of
8 limited English proficiency who speak a language not
9 covered by the Voting Rights Act. We believe the VRA
10 should provide a floor, rather than a ceiling, when
11 it comes to providing voter assistance. For example,
12 last year we worked with MOIA to translate and print
13 voter registration forms into 11 additional
14 languages. In other cities... other cities provide
15 language assistance beyond what is required by the
16 VRA and we would like to conduct further analysis to
17 assess these needs and to... and seek a way to meet
18 them in a thoughtful, uniform and nonpartisan manner.
19 Lastly, we strive to put together robust and
20 informative debates for each citywide election in
21 order to help voters make distinctions between the
22 candidates. We also look forward to... look for ways to
23 expand that reach. This year, we included requirement
24 that all debates be streamed for free from the
25 broadcast sponsor's website and from the sponsor's

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2 Facebook page. CBS and New York One sponsored the
3 four debates required under the program this year,
4 all in the mayoral race. More than 900,000 viewers
5 tuned in to the live televised broadcast of these
6 debates with an additional 175,000 watching the
7 online streams. We support Intro 1779, which would
8 require the CFB debates for participants in public
9 matching funds program to be broadcast on city owned
10 or operated television channel. We believe that Intro
11 1779 supports our aim of helping all New Yorkers view
12 the debates and learn more about candidates who hope
13 to represent them in elective office. I thank you for
14 the opportunity to testify and I'm happy to answer
15 any questions.

16 KEN EBIE: Good afternoon Chairman
17 Kallos, Council Member Borelli and other
18 distinguished members of the City Council Committee
19 on Governmental Operations. My name is Ken Ebie and
20 I'm Deputy General Counsel and Director of External
21 Affairs at the Mayor's Office of Media and
22 Entertainment. I'm joined by my colleague Anne Del
23 Castillo, our Deputy... our General Counsel and Chief
24 Operating Officer. Thank you for the opportunity to
25 testify before you today on Intro 1779. My testimony

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2 aims to briefly outline the mission and activity of
3 NYC Media that aligns with the intent of this
4 legislation and also to provide additional context on
5 the process of broadcasting mandatory debates on our
6 network. As you may know, in addition to serving as a
7 one stop shop for television and film production in
8 New York City, our agency also runs NYC Media, the
9 city's municipal television and radio network, which
10 includes WNYE-TV and WNYE FM with a combined reach
11 for approximately 18 million people. Per Chapter 48,
12 Section 1072 of the City Charter, a core objective of
13 programming on WNYE is to connect residents to
14 important information about city government and its
15 services. Intro 1779 is fully aligned with our
16 efforts to educate New Yorkers on how government
17 works, including sharing information on our local
18 elections. Most notably, for the last four election
19 periods, WNYE-TV has aired the Campaign Finance
20 Board's Video Voter Guides. The Video Voter Guides
21 provide five full hours of programming for the
22 primaries and an additional four to five hours for
23 the general election, with a spotlight on each of the
24 five boroughs including the issues and candidates
25 involved in our local elections. Additionally, WNYE

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2 programs feature government processes, events and
3 initiatives that impact the daily lives of New York
4 City residents. In fact, as of today, we have covered
5 509 City Council events, including this hearing,
6 during the 2017 calendar year. As you can see, the
7 city is fully aligned with the intent of Intro 1779
8 to provide New Yorkers with greater access to
9 mandatory debates. However, in consideration of this
10 legislation, we have identified various elements,
11 among them legal, regulatory, budgetary and
12 technical, that must be addressed in order to fulfill
13 this mandate. Let me start with a brief overview of
14 the contractual and regulatory framework in which
15 mandatory debates are currently televised. Per
16 Section 3-709.5 of the New York City Administrative
17 Code, the Campaign Finance Board or CFB, must select
18 a sponsoring media organization to broadcast the
19 mandatory debates during election years. The terms of
20 the broadcast, including any matters of exclusivity
21 and broadcast rights are outlined in an agreement
22 between the CFB and the sponsoring media
23 organization. As a general matter, content providers,
24 such as debate sponsors in the case of the
25 legislation, typically charge a licensing fee to

1 support the cost of production. Licensing fees can
2 range from a few hundred dollars to millions,
3 depending on the program. As a matter of public
4 interest, the city would look to the debate sponsors
5 to provide the city with simultaneous access to the
6 broadcast free of charge. From a regulatory
7 standpoint, WNYE operates under a noncommercial
8 license from the Federal Communications Commission
9 which prohibits our station from broadcasting
10 commercials and other promotional announcements on
11 behalf of for-profit entities. In the event that the
12 debate sponsor is a commercial broadcaster, we would
13 need to work with them to modify any sponsorship
14 acknowledgements or promotional announcements they
15 would run during the simulcast to comply with our
16 obligations under the FCOMITTEE CLERK. In short, NYC
17 Media's ability to broadcast the mandatory debates on
18 WNYE would depend upon the Campaign Finance Board and
19 debate sponsors making these mandatory debate
20 broadcasts available for free to NYC Media. We would
21 then work with the CFB and debate sponsor to ensure
22 that the simulcast is structured in a manner
23 consistent with our obligations under the City
24 Charter and federal law. NYC Media views Intro 1779
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2 as providing an opportunity to extend our mission of
3 providing high quality services and information on
4 the workings of city government to New Yorkers. We
5 agree with the intent of this bill to ensure as many
6 New Yorkers as possible hear candidates for citywide
7 local office in mandatory candidate debates and we
8 look forward to continued discussions with you, the
9 CFB and the sponsoring broadcasters on how best to
10 achieve this. Thank you.

11 CHAIRPERSON KALLOS: I'd like to
12 recognize the bill sponsor Council Member Borelli.

13 COUNCIL MEMBER BORELLI: Thank you
14 Chairman. Just a quick question for Ken, when you... is
15 your agency currently responsible for also
16 broadcasting the web broadcast of this or is that
17 something that CFB does?

18 KEN EBIE: And when you say of this
19 year's, you're speaking of mandatory... [cross-talk]

20 COUNCIL MEMBER BORELLI: ...the debate...
21 [cross-talk]

22 KEN EBIE: ...debates... [cross-talk]

23 COUNCIL MEMBER BORELLI: Yeah, yeah.
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2 KEN EBIE: To this point our, our agency
3 has not broadcast any component of the mandatory...
4 [cross-talk]

5 COUNCIL MEMBER BORELLI: Okay... [cross-
6 talk]

7 KEN EBIE: ...debates... [cross-talk]

8 COUNCIL MEMBER BORELLI: So, it would... it
9 would not be the, the case that you have existing
10 cameras there from your network, this would be a
11 totally separate thing?

12 KEN EBIE: That is correct.

13 COUNCIL MEMBER BORELLI: Okay... [cross-
14 talk]

15 KEN EBIE: That's, that's between the CFB
16 and the... and the broadcast sponsors.

17 COUNCIL MEMBER BORELLI: And there's no
18 technical reason why you wouldn't be able to
19 broadcast these events?

20 KEN EBIE: We, we don't know, we haven't
21 had this conversation, this is... this is sort of
22 uncharted territory, so we can't really speak to
23 technical requirements that would... that would result
24 from a conversation with the CFB and with the, the
25 sponsoring media organizations... [cross-talk]

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2 COUNCIL MEMBER BORELLI: But outside of
3 the licensing agreements and the, the, the cost you,
4 you have the ability to record something that's live
5 and broadcast it?

6 KEN EBIE: We have capabilities to do
7 that type... [cross-talk]

8 COUNCIL MEMBER BORELLI: Okay... [cross-
9 talk]

10 KEN EBIE: ...of thing but again we, we
11 would have to have a conversation with the CFB and
12 with the media sponsor to determine how best to
13 provide the simulcast which I believe was the
14 intention of this... with legislation.

15 COUNCIL MEMBER BORELLI: Uh-huh. And...
16 Director just a quick question for you, do you
17 believe that this would prevent media companies from
18 being interested in sponsoring debates?

19 AMY LOPREST: Again, I mean we have
20 always had a competitive group of people ask... seeking
21 to sponsor the debates this year, we had six
22 different sponsor groups which included 40 different...
23 over 40 different organizations, 20 media and 22
24 civic organizations that applied for the sponsorship
25 and so I don't... you know again we would work with the

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2 sponsors, I don't anticipate that it would greatly
3 limit the, the people who sought to sponsor the
4 debates, I think that... you know they, they do... they
5 see it as a public service and so... I mean not to
6 speak for them but... I mean I think that most of these
7 media organizations are considering this public
8 service and this would further that mandate and we
9 would include it as part of the application process
10 if it became... if this became law.

11 COUNCIL MEMBER BORELLI: And what does
12 the media company give us in exchange for the right
13 to broadcast the debate, are they paying us or are
14 they covering the cost of the production and, and
15 distribution?

16 AMY LOPREST: They cover all the costs.

17 COUNCIL MEMBER BORELLI: Alright, okay.
18 There's another question about, about your testimony,
19 you said you made 1,300... 13, 13,000 calls urging
20 voters to go to the polls how, how, how did you
21 target those 13,000 people?

22 AMY LOPREST: They're people that we have
23 registered over the course of the year through our
24 voter registration drives so through... to the voter
25 registration day, through National Voter... National

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2 Voter Registration Day and through our general... with
3 our partners outreach to register voters throughout
4 the year and those are the people that we contact so
5 they're new voters.

6 COUNCIL MEMBER BORELLI: Are they
7 checking a box on their form when they register that
8 is asking you to remind them?

9 AMY LOPREST: No, those... I mean these are
10 people who've registered to vote and provided their
11 telephone number and we outreach them the same as
12 people who get robocalls from candidates, I mean
13 they're... it... they're non-partisan calls to, to remind
14 them that it's time to vote and that... to, to... [cross-
15 talk]

16 COUNCIL MEMBER BORELLI: Right... [cross-
17 talk]

18 AMY LOPREST: ...ask for the vote... [cross-
19 talk]

20 COUNCIL MEMBER BORELLI: ...but... [cross-
21 talk]

22 AMY LOPREST: We do, do another... we have
23 emails, an email outreach program that we ask people
24 to opt into and that's an email and text program that
25 we... so that we send a request asking people to opt in

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2 to different levels of outreach so people can choose
3 to just be reminded of dates, they can choose to be
4 asked... you know they ask... we ask them if they want to
5 engage in volunteer opportunities and so there's
6 different levels... [cross-talk]

7 COUNCIL MEMBER BORELLI: And when some...
8 when someone gives you a voter registration card as
9 part of a drive you're keeping a separate list?

10 AMY LOPREST: Yes.

11 COUNCIL MEMBER BORELLI: Okay. Are the,
12 the 13,000 people are they... is the party breakdown
13 similar to the party breakdown of the rest of the
14 city?

15 AMY LOPREST: I, I mean I'd have to... I, I
16 would have to look, I don't... I, I assume so, but I
17 couldn't really say for certain.

18 COUNCIL MEMBER BORELLI: Is calling
19 someone and reminding them to go to the polls is that
20 electioneering?

21 AMY LOPREST: No, I mean we... they're...
22 it's just a very non-partisan, election day is
23 tomorrow, please remember to vote.

24 COUNCIL MEMBER BORELLI: No, no, I
25 understand that but if, if, if I'm a candidate and

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2 I'm reminding someone to go to the polls that
3 electioneering and under New York State law I have to
4 disclose that, and my campaign committee has to
5 report the payments. Is, is New York City CFB
6 exempted from that?

7 AMY LOPREST: Well we're not a political
8 committee because we're not supporting any candidate.

9 COUNCIL MEMBER BORELLI: I, I Guess...
10 maybe I'm not asking the right way, you're targeting
11 people... it says in your testimony based on the fact
12 that they live in a NYCHA development, I'm not sure
13 what makes someone different who lives in a NYCHA
14 development versus who lives in the building next
15 door and then the people who you registered through
16 that program or through the homeless shelter program
17 are then being urged to follow up that doesn't sound
18 like it's a broad... like say the Voter Guide where
19 you're sending it to every registered voter who has
20 an election, it seems like this is a targeted list, I
21 mean I, I just don't see how this is, is not required
22 to be reported as an in kind contribution if you're
23 calling people in certain election districts and
24 saying to come to the polls on election day.

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2 AMY LOPREST: Well because we're... it's
3 not... I mean it's, it's, it's completely non-partisan,
4 it... the... these are just two of our... [cross-talk]

5 COUNCIL MEMBER BORELLI: If I could...
6 [cross-talk]

7 AMY LOPREST: ...voter rotation... [cross-
8 talk]

9 COUNCIL MEMBER BORELLI: If I... if I
10 formed a... [cross-talk]

11 AMY LOPREST: ...I mean we do student voter
12 registration day, that's in, in schools across the
13 whole city, we do National Voter Registration Day
14 which has many voter registrations drives across the
15 entire city. The NYCHA and the homeless were just two
16 examples of direct outreach that we did as part of
17 our charter mandate to reach underserved populations.

18 COUNCIL MEMBER BORELLI: The 13,000 phone
19 calls do you have a record of who you called?

20 AMY LOPREST: Yes.

21 COUNCIL MEMBER BORELLI: Is it possible
22 to share that with the committee?

23 AMY LOPREST: I'm, I'm, I'm not... I mean
24 we know who we called so I mean I think it... I, I'd
25 have to... I mean I don't know what format it's in, but

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I mean we can... I can look into it figuring out how to serve that.

COUNCIL MEMBER BORELLI: Thank you.

CHAIRPERSON KALLOS: First I just wanted to say as a, a constituent of the city who lives in the city, I, I may have cut my cord a very long time ago, please don't tell New York One but with that being said I just want to extend my appreciation for your introducing 1779 because you, you are correct I was not able to watch the mayoral debate, I had to actually go download it when it was eventually posted and there, there was a paywall at a point but then the pay wall came down so on behalf of all the folks in the city who weren't able to go through the, the pay wall or weren't able to, to watch it live I wanted to just thank you for that so I'm going to start with some questions on that, I just have a quick question for you, I believe you shared a concern that I've also shared with the CFB about their activities, did I bring it up with you before this hearing?

COUNCIL MEMBER BORELLI: No, I had... I didn't even think about it until I saw that out of the, you know X number of million voters in New York

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2 City we selectively choose 13,000 of them and ask to
3 call them.

4 CHAIRPERSON KALLOS: I'm going to ask...
5 I'm going to follow up on my colleague's concerns and
6 I, I will be honest it was not something we planned
7 to address but it is in your testimony. So, for... just
8 to follow along with my colleague on Intro 1779 does
9 the campaign finance support have the rating numbers
10 for this year's mandatory citywide debates?

11 AMY LOPREST: I'm sorry, what... the... I, I
12 mean... I just didn't hear... [cross-talk]

13 CHAIRPERSON KALLOS: Do you have... [cross-
14 talk]

15 AMY LOPREST: ...get part of the question...
16 [cross-talk]

17 CHAIRPERSON KALLOS: ...ratings?

18 AMY LOPREST: The, the rates?

19 CHAIRPERSON KALLOS: Ratings, so when...
20 [cross-talk]

21 AMY LOPREST: The readings, oh I'm sorry,
22 I'm just... I'm... I don't know my hearing... [cross-talk]

23 CHAIRPERSON KALLOS: And, and, and...
24 [cross-talk]

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AMY LOPREST: ...I, I, I have the... I don't...

[cross-talk]

CHAIRPERSON KALLOS: ...so... no worries...

[cross-talk]

AMY LOPREST: ...know... I don't have the exact ratings... [cross-talk]

CHAIRPERSON KALLOS: ...So, in, in... [cross-talk]

AMY LOPREST: ...but I do have the, the, the number of people who viewed them in my testimony.

CHAIRPERSON KALLOS: Okay, how do... how do you believe that they compared to previous years in terms of the number of people who watched it?

AMY LOPREST: I, I mean I think they're similar, I mean we, we always have media sponsors and I think the, the... I think the viewership is similar and I'm surprised... I'm sorry about your issue about watching them because they were streamed live as well as broadcast.

CHAIRPERSON KALLOS: Who was streaming it?

AMY LOPREST: The media sponsors on their website and on their Facebook pages.

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CHAIRPERSON KALLOS: I, I can... I can... my...
if memory serves it was paywalled for the live stream
and then it event... the paywall eventually came down.
Did you have a contract that said that they couldn't
paywall?

AMY LOPREST: They were... I think... I
believe that that was part of the... that they, they
were not to be paywalled.

CHAIRPERSON KALLOS: Do you believe...
[cross-talk]

AMY LOPREST: I'd have to... [cross-talk]

CHAIRPERSON KALLOS: ...that the choice of
media sponsor has an impact on ratings?

AMY LOPREST: I mean we have a variety of
criteria in choosing the debate sponsors including
their... the way that they are going to advertise it
and the way they're going to reach out to the
community... various communities. This year when we
were choosing amongst the media sponsors we had hired
a professional outside consultant as... an expert on
debates and to make sure that we had a uniform and
objective process to choose the sponsors.

CHAIRPERSON KALLOS: The Mayor's Office
of Media and Entertainment raised a concern around

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having... them having to pay for a license also dealing with commercial, do you believe that the Campaign Finance Board could find an appropriate media outlet that would agree to not only live streaming but also to allowing the city to make it available on their channel?

AMY LOPREST: Well for... as to the

commercials they're broadcast commercial free already... [cross-talk]

CHAIRPERSON KALLOS: Okay... [cross-talk]

AMY LOPREST: ...and as for the licensing,

yes, absolutely, I mean if this became law we would absolutely work with the media sponsors and I... as I answered Council Member Borelli I, I don't think that it would really have a significant impact on the number of people who sought to sponsor these debates.

CHAIRPERSON KALLOS: For the Mayor's

Office of Media and Entertainment does NYC TV have on demand shows, an on demand... on, on demand feature so... [cross-talk]

KEN EBIE: Yes, we do... [cross-talk]

CHAIRPERSON KALLOS: ...take video on

demand?

KEN EBIE: We do.

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CHAIRPERSON KALLOS: Okay and is this..
are there city council hearings, could I watch this
on demand?

KEN EBIE: You could watch this actually
on the city council website which we've, we've
provided access to the live stream to the city
council for that purpose.

CHAIRPERSON KALLOS: If, if I... would you
consider having gov-ops hearings which I think are
the most entertaining and best hearings to be on
demand?

KEN EBIE: That's right... that's right... or
you could also re-watch the chairman and, and his
hearings on the council website as well in addition
to the live stream.

CHAIRPERSON KALLOS: But... that's, that's
fair and I'm, I'm aware of it but for folks who, who,
who may have television but may not have internet
would, would you at least be able to make sure that
the Mayoral debate was on demand where somebody could
watch it in a time delayed fashion if they had missed
it?

KEN EBIE: Well again that would have to
be... as a result of a conversation with the CFB and

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2 with the, the media sponsor. We're asking about
3 whether we have the technical capabilities to do
4 that... [cross-talk]

5 CHAIRPERSON KALLOS: Yeah... [cross-talk]

6 KEN EBIE: We... you know we don't
7 anticipate there being tremendous issues, but we do...
8 we do think it's a little speculative before
9 understanding the complete technical requirements not
10 having that conversation with the CFB and, and the
11 media sponsor.

12 CHAIRPERSON KALLOS: Great, okay. Now
13 let's talk about phone calls and emails. So, so
14 let's, let's start with the phone calls, so the
15 13,000 phone calls that were made were those
16 exclusively people who had registered to vote or did
17 it involve purchasing an additional list of people?

18 AMY LOPREST: It was just people who
19 registered to vote.

20 CHAIRPERSON KALLOS: So, so the campaign
21 finance board has registered 13,000 people to vote,
22 that's it and in, in what period of time?

23 AMY LOPREST: I'd have to check on that.

24 CHAIRPERSON KALLOS: Okay and then...
25 [cross-talk]

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2 AMY LOPREST: I mean... I mean... it might... I
3 mean someone in my... one of my staff might actually
4 know the exact answer to that over what period but if
5 you can... does anyone... if I can... okay, between 2016
6 and 2017.

7 CHAIRPERSON KALLOS: And so typically
8 with an agency registration the information from
9 those forms I don't believe is actually captured by
10 that agency, I know that I have voter registration
11 forms in my office and we definitely do not copy down
12 information from that, does the Campaign Finance
13 Board copy down the information from voter
14 registration forms that they receive?

15 AMY LOPREST: Yes.

16 CHAIRPERSON KALLOS: And so do you copy
17 down the phone number from the form that is filled
18 out?

19 AMY LOPREST: Yes.

20 CHAIRPERSON KALLOS: Do you copy down the
21 email that may be filled out?

22 AMY LOPREST: Yes.

23 CHAIRPERSON KALLOS: Do you believe that
24 that information is available from the Board of
25 Elections?

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2 AMY LOPREST: I mean I don't have... I
3 don't know, I mean I can't speak for the Board of
4 Elections.

5 CHAIRPERSON KALLOS: We, we will have the
6 city board up here and I will... we will ask them but
7 if I recall when I've received voter files from them
8 they do not give me, as, as a candidate when I've
9 asked for copies of the voter file it does not
10 include a phone number or email. Okay, so.. [cross-
11 talk]

12 AMY LOPREST: And again of course the
13 email, it's not a required field so.. I mean many
14 forms don't have that.

15 CHAIRPERSON KALLOS: I, I have spent a
16 considerable amount of my time in office advocating
17 for NYCHA funding, if a group like Community Voices
18 Heard were to spend 100,000 dollars registering NYCHA
19 residents in my district to vote and they had
20 endorsed me would they have to disclose that to the
21 Campaign Finance Board?

22 AMY LOPREST: I, I mean I'd have to think
23 about... I mean I, I... the legal question that I'd have
24 to think about, the in parsing of who they are, what
25 they're doing, what the activity is, I mean I don't..

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2 I'm not prepared to just answer that off the top of
3 my... [cross-talk]

4 CHAIRPERSON KALLOS: So, so... [cross-talk]

5 AMY LOPREST: ...head... [cross-talk]

6 CHAIRPERSON KALLOS: ...CVH is a non-profit
7 so they have a non-profit arm, they also have a, a...
8 an advocacy arm Community Voices... Community Voice
9 power I believe and so they're purpose is to speak
10 and, and, and empower NYCHA residents so the, the... I
11 have been endorsed by Community Voices power, they're
12 non-profit arm starts registering people in, in NYCHA
13 so I guess the, the question is if they then as a
14 campaign activity from there, their campaign side
15 called through my thousands of NYCHA residents and
16 asked them to vote for me would that be a campaign
17 activity that they'd have to report?

18 AMY LOPREST: If they... I mean if, if they
19 were actually advocating for... [cross-talk]

20 CHAIRPERSON KALLOS: If, if they... [cross-
21 talk]

22 AMY LOPREST: ...your... [cross-talk]

23 CHAIRPERSON KALLOS: ...used their C4 to
24 advocate?

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2 AMY LOPREST: I mean depending on the
3 amount that they spent and whether they fell under... I
4 mean I assume this is independent... [cross-talk]

5 CHAIRPERSON KALLOS: They're going to
6 spend... [cross-talk]

7 AMY LOPREST: ...of your campaign... [cross-
8 talk]

9 CHAIRPERSON KALLOS: ...ten thousand
10 dollars independently to call everyone in my NYCHA
11 and knock every door in my NYCHA and say Ben has been
12 here with us, we love Ben, please vote for Ben?

13 AMY LOPREST: I mean again... you know
14 again I'd have to... I mean I'm going to give you an
15 answer, but I want to make sure that I look at the
16 law and make sure that my answer is correct after I
17 leave but I believe, yes if they spend 10,000 dollars
18 they would have to report that.

19 CHAIRPERSON KALLOS: Okay. Now with that
20 being said if they omit the fact that they would like
21 them to vote for me but it so happens that Community
22 Voices Heard has done I would say at this point five
23 to ten events with me in my district and they know
24 that we've thrown barbeques for the tenants together,
25 if the non-profit arm or, or just even there, their

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2 advocacy arm just said we would like the NYCHA
3 tenants in this building to turn out and vote do you
4 believe that that might have a, an impact in favor of
5 one person versus another?

6 AMY LOPREST: It might, I mean again it's
7 very.. all hypothetical and I really, you know would
8 have to look at the law and, and make a
9 determination. Again, I'll reiterate that all our
10 voter registration efforts were not just in NYCHA
11 houses.

12 CHAIRPERSON KALLOS: I, I understand but
13 just to follow up on Council Member Borelli so in my
14 NYCHA development at Homes, the Mayor is doing
15 infill, it is something that is opposed by my.. by me,
16 my congress member, Carol Maloney, Manhattan Borough
17 President Gale Brewer, it is.. it is wildly unpopular
18 and I.. and, and I know that I have actually
19 demonstrated in front of the Mayor's home at Gracie
20 Mansion with the NYCHA tenants so I guess the, the
21 question is do you believe that by.. if, if, if
22 somebody did a call to and knocked every door in that
23 NYCHA development that those folks might turn out in
24 favor or, or against the Mayor?

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AMY LOPREST: Again I mean I, I really don't want to answer a hypothetical question like that that is... I mean this is not what we did, we gave non-partisan voter information to people who had... we had registered to vote.

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CHAIRPERSON KALLOS: Do, do you agree that... how, how did you choose where you were registering voters?

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AMY LOPREST: We register people all across the city, we register people at Naturalization hearings, we register people at student voter registration day throughout the entire city, at... on National Voter Registration day throughout the entire city, you know through these, these NYCHA events but we have... we and our partners across the entire city register people all throughout the year.

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CHAIRPERSON KALLOS: I'd, I'd like to acknowledge that we've been joined by Council Member Mark Levine, Council Member Carlos Menchaca and Council Member Peter Koo. Now voter registration is typically a non-partisan activity and that is... that is just voter registration, we want to have more people registered, would you... would you agree that the... and, and I think as Council Member Borelli made

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2 a very strong point on that calling people and asking
3 them to vote is actually an electoral activity.

4 AMY LOPREST: Part of our man... mission
5 under the charter is to not only educate, it's to
6 engage and encourage people to vote and that's
7 exactly what these phone calls are doing, I mean
8 you're right it's different than registering... [cross-
9 talk]

10 CHAIRPERSON KALLOS: And I... if, if...
11 [cross-talk]

12 AMY LOPREST: ...but it is... part of our
13 mandate is to encourage people to vote... [cross-talk]

14 CHAIRPERSON KALLOS: If the city... the
15 city gave me 100,100 dollars for my general election
16 is spending money on a phone bank to ask people to
17 vote a permissible campaign expense?

18 AMY LOPREST: Yes.

19 CHAIRPERSON KALLOS: So...

20 AMY LOPREST: If you called... I mean I'm...
21 if I'm understanding... let me make sure I understood
22 your question, if you spent the money that you got in
23 public funds to hire... to make phone calls for your
24 campaign that is a permissible campaign expense.

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2 CHAIRPERSON KALLOS: So, so, so... [cross-
3 talk]

4 AMY LOPREST: But you would be asking
5 people to vote for you.

6 CHAIRPERSON KALLOS: So, so believe it or
7 not... [cross-talk]

8 AMY LOPREST: ...presumably... [cross-talk]

9 CHAIRPERSON KALLOS: ...we don't actually
10 even do that because we're doing GOTV calls so get
11 out the vote call messaging is just, we already know
12 that the person is ID'd as a one which means we know
13 they're voting for us and so all we're actually doing
14 is we're just calling them and saying are you
15 remembering to vote, I'm... I believe my colleague has...
16 I recognize Council Member Borelli for a brief
17 question and then I will continue.

18 COUNCIL MEMBER BORELLI: Just, just to
19 put a different agency then in, in charge of it
20 because I think we all register voters in our
21 district offices and you know at the... at the local
22 supermarket so is it permissible for me to register
23 the same number of people, 13,000 people using my
24 staff to stand out in front of the local Shop Rite,
25 make a copy of those registrations with the phone

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2 numbers, save that and then on the... you know the day
3 before election day conveniently use public money to
4 call those same 13,000 people?

5 AMY LOPREST: I mean... again I don't have...
6 I'm not going to comment on the, the legality of
7 what's... this is what we did, I mean this is our... we...
8 again it's a non-partisan effort, we don't have
9 number one, number two, we, we don't have any idea,
10 you know who these people are going to vote for we
11 just make calls and remind them to vote.

12 COUNCIL MEMBER BORELLI: Well I mean I
13 don't think any of us actually know specifically who
14 everyone's going to vote for, you know you, you go
15 behind the, the, the curtain and that's private but I
16 think in, in the political side of things we all make
17 reasonable guesses based on demographic patterns of
18 who folks are likely to vote for and that's, that's
19 kind of what I'm saying. If I happen to stand in my
20 most heavily republican district and stand in the
21 supermarket I could reasonably expect that the
22 majority of people I'm registering are republicans
23 and then I can go about doing that and I guess my, my
24 original question is why then are we doing this only
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2 for NYCHA development and people in homeless
3 shelters?

4 AMY LOPREST: Well those are two examples
5 of activities that we did. As I said before we've
6 registered people at naturalization ceremonies, on...
7 throughout the city on student voter registration
8 day, on National Voter Registration Day throughout
9 the entire city with our corporate partners, with our
10 non-profit partners of all... you know in all different
11 areas of the city, we're happy if you have
12 suggestions of places or organizations who would like
13 to partner with us to do voter registration guides,
14 we're absolutely... you know we have a form on our
15 website asking people, any entity that wants to
16 partner with us to join and help us in our voter
17 registration. Again, our goal is... I think a goal that
18 I... that the city council shares are to make sure that
19 we have a well informed active democratic process
20 that people are not only registered but actually are
21 informed about the election and are also
22 participating in the democratic process by going out
23 and voting and that's, that's our goal and that's
24 what we've been doing.

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CHAIRPERSON KALLOS: So, I, I would... I am in add... so, the, the Committee on Governmental Operations here by request before the end of the year a list of all the communications that the CFB has had with... relating to asking people to vote; the names of the people who are targeted, any additional information that was included in that targeting information, if you made calls the, the call logs and call results, would, would you agree to share that with this committee and the council?

AMY LOPREST: Let me just make clear about the emails and, and the other information...

[cross-talk]

CHAIRPERSON KALLOS: We're, we're going to get to emails... [cross-talk]

AMY LOPREST: ...those, those are people...

[cross-talk]

CHAIRPERSON KALLOS: ...next... [cross-talk]

AMY LOPREST: ...those are people who are opting in to the... our system and asked to be included on our... [cross-talk]

CHAIRPERSON KALLOS: We're, we, we, we...

[cross-talk]

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AMY LOPREST: ...which is different than...

[cross-talk]

CHAIRPERSON KALLOS: ...will get to emails next but for the... for the phone calls will you share that information?

AMY LOPREST: To the extent that we have all of that, yes, I mean I, I, I guess... I mean I... there's a lot of detailed information and I, I mean we'll... [cross-talk]

CHAIRPERSON KALLOS: Everyone sitting at this table has been through an election, every single one of us has used a call sheet and everyone knows about... every single one of us knows about the, the actually not very sophisticated item of making a list, calling through it, checking it off and then... [cross-talk]

AMY LOPREST: No, I just... I just want to make sure, I don't want to promise something that we don't actually have at the plate... [cross-talk]

CHAIRPERSON KALLOS: Fair enough... [cross-talk]

AMY LOPREST: I guess... [cross-talk]

CHAIRPERSON KALLOS: ...I would... I would also like a list of all the dates and times of voter

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2 registrations, when and where they happened, and I
3 would like the Campaign Finance Board to come back
4 with a plan for making sure that you're actually
5 casting a wide net trying to register everyone and
6 that your registrations aren't having a either known
7 or unknown impact on the electoral process especially
8 if you're making phone calls to folks so you're
9 saying... so you registered 13,000 people, that's
10 great. So, let's talk about emails, the emails that
11 you sent... I'd like to recognize we've been joined by
12 Council Member David Greenfield. So, the emails that
13 you sent how many emails did you... how many email
14 addresses were you sending to, was the list 13,000,
15 the people who registered or was it greater?

16 AMY LOPREST: No, our email... [cross-talk]

17 CHAIRPERSON KALLOS: And what was the
18 source... [cross-talk]

19 AMY LOPREST: ...list its 2,100.

20 CHAIRPERSON KALLOS: Okay and how does
21 somebody get on your email list?

22 AMY LOPREST: We sent out info... alert to
23 people who have asked for information and asked them
24 if they wanted to join our email list and so when
25 they joined there are different levels that they can

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2 join, you could be a person who just wants to get
3 information so they got information about, you know
4 tomorrow is election day, tomorrow is the last day to
5 register those kind of alerts or people who ask for
6 more detailed information which are, are you
7 interested in possibly volunteering with NYC Votes
8 and so... and there were different levels and based on
9 what people selected, their option... they opted in.

10 CHAIRPERSON KALLOS: And, and so the only
11 way to opt in was through your website?

12 AMY LOPREST: Yes and I mean and through
13 our emails.

14 CHAIRPERSON KALLOS: So, if somebody
15 wanted to get these updates on how to phone bank and,
16 and be a part of it they should go to the CFB website
17 and that's how they get on and that's the only way?

18 AMY LOPREST: I mean I'm trying to think
19 if there are other... I mean I guess... [cross-talk]

20 CHAIRPERSON KALLOS: If I were... [cross-
21 talk]

22 AMY LOPREST: ...and I mean maybe... I mean
23 I'm just not going to... I'm not going to say that's
24 the only way because I think like we also share...
25 [cross-talk]

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2 CHAIRPERSON KALLOS: I'm, I'm going to
3 give you... [cross-talk]

4 AMY LOPREST: ...this information with our
5 partners... [cross-talk]

6 CHAIRPERSON KALLOS: ...another clue, I...
7 [cross-talk]

8 AMY LOPREST: ...and, and with other city
9 agencies so I, I don't want to say that, you know
10 that's the only portal... [cross-talk]

11 CHAIRPERSON KALLOS: I, I would like to
12 elect more women to this body, I have given money to
13 women who are running for office, I'm glad that many
14 of them won. I gave them money through a platform
15 called NYC Votes and in that platform, I was required
16 to give an email address, does NYC Votes use that
17 email address from a campaign's donor to communicate
18 with them to ask them to engage in other activities
19 such as joining a phone bank?

20 AMY LOPREST: Yeah, yeah... okay, so if you
21 opt... if you opt in, we may ask you if you want to do
22 it and then we... then you opt in to get those emails
23 about phone banking.

24 CHAIRPERSON KALLOS: Okay, so somebody's
25 running a campaign, somebody just got... did one of the

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2 amazing things you can do which is you can donate and
3 say I, I am so enthusiastic about your campaign that
4 I want to take an additional step beyond wanting to
5 vote for you but I also want to give you money and
6 when that person was there the campaign gets that
7 email address and so the campaign, all of us have
8 been there, we're saying like we'd like this person
9 to volunteer and then you sent them an email saying
10 would you like to volunteer with New York City Votes?

11 AMY LOPREST: Well we... I mean it's... we
12 ask... we ask them what kind of... would they like to get
13 alerts, would they like... I mean would they be
14 interested in volunteering...

15 CHAIRPERSON KALLOS: Did you get specific
16 permission from the candidates who were accepting
17 donations through your platform to communicate with
18 their donors?

19 AMY LOPREST: If they opted in... the
20 people opted in, the people chose to get the emails.

21 CHAIRPERSON KALLOS: When I... we've been
22 joined by Council Member Ritchie Torres. When... if, if
23 Hillary Clinton were to send an... letter... email to her
24 list on my behalf asking for people to vote for me

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2 would I have to pay... would I have to recognize that
3 as a contribution with the Campaign Finance Board?

4 AMY LOPREST: If you... if she gave you
5 access to her list... [cross-talk]

6 CHAIRPERSON KALLOS: Yes... [cross-talk]

7 AMY LOPREST: ...and it was a valuable good
8 then yes you would have to report it as an in-kind
9 contribution.

10 CHAIRPERSON KALLOS: Great, you took my
11 list, you took my donors how are you... you took my
12 valuable list of emails and you sent people an opt
13 in, in the same way as Hillary might... you might be
14 able to send a list to Hillary's people or Bernie's,
15 what is the payment that would be made to my campaign
16 account for that?

17 AMY LOPREST: Again I mean these people
18 are... we... I'll reiterate, our goal is really just to
19 encourage people to be active in the political
20 process to give them information and again not any of
21 the information is partisan, it's all non-partisan,
22 it's all informational.

23 CHAIRPERSON KALLOS: If one candidate is
24 using their own campaign platform, their own
25 contribution platform and that contribution form...

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platform is not soliciting their donors to volunteer for them instead of their campaign and another candidate is using the NYC Votes platform and they have to compete against the CFB asking their donors to volunteer for them which person is better situated?

AMY LOPREST: Well that's a complete hypothetical and also... I mean the volunteering... [cross-talk]

CHAIRPERSON KALLOS: It's not a hypothetical... [cross-talk]

AMY LOPREST: ...is... the volunteering is one... just one aspect, I mean most of the... most... I mean one... most of the people... we only, you know... most of the people are only opting... the first level is to get alerts about election day information, it's not about volunteering, most of the... most of the alerts that went are purely informational. So, I don't see it at being an allergist I guess is my point.

CHAIRPERSON KALLOS: New York City Votes sent out emails to people who opted... we've been joined by Council Member Antonio Reynoso. New York City Votes sent out emails to people who opted in

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2 having donated to somebody and how many people
3 volunteered with you following those emails?

4 AMY LOPREST: How many... I'm not... I mean
5 we... our response rate for people we email to opt in
6 are... was about one to two percent of the people that
7 we emailed, I don't have the number... I mean as I've
8 told you we have... email list is about 12... 2,100 so I
9 mean I guess that's one to two percent you can do the
10 math backwards.

11 CHAIRPERSON KALLOS: Did you at all
12 target specific districts to make calls for... through
13 the NYC Votes volunteer program?

14 AMY LOPREST: As I said we called the
15 people that we registered to vote so the answer is
16 no.

17 CHAIRPERSON KALLOS: Would you agree to
18 do an audit and look into this because I'm not
19 finding it on my email right now and I was not
20 expecting to ask these questions at this hearing, I
21 was not expecting you to testify about this when we
22 were here to talk about TV but I definitely got asked
23 by NYC Votes to make phone calls for District Six
24 which had an election, some might say it... sorry,
25 District Four, which was... yes, District... sorry, the...

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2 in District Four which was previously and currently
3 occupied by Council Member Dan Garodnick so in
4 District Four I under... I believe I received an email
5 from New York City Votes asking me to phone bank
6 people in that district and with that being said if
7 that had happened in District Five then, the... there
8 would have been a, a different outcome and the other
9 question is why prioritize with one district over
10 another, is the Campaign Finance Board deciding what
11 is a competitive race versus not a competitive race?

12 AMY LOPREST: Well we did more... some
13 additional education work in Districts that had open
14 seats, I mean we... you know so we had forums in the
15 seat... in those which again because they're open
16 seats, they're...

17 CHAIRPERSON KALLOS: Fair enough.

18 COUNCIL MEMBER BORELLI: So, in a
19 district where there were open seats what... which
20 districts had open seats, let me start there?

21 AMY LOPREST: I mean I, I, I'm... you're
22 going to ask me to do this for my total recall and
23 I'm not... [cross-talk]

24 COUNCIL MEMBER BORELLI: I'll ask a
25 different... [cross-talk]

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AMY LOPREST: ...going to... I, I, I... [cross-talk]

COUNCIL MEMBER BORELLI: ...way, do you... do you know... [cross-talk]

AMY LOPREST: ...remember... it was about seven, so I mean I'm... I would have to look... [cross-talk]

COUNCIL MEMBER BORELLI: ...do you know any seats... [cross-talk]

AMY LOPREST: ...it up, I mean... [cross-talk]

COUNCIL MEMBER BORELLI: ...do you know any seats where there is a republican Council Member that was an open seat that you made calls and did the registrations with... emails, excuse me?

AMY LOPREST: Well there'd be no Council Member if there was an open seat.

COUNCIL MEMBER BORELLI: Previously held or, or, or currently held by a republican?

AMY LOPREST: I mean not... I don't think in this election but again I, I mean I'm, I'm not... I'd really have to look at the list and... [cross-talk]

COUNCIL MEMBER BORELLI: So, you, you picked... [cross-talk]

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2 AMY LOPREST: ...just determine I just
3 don't... [cross-talk]

4 COUNCIL MEMBER BORELLI: ...seven... [cross-
5 talk]

6 AMY LOPREST: ...I mean and, and a lot of
7 seats change hands so its hard to know... [cross-talk]

8 COUNCIL MEMBER BORELLI: Right but is it
9 true that you picked seven seats that were held by a
10 democrat and did some electioneering activity, and do
11 you think that had an impact on the citywide races
12 where there was a competitive race between
13 republicans and democrats? Another word if you're... if
14 you're targeting districts where there is technically
15 an open seat, but the democratic vote and enrollment
16 is so far out weighing the republican vote and now
17 you're engaging in some type of activity to encourage
18 people to vote in that district do you think that
19 would have an impact on a citywide race?

20 AMY LOPREST: Well I was talking about
21 these... the community forums that we did and those
22 were done in the primary, so they would have had no
23 effect on the general election.

24 CHAIRPERSON KALLOS: Do... just, just to,
25 to, to be people to people here so like you, you hear

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2 where Council Member Borelli and I are coming from
3 and what our very real concerns are?

4 AMY LOPREST: No, I understand, I mean
5 our goal is to encourage anyone to vote, I don't care
6 who they vote for or how they vote, it is our, our
7 charter mandate to encourage the people of the city
8 of New York to vote and.. [cross-talk]

9 CHAIRPERSON KALLOS: Would, would..
10 [cross-talk]

11 AMY LOPREST: ...again I, I welcome Council
12 Member Borelli if he has suggestions of people that
13 we can partner with or places where we can, can talk
14 about registration drives that he feels are... you know
15 are additional places we can go I'm happy to have our
16 staff partner with those people, I... that... I mean
17 again I... really our goal is absolutely only to
18 fulfill our charter mandate to encourage people to
19 vote.

20 COUNCIL MEMBER BORELLI: So, if I said
21 partner with me at the Staten Island republican party
22 Christmas party... [cross-talk]

23 AMY LOPREST: Well again we do... [cross-
24 talk]

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2 COUNCIL MEMBER BORELLI: ...can you do
3 that... [cross-talk]

4 AMY LOPREST: ...we'd have to be non-
5 partisan, I mean it has to be... I mean if you have
6 like... okay, so... I mean NYCHA is a non... it's not a
7 partisan entity, I mean yes, I... you know you might
8 anticipate a different... in different districts but
9 there are NYCHA districts in Staten Island, there
10 are... I mean I guess I'm not going to predispose how
11 people register to vote if it's a non-partisan
12 organization that's... [cross-talk]

13 COUNCIL MEMBER BORELLI: No but, but...
14 [cross-talk]

15 AMY LOPREST: ...what... who we would partner
16 with... [cross-talk]

17 COUNCIL MEMBER BORELLI: ...but we... but we...
18 you, you guys on the regulatory side practice in a,
19 a... an impartial bubble but we on the political side
20 practice in innuendo, demographics and all that
21 stuff, I mean I'm just going to be blunt and say it,
22 I'm willing to bet that every single election
23 district with a major NYCHA complex votes
24 overwhelmingly democratic and I think you know that
25 as well and I think that by targeting people to be

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2 registered in NYCHA buildings and then following up
3 with phone calls on them I think you may have had an
4 impact on raising the democratic vote in the general
5 election whether it be, you know a miniscule amount
6 or a percent or two but I, I... with 13,000 I assume
7 it's not that much, it doesn't detract from the
8 underlying problem there that this is electioneering
9 and I still don't see how CFB as an entity is exempt
10 from at the very least recording these as political
11 expenses.

12 AMY LOPREST: Again, you know I think
13 we've focused a lot on the NYCHA houses but that is
14 just one, again one place we've registered people to
15 vote, you know our National Voter Registration Day
16 activities, our student voter registration day
17 activities are activities with people who are being
18 naturalized, our... you know our citywide endeavors so,
19 I mean if... [cross-talk]

20 COUNCIL MEMBER BORELLI: Can, can you
21 name one school on Staten Island you did a voter
22 drive on?

23 AMY LOPREST: I... we did do... I mean it's a
24 student registration day there was definitely schools
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2 in Staten, Staten Island.. oh okay, so, so last week..
3 [cross-talk]

4 CHAIRPERSON KALLOS: So, after the
5 election... [cross-talk]

6 AMY LOPREST: ...we... okay. So, I mean so... I
7 mean we definitely go anywhere in the city and so I,
8 I mean again our intent is really just to encourage
9 people to vote and I mean and it's not just... [cross-
10 talk]

11 CHAIRPERSON KALLOS: So, just... [cross-
12 talk]

13 AMY LOPREST: ...our intent its our charter
14 mandate.

15 CHAIRPERSON KALLOS: So, I, I think
16 there's a distinction between voter registration and
17 then doing turnout activities but I guess what... and,
18 and coupling two together I guess what I would say is
19 in the city council we all send out mail and we are
20 not allowed to discriminate who gets our mail, we
21 send it to anyone, we... it's the, the whole voter file
22 regardless of whether or not they're affiliated with
23 the party and I believe it is anyone who has voted in
24 an election in the past five years and, and that
25 being said I would prefer that this city council move

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2 to just dropping it at every single address in the
3 district and I had that conversation with the current
4 speaker, I look forward to having that... so I would
5 just say... and, and I do believe... and, and I may
6 disagree slightly with my colleague just I do believe
7 we... that you do have a mandate to ensure that
8 underrepresented communities especially historically
9 underrepresented communities should have a roll but I
10 would just say you probably have a duty to register
11 every single NYCHA development not just NYCHA
12 developments in key districts similarly in, in terms
13 of partnerships on behalf of my colleague, Council
14 Member Borelli and, and at least for myself we would
15 like to see CFB have people posted at every single
16 one of our supermarkets from now until 2021 on every
17 single evening rush and weekends registering folks
18 there, would love to see folks at the checkout lines
19 at every single public library from now until then,
20 would love to see folks at every single high school.
21 I know that certain... that, that NYC Votes is focusing
22 on certain high schools, I have a number of high
23 schools in my district but only one is participating
24 in high school registration day and I, I think that
25 other districts get disproportionate resources for

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2 the high school registration activity and I would
3 also just say that it, it merits pause and just
4 looking internally and coming back to us on what's
5 going on and how are you going to make sure that when
6 you reach out to everyone it's fair. I would like to
7 excuse the Mayor's Office of Media and Entertainment
8 because I do not believe folks have questions for you
9 or the actual bill at hand. I have one other member
10 who'd like to ask questions before I'd like to excuse
11 CFB.

12 COUNCIL MEMBER REYNOSO: Thank you
13 Council Member Kallos and I, I do want to say that I
14 think this is a good bill by Council Member Borelli,
15 it doesn't happen often. So, I want to thank him for,
16 for pushing that and I mean it doesn't happen often
17 that we're on the same page on bills. I just want to
18 say to the CFB and the work that you do that... you
19 know I just... I just find it preposterous that we're
20 even having a conversation about the work that you're
21 doing to encourage voter registration and voter
22 participation in elections and then we're questioning
23 electioneering or not, the encouraging probably
24 underrepresented demographic in NYCHA residents in
25 the city of New York to register to vote and to vote

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2 it's, it's just beyond me, at this point we have one
3 of the lowest turnouts in an election that is
4 commonly used by all sides of the aisle, both
5 republican and democrat as an embarrassment or a
6 source of concern but the efforts that you do are now
7 being questioned and, and I, I want to be honest it's
8 just beyond me, I want you to know that I think
9 you're doing an amazing job that I think that we
10 could always do more, do more to encourage voter
11 registration across the city of New York in all areas
12 whether republican or democrat, it, it doesn't matter
13 where but to dismiss or, or to, to question your... I
14 guess your integrity in regard to where you're going
15 and your intentions I guess as to targeting
16 democratic locations in a city that's largely
17 democratic is, is, is beyond me, you know you, you,
18 you shoot a dart on a map randomly right now you're
19 probably going to hit a democratic portion of the
20 district even in parts of Staten Island. So, I, I
21 just want to say that I disagree with some of the
22 statements and, and, and questioning and the premises
23 of these questions, I, I don't think that they're
24 true, I mean I'll be more than happy to go with you
25 to Staten Island, anywhere in Staten Island and do

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2 voter registration drives to encourage them to, to do
3 that work, I think it's something we want to promote
4 but I think that that would be doing more not that
5 you're electioneering or, or looking out for the
6 democrats. So, again the CFB has been a joy in, in
7 the work that they've done, they've actually allowed
8 for people like me and other members of the City
9 Council to have an opportunity to run in, in, in the
10 face of challenges that traditionally we wouldn't be
11 able to. The state is a perfect example of someone
12 that's not doing the work that you're doing and the
13 representation we have here in this... in this... in this
14 body I believe is representative of, of who we are as
15 a city of New York and I think it has a lot to do
16 with your efforts. So, I just want you to know that
17 the sentiments in this city council regarding the
18 work that you're doing is, is, is positive and again
19 I want to thank you for the work that you're doing,
20 and I will also be a part of any process that you
21 have to encourage voter registration and voter
22 turnout in the public and districts but that's doing
23 more. Okay, so the... I just want to be... [cross-talk]

24 AMY LOPREST: Okay, well I, I... [cross-
25 talk]

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2 COUNCIL MEMBER REYNOSO: ...clear... [cross-
3 talk]

4 AMY LOPREST: ...just want to thank you
5 very much Council Member Reynoso for that. I just
6 want to also reiterate that, you know in New York
7 City we are... we have a fairly high number of people
8 who are registered to vote and we... but we still have
9 very low turnout and so I think that, you know we've
10 been really turning our efforts to focusing on trying
11 to change that and it's a difficult problem and we
12 are always looking for suggestions and solutions from
13 our partners in government and our partners in the
14 non-profit world to find ways to change that because
15 I think that the vibrant democracy requires that as
16 many people of any party of any political affiliation
17 to actually come out and register and actually
18 participate by voting and I think that's, that's
19 incredibly important. I, I didn't know if you had
20 more questions Chair Kallos? Okay.

21 COUNCIL MEMBER MENCHACA: I also want to
22 echo Council Member Reynoso's sentiments and
23 responses and, and the line of questioning as well,
24 I, I think that, that the, the questions provide us
25 an opportunity actually to talk a little bit about,

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2 about the importance of the kind of organizing that
3 you're doing with limited resources right now that,
4 that are... our, our topic I think of so many
5 discussions that we have at this committee when
6 you're before us and that, that's... so it's, it's a
7 question of circumstance on budget but also every,
8 every ounce of effort that you go into communities
9 that are kind of voting deserts are, are important. I
10 think the, the other piece to this conversation kind
11 of begs a, a sense of, of connecting members of our
12 community into organizing efforts so... you know on the
13 other side of this I'd, I'd like to know more how,
14 how we can actually expand your ability to go and
15 have people opt into activate them to be part of... no
16 matter who, who they want to vote for so that they
17 can at least understand how to engage the process. We
18 are protected by many laws, I'm assuming the 501C3
19 infrastructure applies, applies to the work that we
20 have to do as government to remove us from
21 electioneering and so you can speak to that and, and
22 as far as the guides that you have, it'd be just good
23 to know, I, I don't think that was discussed in the
24 back and forth about what was happening here in the
25 email that, that Chair Kallos received from, from NYC

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2 Votes but I think it's important for us to, to just
3 know that we are protected and, and as you move
4 forward you, you go... you are guided by, by, by law...
5 [cross-talk]

6 AMY LOPREST: Uh-huh... [cross-talk]

7 COUNCIL MEMBER MENCHACA: ...and that you
8 can move forward and that's what my first question
9 is, is just remind us what... how you are guided at, at
10 every step. Now there are things that are going to be
11 revealed and I think that all these questions need to
12 be answered so that we can... we can get the
13 information out especially to the Q and A but, but we
14 are guided I'm assuming, is that right?

15 AMY LOPREST: And so I mean we...
16 everything we do is strictly non-partisan, so it does
17 not have any kind of election except for in the, the
18 very broadest sense of an election message is that
19 there is an election and so it... I mean every single
20 email that we send, every phone call that we make is
21 really about reminding voters that there is an
22 election and that they should participate in that,
23 that process, you know I, I'm... you know would be
24 great, I would be happy if we had... could have people
25 at every single supermarket and every single library

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2 every single day but I would be remiss in not
3 pointing out that our entire voter staff is sitting
4 in the audience right now, all five of them and so
5 it's... you know I mean it's... the, the amount that we
6 do with our, our limited resources is, you know
7 unbelievably amazing under the direction of Onida
8 Mayers, our Director of Voter Assistance and I think
9 that... you know again... you know the goal would be, it
10 would be great if every... you know every single
11 citizen was registered, if every single citizen
12 voted, that would be... you know I think that everyone
13 shares that goal.

14 COUNCIL MEMBER MENCHACA: And, and not
15 only shares that goal but has responsibility for that
16 goal and that requires us as elected officials that
17 are currently in office, people who are wanting to be
18 in office, all of us have a responsibility to, to
19 engage and utilize your resources that you have and
20 our own to make sure that we franchise more and more
21 people. So, I just want to say thank you for the work
22 that you do and, and since your team is here I want
23 to say thank you to them, thank you for the work that
24 you do and continue to do that work and you're an
25 inspiration to us and the people that you touch every

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single day, in front of supermarkets, in NYCHA, in NYCHA campuses and, and beyond, thank you. No more questions for me, thank you.

CHAIRPERSON KALLOS: August 23rd, subject; can you make geo TV calls with us Ben, if you haven't signed up to phone bank with us yet there's still time Jonas and call newly registered voters throughout the city on Saturday nine, nine; Sunday nine, ten; Monday nine, 11 and Tuesday nine, 12 to remind them of our upcoming primary election, our city's... so on and so forth. So, I guess... and, and so you got that email because I'm an active citizen who, who donated to a candidate who at the very same time was sending me a geo TV message asking me to help her.

AMY LOPREST: I, I mean I'd have to look into exactly what... you know what that particular message on that particular day, but those messages were from people who opt in. so, I, I, I don't want to say that perhaps you didn't realize that you had opted in but... because you're very tech savvy but... [cross-talk]

CHAIRPERSON KALLOS: I chose to opt in because I was curious what kind of... [cross-talk]

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AMY LOPREST: Okay... [cross-talk]

CHAIRPERSON KALLOS: ...messaging you were sending to people who donated to me through New York City Votes without my permission and so I, I think that is a key piece and the other key piece is I, I again agree with my colleagues about wanting to register NYCHA and, and I... and register more people if possible I just want to make sure that this is actually being done in a non-partisan way at no non-partisan impact and that... I, I don't ever want to see another email going to somebody who you got their email address from without their permission to sign up specifically for it so if I registered to vote like I'm, I'm, I'm not sure how I feel about you taking information from a voter registration form without somebody's permission and I definitely am not okay with you taking somebody's email address from a campaign that didn't sign up to share their emails with you. Right, like taking something that isn't yours isn't right.

COUNCIL MEMBER REYNOSO: Can, can you just... you said opt in, can you just go further into the opt in portion of it, I guess I'm not clear with that Chair, just the opt in portion, you're saying

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that the people that receive these emails you assume have opted in to be able to receive emails to do more during the election cycle?

AMY LOPREST: Yes.

COUNCIL MEMBER REYNOSO: That's what you're saying so... [cross-talk]

AMY LOPREST: Yes... [cross-talk]

COUNCIL MEMBER REYNOSO: ...folks have the option to not opt in and not receive any of these emails, but somebody click... checked the box and said please call me if you need help turning people out for anything?

AMY LOPREST: I mean we mass email, we got about one to two percent people who opted in and then those people got further emails and they... [cross-talk]

COUNCIL MEMBER REYNOSO: Okay... [cross-talk]

AMY LOPREST: ...opt... the... originally one was just asking you whether you wanted to opt in...

CHAIRPERSON KALLOS: So... [cross-talk]

COUNCIL MEMBER REYNOSO: Alright, thank you... [cross-talk]

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CHAIRPERSON KALLOS: So, so the quick answer for you Antonio is you, you and I were amongst a group of folks who hosted a fundraiser for women of color which we wanted to see running for the city council in our... in our electoral capacities and so at that point I was a New York City Voter... Votes donor because they were running long shot campaigns against in many cases elected official incumbent who were sitting assembly members and so both of us having run against sitting assembly members sympathized and so I got an email on July 21st saying that I should vote for the city I want and that I should sign up to get updates and so I'm just saying that you don't... unless you're willing to give me your email list and CFB says I don't have to pay for it anymore like I don't think you want a third party sending an email to your mailing list asking them to start volunteering for somebody who isn't you and your campaign and your reelection, I believe you had a tough election even though it wasn't an open seat so...

AMY LOPREST: But the most... I mean there's... I mean again I, I again will reiterate there are different levels of opting in, there are levels of people who just got... you know they were asked do

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2 we want to get election information, do we want to be
3 asked to... whether they want to volunteer, you could...
4 I mean so that first email went and said do you want
5 to get information then you came, you looked you
6 could decide what level of activity you wanted to get
7 and then you got those kinds of emails. So, if you
8 were a person who checked, you know all of the boxes
9 you got the... asking... you know asked if you would like
10 to volunteer, if you said you wanted to just get
11 information about the elections you would get just
12 information about the election, if you chose not to
13 opt in you would get no further email.

14 CHAIRPERSON KALLOS: Next question.

15 AMY LOPREST: As did about 98 percent of
16 the people who got that initial email, again only
17 about one to two percent actually opted in so it's...
18 so, I guess a large number of people realized their
19 options... you know that they had the option of not
20 going any further.

21 COUNCIL MEMBER BORELLI: So... thank you,
22 just to my colleagues I think... I think you might have
23 missed the beginning half of the conversation it
24 wasn't all about being partisan, that was just the
25 direction we were in at the moment but just to go

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back to what you said about the seven districts that you, you identified as open seats. So, people were getting emails like that in just seven out of 51 districts?

AMY LOPREST: No, no, no, that... those emails went... we sent an email, people opted in and then they got... [cross-talk]

COUNCIL MEMBER BORELLI: Okay... [cross-talk]

AMY LOPREST: ...if they... regardless... I mean I was in a district that was not an open seat, I got an email, I opted in... [cross-talk]

COUNCIL MEMBER BORELLI: So, what was the... [cross-talk]

AMY LOPREST: ...and so it's, it's... [cross-talk]

COUNCIL MEMBER BORELLI: ...the difference between... [cross-talk]

AMY LOPREST: ...really based on your opting in.

COUNCIL MEMBER BORELLI: Then what was the difference between being in a city... in a seat with an open seat versus a seat with an incumbent?

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AMY LOPREST: What I said is that we did community forums in the seats that didn't have... that had... were open seats. I'm sorry, I meant... that might have been unclear because it was... [cross-talk]

COUNCIL MEMBER BORELLI: You... say again, you didn't... you didn't do what?

AMY LOPREST: We did community forums in, in seat... districts that had open seats.

COUNCIL MEMBER BORELLI: Okay... [cross-talk]

CHAIRPERSON KALLOS: What, what is the reelection rate in primaries amongst incumbent council members this year?

AMY LOPREST: Reelection in primary, I mean I, I would have to do the number but it's high.

CHAIRPERSON KALLOS: I believe it's 100 percent.

AMY LOPREST: I mean I, I wouldn't... I wouldn't dispute that 100 percent number, I'm... I mean but, but in primary so I guess if you're... if you're limiting it to primaries that would be I think correct.

CHAIRPERSON KALLOS: So, is there... is there such thing as an incumbent advantage?

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2 AMY LOPREST: I mean I think all the
3 political scientists would say that there is, you
4 know such a thing, I mean I think the people who had
5 tough races might not agree.

6 CHAIRPERSON KALLOS: Do you believe that...
7 so, so I'm, I'm, I'm just... my, my concern is just by
8 just doing targeted advocacy in open races where
9 there's an incumbent in that race to low information
10 voters you may be helping incumbent in a way that
11 your system is designed to actually try to create
12 competition not hurt it.

13 AMY LOPREST: I'm not actually sure if
14 you're following me, I mean we... this was a pilot
15 program, it was the first time we did these community
16 forums on the city council level, we've done citywide
17 debates since 1997 and we... and because it was a pilot
18 program we had to start somewhere, and we decided to
19 start in those races... [cross-talk]

20 CHAIRPERSON KALLOS: Well sure, I, I
21 would just like to ask that you stop using emails
22 without permission that as you reopen New York City
23 Votes for the 2021 cycle there is a bright line
24 disclosure that people can opt out of that says we
25 will... you, you, you... person... will you agree to having

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2 a bright line disclosure that allows people to still
3 use the service without you ever sending one of their
4 donors an email asking them to do something for you?

5 AMY LOPREST: Well we never ask them to
6 do... only people who... I mean I guess I just want to be
7 perfectly clear, we've never asked any... [cross-talk]

8 CHAIRPERSON KALLOS: I do not authorize
9 you to communicate with my mailing list so, I would
10 like to be able to use NYC Votes without you sending
11 anything to my donors.

12 AMY LOPREST: We'll look into that.

13 CHAIRPERSON KALLOS: I, I would... I would
14 like to close this and move to, to the main event if
15 that is possible.

16 COUNCIL MEMBER REYNOSO: Sure.

17 CHAIRPERSON KALLOS: Because we, we have
18 the city board of elections who, who are appreciating
19 other folks getting, getting tough questioning and
20 we've been joined by Council Member Treyger so it's,
21 it's up to you if it's really important happy to but
22 otherwise I would like to... [cross-talk]

23 COUNCIL MEMBER REYNOSO: So, just... I, I
24 feel... I just want to get clear because I understand
25 there was a, a conversation that was had before I was

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2 here but my understanding is... and, and just political
3 science 101 a lot of my colleagues here are, are
4 students of the political game, new registrants are,
5 are actually more advantageous to up and coming non-
6 incumbent members than, than the other way around,
7 what you want is to establish voter population to
8 stay the same in an effort to encourage incumbent,
9 incumbent to win so encouraging new voters they got a
10 fresh look at candidates in a way that they
11 traditionally haven't in the past so actually it's
12 not necessarily, necessarily is I guess what I'm
13 saying, there's a, a case that can be made that it
14 actually helps nonincumbent, one. Two, they, they are
15 more proactive in every single open seat in the city
16 of New York to the community forum to encourage voter
17 outreach, of voter registration and voter
18 participation across the board in every single open
19 seat and third that if you contributed through NYC
20 Votes that you got an email that followed saying
21 maybe thank you for donating and being active in the
22 world of politics, two if you want more information
23 you should check box A, B, C, and D; if you don't
24 check those boxes which most people don't, they're
25 just like thank you for the email and keep it moving,

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2 you never receive anything again from them related to
3 active, activating yourself to help turn out the
4 vote, it's an opt in, we get that all the time, I
5 forget how many boxes I haven't checked or have
6 checked. I just think that what we're doing is we're
7 over... we're over analyzing something that's so clear
8 and so cut right about what the intention are here,
9 and I think... thank you for clarifying with the, the,
10 the community forums and open seats and that this
11 email goes out and then people have an opportunity to
12 opt in or opt out. Now the last thing that the Chair
13 said regarding not even wanting his email... the email
14 go... to go to people... doesn't want you to have the
15 emails so that people can make a choice on whether or
16 not they want that to happen is a different
17 conversation but I think everything else that you've
18 done so far is very good and it's very clear and it's
19 obviously not done against the wishes of the, the
20 people that are participating because they've opted
21 in so I'm just... I'm just puzzled by a lot of these
22 conversations that we're having here and it's
23 troubling because I appreciate everything you do, and
24 I don't want to discourage you from doing any of that
25 because it actually helps with the participation in

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2 the voting population here in the city of New York
3 which I think is good.

4 AMY LOPREST: And, and if I could just
5 say one thing about NYC Votes Contribute which is a,
6 a platform that, you know we conceived of to help,
7 you know a... link voters with... to be contributors,
8 it's a... I mean part of that platform is it's... has all
9 the candidates, it has information about all the
10 candidates, it gives, you know voter an opportunity
11 now of course candidates have the facility to take
12 that and use their own link on their own website but
13 it is a resource that the Campaign Finance Board
14 seeing a need and has provided to candidates so just
15 for the public who might not understand what that is,
16 I just wanted to explain what that... what NYC Votes
17 Contribute was.

18 CHAIRPERSON KALLOS: Sure and just for my
19 colleagues and folks at home who may not get this,
20 before I, I sat here I was a software developer, I
21 still am, 2009 I actually built a predecessor to New
22 York City Votes called Voters Give, on Voters Give I
23 helped process credit card contributions actually
24 also provided websites for candidates in a way that
25 New York City Votes should but doesn't, I actually

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2 even offered this software to the Campaign Finance
3 Board to use freely, it's a free and open source,
4 there was no license involved, it could have saved
5 the city at least a quarter of a million dollars and
6 through that system I got all the email addresses for
7 all the contributors for a lot of the folks sitting
8 in the city council currently and I have never
9 communicated with them, I will never communicate with
10 them because I respect their right to privacy and as
11 a service provider I don't have a right to send
12 things out from their behalf and I don't want to live
13 in a world where people... and, and, and that being
14 said like it's bad enough that the private sector is,
15 is using email addresses and selling email addresses
16 but the government should not be in that business.
17 So, let's conclude this piece. Our next... we have the
18 New York State... from the New York State Board of
19 Elections Commissioner Doug Kellner. I'll ask
20 Committee Council to swear you in. And we've...

21 COMITTEE CLERK: Can I ask you to raise
22 your right hand. Do you affirm to tell the truth, the
23 whole truth and nothing but the truth in your
24 testimony before this committee and to respond
25 honestly to Council Member questions?

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DOUG KELLNER: I do.

COMITTEE CLERK: Thank you.

DOUG KELLNER: Let's see, is it... there we go. So, I want to start by acknowledging that the New York City Board of Elections has accomplished a great deal since the last time I appeared before the committee. They've significantly improved and simplified the election night canvass procedures. They accepted the recommendation of the State Board that they eliminate the use of voter cards. They've improved poll site layouts throughout the system. They have addressed many of the issues that the State Board had raised with respect to their voter registration processing system and for the first time in many years that I am told by the State Board staff that the City Board's registration system is in sync with the statewide voter database that's required under the Help America Vote Act which is something that the Board of... the City Board of Elections had resisted for a decade. So, I'm pleased to see that that has been resolved. And from my own conversations with the senior staff at the City Board of Elections I believe that they recognize what I have always felt was the single biggest problem in delivering

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2 effective election administration in the city which
3 is the training of poll workers which is a herculean
4 problem because of the large number of people that
5 are needed for just a couple of days a year. And I
6 believe that they are taking positive steps to
7 address that although there's still much more that I
8 think could be done and they'd probably be the first
9 to recognize that. I could talk about literally
10 dozens of different issues in election
11 administration, but I've decided to focus on three of
12 them where I think the council could be effective.
13 The first is something that is really in your lap and
14 that is dealing with the runoff primary election.
15 Four years ago, I came in and said look you've really
16 got to do this in the year after the election, there
17 are two reasons for it. first of all is that if
18 you're going to change the system it takes a
19 substantial amount of time for the equipment to be
20 updated and for all the planning to be done with that
21 and that if you were to go to instant runoff voting
22 which I recommend you need a two-and-a-half-year lead
23 time in order to do that. The second thing is that
24 the time to make the decisions about the election
25 system are when it is so far in advance that nobody

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2 really knows how it's going to affect the outcome so
3 that people are gaining the system in deciding what
4 to do. Now the... you dodged a bullet because there was
5 no runoff primary election last year but that problem
6 hasn't gone away, you still have a very serious
7 theoretical problems that it is extremely difficult
8 for the City Board of Elections to turn around an
9 election in the two week period that the law now
10 provides and its very expensive and in my view
11 needlessly so that there's... that there's no
12 significant benefit from the runoff election that
13 couldn't be handled by doing instant runoff voting if
14 you're concerned about eliminating that issue. So, I
15 strongly urge you to take the next six months to
16 focus on the issue of the runoff primary election and
17 if you're not going to do anything then it's your
18 fault but its, it's not realistic to make the
19 decision two or three years down the road that... this
20 is the year to make the decision what to do with the
21 runoff primary election. Alright, second thing is a
22 frustrating issue that I've been talking about for
23 many years which is that the city board is out of
24 compliance with the state rule that requires that
25 they provide staffing and equipment at elections so

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2 that no voter has to wait more than 30 minutes with
3 respect to the presidential general elections, it's
4 only a problem in the four year cycle where we have
5 two and a half million people who go to the polls
6 which is twice the number of people who vote in the
7 general election for Mayor and Governor and at least
8 seven times of the number of people who vote in the
9 typical primary election. Unfortunately, our election
10 administration system is designed as if one size fits
11 all and the system needs to be revised to address
12 that the staffing levels should be different
13 depending on the anticipated turnout for the type of
14 election and the city board is woefully short in
15 addressing what needs to be done so that we don't
16 have long lines again in the 2020 presidential
17 general election. Now what do they have to do to
18 address that, there are significant problems in the
19 solution for that and what's unacceptable in my view
20 is the city simply saying well it's too hard we're
21 going to ignore it and you can come back to us in
22 2021 after we failed to comply again in the 2020
23 presidential election. The fundamental problem is
24 that when you have two and a half million people
25 turning out to vote you don't have enough people at

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2 the bottlenecks in the process which is mainly at the
3 registration sign in table to move people through in
4 an efficient manner so that the lines don't back up
5 and once the lines back up you never recover from
6 that situation. So, that the estimates of the number
7 of people who had to wait more than 30 minutes range
8 from 15 percent to as many as 40 percent depending on
9 who you talked to and... so, what they have to do is
10 increase the number of people who can take the sign
11 in sheets, they need... and that requires them to
12 increase the tables which requires more space and
13 space is a big serious problem that the board faces.
14 Now there are a lot of creative ways to address this,
15 the... one of the things that I still recall so very
16 well is that in East Rockaway High School after the
17 hurricane in 2012 they basically used the whole high
18 school for poll sites instead of just the auditorium
19 because they had moved all of the Rockaway poll sites
20 into that single high school and they were able to
21 very efficiently process the 30 election districts
22 that they had suddenly moved into that high school by
23 using a different classroom for each election
24 district and directing people to the particular
25 classrooms and it was done in a very orderly fashion

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2 but it meant expanding out from the usual vote in the
3 auditorium to using individual classrooms for each
4 election district. We do have the space but in order
5 to do that now the city board... in order to do that in
6 November 2020 the city board has to be doing those
7 layouts and diagrams now and they're not doing it.
8 so, eventually somebody's going to bring a law suit
9 on this and, and it's not right that our voters in
10 presidential general elections have to wait. Another
11 issue with the staffing is that legislation has been
12 in the past allowing split shifts and allowing
13 variable hours to be assigned for poll workers and
14 the city board has been resisting implementing that,
15 it is true that it will be more work for the city,
16 they have to do better controls but we know that many
17 more people want to vote in the early morning hours
18 and so the city needs to adjust the staffing so that
19 you have more people for those busy hours and not
20 necessarily keep people for the entire 16 hour day
21 and that 16 hour day is a major barrier for many
22 people to sign up as poll workers and while its true
23 that they would need many more poll workers if they
24 started doing split shifts I am one who believes that
25 many more people would be interested in being a poll

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2 worker if they could work for less than 16 hours a
3 day. So, those are the key comments that I wanted to
4 talk to you about today. Obviously, there are many,
5 many other issues on the agenda for improving
6 election administration which I've talked about
7 before and which I've supported but I thought
8 focusing on those three things might generate more
9 attention from you.

10 CHAIRPERSON KALLOS: Thank you Co-chair
11 Kellner I just want to disclose for folks who are
12 watching at home or just here at the hearing known
13 each other for quite some time and I've learned a lot
14 from you over the years and it's a privilege and
15 honor to be here with you and it is... it is odd to be
16 asking you questions but I will... I will do, do my
17 best. So, you... you're advocate... so, so I, I also
18 recall working with you and advocating for split
19 shift poll workers and I believe that is something
20 that was passed by the democratic senate back in
21 2009...

22 DOUG KELLNER: No, it's law now that both
23 split shifts are permitted and there's also been
24 legislation so that they don't have to be evenly
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2 divided that people can be hired just for a number of
3 hours, less than a whole day.

4 CHAIRPERSON KALLOS: And, and I believe
5 you've been... you, you, you were behind that advocacy
6 amongst many advocates?

7 DOUG KELLNER: Yes, going back to the
8 time when I was a city commissioner when we actually...
9 tried to institute pilot projects even before the
10 legislation was passed.

11 CHAIRPERSON KALLOS: And so are... in your
12 testimony you outlined some of the concerns that have
13 been raised by the city board, are there any in the
14 other counties throughout the state for which you,
15 you have jurisdiction are any counties currently
16 taking advantage of the split shifts?

17 DOUG KELLNER: Yes, there, there are many
18 counties that do that and there are many counties
19 that do the consolidated staffing of their poll sites
20 that they don't staff by election district they staff
21 by poll site and while it would be nice to have
22 formal legislation that would justify it that instead
23 of having two inspectors from each political party
24 for each election district they will appoint two
25 inspectors of each political party for the poll site

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2 and they will be the inspectors for each the formal
3 inspectors with the legal authority for each of the
4 election districts in the poll sites and then all the
5 other workers would be clerks who would have assigned
6 duties and the city has been moving in that direction
7 towards separating out the training and the
8 assignment of personnel but particularly when... for
9 primary elections where the turnout is much less than
10 in the general election the current procedures
11 overstaff poll sites while as I say in the
12 presidential general election they're woefully
13 understaffed.

14 CHAIRPERSON KALLOS: Off the top of your
15 head do you happen to know the most populous
16 jurisdiction that is doing split shift poll sites of
17 poll workers and if they have shortages or if they're
18 able to actually... if they were able to get more poll
19 workers as a result of offering a shorter shift?

20 DOUG KELLNER: Not off hand but we can
21 get the Director of Operations to provide that for
22 you.

23 CHAIRPERSON KALLOS: That, that is
24 helpful. With regards to instant runoff voting I am
25 incredibly supportive of it, we, we... I, I believe

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2 that a, a, a certain elected official in the state
3 is, is... I'm sorry, and the city is opposing that
4 legislation so while I here in the council am willing
5 to do so I believe... [cross-talk]

6 DOUG KELLNER: Well... [cross-talk]

7 CHAIRPERSON KALLOS: ...we still need to
8 get the Mayor to sign it... [cross-talk]

9 DOUG KELLNER: ...if, if you... if you can't
10 get instant runoff voting I guess there's the option
11 if, if the council isn't going to pass a, a bill to
12 do it itself then there's the option to start up a
13 charter amendment petition and in my view is that if
14 you're not going to move to instant runoff voting
15 then they should just abolish the runoff but the city
16 was lucky this last year that they didn't have to
17 spend the money on a runoff election and imagine what
18 the reaction would have been if the city had to spend
19 millions of dollars to hold a runoff election for one
20 of the small parties where they might have been
21 spending as much as 30,000 dollars per vote in order
22 to administer the runoff election for one of the
23 smaller parties... [cross-talk]

24 CHAIRPERSON KALLOS: If you could
25 indulge... [cross-talk]

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2 DOUG KELLNER: And that's how the statute
3 is set up now and it's a crazy statute.

4 CHAIRPERSON KALLOS: Can you... can you
5 help develop that because I'm not sure folks are as
6 aware of that so were there specific candidates
7 running on specific lines that had fewer voters
8 voting in that primary or... [cross-talk]

9 DOUG KELLNER: You had a, a, a request
10 for opportunity to ballot in one party primary last
11 year and if the opportunity to... and, and so citywide
12 there are just a couple dozen voters in that primary
13 citywide, it might have been... even been a couple
14 hundred but, but a very small number of voters and if
15 the... if the OTB candidate had gotten up to 40 percent
16 of the vote or you know if no candidate had gotten
17 more than 40 percent of the vote the city would have
18 been required to hold a runoff primary election for
19 that small party two weeks later, I don't know
20 whether the city board did... worked up cost numbers
21 but I would... I, I can't believe it could have been
22 done for less than five million dollars and it might
23 have been the... might have cost even more to do that
24 and all for just a couple of hundred voters and
25 that's how the legislation is currently set up.

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2 CHAIRPERSON KALLOS: In your testimony
3 you brought up a, an idea, an, an instance that I
4 wasn't previously aware of and I'm not sure if it was
5 in your written testimony about a school that for the
6 presidential elections converted from just using the
7 auditorium to all the rooms, is that in your written
8 testimony or was... [cross-talk]

9 DOUG KELLNER: No, no that's just talking
10 about East Rockaway High School in 2012...

11 CHAIRPERSON KALLOS: And, and so this is...
12 [cross-talk]

13 DOUG KELLNER: Where all of the poll
14 sites... all of the poll sites for the Eastern part of
15 Rockaway had been moved to that high school because
16 of the issues with the hurricane and they were very
17 effective in using all of the... many of the classrooms
18 in the high school for the poll sites and all I do
19 is... and I'm doing it to illustrate that we have the
20 space if you make the effort to expand out for it.
21 Now school principals are not happy about that but,
22 but these are city owned facilities that instead of
23 cramming everybody in to an auditorium or a cafeteria
24 or a gymnasium where those spaces are currently
25 overcrowded particularly in those areas where the

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lines tend to back up for more than half an hour...
[cross-talk]

CHAIRPERSON KALLOS: So... [cross-talk]

DOUG KELLNER: ...they need to go outside
those rooms and start moving parts of the process
into other rooms in the building to take full...
[cross-talk]

CHAIRPERSON KALLOS: And, and so... [cross-
talk]

DOUG KELLNER: ...advantage of the
building... [cross-talk]

CHAIRPERSON KALLOS: ...on election days
schools... public schools are closed predominantly
we're using public schools as poll sites as we
continue to be forced out of other locations because
of disability access and so I, I, I love this idea
and I, I will bring it up to the next panel because
in my district one of the problems we ran into over
and over again was simply that the room that they had
had hit capacity and they hit fire code capacity and
so they couldn't have all the people who were there
to be there so what ended up happening is you had
huge lines... [cross-talk]

DOUG KELLNER: Right... [cross-talk]

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2 CHAIRPERSON KALLOS: ...at the ED check in
3 table and for, for people to pick up their ballot but
4 the rest of the process was, was... there was no wait
5 to fill out your ballot at a privacy booth and there
6 was no wait to cast your ballot so if we have the
7 check in table to send people to different classrooms
8 for their ED at least we're working around the
9 problem, the fact that we have... [cross-talk]

10 DOUG KELLNER: Right... [cross-talk]

11 CHAIRPERSON KALLOS: ...limited sites and
12 we have... [cross-talk]

13 DOUG KELLNER: Right and, and... [cross-
14 talk]

15 CHAIRPERSON KALLOS: ...classrooms... [cross-
16 talk]

17 DOUG KELLNER: ...and, and your district is
18 a good example because it is one of the districts
19 that has a high proportion of overcrowding on
20 presidential election day and long lines and, and
21 there is classroom space in publicly owned buildings
22 that's not being used and if they use that classroom
23 space they could then add the staff necessary to
24 handle the volume that's anticipated for a
25 presidential general election.

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2 CHAIRPERSON KALLOS: I have a, a... other
3 question, the city council passed Introduction 508-A
4 for online voter registration, I believe you've been
5 an advocate for that at the state level but at the
6 city level relying on a novel opinion of the New York
7 State Attorney General Eric Schneiderman, who I'm
8 grateful to have as our city's... as, as our States
9 Attorney, he is opined for the Nassau County Board..
10 [cross-talk]

11 DOUG KELLNER: Suffolk... [cross-talk]

12 CHAIRPERSON KALLOS: Suffolk County Board
13 of Elections that an intermediary can affix an
14 electronic signature to a voter registration form and
15 submit it, is it your opinion as, as Co-chair of the
16 Board of Elections... of the State Board of Elections
17 whose opinion was sought that that is, is valid and
18 that the... that those voter registration forms can be
19 accepted... [cross-talk]

20 DOUG KELLNER: I, I would not
21 characterize the Attorney General's opinion as novel,
22 I think it was a very sound opinion based on an
23 appropriate interpretation of the statutes. The State
24 Board of Elections has split along partisan lines in
25 evaluating Intro 508 that the Todd Valentine who is

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2 the Republican Co-Executive Director prepared an
3 opinion two days ago arguing that it exceeds the
4 authority of the city council to enact such a
5 provision in its municipal charter and the democrats
6 have circulated our opinion which follows the opinion
7 of the Attorney General and shows that it's a proper
8 exercise of local jurisdiction to support voter
9 registration.

10 CHAIRPERSON KALLOS: How, how do you get
11 things done at an organization that is partisan split
12 down party lines and is this current for him working
13 given the fact that... with a very clear and
14 straightforward legal opinion on point folks can't
15 agree?

16 DOUG KELLNER: Well by partisan election
17 administration is always challenging because it's
18 designed to have people come to agreement and it's
19 disappointing that I've seen that more and more there
20 is resistance on the part of New York republicans to
21 making it easier for people to register to vote and
22 to exercise their right to vote. I will say on the
23 other side of it what we have not seen among New York
24 republicans on the scale that we've seen in other
25 jurisdictions is efforts at voter suppression and I

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2 hold my breath, I hope that that does not infect the..
3 those republicans dealing in election administration
4 in New York but ultimately where the two sides can't
5 agree the courts will break the tie and so Intro 508
6 assuming the Mayor signs it is going to be headed to
7 a litigation I think.

8 CHAIRPERSON KALLOS: In reading the
9 opinion of Todd Valentine, Co-executive Director he
10 asserts that the Department of Motor Vehicles uses a,
11 a wet signature I'd like to invite you and the Co-
12 executive Director to come with me to the DMV a
13 couple of blocks from here where I recently was with
14 my wife applying for an updated New York State
15 identification wherein she signed her signature for
16 the DMV and the Motor Voter using a stylus on an
17 electronic touchpad so would love to know whether or
18 not the liquid crystal display being liquid is their
19 understanding of, of wet in which case I think we're
20 all in agreement or whether or not there, there was
21 some other liquid involved in signing with a digital
22 stylus at the Department of Motor Vehicles so I'll,
23 I'll... I invite them to come join us.

24 DOUG KELLNER: You're, you're absolutely
25 correct and the state technology law adopted in the

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2 year 2000 as well as the New York General
3 Construction Law both provide for electronic
4 signatures being fully valid and legal, so I am
5 perplexed at the memorandum that Mr. Valentine
6 prepared.

7 CHAIRPERSON KALLOS: And, and I guess
8 just a similar item, as an attorney I believe you
9 practice law as an attorney, have you had occasion to
10 use an electronic signature on an affidavit in the
11 courts?

12 DOUG KELLNER: Many times, many, many
13 times.

14 CHAIRPERSON KALLOS: So, so the, the
15 state courts already accept... [cross-talk]

16 DOUG KELLNER: Both the state courts and
17 the federal courts.

18 CHAIRPERSON KALLOS: I... [cross-talk]

19 DOUG KELLNER: ...will accept electronic
20 signatures.

21 CHAIRPERSON KALLOS: Thank you very much
22 for joining us today, we're going recess for eight
23 minutes and reconvene at three o'clock. We had a
24 great conversation earlier today about Introduction
25 1779 as well as follow up questions relating to G..

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2 Get Out the Vote activity by the Campaign Finance
3 Board that was not expected to come out at this
4 hearing. At this point we're hoping to turn over to
5 conducting an oversight hearing on the 2017 primary
6 general elections in New York City. This committee
7 has placed a tremendous importance on encouraging
8 civic engagement and removing barriers for
9 participation in our election system. We should
10 recognize the logistics of planning and running an
11 election are never easy and the city the size of New
12 York the task is magnified. Nevertheless, we must do
13 everything we can to make our elections as fair and
14 open and inclusive as possible. Fortunately, the 2017
15 election saw a lower voter turnout than 2016 some of
16 that was certainly due to the reduced public interest
17 in non-presidential elections but we remain concerned
18 that barriers such as accessibility of poll sites,
19 language access, poll worker quality and similar
20 concerns may frustrate potential voters and turn them
21 away from the process. We will continue to explore
22 those issues today. This will be the last oversight
23 hearing of this committee for this session and we're
24 concluding a very productive session together we've
25 required the creation of a universal online voter

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2 registration portal, expanded the agency based voter
3 registration law, put the city record online,
4 strengthened our campaign finance law, reformed the
5 board of standards and appeals, passed the city's
6 first comprehensive language access law and
7 dramatically improved the utility and compliance of
8 the Mayor's Management Report to list only some of
9 our accomplishments. I want to thank my Legislative
10 Director Paul Westrick; our Committee Council Brad
11 Reid; Policy Analyst Elizabeth Kronk and our Finance
12 Analysis Zack Harris and all the staff of this
13 committee who came before them for helping to make
14 this session a success. So, I want to thank my
15 colleagues on the committee for their advocacy,
16 support, suggestions, proposals this session. I'd
17 like to recognize that we've been joined by Council
18 Member Chaim Deutsch and also Council Member Corey
19 Johnson. With that being said I will now instruct the
20 Committee Council to swear in this panel.

21 COMITTEE CLERK: Raise your right hand
22 please? Do you affirm to tell the truth, the whole
23 truth and nothing but the truth in your testimony
24 before this committee and to respond honestly to
25 Council Member questions?

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MICHAEL RYAN: Yes.

COMITTEE CLERK: Thank you... [cross-talk]

DAWN SANDOW: Yes.

COMITTEE CLERK: Thank you.

CHAIRPERSON KALLOS: I'd like to recognize Michael Ryan, Executive Director for the New York City Board of Elections and Dawn Sandow.

MICHAEL RYAN: Yes, good afternoon Chair Kallos and the Council's Committee on Governmental Operations members. Thank you for providing... for providing the board the opportunity to appear before you and testify with respect to the conducting of the elections on September the 12th for the primary and November the 7th for, for the general election. My name is Michael Ryan, I'm the Executive Director of the Board of Elections. Seated to my left is Dawn Sandow the Deputy Executive Director and also present in the audience are several other members of our staff. I stated the election... the primary election occurred on September the 12th, 2017 and before I go into my prepared remarks I, I would like to echo some sentiments that were expressed earlier with respect to runoffs and whether or not they should continue to occur, I think that that is a worthy conversation

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2 that needs to be had and we certainly would need to
3 make some adjustments. Where I would say something a
4 little bit different than was testified to earlier
5 it's not a small number of individuals that are
6 involved... that were involved in the potential runoff
7 for the reformed party. The reason that it's not a
8 small number of individuals is they have an open
9 primary process so that would have opened that runoff
10 up to approximately 800,000 voters, it would have
11 been a full citywide runoff and considering the
12 plausibility of actual enrollees in the... in the
13 reform party, it's very easy to field candidates when
14 you need such a small number of signatures and then
15 open the board up to significant elections
16 responsibilities on a potential runoff and I would
17 also differ with what was testified earlier in the
18 sense that we had to do the lion's share of the
19 planning for the potential runoff in any event
20 because we could not wait to see what was going to
21 happen, we had to have all those plans in place and
22 in this particular year we had religious holidays
23 sandwiched in between the primary and the potential
24 runoff date, we also had the, the UN general assembly
25 which created... which would have created significant

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2 delivery problems for the borough of Manhattan had
3 the... had the runoff occurred as well there was some
4 indication that the president of the United States
5 might be testifying at the UN general assembly which
6 would have closed even more streets in Manhattan. So,
7 to say we dodged a bullet is, is an understatement as
8 we stated earlier. In any event, just shy of 3.9
9 million voters were eligible to, to vote in the
10 primary election representing approximately eight.. 85
11 percent of all the registered voters. I'll, I'll go
12 down the list and I will provide some numbers to the
13 committee, I'll try to go through this quickly given
14 the late hour of the day and the likelihood that
15 we're going to want to answer some questions and be
16 asking questions post-testimony. We had 1,213 poll
17 sites utilized across five boroughs, just shy of
18 3,000 DS-200 scanners were deployed to service just
19 shy of 6,000 election districts, that ran from
20 September 5th through September the 11th. We deployed
21 1,286 ballot marking devices to assist folks with,
22 with accessibility issues whether that be manual,
23 dexterity of vision or other issues. We deploy a
24 supply cart for each election district, 14,000... over
25 14,000 privacy booths and almost 43,000 pieces of

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2 individual equipment that begins to be distributed a
3 period over 14 days prior to the election. We also
4 have eight separate trucking vendors that, that we
5 deal with for election day operations. A lot has been
6 talked about regarding poll worker training and
7 certainly that is an issue and it's an issue that we
8 take seriously however the biggest challenge that the
9 Board of Elections faces is in poll worker
10 recruitment and not just recruitment, it's
11 recruitment and retention. So, it seems that for
12 every new person we recruit in a given election year
13 we lose somebody that's been doing it for a long
14 time, that is not a new problem to the City Board of
15 Elections and the City Board of Elections is not
16 alone and I will continue to point back to the
17 presidential commission report that was issued in
18 January of 2014 which was a bipartisan report that
19 indicates that poll worker recruitment is a challenge
20 and becoming increasingly so throughout the country.
21 So, we are... we are not alone but our responsibility
22 is to the voters of the city of New York and to that
23 end those of you who have travelled throughout the
24 city to any degree may have noticed our become a poll
25 worker signs on the... on the subways and on the... and

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2 on the buses. We, we leveraged a, a Department of
3 Health and Mental Hygiene contract in order to be
4 able to do that with the MTA and we have been
5 increasing our efforts in that regard over, over the
6 last several years and this year we spent 1.1 million
7 dollars in advertising to recruit poll workers
8 because they truly are where the rubber meets the
9 road and we cannot conduct elections without them. We
10 also engaged in separate poll worker recruitment
11 advertising in the full language assistance under the
12 Language Assistance Program. There are... there are a
13 large number of language specific avenues that we
14 could take advertising in and we availed ourselves of
15 many of them and because they're small publications
16 the, the cost of advertising is not as substantial as
17 it might be in some other areas so we did spend
18 84,000 dollars but in junct the position of the 84
19 and the 1.1 it sounds like a low number but we did
20 get a lot of coverage for a small amount of money
21 because these publications just don't charge as much
22 as some of the bigger outfits. We're also in that
23 regard exploring other avenues of targeting language
24 specific routes including using other media outlets
25 that would allow for geofencing so that we could have

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2 more targeted outreach and not just rely on the
3 printed form. We haven't implemented any of that yet,
4 but we certainly have had the conversations and it's
5 something that we're looking forward to exploring
6 further. So, we had just shy of 36,000 poll workers
7 receive training, 34,500 passed the exam and 30,460
8 were assigned to work and we also had just shy of an
9 additional 1,500 for the standby pool. So, we had
10 about a 14 percent no show rate, so we had 26,000
11 poll workers show up for the... for the primary
12 election and in addition the board itself sent out
13 just shy of 200, 198 bipartisan assembly district
14 monitoring teams to assist in election day field
15 operations to ensure that things go smoothly. We also
16 deployed 124 teams of field technicians in 62 zones
17 throughout the city to deal with any mechanical
18 difficulties or problems with the machines, ballots,
19 etcetera that may occur on election day. We also
20 supplemented the technical staff with 32 additional
21 vendor technical support staff that have a more
22 detailed ability and knowledge with respect to the
23 machines to deal with any serious problems that may
24 occur. With respect to our disabilities act
25 requirements we also employed two ADA coordinator

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2 teams and 18 additional AD monitoring teams that had
3 specific training for accessibility issues. We
4 completed poll worker payment, processing of 2,000...
5 26,196 poll workers, the process was completed by
6 October the 6th so we got them paid as quickly as
7 possible after the election. I'm not going to read
8 all of what I stated with respect to the Americans
9 with Disabilities Act Compliance, but I will say that
10 the Board of Elections takes its ADA requirements
11 very, very seriously, my printed testimony details
12 all of that. I'm sure that you guys can read that
13 and, and, and see what we have to say for yourselves,
14 but I will say this we meet regularly with... and this
15 was a process that was started several years ago in
16 cooperation with the Mayor's Office of Operations,
17 since the Board of Elections does not own or control
18 the, the facilities that we use for election day
19 throughout the year and, and most of them are
20 government sites, the lion share of the government
21 sites certainly are Department of Education sites, we
22 meet regularly with our city government partners and
23 there is a standing schedule meeting for... monthly, if
24 we have to meet more often than that we do, sometimes
25 the monthly meeting does get cancelled depending on

1
2 what else is going on but the administration and the
3 Board of Elections had been working hand and glove
4 with respect to meeting the challenges associated
5 with conducting large scale elections in a big city
6 that has a complicated infrastructure and one of the
7 problems that we do face though however is in some of
8 the older neighborhoods where some of the buildings
9 are older those challenges become more pronounced. In
10 addition to that we meet regularly with the
11 Disability Rights advocates who are the Attorneys for
12 the plaintiffs in the United Spinal case as an
13 element of our meet and confer responsibilities under
14 the Federal Court order that we are acting on. So, to
15 get to the meat of it, out of the 1,213 poll sites
16 on, on election day that we... that we mentioned, 353
17 of those sites had vendor installed temporary ramps
18 and the borough breakdown is included in my
19 testimony. In addition, we had 100 sites that had
20 board installed temporary ramping and we distributed
21 a little over 1,100 cane detectable elements, you'll
22 see them at the poll sites, they are very similar to
23 traffic cones in fact they are traffic cones but
24 those are the items that we placed under protrusions
25 or where there are other impediments so if someone

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2 primarily with a visual impairment had an... was
3 accessing the poll sites that they would not walk
4 into say for instance a wall mounted fire
5 extinguisher and, and things like that and in
6 addition to that of course we have to distribute all
7 of the accessibility entrance identification signage.
8 The one thing that I would say about that and I think
9 that this is something that could be... could be
10 addressed without hopefully a tremendous expense or
11 difficultly, to the extent that city buildings have
12 permanent signage with respect to the accessibility
13 entrance which would include braille and that is
14 placed at appropriate intervals at the perimeter of
15 the property that would alleviate some of the board's
16 responsibility with respect to distributing temporary
17 signage, we wouldn't have to put up temporary signage
18 if there was, you know of course the board permanent
19 signage. We also want to underscore that the 2.6
20 million dollars that the city council and the
21 administration provided the board at the tailend of
22 fiscal year 2014, 2015 to purchase and utilize tablet
23 devices is being put to good use and we are expanding
24 the use of the tablets with each passing election
25 cycle. So, each poll site gets a... two tablets and a

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2 MiFi to ensure connectivity, there are also two
3 tablets distributed to each police precinct and each
4 field technician team utilizes a tablet so a total of
5 just shy of 3,029... 26 tablets were deployed for the
6 primary elections and they're used for a variety of
7 reasons; poll worker check in, as well as
8 identification and remediation of, of problems with
9 the DS-200 scanners throughout the day and other forms
10 of communication. Right now, we're still in the phase
11 where we can do push notifications to the poll sites,
12 we are in the process of implementing a, a protocol
13 that allows us to have a more dynamic relationship
14 communication wise with the poll sites on election
15 day where we could receive messages and push
16 individual answers back to them as well although that
17 has not been implemented. So, with respect to the
18 primary that gets us to the meat of, of the issue
19 which seems to get a lot of attention on election
20 days, everybody wants to know the results. Our
21 results peaked at about 9:10 p.m. on the primary
22 election which means that that was the highest volume
23 of receipt of information that we were getting from
24 the... from the... from the poll sites. So, prior to that
25 implementation... has done with respect to... I thought

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2 my voice was loud enough, I guess it wasn't, you know
3 I'm very proud of the work that our staff has done to
4 make this piece of, of the process work so well and
5 one of the reasons that I think it's very important
6 is, is there is always this question of transparency
7 and nothing, nothing in the election's process that's
8 occurring anywhere outside of New York City is more
9 transparent than how New York City processes the
10 election results on election night. You start to see
11 results shortly after the polls close by... within,
12 within an hour and a half everyone knows what the
13 outcome is going to be in, in those areas where there
14 are not very, very close contests and in addition to
15 that the folks that are processing the election
16 results are all of our friends and neighbors so
17 there's no back room people smoking cigars opening
18 boxes and counting ballots, we do it very
19 transparently and we do it very quickly and we're
20 proud of that and certainly we're going to look to
21 the tablet technology to do other things at the poll
22 sites. I mentioned earlier that we're doing the poll
23 worker check in, we're also developed a, a more
24 automated assist on the... we're doing a pilot project
25 in Manhattan that's, that's underway where we have

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2 the standby pools getting cued up electronically and
3 so the plan is to do what we can to marry those two
4 processes so that we can distribute the standby poll
5 workers to the poll sites that are in need of... that
6 are in need of poll workers doing away with as much
7 of the telephone calling back and forth as we can in
8 the morning and have that be done in an automated way
9 so that we get more even coverage from the standby
10 pool. And just to... just to mention a little bit about
11 some of the training stuff and I, I really don't
12 want... that's a whole nother meeting and, and hearing
13 on that but just today we met for another two hours
14 with our training consultants to discuss all of the
15 plans that we have moving forward and how we'll make
16 adjustments and improvements to the training process
17 moving forward. So, because of the way that we
18 process the election results had we not planned
19 properly our website might be overly taxed, but we
20 have a server and a backup for each borough and if
21 you look at the statistics, I'll just pick 2015, on
22 2015 primary we had 2,800... two, 288,963 hits to our
23 website seeking information on election night. This
24 past election primary we had 665,871, we have become
25 a little bit like the Maytag repairman on election

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2 night, we're very lonely because nobody calls us
3 looking for results anymore, they're, they're going
4 to our website and they're getting the results
5 quickly and they're getting them in a customizable
6 way because if you're only interested in a particular
7 district you can go and just look at that district.
8 So, that's another element of, of the process. Now we
9 have very similar statistical data that I could sit
10 here and recite regarding the general election as
11 well which would basically be a repeat with some
12 increased numbers of the primary election but if, if
13 it's deemed that it's a better utilization of this
14 committee's time to move to the question and answer
15 period we can certainly do that.

16 CHAIRPERSON KALLOS: I appreciate all the
17 work you're doing on the results, I believe they
18 called the general election in July. I, I have a
19 practice in this committee while usually chairs will
20 ask a lot of questions given that we had initially
21 asked for the City Board of Elections to be here at
22 1:45 and did not expect the City Campaign Finance
23 Board to be talking about email and phone call
24 advocacy that they were involved in so this was
25 running a little later. I'd like to defer to a

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2 colleague who has specific questions about
3 translation, it's an issue he's fought for, for
4 years, we've heard a resolution... [cross-talk]

5 MICHAEL RYAN: Oh and Mr. Chair I just... I
6 just neglected to say one thing and it's very quick,
7 I'm also pleased to announce that we worked very
8 closely with the Department of Telecommunications...
9 Information Telecommunications Technology with
10 respect to cyber security issues and leveraging one
11 of their contracts they have made arrangements for us
12 to deal directly with... and we did a tabletop exercise
13 in the lead up to election day and they monitor our
14 cyberactivity, 365 days a, a year, 24 hours a day,
15 seven days a week and interface very closely with,
16 with our internal staff doing that so I'd like to
17 thank DoITT for their attention to these... this, this
18 issue and as well as the administration.

19 CHAIRPERSON KALLOS: Thank you for your
20 testimony, as, as I was saying there's a, a person
21 who has been a champion for foreign language access
22 for the past almost four years, Council Member Mark
23 Treyger.

24 COUNCIL MEMBER TREYGER: Thank you Mr.
25 Chairman and I want to thank you for your leadership

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2 as well on this issue because you allowed for a
3 hearing to take place at your committee where we
4 actually did provide services for translation for our
5 residents who came all the way out from the outer,
6 outer borough from Southern Brooklyn on an issue
7 that's very important to, to them and to me
8 personally so I want to thank you for your leadership
9 and, and, and for your support and I welcome you here
10 Director Ryan and, and your... and your staff and I am
11 pleased that all the folks from the state are still
12 in attendance as well because I'm sure this
13 conversation will extend even beyond the city
14 boundaries. The first question is Director Ryan, who
15 actually conducts the poll worker trainings before
16 the general and primary elections?

17 MICHAEL RYAN: So, there's a process
18 where the trainers get trained, it's called train the
19 trainers not, not that complicated and that is done
20 by board staff as well as with our consultants,
21 election center works very closely with us in
22 preparing the training materials as well as the
23 materials that are distributed to the... to the poll
24 workers so we have lead trainers and we have adjuncts
25 and, and then those individuals train all of the poll

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2 workers and as I said it's, it's quite a high number
3 in a relatively compressed time frame from, you know
4 July through, through October.

5 COUNCIL MEMBER TREYGER: Is it the same
6 trainer for the five boroughs or each borough has its
7 own trainer?

8 MICHAEL RYAN: No, each, each borough
9 training operation is... operates independently one
10 from the other although it is ultimately coordinated
11 through the central office but just keep in mind as
12 in a lot of things the city of New York is unique we
13 are the only jurisdiction in the country that is
14 attempting to have five counties function as one
15 board, every other voting jurisdiction in the country
16 is a single county and a single board.

17 COUNCIL MEMBER TREYGER: So, you're
18 saying that there are different trainings per
19 borough?

20 MICHAEL RYAN: The training material is
21 all identical, what you do get if there is variance
22 is individual vagaries, I mean you do... you do have
23 individual human beings conducting trainings so it's,
24 it's not true that if you sat in one training in
25 Queens and one training in Staten Island and one

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2 training in, in Brooklyn that you would get verbatim
3 repetition and recitation from those training from
4 those trainers. They, they have... there... they receive
5 instruction on completing the training and then the
6 individuals conduct the training.

7 COUNCIL MEMBER TREYGER: So, in Brooklyn
8 who conducts the training, is it a consultant or a
9 member of the Board of Election staff?

10 MICHAEL RYAN: It is a trainer of the
11 Board of Elections but not... they are hired
12 specifically for the purposes of conducting a
13 training, so they will appear on our payroll as an
14 employee the same way that the poll workers do but
15 these are not individual who work for us, you know
16 year-round. They come in at specific intervals
17 throughout the year to conduct the training.

18 COUNCIL MEMBER TREYGER: So, are you
19 familiar with an August of this, this year actually,
20 August 2017 training at 345 Adams where a trainer
21 informed poll workers or people that would like to
22 become poll workers for primary election day that
23 they are only allowed to speak authorized languages
24 in the poll site which are sanctioned by the board
25 which are English, Chinese and Spanish.

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2 MICHAEL RYAN: I am not aware of, of that
3 specific instruction, no I am not.

4 COUNCIL MEMBER TREYGER: And are you
5 aware that the trainer went on to inform the poll
6 workers that if they speak a language other than the
7 authorized languages that a police officer can be
8 called to have that person escorted out of the poll
9 site?

10 MICHAEL RYAN: Certain... I am certainly
11 not aware of that. And, and, and if I might, anytime
12 anecdotal things like this happen the sooner we find
13 out about it the sooner we're able to deal with it
14 and if someone is giving misinformation in August and
15 let's say it's an honest mistake or an honest
16 misinterpretation not finding out about that until
17 December does not give us the opportunity to correct
18 the behavior for the remaining classes that may occur
19 beyond that since these trainers don't just train one
20 particular class, they, they do it repetitively.

21 COUNCIL MEMBER TREYGER: With all due
22 respect have you ever received correspondence from my
23 office or other members, as a matter of fact I think
24 the, the Chair co-signed a letter raising concerns
25 about this issue about unauthorized... or this, this

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2 discussion of authorized or... versus unauthorized
3 languages spoken at poll sites?

4 MICHAEL RYAN: Not that I recall, I, I...
5 [cross-talk]

6 COUNCIL MEMBER TREYGER: I will produce a
7 copy.

8 MICHAEL RYAN: If you could provide me
9 with a copy, it, it didn't... it didn't make it to my
10 desk that I recall, and my practice is to respond in
11 writing to every writing that I receive so if that
12 did not happen and it... and it is my fault I will
13 certainly apologize...

14 COUNCIL MEMBER TREYGER: Chair do you
15 recall such a notice that we worked on?

16 CHAIRPERSON KALLOS: Yes.

17 MICHAEL RYAN: Did I... did I respond to
18 it? I, I don't remember this issue specifically, I
19 remember the issues coming up with respect to
20 requests for additional languages to be... to receive
21 assistance at the poll sites but a specific... this
22 specific complaint I do not... [cross-talk]

23 COUNCIL MEMBER TREYGER: No, no I, I... we
24 raised the issue in the letter because this
25 information about the August 2017 training we, we

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2 learned recently but the letter raised the concern
3 that we're hearing anecdotally about people from the
4 Board of Elections telling poll workers about
5 authorized versus unauthorized languages spoken at
6 the poll site and we wanted clarity from the Board of
7 Elections whether or not that is what's being
8 directed to be... to be told to poll workers.

9 MICHAEL RYAN: Right, I don't
10 independently remember it and certainly if, if that
11 could be... that letter could be supplied to me again I
12 will certainly be happy to review it, review it with
13 our staff and, and give you the courtesy that you
14 deserve of a formal response.

15 COUNCIL MEMBER TREYGER: And Director
16 Ryan to set the record clear is there a such thing as
17 authorized or, or unauthorized languages spoken in a
18 poll site?

19 MICHAEL RYAN: There are languages that
20 we service which are... [cross-talk]

21 COUNCIL MEMBER TREYGER: That's not...
22 that's not... [cross-talk]

23 MICHAEL RYAN: I, I understand... [cross-
24 talk]

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2 COUNCIL MEMBER TREYGER: ...that's not my
3 question... [cross-talk]

4 MICHAEL RYAN: ...but we also... we, we have
5 to be wary of interaction such as this because there
6 have been complaints in areas in Brooklyn, I'm not
7 going to target specific neighborhoods where
8 electioneering was occurring within the poll sites
9 but... [cross-talk]

10 COUNCIL MEMBER TREYGER: And how do we
11 know electioneering was occurring?

12 MICHAEL RYAN: Because in this one
13 particular instance and, and although it is not a
14 language that is typically spoken broadly it is a
15 well-known language and I'm not going to target a
16 specific group so I'll just say that we had a member
17 of our staff who speaks this very specific language
18 go to this particular polling location and was able
19 to understand what the individuals were talking about
20 and there was also discussions and this was a...
21 several elections ago but there was discussions about
22 conducting a lottery that people's names were being
23 placed into a lottery if they could prove that they
24 voted which was another reason why we were very
25

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2 adamant with respect to enforcing the no ballot,
3 ballot... [cross-talk]

4 COUNCIL MEMBER TREYGER: So... [cross-talk]

5 MICHAEL RYAN: ...selfie rules.

6 COUNCIL MEMBER TREYGER: Have you ever
7 been made aware of electioneering spoken in the
8 English language?

9 MICHAEL RYAN: Certainly and... [cross-
10 talk]

11 COUNCIL MEMBER TREYGER: And have we
12 banned English at poll sites?

13 MICHAEL RYAN: The, the, the difference
14 under those circumstances is the vast majority of, of
15 the public in New York City understands English so if
16 electioneering were occurring it could be more
17 readily identified. Now I, I don't like not your tone
18 but the tone of the way you're conveying the... how
19 this instruction was given by our staff so it's... the,
20 the staff tone... if, if these anecdotal references
21 that you're making is, is in fact correct that is
22 something that we would want to correct internally to
23 make certain that when the training is occurring that
24 people understand how to communicate the, the, the
25 broader concern.

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COUNCIL MEMBER TREYGER: But to be clear because I, I'm not sure if I'm getting a clear answer from you, is there a such thing as an authorized or unauthorized language to be spoken inside of a poll site?

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MICHAEL RYAN: No but there is a question of how are the poll workers going to interact individually with, with voters that having been said at least as far as I'm concerned, I, I believe that the election law provides voters to get assistance from a person of... [cross-talk]

13

COUNCIL MEMBER TREYGER: So... [cross-talk]

14

MICHAEL RYAN: ...of their... [cross-talk]

15

COUNCIL MEMBER TREYGER: So... [cross-talk]

16

MICHAEL RYAN: ...choosing...

17

COUNCIL MEMBER TREYGER: So, to be clear...

18

[cross-talk]

19

MICHAEL RYAN: But... [cross-talk]

20

COUNCIL MEMBER TREYGER: ...if a Russian speaking voter enters a poll site and asks a Russian speaking poll worker for assistance on where their election district is, is that permissible?

24

MICHAEL RYAN: On, on that very basic question there... that should be absolutely permissible

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2 but if it were going to go a step further with
3 respect to assistance in actually completing the
4 voting process there is an oath associated with that
5 that was required under... [cross-talk]

6 COUNCIL MEMBER TREYGER: Director Ryan I,
7 I, I want to again remind you and I think when I've
8 spoken about this and remind the Board of Elections
9 and, and remind my colleagues of what initially
10 prompted, inspired my interest in this issue, this
11 was before my tenure in the council when I was still
12 a community activist where I was called to a poll
13 site in Bensonhurst where a poll worker who is both a
14 Holocaust survivor and World War II veteran who
15 escaped a concentration camp but joined the, the
16 military to help free and liberate his fellow
17 survivors, he was a poll worker and was asked by a
18 Russian senior about information about where to go
19 vote and the coordinator of the site threatened to
20 call the police and have the... have the poll worker
21 arrested and this was a person that experienced the
22 horrors of the Holocaust, experienced warfare and at
23 his fragile age was startled by a cop walking over to
24 tell him that he can't do that and I had to intervene
25 and say that we are in the United States of America,

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2 we don't live in the Soviet Union, people are allowed
3 to speak languages here and that is what prompted my
4 efforts on this issue and so I... when I continue to
5 hear from poll workers who go to trainings and say
6 that nothing is handed to them in writing but
7 verbally there's a trainer that continues,
8 continuously says not just this year but in prior
9 years that you could only speak authorized languages
10 inside the poll site, do you understand why I find
11 that to be deeply disturbing?

12 MICHAEL RYAN: Absolutely and, and that's
13 why if, if I can get more specifics about who this
14 particular individual is and then come to some
15 conclusion Councilman whether or not this is a one
16 off, a particular trainer who has a, a
17 misunderstanding or if its' more pervasive. In, in
18 either event we are certainly committed to, to
19 working with you and we've enjoyed.. I, I believe a
20 good and healthy respectful dialogue back and forth
21 to making sure that even if we ultimately think
22 leaving this one particular incident off to the side,
23 even if we ultimately think that we have a, a right
24 policy in place how that's communicated to the poll
25 workers can set either a positive tone or a very

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2 negative tone so we have to be vigilant and, and
3 continue to work cooperatively and it's very
4 important to get feedback especially, you know from,
5 from new arrivals or, or people who have come to this
6 country who, who continue to have, you know issues
7 with the language so that we make sure that whatever
8 we're doing is sensitive and takes into consideration
9 how that might be perceived by others in addition to
10 being right.

11 COUNCIL MEMBER TREYGER: Director Ryan
12 since you're hearing this concern obviously on the
13 record can you commit to produce in writing to your
14 staff, employees and those who are hired by the BOE
15 who conduct these trainings that there are no such
16 thing as authorized or unauthorized languages spoken
17 at poll sites. I think this is a very serious issue,
18 this is an issue that I believe is... conflicts with
19 the United States Constitution and I believe we need
20 crystal clear clarity from the top all the way down
21 to all levels of your staff as well as those who are
22 hired by you... by your... by the Board of Elections who
23 conducts these trainings, there should be no
24 confusion, no intimidation, no conflict here, it is
25 crystal clear and the law provides that it's crystal

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2 clear and the constitution I think provides it's
3 crystal clear that people are allowed to speak
4 languages in America and there are constitutional
5 rights do not believe them at the door when they
6 enter their poll site, the constitutional rights
7 travel with them into the poll site.

8 MICHAEL RYAN: Councilman you, you are a
9 very passionate and eloquent advocate in this regard
10 and I can assure you that you have the full respect
11 of, of the Board of Elections for both your passion
12 and your eloquence, our legal team is here with us
13 today, they're hearing what you're saying, we, we
14 hear you loudly and clearly that we need to
15 communicate better on this and find out where our
16 deficiencies are and do a better job at, at making
17 sure we service all, all of the citizens that come to
18 vote. What I can say to you is I commit to you that
19 we will review our procedures, we will review our
20 training process and, and I also commit to you that...
21 [cross-talk]

22 COUNCIL MEMBER TREYGER: I get... [cross-
23 talk]

24 MICHAEL RYAN: I am cognizant of the fact
25 that my salary is paid by the taxpayers, you

1
2 represent a fair chunk of the taxpayers of, of
3 Brooklyn and I commit to you to meet with you at a
4 time of, of mutual convenience to sit down and
5 discuss this issue whether it be at a location in
6 Brooklyn where if you want to have members of the
7 community there so that we... so I can hear firsthand
8 some of the issues that they're confronting or you,
9 you want to meet privately with, with me and you and
10 our staffs, we can do whatever needs to be done so
11 that everyone feels that they're voices have been
12 heard and that the process is conducted fairly moving
13 forward.

14 COUNCIL MEMBER TREYGER: I... and, and we,
15 we will follow up on that Director Ryan and I
16 appreciate your commitment to follow up with me on
17 that. I have a few more questions and I want to be
18 very mindful of the interest of time. Director Ryan
19 what is... what is the definition of electioneering
20 under New York State Election Law?

21 MICHAEL RYAN: As I understand it
22 electioneering although it's a... it's a loosely used
23 term is advocacy for a particular party or individual
24 and, and it is prohibited... there are certain
25 practical impediments to, to imposing the law if you

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2 want to say it that way exactly as it's written but
3 it's been taken to mean 100 feet from the entrance to
4 the left or to the right, you, you know at, at a poll
5 site so, so folks should not be handing out
6 literature, they should not be talking about
7 candidates, they should not be saying, you know vote
8 straight democrat, vote straight republican, you know
9 inside poll site.

10 COUNCIL MEMBER TREYGER: I appreciate
11 that, so my next question is, why were Russian
12 speaking and Haitian, Creole, French Creole speaking
13 translators forced to be 100 feet away from polling
14 sites at this last general election?

15 MICHAEL RYAN: I think and I, I, I can't
16 read the collective minds of the Commissioners but I,
17 I believe that given the proximity to election day
18 and given the fact that the entire hierarchy of city
19 government was up for election in, in a year when a
20 pilot such as this was attempting to get off the
21 ground that there were concerns that the needle could
22 be pushed in, in direction or the other and then when
23 you added the layer to it as it played out on
24 election day having a table with the city seal on, on
25 it with a... with a banner could be under these

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2 specific set of circumstances maybe not so much in a...
3 in a... in a year where state officers are up for
4 election or not city officers could be suggestive so
5 out of an abundance of caution the Commissioners said
6 for this go around that this is the way we were going
7 to handle it. That having been said I can tell you
8 clearly that you came and passionately advocated for,
9 for this prior to... prior to election day and then the
10 Mayor's Office for Immigrant Affairs came in I
11 believe it was on October the 10th and they made the
12 same advocacy. This is another issue where I think
13 that there's opportunity to reach consensus and, and
14 common ground away from the immediate lead up to an
15 election. We now have months, not so many, six months
16 before the, the June primary, we have... we're, we're...
17 you're ten months away from the September primary,
18 these conversations should be had and see if there's
19 a, a mutual consensus that, that could be met. One of
20 the concerns that, that I would ask everyone who's
21 interested in this to take into consideration is that
22 we currently operate under an opinion from the New
23 York City Law Department that regulates font size but
24 I believe it's, it's analogous to this as well, we
25 are told that from the law department prior to the

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2 last Mayoral election that if we use a particularly
3 small font size in one borough we must also use that
4 same particularly small font size in another borough
5 when there is a contest that has citywide implication
6 and the reason that they use that argument is it's an
7 equal protection clause argument so that what service
8 or in some cases disservice you provide to one you
9 provide to all and, and some of the concerns with
10 respect to offering language assistance beyond the
11 mandated languages involves equal protection clause
12 arguments. So, there was some discussion about well
13 what if some entity other than a government entity
14 were to do this and it was purely a public service in
15 the form of a not-for-profit would that be acceptable
16 and I can tell you that there wasn't a single
17 commissioner that said immediately no that there are
18 wrinkles and issues that need to be ironed out for
19 sure but the willingness to conduct further
20 conversation when we're not under the immediate
21 pressure of conducting an election a month to three
22 weeks before an election would be a better time to
23 have that conversation.

24 COUNCIL MEMBER KREYGER: Director if, if...
25 in my... just to clarify you mentioned before that some

1
2 were concerned with the appearance of a city seal on
3 the banner, is that correct?

4 MICHAEL RYAN: We didn't know that was
5 going to be the case prospectively however on
6 election day some of these tables was set up with the
7 city seal prominently displayed and, and I will, will
8 say to you when, when we're looking at equal
9 protection clause arguments and we start to
10 anticipate what is potential litigation, not coming
11 from the Board of Elections but coming from some
12 other candidate. If you're... Chair Kallos was talking
13 earlier, I, I don't know if you were here Councilman
14 regarding the power of incumbency and that was
15 brought up with respect to the... to, to the other
16 issues with CFB... [cross-talk]

17 COUNCIL MEMBER TREYGER: But, but
18 Director Ryan... [cross-talk]

19 MICHAEL RYAN: I, I... respectively I did
20 not finish my point, if, if, if that... if that
21 argument that Chair Kallos advanced the power of
22 incumbency has any merit well then certainly you
23 could understand if you're a non-incumbent candidate
24 running against an incumbent city council person and
25 there's a table with the New York City seal there

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2 that you might feel that that was somewhat
3 suggestive. So, what I'm simply saying is the devil
4 is always in the details, no one is quarreling with,
5 with the desire to do something if it's doable and
6 legal but trying to accomplish that three weeks to a
7 month before election was a bridge too far for us in
8 this election cycle... [cross-talk]

9 COUNCIL MEMBER TREYGER: Director Ryan...
10 [cross-talk]

11 MICHAEL RYAN: ...it might not be moving...
12 [cross-talk]

13 COUNCIL MEMBER TREYGER: Right... [cross-
14 talk]

15 MICHAEL RYAN: ...forward, that will be up
16 to the Board of Commissioners... [cross-talk]

17 COUNCIL MEMBER TREYGER: So, so Director
18 Ryan with all due respect... [cross-talk]

19 MICHAEL RYAN: Sure... [cross-talk]

20 COUNCIL MEMBER TREYGER: ...you testified
21 earlier that the majority of Board of Election's poll
22 sites are in city public schools, is that correct?

23 MICHAEL RYAN: Yes.

24 COUNCIL MEMBER TREYGER: Do city public
25 schools carry the seal of New York City on them?

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2 MICHAEL RYAN: Yes, I was... I... [cross-
3 talk]

4 COUNCIL MEMBER TREYGER: So, should we
5 move all of our poll sites away from public schools
6 during city elections?

7 MICHAEL RYAN: Look, there have been
8 poll... there have been poll sites with buildings
9 bearing the names of candidates on the ballot too, I
10 was simply trying to give an illustrative example and
11 I... and I... and I, I, I sense that this is... [cross-
12 talk]

13 COUNCIL MEMBER TREYGER: I think it's an
14 insulting example.

15 MICHAEL RYAN: It, it, it... [cross-talk]

16 COUNCIL MEMBER TREYGER: ...a city seal
17 does not name a... it, it, it has... it's... has Dutch and
18 Native American backdrop to it but there are city
19 seals emblazoned on all public schools and there's
20 flags... [cross-talk]

21 MICHAEL RYAN: I sense... [cross-talk]

22 COUNCIL MEMBER TREYGER: ...inside the
23 schools too.

24 MICHAEL RYAN: I sense that the focus is,
25 is now turned to an anecdotal example that I gave

1
2 and, and that is becoming the focus as opposed to
3 what I think was a very accommodating desire on the
4 part of the Board of Elections to continue this
5 conversation and see if something can be worked out...
6 [cross-talk]

7 COUNCIL MEMBER TREYGER: Director Ryan
8 having translators in the cold, in the rain from six
9 o'clock in the morning to nine o'clock p.m. is not
10 accommodating, it is insulting, it was humiliating
11 for the workers and this is something that, that,
12 that I, I... we, we will not drop this issue and with
13 all due respect with people who mentioned
14 commissioners or, or staff who mentioned equal
15 protection clause that's our arguments, the equal
16 protection rights of people are not being respected
17 here and I just want to remind folks that other
18 cities provide language support and they're also are
19 under the federal governments umbrella; Chicago and
20 Los Angeles provide language assistance in 11
21 languages, Boston provides language assistance in
22 eight languages, why does New York do the bare
23 minimum for language translation services on election
24 day, remember the voting rights act and these laws
25 give us the floor, it's not the ceiling it's the base

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2 so we're doing the bare minimum here, other cities
3 are going above and beyond New York and we're
4 supposed to be the, the, the place where people turn
5 to and look to be the model and, and when I heard
6 before from the State Board of Elections Commissioner
7 mention how there are people who are, you know
8 waiting at the registration or, or information desks
9 I'd like to just say on the record many of those
10 people are immigrants wanting to know if they are in
11 the right site because many times when poll sites are
12 changed notices are not sent in an adequate time and
13 fashion and they show up to a poll site to the wrong
14 poll site and no one tells them because no one could
15 speak their language, that's what's going on here so
16 we already are facing a major voting barrier and,
17 and, and a lack of voter participation because we are
18 a, a proud immigrant city with people who speak a
19 variety of languages and I remind you that the
20 Russian speaking language is a significant one, it's
21 not... it's not a minor one. So, I just have to ask you
22 why does New York and why have we accepted the bare
23 minimum to be the status quo when other cities are
24 going above and beyond?

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MICHAEL RYAN: The Board of Elections in the city of New York fulfills its mandate, this, this is... this conversation is, is... has taken a turn here, we are more than willing to explore opportunities to, to see if we can service all of the voters of the city of New York better than what we're doing presently. I have personally appeared numerous times on Russian speaking radio to have these conversations and made myself available. The time to have these conversations is not a month before an election and certainly we're not going to solve the problem at the table of a city council hearing other than make ourselves available moving forward to see if... [cross-talk]

COUNCIL MEMBER TREYGER: Director...

[cross-talk]

MICHAEL RYAN: ...there's a way that we can reach consensus, I don't know what else to tell you...

COUNCIL MEMBER TREYGER: Director,

Director Ryan let's set... let's just be clear, we did not first raise this issue with you a month before the election, is that correct?

MICHAEL RYAN: The issue about... [cross-talk]

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2 COUNCIL MEMBER TREYGER: The issue about
3 language, language services at poll sites was not
4 raised with you for the first time a month before the
5 election. You testified before this committee over...
6 well over a year ago about the same... [cross-talk]

7 MICHAEL RYAN: Correct... [cross-talk]

8 COUNCIL MEMBER TREYGER: ...topic, is that
9 correct?

10 MICHAEL RYAN: Yes and, and... [cross-talk]

11 COUNCIL MEMBER TREYGER: And, and, and do
12 you remember what you testified to the committee
13 about, what, what some of the challenges with regards
14 to language access?

15 MICHAEL RYAN: Yes, I do.

16 COUNCIL MEMBER TREYGER: And was
17 budgetary concerns one of those concerns that, that
18 was... that was raised?

19 MICHAEL RYAN: It, it certainly always
20 is.

21 COUNCIL MEMBER TREYGER: And did, did
22 this council make sure that we allocated 350,000
23 dollars to tackle the issue of language access?
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25

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2 MICHAEL RYAN: Yes and, and then we were
3 informed that 20 poll sites were picked as a pilot
4 project.

5 COUNCIL MEMBER TREYGER: And, and do you
6 know... [cross-talk]

7 MICHAEL RYAN: Which... [cross-talk]

8 COUNCIL MEMBER TREYGER: ...why that was
9 the case?

10 MICHAEL RYAN: No and matter of fact I'm
11 still waiting for an answer in that regard as to how
12 those 20 poll sites were picked but, but then what
13 happens is for every ping there's a pong, right so if
14 you do the pilot project in 20 poll sites why didn't
15 you do it in 40 poll sites, if you only did it in
16 Brooklyn how come you didn't do it in Staten Island,
17 there's a high Russian speaking population in the
18 South Beach area in Staten Island... [cross-talk]

19 COUNCIL MEMBER TREYGER: I agree... [cross-
20 talk]

21 MICHAEL RYAN: ...so, so, so why would we
22 limit it there...

23 COUNCIL MEMBER TREYGER: I agree...

24 MICHAEL RYAN: The devil is always in the
25 details and what I'm simply saying is a month before

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2 the election was not sufficient time to have a real
3 meaningful conversation with respect to ironing out
4 those details, that's all the bad news but as I said
5 to Council Reid the other day, the bad news is that
6 it didn't happen exactly the way everybody wanted it
7 to happen. The good news is it opened up the dialogue
8 and, and the Board of Commissioners have indicated a
9 willingness to try to tackle this problem provided
10 that we can do it in a way that not only meets the
11 needs of the community but is within keeping of, of
12 the, the legal mandates of the Board of Elections.

13 COUNCIL MEMBER TREYGER: And so... and you
14 acknowledge that the mandates are the floor but not
15 the ceiling as far as adding languages, is that
16 correct?

17 MICHAEL RYAN: Yes and I will be happy to
18 have a detailed conversation with you with respect to
19 every floor of this building, it's a high rise
20 building with a lot of competing... with a lot of
21 competing interest coming at it from different
22 angles, we also have to remember that we're the ones
23 that get sued, we get sued from the right side, we
24 get sued from the left side, from the up side and the
25 down side. So, one of our eyes is always on potential

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2 litigation and, and when you look at it in the
3 immediate lead up to an election event the most
4 unforgivable sin that the Board of Elections could do
5 is to take some action that calls into question the
6 efficacy and the fairness of a particular election
7 and have the results of that election thrown out and
8 have to do a, a do over election, that would be a big
9 problem for us. So, we're sensitive to these things
10 but we're not... we're not taking the position that
11 these road blocks and impediments are across the
12 board insurmountable. We want to work together, we
13 just can't do it as we're pressed for time up to an
14 election and, and I... and I hope that, that you could
15 understand that.

16 COUNCIL MEMBER TREYGER: I, I just... I
17 just want to say that this was not the first time
18 that it was raised a month before the election, the
19 budget actually is passed in June, the funds are
20 allocated... sitting there for a while, it is my
21 understanding that there was either a break down or a
22 lack of communication between both the city side and
23 the Board of Election's side that dragged on for
24 months and so I am not excusing anyone's behavior
25

1
2 here and I'm not saying that it's just, you know the
3 Board of Election's responsibility... [cross-talk]

4 MICHAEL RYAN: I appreciate that, thank
5 you.

6 COUNCIL MEMBER TREYGER: ...but the reality
7 is this has been an issue that we've raised for a
8 number of years now, it seems that the reasons for
9 the lack of implementation keeps shifting, first
10 budget then I've heard that well no one has mandated
11 us to do this and now we're hearing that some folks
12 had concerns about what was the appearance of the... of
13 what was on the banners and what folks... or, or the
14 partisan issue. I also heard some folks that were
15 present at the Board of Election's public hearing
16 where some Commissioners raised objections saying
17 that well if we do it for Russian and French Creole
18 then we might have to do it for other languages as if
19 that's a crime and, and as if that's the most
20 horrible thing and I'm not saying that we have to do
21 it in every single poll site, I think the city of New
22 York since it didn't have enough guidance or
23 communication what, whatever the, the reasons are use
24 census data to see where there are large pockets of
25 this particular population that spoke languages and

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2 wanted to do a pilot. Now if the city of New York
3 commits again to secure resources and work with the
4 Board of Elections in a timely fashion not a month
5 before an election, is this something that we can
6 work together on to remedy moving forward?

7 MICHAEL RYAN: Yes and, and clearly, you
8 know just to... just to be clear, right, the Board of
9 Elections is still independent and ultimately I
10 cannot or... nor anyone from executive management
11 cannot commit to a particular thing or a particular
12 way of doing business, ultimately whatever we discuss
13 must be brought to the commissioners in terms of
14 setting policy but what I can... what I can tell you is
15 we are firmly committed to making certain that we do
16 everything we can to be as fair to all the voters of
17 the city of New York. I cannot guarantee you as I'm
18 sitting here that we'll agree 100 percent at the
19 conclusion of the process but what I can tell you is
20 that we're committed to having the conversation and
21 seeing what we can do that is mutually agreeable,
22 meets the needs of the communities wherever they lie
23 in the four corners of the city of New York and also
24 meets the, the, the legal mandates and requirements
25 of the Board of Elections.

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COUNCIL MEMBER TREYGER: And I'm going... we're, we're going to have a lot of follow up work to do but I want to close by saying this because I want to circle back to this, Director Ryan whose decision was it, at, at who's direction was it to have the translators sit 100 feet away from the poll sites on election day?

MICHAEL RYAN: Where they sat was... had nothing to do with the Board of Elections and what the tables and chairs and what they were, were doing had nothing to do with the Board of Elections, the Commissioners made a determination collectively, not individually but collectively that given the proximity to this election event that enforcing the 100-foot rule made sense for this particular election.

COUNCIL MEMBER TREYGER: So, the... so, the Commissioners and Board of Elections believed that translations services amounted to electioneering?

MICHAEL RYAN: I, I, I'm, I'm not going to get into a back and forth on characterization and what the Commissioners believe, what I'm simply telling you is given the proximity of this coming to light as close to the election as it did the

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Commissioners as... out of an abundance of caution determined that the 100 foot rule made sense for this particular election, it doesn't necessarily mean that that's the harbinger of things to come, if we have a conversation moving forward, several conversations and we can work something out that makes sense for everybody and meets the legal requirements that... under which the Board of Elections acts then... [cross-talk]

COUNCIL MEMBER TREYGER: Well... [cross-talk]

MICHAEL RYAN: ...that may change moving forward... [cross-talk]

COUNCIL MEMBER TREYGER: I, I would like... [cross-talk]

MICHAEL RYAN: ...I can't predict that... [cross-talk]

COUNCIL MEMBER TREYGER: I would just like you to know that on behalf of the Russian speaking and, and French Creole speaking people that brave the cold weather and the rain all day and to those that actually tried to go inside for warmth and were told that they had to leave I found that to be disgusting, humiliating, embarrassing, to take place

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2 in the city of New York, that I would never imagine
3 in my city where I was born and raised and my parents
4 left the Soviet Union for freedoms where, where my
5 residents would be told to get out because they had
6 the audacity so to speak to help their fellow
7 neighbors to assist them on where to vote. So,
8 whoever was responsible for that decision I hold them
9 responsible for disrespecting this country, our
10 constitution and my... and, and our, our residence who
11 only wanted to go to vote, who only needed assistance
12 on to make sure that they were in the right place,
13 there are street finders were drenched in rain
14 because of the rain outside and so all they wanted to
15 do was to look up the street and to make sure that
16 they were in the right ED but they couldn't even use
17 them because they were all drenched and they had to
18 keep them under the table to keep them dry, that's
19 humiliating Director and I will never stand for that
20 and tolerate that and nor should we in the city of
21 New York and I look forward to following up with,
22 with your office and with the Chair as well. Thank
23 you Chair.

24 CHAIRPERSON KALLOS: Thank you Council
25 Member Treyger for your advocacy for the Foreign

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2 Language community and as a person who was married
3 into a Russian speaking family for the Russian
4 speaking community of this city. We are joined by
5 Council Member Peter Koo and his district's ran into
6 translation problems at three poll sites in his
7 district, they found that... they, they received
8 complaints from Chinese speaking voters who felt...
9 who, who said that their ballots were not available
10 in Chinese, our Committee Council and Analyst tried
11 to download the sample ballots after the election and
12 found that they are not available so if you can
13 provide the sample ballots to the sites locations.
14 JHS 189 it had ballot names only translated into
15 Bengali and propositions were not translated at all
16 and again there was no... [cross-talk]

17 MICHAEL RYAN: Sorry, what was the site
18 again?

19 CHAIRPERSON KALLOS: JHS 189 and again
20 not translated into Chinese at all. At Benjamin
21 Rosenthal Self Help Senior Center ballot names only
22 translated into Bengali and propositions were not
23 translated at all and again no Chinese on the ballot
24 and then at the... [cross-talk]

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MICHAEL RYAN: Okay, okay, so I, I think...

[cross-talk]

CHAIRPERSON KALLOS: I have one more site.

MICHAEL RYAN: Okay, so the first site was JH... JHS 189...

CHAIRPERSON KALLOS: Benjamin Rosenthal Self Help Senior Center...

MICHAEL RYAN: Right, okay...

CHAIRPERSON KALLOS: And then the Taiwan Center only had English on the ballots and again the report came from Chinese speaking voters through Council Member Peter Koo's office, so we are hoping you can... if you have an answer we'll take it but otherwise if you can provide the sample ballots...

[cross-talk)

MICHAEL RYAN: We will... [cross-talk]

CHAIRPERSON KALLOS: And follow... [cross-talk]

MICHAEL RYAN: ...we will double check...

[cross-talk]

CHAIRPERSON KALLOS: ...up with him in our office... [cross-talk]

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MICHAEL RYAN: ...but one, one possible explanation is that in order to be able to fit everything we need to fit on, on the ballots in certain districts in Queens we have what we call trilingual ballots, they will be translated. So, certain districts in Queens, it was 79 I think that numbers changed because we just did some redistricting on the election districts, require five languages, in those districts and this is really to accommodate the font issue for the rest of the city in those districts we print ballots in English, Spanish and Korean, English, Spanish and Chinese and English, Spanish and Bengali. So, the poll workers are instructed to rotate the ballots so that they're not picking and using up the ballots from all one language and... as they come in so if somebody doesn't ask for a language specifically other than English they're going to get the next one up on the deck and that one might be an English, Spanish, Bengali or it might be an English, Spanish, Korean or an English, Spanish, Chinese so that is one possible explanation, it's one of the challenging solutions that we have tried to come up with so that we're not stuck with a

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2 six point font on the ballot throughout the entire
3 city of New York.

4 CHAIRPERSON KALLOS: At the sites where
5 you have a... three different... three differently
6 translated ballots, do you have translators for each
7 of the ballot options, so a Bengali, Bengali
8 translator, or Korean translator, a Chinese, a
9 Spanish translation and... was there... [cross-talk]

10 MICHAEL RYAN: Yes... [cross-talk]

11 CHAIRPERSON KALLOS: ...a fifth... [cross-
12 talk]

13 MICHAEL RYAN: If, if it's... if it's... if
14 it's required we have the, the appropriate
15 translators with the caveat that assuming that they
16 show up to work on election day, so we do... we do have
17 some challenges with respect to recruiting
18 translators throughout the city of New York certainly
19 one of the things that I think would help in the
20 recruitment of translators and all poll workers in
21 general is the raising of the poll worker salary..
22 [cross-talk]

23 CHAIRPERSON KALLOS: We'll, we'll, we'll
24 get to that... [cross-talk]

25 MICHAEL RYAN: But that's... [cross-talk]

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2 CHAIRPERSON KALLOS: ...to that in a
3 second... [cross-talk]

4 MICHAEL RYAN: ...but it... but it all kind
5 of... it always ties back together.

6 CHAIRPERSON KALLOS: Is it possible to
7 reorient the training so that the poll worker or
8 perhaps even just providing materials on any one of
9 those locations so that there's some sort of bright
10 sign that says please... in what... in, in, in the five
11 different languages that you have at that poll site
12 so a sign in all five languages saying please request
13 the poll... the, the... please request the ballot in the
14 language of your choosing... [cross-talk]

15 MICHAEL RYAN: Yes... [cross-talk]

16 CHAIRPERSON KALLOS: ...so that even if the
17 poll workers are not doing so proactively and that
18 being said I'm not even sure we want poll workers
19 proactively asking... maybe, maybe just if they ask
20 everybody regardless of race or ethnicity what
21 language would you like it in they may feel that it's
22 frustrating but I think it's, it... I think if the sign
23 plus having to train folks that if they have more
24 than one language that rotating may not be enough you
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2 have to actually ask them and have the, the big sign
3 in all the languages...

4 MICHAEL RYAN: Right, we are certainly..
5 we are certainly willing to explore any options that
6 assist the voters more effectively. This, this
7 process of, of the tri... what we'll call the
8 trilingual ballots, a ballot with no more than three
9 languages on it is relatively new, it, it, it came
10 into place after the last mayoral election because of
11 all the difficulties associated with the font size in
12 2013. So, it seems to have been working effectively,
13 this is the first real complaint that we've had in
14 this regard since we implemented and I believe it was
15 implemented in 2014 so it's just possible that it's
16 just bubbling to the service now because it's a
17 relatively new way of doing it. That having been said
18 the absentee ballots in those districts all go out in
19 the five languages because we have no way of, of
20 asking the question of what ballot... what language
21 they want the ballot in.

22 CHAIRPERSON KALLOS: So, is it just a
23 longer piece of paper or how do you do that?

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2 MICHAEL RYAN: It... sometimes it's a
3 longer piece of paper and sometimes it's a two-page
4 piece of paper. So... [cross-talk]

5 DAWN SANDOW: We do a two page... [cross-
6 talk]

7 MICHAEL RYAN: We go to two pages for
8 the... for the absentees because there's such a finite
9 number of, of ballots and the... and the staff scans
10 them anyway so it's a controlled environment into
11 which those pieces of paper are handled.

12 CHAIRPERSON KALLOS: Alright, if you
13 could just... so, we're trying to solve problems at the
14 table, with that being said if you can take this
15 back... [cross-talk]

16 MICHAEL RYAN: Yep... [cross-talk]

17 CHAIRPERSON KALLOS: ...reach out to Peter
18 Koo's office and then just advise us in writing what
19 your investigation finds and work with his office to
20 find out if you can even possibly interview some of
21 the folks who complained and then just come back with
22 a proposed solution to deal with the problem that can
23 be constructive. One of your favorite reporters at
24 WNYC reported as many as one out of five of every
25 five poll sites or 240 sites were moved effecting

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2 close to 300,000 people, how many poll sites changed
3 location this year in your estimation?

4 MICHAEL RYAN: It was a little over 60.
5 Where this became an issue and, and we tried to
6 explain as best we could and I will... [cross-talk]

7 CHAIRPERSON KALLOS: So, it's over four
8 years that 240 were moved or...

9 MICHAEL RYAN: I don't honestly know
10 where that number came from what I can tell you is a
11 source of confusion this year was in years ending in
12 seven we have a blackout period of redistricting
13 election districts from February of years ending in
14 seven until December 1st of years ending in zero and
15 in order not to exceed the state mandated election
16 district sizes we had to... we have to in years ending
17 in seven aggressively redistrict election districts
18 to get them down below a number to allow for growth.
19 So, our system tracks voters by election district not
20 by poll site because if we're not going to be using a
21 poll site anymore it's not important for us to have
22 that site in our active information so we do it by
23 election district. If you did it... if you are trying
24 to interpret our poll site and it was by election
25 district that is a very cumbersome exercise, that

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2 having been said we're working with our VEO unit, you
3 know Voting Equipment Operations Unit to address the
4 system that we assign and track poll sites to also
5 capture poll site moves not to the voter but to the
6 actual site because if we split your ED, right and
7 you're still voting at the same poll site and
8 someone's looking at election district changes as a
9 way to extrapolate a poll site change it may look
10 like your poll site changed when it in fact did not,
11 you're still going to the same place it's just that
12 you were in ED 59 before and now you're in ED 60.

13 CHAIRPERSON KALLOS: Along those lines
14 folks were going to poll sites that may have moved,
15 how many did you say moved before?

16 MICHAEL RYAN: My recollection is around
17 60.

18 CHAIRPERSON KALLOS: So, about... at least
19 60 folk... at least... at least 60 poll sites were moved
20 so the first question is you were talking about
21 tablets, with that being said there were still
22 complaints of folks being misdirected, do you... did
23 you measure or do you have an idea of whether the
24 tablets worked better at checking where people were
25

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2 supposed to go versus using the pieces... old pieces of
3 paper... [cross-talk]

4 MICHAEL RYAN: Right... [cross-talk]

5 CHAIRPERSON KALLOS: ...on the... on the wall
6 or why people are still getting misdirected even with
7 the tablets?

8 MICHAEL RYAN: You know there's always
9 going to be a certain amount of human error however
10 I, I will tell you that the tablets and for that
11 matter you're an individual's own ability to access
12 the information from their smartphone is, is
13 absolutely without question the most accurate way to
14 go because in our poll site locator system in order
15 for us to be able to enter an address it first must
16 be geocoded through the city planning department and
17 picks up the, the coordinates because that's what
18 ties it to the google map service so we, we cannot
19 make a mistake with respect to the address in that
20 system. Now, now we did have some issues that we have
21 to watch as election districts converge so let's say
22 you have, you know four corners of, of election
23 districts all meeting to one spot sometimes the, the
24 geocoding of city planning has pushed someone across
25 the street and we have to watch that fine detail but

1
2 in terms of... you know in terms of addresses those
3 addresses cannot provided that the city planning
4 system is accurate be in error so that's the most
5 accurate way to go.

6 CHAIRPERSON KALLOS: So, so you believe
7 that folks who may have been misdirected by the
8 system relates to the geocoding service from... [cross-
9 talk]

10 MICHAEL RYAN: No. No, that's not what
11 I'm saying. If they were misdirected that is likely
12 human error, if, if you go onto our website and, and
13 access poll site locator on election day and, and
14 Dawn and I have both been out in the field and we've
15 done it with people and we... and, and in busy
16 elections we're going up and down the line saying go
17 onto your smartphone, go onto our website, make sure
18 you're in the right spot, if you have... if you have
19 your card that we give out, you know bring that with
20 you so the, the system is, is... [cross-talk]

21 CHAIRPERSON KALLOS: Okay... [cross-talk]

22 MICHAEL RYAN: ...dead on accurate. Our...
23 whether or not people impart the proper information
24 when they're communicating is something else all
25 together.

1
2 CHAIRPERSON KALLOS: Is... are there
3 situations where poll workers may not be text savvy
4 or may not be using the tablet and are still using
5 the old paper method?

6 MICHAEL RYAN: I, I, I know that you,
7 you, you are the question asker and I am the question
8 answerer but I'm sure that you know what the answer
9 to that is, yes, there are some of our poll workers
10 that are not... are not as tech savvy as some other
11 folks. Although as the smart phone becomes more and
12 more part of the fabric of our society I suspect that
13 over the course of time that will decrease.

14 CHAIRPERSON KALLOS: So, I think where
15 I'd like to... I want to touch back on this to talk
16 about a, a different bill involving signage in terms
17 of a low tech solution but if we can just touch on
18 training a little bit, so the comptroller did an
19 audit that the past rate for your training program is
20 much higher than the bar that both of us took and so...
21 [cross-talk]

22 MICHAEL RYAN: Well I would hope so...

23 CHAIRPERSON KALLOS: So, I guess tests
24 are a method of measuring the knowledge that folks
25 have gained and whether or not they've, they've

1
2 gotten it and the hope would be that if we've tested
3 and 100 percent are passing that folks are making it
4 into the field and given the fact that you've also
5 made changes to special, specializing your poll
6 workers so they don't need to know everything how,
7 how do we ensure that folks who are trained for
8 tablets are able to use them properly in the field
9 and that as folks are trained for different jobs in
10 the site they are able to do them properly without
11 errors or with as few errors as are possible when
12 training as many as you do?

13 MICHAEL RYAN: Okay, so I, I've testified
14 before this committee often enough Chair for you to
15 understand that it is not my habit to engage in, in
16 back and forth with, with our various government
17 partners but on this one isolated issue and on
18 everything else I will rely on the detailed response
19 that we gave to the comptroller but on this one
20 isolated issue I'll make an exception. We tried
21 perhaps unsuccessfully and maybe we weren't clear
22 enough to have the comptroller's office reach the
23 understanding that the purpose of the test went
24 beyond testing of knowledge, it was a philosophical
25 way that the training process has been... is now

1
2 conducted. We have reorganized the entire poll worker
3 manual that's available on election day and our, our
4 outside consultants have said to us hey look the
5 election was very esoteric and very cumbersome and
6 trying to have a six hour training course that crams
7 everything into a poll workers mind that they need to
8 know how to operate a poll site on election day is
9 really not the way to go, we need to... we need to
10 scale back the training in terms of hours because
11 you're losing people after about the two and a half
12 to three hour mark and they're glazing over, half the
13 people are throwing the materials in the garbage on
14 the way out the door and saying I'm not putting up
15 with this and I... this is what I have to know to be a
16 poll worker so what they did was they designed an
17 examination around teaching the poll workers to
18 navigate the manual so the idea is to drive the poll
19 workers to the manual for things that they don't
20 understand or perhaps didn't grasp during the... during
21 the training. So, that's the purpose of the test as
22 opposed to simply just a test of knowledge and, and
23 maybe that's kind of getting lost in the translation
24 to coin a phrase, you know from a little bit earlier
25 but that's the purpose of the exam so now that I gave

1
2 that detailed answer I really lost the whole point of
3 your question, so I'd ask you to repeat it.

4 CHAIRPERSON KALLOS: No, no worries. So,
5 that, that was... that was a very helpful answer
6 especially as attorneys when we're in law school
7 we're taught how to think as attorneys because the,
8 the amount of time attorneys spend on... in, in the hot
9 seat as, as you currently are and... [cross-talk]

10 MICHAEL RYAN: Right... [cross-talk]

11 CHAIRPERSON KALLOS: ...though you do not
12 need to be an attorney to be executive director is
13 much lower than the amount of time you spend doing
14 research and preparing and so in law school having an
15 open book exam seems pretty reasonable and anyone
16 who's watching as a law professor please for the love
17 of god do an open book exam because like lawyers just
18 need to know how to do the research and formulate
19 and, and think but I guess the question might be it's
20 good that folks are being trained how to use the
21 manual that you're providing them but on election day
22 which is quite long, that's leading me to the second
23 question we'll focus on the training as it were. I
24 guess the concern would be isn't there certain bare,
25 bare minimum type things that they should have to

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2 know beyond the manual so if, if, if the person's
3 coming in and says I, I can't read this, this ballot,
4 it's, it's in the wrong language that that should be
5 one of the ten or 20 or 50 things that they must know
6 in order to be a poll worker and without having to
7 look in the manual that this person must be entitled
8 to the other ballot that we have on site is... [cross-
9 talk]

10 MICHAEL RYAN: Alright... [cross-talk]

11 CHAIRPERSON KALLOS: ...can we set
12 specific... [cross-talk]

13 MICHAEL RYAN: So... [cross-talk]

14 CHAIRPERSON KALLOS: ...standards for
15 knowledge in addition to reference?

16 MICHAEL RYAN: Right, so Raphael Savino
17 has finally broken me of a bad habit of referring
18 things as a cheat sheet so there is a quick reference
19 guide that's associated with the poll worker manual
20 that contains all of that high hit information so
21 that they don't have to, you know leaf through the,
22 the entire book but the poll worker manual itself is
23 also color coded so that if they're looking for a
24 topic on a specific... an issue on a specific topic
25 they can go right to the, the, the topic if they need

1
2 more detailed information. Now the other thing about...
3 we, we just completed a pilot in Staten Island with
4 respect to the, the information table and have... and,
5 and starting to break out some of the poll worker
6 duties by responsibility and give enhanced training.
7 The preliminary information that we got from the
8 Staten Island office and this is sort of, kind of hot
9 off... hot off the presses and I haven't independently
10 verified it but they... we were anecdotally informed
11 that by having it done this way in this past election
12 cycle it bumped the... it, it bumped the valid
13 affidavits up to 75 percent of affidavit ballots cast
14 which is a, a very high number. So, one of the
15 discussions that we had today in our meetings with
16 our consultants is to start to advance that process
17 throughout the city so that would be something that
18 we would of course have to bring back to the
19 commissioners and say hey look this thing seemed to
20 work pretty well in Staten Island we want to talk
21 about expanding that, you know citywide.

22 CHAIRPERSON KALLOS: So, I guess as you
23 work with the consultants if you can do a pilot or,
24 or even just work with them to determine whether or
25 not it is worth testing people on the reference... in,

1
2 in addition to using the manual but also perhaps...

3 [cross-talk]

4 MICHAEL RYAN: Questions regarding...

5 [cross-talk]

6 CHAIRPERSON KALLOS: ...having... [cross-

7 talk]

8 MICHAEL RYAN: ...the reference guide?

9 CHAIRPERSON KALLOS: Perhaps even have

10 the... a closed book section on the reference guide on...

11 like you, you just have to memorize the reference

12 guide. I think if I remember my learners permit back

13 in the day there were like a pool of 20 or 50

14 questions that they could ask you on your ten

15 question learners permit so I think just making sure

16 that they've got the memory... the, the reference guide

17 memorized so they have the top notes and then the

18 rest can be the manual, so you know that they know

19 how to use it. along those same lines so as you're

20 recruiting folks to be poll workers on election day

21 I, I am a big fan of the ads you put up, I'm big fans

22 of it so... and, and you also know that I am not a fan

23 of, of the, the P word which would be the, the

24 patronage so how many of the poll workers in the last

25 elections would you say came in through just

1
2 responding to a public ad versus were recommended to
3 you through a political process?

4 MICHAEL RYAN: It would be at least 75
5 percent of the poll workers come from outside the
6 political process.

7 CHAIRPERSON KALLOS: Fair enough, that,
8 that is... that is great news... [cross-talk]

9 MICHAEL RYAN: Perhaps, if we can retain...
10 the, the key is not where do they come from
11 necessarily for us, the key is our ability to retain
12 them to work year after year particularly those folks
13 that come in under the new training process so that
14 they're taught, and they can... and they can do well...
15 [cross-talk]

16 CHAIRPERSON KALLOS: How, how much are
17 you... [cross-talk]

18 MICHAEL RYAN: ...like in... [cross-talk]

19 CHAIRPERSON KALLOS: ...paying an hour?

20 MICHAEL RYAN: Well I'll do the math, 200
21 divided by 17 or 300 divided by 17 so it's less than
22 15 dollars an hour and it's... and, and let's be clear
23 it's not how much are we paying them we don't set the
24 rate of pay so we're fulfilling the mandate based on
25 the current, currently authorized rate of pay.

1
2 DAWN SANDOW: It'd be nice to have... be...
3 have... to have municipal poll workers.

4 CHAIRPERSON KALLOS: And so the... that is
5 authorized through the Mayor's Executive budget or
6 through the state?

7 MICHAEL RYAN: It is authorized... the, the
8 Mayor can sign an executive order to, to raise the
9 rate of pay, the last one was made Giuliani that did
10 that, it could also be changed by, by state statute
11 that's another option and, and in addition to that I
12 would... and I may be taking it one step further than I
13 should but I, I... but I'd like to say this, the Chair
14 and I had discussed a while back the possibility of
15 using municipal workers as poll workers and I... and I...
16 and I honestly thought that the Chair had a, a... an
17 idea that should be workable under some
18 circumstances. If we could do it say throwing out a
19 number, from five o'clock when the poll site opens to
20 eight o'clock and then have them come in and do the
21 closing at the end of the day, any form of, of that
22 assistance whether those hours make sense or not
23 would certainly be the, the subject of, of discussion
24 and if we can think of them at least in the short
25 term as in addition to the current crop of poll

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2 workers that might be a way that we could more
3 effectively spend city resources and get the poll
4 sites set up and operational at the beginning of the
5 day and then at the end of the day because we could
6 have some control over those folks throughout the
7 year and give the more enhanced training that needs
8 to be done for the... some of the more complex work
9 that's required of poll workers as opposed to simply
10 sitting, you know flipping through a page and saying
11 this is Ben Kallos and sign here.

12 CHAIRPERSON KALLOS: I, I appreciate you
13 remembering that... [cross-talk]

14 MICHAEL RYAN: I was excited, I was of
15 course... [cross-talk]

16 CHAIRPERSON KALLOS: I, I... [cross-talk]

17 MICHAEL RYAN: ...left at the alter but I
18 was very excited in the moment.

19 CHAIRPERSON KALLOS: So, so, so for those
20 watching at home who didn't have the occasion to join
21 us in that meeting we met with city hall to discuss
22 the civil service and how valuable our civil servants
23 are and the fact that we have civil servants who are
24 technical in nature, highly qualified, highly
25 educated, highly skilled who are very familiar with

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2 technology and the idea was that certain parts of the
3 job are, are, are less technical in terms of checking
4 people in, comparing a signature in the book and that
5 other parts such as setting up a voting machine might
6 be more challenging and that with city employees
7 doing so and having 350,000 at our disposal and only
8 however many thousand poll sites... [cross-talk]

9 MICHAEL RYAN: 1,200... [cross-talk]

10 CHAIRPERSON KALLOS: ...that... 1,200...

11 [cross-talk]

12 MICHAEL RYAN: ...they changed... [cross-
13 talk]

14 CHAIRPERSON KALLOS: ...poll sites that the
15 number of city workers we had that we could pay an
16 additional couple of hours to open it in the morning
17 or close it in the evening would help bolster it so
18 that I, I... am interested in working with you moving
19 forward the, the only question which was a, a larger
20 question of the day and we touched on during the
21 interpretation conversation and during the CFB
22 conversation which I promised folks watching this
23 hearing we wouldn't go too far into is just... and
24 something I think we talked about then was just
25 dealing with the challenge of the fact that the, the

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2 membership organizations of which city employees
3 might be a part might be engaging in political
4 activity on behalf of one candidate versus another
5 and how to balance the, the public trust on that. So,
6 I think that is an open question that we're
7 interested in hearing from, you can email me at B
8 Kallos at Ben Kallos dot com and... what do you... so I
9 don't know if you want to speak to it or if we should
10 go to the next... [cross-talk]

11 MICHAEL RYAN: Well... [cross-talk]

12 CHAIRPERSON KALLOS: ...item... [cross-talk]

13 MICHAEL RYAN: ...that, that's always an
14 issue but, but we get poll workers from all walks of
15 life and they all have outside interests besides the,
16 the Board of Elections and that's the reason I think
17 that the bipartisan protection is in place with
18 respect to the operation of elections and that's why
19 we jealously guard that bipartisan reality of the
20 environment that we live in but I... but I would like
21 to say earlier Council Member Treyger talked about
22 Los Angeles and the exciting things that they've been
23 doing with respect to languages, it's not just
24 limited to that they have a very robust municipal
25 workers and state workers as poll workers program and

1
2 they also have very robust students as poll workers
3 program, anyone can go on to their website and, and
4 look and see the materials that they have published
5 there. We were out... Miss Sandow and my... and myself
6 were out in, in LA and I did not get a chance to
7 visit their offices but Miss Sandow did and, and, and
8 they have taken some steps certainly beyond what
9 we're doing here presently in New York City so if
10 there's a way for us to collectively work to try it
11 and, and see if it works, it's certainly something
12 that the board is willing to discuss and explore
13 further. Of course, the devil is always in the
14 details and we'd have to see how it all works out.

15 CHAIRPERSON KALLOS: The New York State
16 Board of Elections Co-chair earlier testified about
17 the value of split shifts and full disclosure, I was
18 involved in advocacy with that same person and others
19 in favor of it and even may have helped with the
20 drafting of the law and passage in Albany knowing
21 that have the ability to do split shifts you, you...
22 and, and I believe that you're well on record
23 regarding your concerns about filling existing slots
24 versus others would you be open to doing a pilot for
25 split shifts... [cross-talk]

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2 MICHAEL RYAN: Funny you asked that, we
3 actually did a pilot... [cross-talk]

4 CHAIRPERSON KALLOS: Great... [cross-talk]

5 MICHAEL RYAN: ...a couple of seasons... a
6 couple of seasons... a couple of election cycles ago,
7 it might have been seasons by now, we, we, we did it
8 in Brooklyn and, and here's where we landed with that
9 and it goes back, and I hate to sound like a broken
10 record but it, it goes back to the compensation.
11 First off, the boroughs... the poll workers in the
12 boroughs have been surveyed and asked what their
13 preference is to work a, a, a full shift or a split
14 shift and overwhelmingly it's a full shift. One of
15 the challenges that we faced in, in, in Brooklyn
16 where we did the... where we did the pilot is the folks
17 did not want the reduction in pay. Now there has been
18 a subsequent change in the... in the election law that
19 allows the commissioners to, to essentially set the
20 standard for what the split shift is, right so if the
21 rate of pay is 200 and they're going to work a half a
22 day you don't necessarily have to pay them 100, you
23 can set the rate of compensation but what I am saying
24 though is there are people that do this and I'm not
25 being trite when I say this, out of the goodness of

1
2 their heart and they want to do some form of public
3 service but then there's another chunk of our poll
4 workers who... which is a lot of them that really do it
5 for the money and, and to us fortunately the
6 difference between 120 dollars or 200 dollars is not
7 a make or break day but for a good chunk of our poll
8 workers it is and that has been a roadblock for us in
9 recruiting people to work the split shifts. So, when
10 you couple that with the fact that we're having a
11 difficult enough time filling the positions we
12 already have and, and, and then the folks want to
13 make the full rate of pay perhaps if there was a
14 raise in the poll worker pay and the split
15 differential was not the difference between 200 and
16 100 but the difference between 300 and 200 we might
17 have more opportunity for better recruiting under
18 those circumstances.

19 CHAIRPERSON KALLOS: If, if, if my
20 assembly members or senators found it friendly at
21 least for my district on the Upper East Side and
22 perhaps where the Co-Chair for the State Board of
23 Elections lives on the West Side if they were
24 friendly to it whether or not we could try the pilot
25 again.

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MICHAEL RYAN: Certainly, it, it... we're, we're open to these ideas and, and, and I want to be clear, the Board of Elections does not... in the city of New York does, does, does not sit in it's offices every day thinking that we have cornered the market on good ideas and that we're the... we're the only ones that could make suggestions that effect the, the, the elections process. If, if it is workable and, and it is something that we can... we can do elsewhere even if it didn't work out in the particular district we tried it in certainly... well and, and... [cross-talk]

DAWN SANDOW: It was... [cross-talk]

MICHAEL RYAN: Right, Miss, Miss Sandow makes a good point, it worked, the split shifts worked, it's just that we couldn't replicate it so the day that we tried it, it worked, you know the time that we tried it, it worked, the, the question was trying to get enough individuals willing to take a reduced rate of compensation to successfully staff all of the positions that were necessary was a bit... was a bit challenging for us.

DAWN SANDOW: We also had coordinators in that site where we did the split shifts who took a big interest in this and they were very helpful in

1
2 making sure that we also had poll workers for the
3 second shift so there was a lot of collaboration
4 between them and our borough poll worker units and if
5 we can do that on the Upper East Side in Council
6 Member Kallos district and you have poll workers
7 there and coordinators that would work closely with
8 Manhattan to help us with the second shift because as
9 you know we're... we do not have a full compliment of
10 poll workers on election day.

11 CHAIRPERSON KALLOS: Our... so, so, I, I
12 would just suggest if we can try to expand the pilots
13 since you know it actually did work to other parts of
14 the city and work with the different commissioners
15 and different boroughs to see which ones are most
16 interested and... [cross-talk]

17 MICHAEL RYAN: Well like I said... [cross-
18 talk]

19 CHAIRPERSON KALLOS: ...working with you on
20 this... [cross-talk]

21 MICHAEL RYAN: ...given the current crop of
22 poll workers that we have we surveyed them, and we
23 did not get, at least in our opinion sufficient
24 interest in, in working less than a full shift so,
25 so... [cross-talk]

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2 CHAIRPERSON KALLOS: It, it's... [cross-
3 talk]

4 MICHAEL RYAN: ...I think what, what Miss..
5 [cross-talk]

6 CHAIRPERSON KALLOS: I... what, what I
7 would just suggest is it... when you're advertising for
8 a, a... the poll workers you have are all people who
9 agree to a 17-hour shift, the ones you do not have
10 are the people who said 17 hours... so, so if the
11 survey included everyone who expressed interest in
12 being a poll worker that would have more validity to
13 me than of people who expressed interest and then
14 went forward. I've, I've also been advised that we
15 are run... [cross-talk]

16 MICHAEL RYAN: That, that is a point well
17 taken, you're talking about expanding our target
18 audience and I, I get it.

19 CHAIRPERSON KALLOS: So, so there is
20 that. I want to touch on the... another idea we just
21 got from our, our State Board... [cross-talk]

22 MICHAEL RYAN: Somebody tweeting you as
23 we're talking here... no...

24 CHAIRPERSON KALLOS: Sometimes. Let me
25 just double check twitter...

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2 MICHAEL RYAN: Oh great I didn't mean to
3 give you an idea. I'm sorry, Mr. Reid I'm sorry...
4 [cross-talk]

5 CHAIRPERSON KALLOS: ...tweeting me right
6 now with questions or not I... hold on one second, it's
7 usually Gotham Gazette or Daily News not to... not to
8 favor any publications over another but I am... I am... I
9 am not... I am not seeing that but I, I did get a
10 message from my staff. So, with regards to the
11 Rockaways which I didn't know about it so one of the
12 issues I ran into at PS 151 in my district was
13 literally in 2016 there was a line around the corner,
14 down the block, around the corner again, again, down
15 the block and the issue was just simply that the NYPD
16 Fire... police officer had said I'm sorry there's over
17 100 people in the room, that sign on the wall says
18 100 people, no more and I'm not sure it would
19 necessarily work for that specific building just
20 because that's the only ADA accessible floor on that
21 building but as we deal with the challenge of not
22 actually having enough poll sites can we expand that
23 model starting now and looking at every single school
24 to see are there other rooms on that floor so that
25 out of... in all the elections we do it... so, in... so,

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2 in, in 2017 you can ignore it, in 2018 you can ignore
3 it, in 2019 you can ignore it but in a presidential
4 election not even necessarily primary but I think
5 sometimes with some primaries it may be worth doing
6 in the primary and the general you're actually using
7 multiple classrooms so you have one diagram for non-
8 presidential elections and one diagram for
9 presidential elections until voter turnout changes
10 outside of presidential years.

11 MICHAEL RYAN: So, I'm aware of at least
12 15 sites in the Bronx where exactly what is being
13 suggested is, is occurring. Now with that having been
14 said there's the theory in the laboratory and then
15 there is the practical reality, in a... and I, I get
16 the fact that the schools are closed to students for
17 general elections because this is something that
18 would not apply to primaries unless our desire to
19 have schools closed to students on primary day were
20 to happen but then there's logistics, there are the
21 custodians that would have to be, you know put to
22 work to clear the classrooms of, of tables and chairs
23 and then putting my all law enforcement hat back on
24 for a moment, large building require to the extent
25 that you're going to open them up to other areas

1
2 require more security and we have 1,200 poll sites
3 throughout the city that impact the NYPD at minimum
4 1,200 officers just for poll sites spread out over
5 three shifts to cover the... a portion of the midnight
6 tour, the entire day tour and a portion of the four
7 to 12 shift. If, if by doing this and this is where
8 we, we can have discussions but we have to be mindful
9 of all the potential impacts, if by doing that it
10 requires more police personnel with as... with as
11 stretched as their responsibilities are presently and
12 the challenges that the NYPD faces on an everyday...
13 three... you know 24 hours a day everyday to keep all
14 of us safe and secure if anything along these lines
15 was going to further add to that burden it wouldn't
16 be something that the Board of Elections would be
17 able to commit to individually, it would have to be
18 in consultation with those folks that provide our
19 security on election day.

20 CHAIRPERSON KALLOS: So, you're open to
21 it, it's just a matter of convening with... [cross-
22 talk]

23 MICHAEL RYAN: It's, it's... [cross-talk]

24 CHAIRPERSON KALLOS: ...the Mayor's office
25 about... [cross-talk]

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2 MICHAEL RYAN: ...always a question of
3 logistics... [cross-talk]

4 DAWN SANDOW: It's not just... [cross-talk]

5 MICHAEL RYAN: ...right and then staffing
6 and personnel is an... is an extension of all of that...
7 [cross-talk]

8 CHAIRPERSON KALLOS: But I, I understand
9 the challenges, I guess the issue is I, I, I kind of
10 live by the mantra if you... if you don't have a... don't
11 criticize something if you don't have a better idea,
12 we've been living through the challenge of not having
13 enough poll sites, you've already done something in
14 the Rockaways and in the Bronx, that appears to be
15 working, apparent... [cross-talk]

16 DAWN SANDOW: The Rockaways were for
17 Sandy.

18 CHAIRPERSON KALLOS: Okay.

19 MICHAEL RYAN: It was a very... it was...
20 [cross-talk]

21 CHAIRPERSON KALLOS: But... [cross-talk]

22 MICHAEL RYAN: It was essentially...
23 [cross-talk]

24 DAWN SANDOW: And, and we did use other
25 rules... [cross-talk]

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CHAIRPERSON KALLOS: But you're continue...

[cross-talk]

DAWN SANDOW: ...and then... [cross-talk]

CHAIRPERSON KALLOS: ...but you're moving forward with doing it in the Bronx.

DAWN SANDOW: We did do it in the Bronx, yes... [cross-talk]

CHAIRPERSON KALLOS: So, so... is your mic on?

DAWN SANDOW: But yes, we did do it in the Bronx because of the issue with not having a poll site close by however logistically it has to be laid out a certain way like you first said, we have to make sure that it is accessible, number one. Number two because of security also with the ballot you have to make sure that the rooms and how everything... how we can set up so that those poll workers can keep an eye on those ballots, we don't want anybody walking from one room out going into... you know walking out with the ballots so logistically it needs to be set up a certain way like we did in the Bronx, the, the two rooms are side by side, the information clerks are outside, there were scanners in each room so they didn't have to come in and out.

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CHAIRPERSON KALLOS: There's a... there's a junior high in my district where you have to go through a side entrance... sorry, through... you have to... there's an nonassessable entrance which is what everyone uses but if you want to you actually pay somebody to stand and prop a door open so people can go in through a service elevator which takes you in to the poll site through the trash room and a kitchen to get to a cafeteria and if you're able to... it's a junior high on I think 88th Street between Lex and Park and so it's, it's one of those... and the reason is because the cafeteria is large and that can accommodate a full poll site but if you reorient the thinking towards actually having folks using classrooms and so you check in at the lobby and then you move to classrooms for essentially multiple election districts and then each classroom has one or two scanners where they come out the classroom to scan there, it's, it's a creative solution so I guess just if you're able to at least look at it for my district and then collaborate with the Commissioners just to see which locations would benefit from it and if you... if that idea doesn't work then I just would

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2 love you to come back with a different solution...

3 [cross-talk]

4 MICHAEL RYAN: Right... [cross-talk]

5 CHAIRPERSON KALLOS: ...whether... even if
6 it's I need to make a law that says you're allowed to
7 say no to us.

8 MICHAEL RYAN: Right...

9 DAWN SANDOW: I think it's a good
10 solution just as long as we have to take it site by
11 site and especially look at the poll sites where we
12 do have a large number of voters and large turnout. I
13 think we can start with those so that... for, you know
14 the presidential election coming up it would
15 alleviate the line.

16 CHAIRPERSON KALLOS: So, I have another
17 question I think you were waiting for this, this
18 comes courtesy of the Daily News, we have two
19 constituents here in the city that were identified as
20 not having their votes... sorry, we have multiple who,
21 who are identified as not having their votes counted
22 and one of them is a... is a I believe ostensibly
23 sophisticated, they run a billion dollar company that
24 bears their names and they, they are... they, they are
25 painful to say the, the president of, of the United

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2 States and the, the first lady, what is... what is... I
3 guess one question is, whether or not and whether or
4 not we're even allowed to ask but is... according to
5 the Daily News the absentee ballot application that
6 was submitted or the form had the wrong birthday so
7 just a question of whether or not it's just possible
8 that the president of the United States of America
9 forgot their own birthday, the... and, and whether of
10 not that, that... whether or not that ballot was
11 counted and also what is wrong with the election
12 process that even... and whether the first lady's
13 ballot was counted and what's wrong with the election
14 process that both of them may or may not have had
15 difficulty just with an absentee ballot?

16 MICHAEL RYAN: The issue that you're
17 talking about was the subject of a FOIL request, we
18 responded to the FOIL request as requested and we are
19 not going to comment beyond the response to the FOIL
20 request.

21 CHAIRPERSON KALLOS: Does... how many
22 absentee ballots does the Board of Elections have...
23 receive each year that aren't able to be counted?

24 MICHAEL RYAN: The absentee ballots that
25 are not able to be counted are relatively low number,

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2 you see a higher rate of invalids, much higher rate
3 of invalids in the... in the affidavit ballot process
4 because if, if you are receiving an absentee ballot
5 it's because you've requested one and we verified
6 that you are in fact a registered voter. There are
7 aspects of the... of the absentee ballot process if you
8 don't fill out the paperwork properly that could lead
9 to... that could lead to your affidavit... of your
10 absentee ballot not being counted, keep in... keep in
11 mind that there is an external envelop and an
12 internal envelope well the reason is we have to be
13 able to separate the external envelop and make sure
14 that it was received on time and then we have to take
15 the, the ballot in... that's inside and separate those,
16 those, those two pieces of paper so that we don't
17 destroy the sanctity of the ballot secrecy. So, yes
18 somebody could make a mistake on their absentee
19 ballot envelop and, you know fill it out and, and it
20 could be invalidated although that is a much smaller
21 percentage of circumstances when you compare that to
22 the affidavit ballot process and a lot of the
23 affidavit folks when they're ballots are invalidated
24 is because of, of a lack of proper registration which
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2 doesn't happen with... it... that just doesn't happen
3 with absentee ballots.

4 CHAIRPERSON KALLOS: Wait would you... for
5 just... would you care to share with this committee how
6 many absentee ballots were rejected and if you have a
7 breakdown... [cross-talk]

8 MICHAEL RYAN: I, I don't have that
9 number off the top of my head for the... for the... for
10 the last general but, but the absentee ballot
11 rejection rate is, is, is very low, the affidavit is,
12 is higher. Sometimes... it's not uncommon for us to, to
13 see which... why I mentioned the Staten Island issue,
14 often you'd have... you, you know you could have a
15 invalid affidavit rate as high as 75 percent in any
16 given election maybe even a little higher
17 particularly in primary elections when voters often
18 loose track believe it or not of what party they're
19 registered in and attempt to vote by affidavit in
20 parties that they're not registered in whereas in the
21 absentee ballot process there's a couple of things.
22 One is we're not giving them an absentee ballot
23 unless we've confirmed that they're in fact a
24 registered voter and they're entitled to it and then
25 secondarily if there's a problem and they have

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2 returned it early, sometimes the problem can be
3 rectified before election day so, you know it's,
4 it's, it... anybody who plays brinksmanship if you will
5 by returning something late to a deadline runs the
6 risk that if there's a problem the problems not
7 curable.

8 CHAIRPERSON KALLOS: So, so if an
9 absentee ballot is sent in and not signed properly
10 with sufficient time the Board of Elections will send
11 a defective notice and a new absentee ballot?

12 MICHAEL RYAN: It, it is... it is not
13 uncommon... [cross-talk]

14 DAWN SANDOW: We would reach out... [cross-
15 talk]

16 MICHAEL RYAN: We would reach out to the
17 voter and, and, and try to make a determination, you
18 know if the... if it can be rectified. We've had
19 circumstances where the mistakes were identified and,
20 and a second ballot was, was sent and then there's a
21 process by... okay, a prioritization process which one
22 gets counted so the one that... [cross-talk]

23 CHAIRPERSON KALLOS: Okay... [cross-talk]

24 MICHAEL RYAN: ...gets filled out last is
25 the one that counts... [cross-talk]

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CHAIRPERSON KALLOS: And... [cross-talk]

MICHAEL RYAN: ...the older one is the one that gets rejected... [cross-talk]

CHAIRPERSON KALLOS: And when somebody... [cross-talk]

MICHAEL RYAN: ...so there's no double vote... [cross-talk]

CHAIRPERSON KALLOS: ...applies for an absentee ballot does all the information need to be correct or could somebody transpose their birthday or, or get your month wrong?

MICHAEL RYAN: If we can identify the individual as in fact the person that should be voting in that spot, simple errors. So, for example if you were born in '67 and you put your birthday down as '76 that would not necessarily by itself be the thing that, that, that knocks you out of the box.

CHAIRPERSON KALLOS: And, and I guess just in case this person happens to be watching or, or not, could the federal government pass laws to actually make it easier to vote here in New York by requiring same day registration and, and no fault voting and, and other pieces similar to the help America Vote Act did around voting machines?

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MICHAEL RYAN: The New York City Board of Elections is the passive recipient of hierarchical direction as a result I, I typically refrain from commenting about what those with greater authority, the mind could or couldn't do to improve the process, to the extent that we make those comments we do that through the, the process with the state legislature where our commissioners discuss and vote on our legislative recommendations and I prefer to leave those suggestions to that process.

CHAIRPERSON KALLOS: I have some prepared questions I'd like to, to get through, I'm going to circle back to an area that we started all of this with almost four years ago, DOI but for the time being in April 2016 Mayor De Blasio offered the city Board of Elections 20 million dollars for vital reforms including many items that we discussed today to help the Board of Elections be compliant with state and city mandates that have been made including providing an increase in poll worker salaries, bonuses for poll workers who work multiple elections in one year, absentee ballot tracking for voters and poll site relocation signage... sorry, have you

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2 received any of this money and has any of that had
3 any impact?

4 MICHAEL RYAN: Well we keep talking about
5 the 20 million dollars so let's refocus the argument
6 and understand that it is not 20 million, it's now
7 15.5 million dollars and it's 15.5 million dollars by
8 action of this body to require the Campaign Finance
9 Board to do something that the Board of Elections was
10 otherwise going to be required to do potentially
11 which was to mail out the voter history to all of the
12 voters and 4.5 of the 20 was allocated to that. With
13 that having been said the balance of that money was
14 the subject of discussion and to date there has been
15 no agreement with the... with the administration on
16 what if anything we were going to do moving forward.
17 I, I will say that otherwise the budgeting process
18 with the city council and with the administration I
19 think has been very fair and mutually beneficial and
20 put the board in the position to fulfill its
21 statutory mandates and provide good service to the...
22 to the voters of the city of New York.

23 CHAIRPERSON KALLOS: As we worked on the...
24 having a voter information portal, an absentee ballot
25 tracking the city Board of Elections was

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2 contemporaneously and actually already well on your
3 way on trying to get that system online. An absentee
4 ballot tracking system might have been useful to, to
5 constituents of the city who now live in... [cross-
6 talk]

7 MICHAEL RYAN: Correct... [cross-talk]

8 CHAIRPERSON KALLOS: ...the District of
9 Columbia, where, where are you on... [cross-talk]

10 MICHAEL RYAN: And, and it... and it...
11 [cross-talk]

12 CHAIRPERSON KALLOS: ...those efforts...
13 [cross-talk]

14 MICHAEL RYAN: ...and it's something that
15 we want to do and integrate into the process. What
16 has unfortunately derailed some of our efforts in
17 this regard in addition to the busy election cycles
18 over the past two years was the issue of
19 cybersecurity. We also had hoped to have a new
20 website online in advance of the presidential
21 election in November of 2016, that website was in
22 fact ready to go in advance of the 2016 election, the
23 cybersecurity experts that were employed by the city
24 of New York as well as our own internal evaluations
25 led us to an unfortunate conclusion at that time that

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2 given the change in platform from a hard wired
3 environment into a, a cloud based environment there
4 simply just was not enough time to work out the
5 firewall protocols for the... for the, the cloud
6 environment in advance of the, the, the 2016
7 election. We are still planning on doing the website
8 and we're hopeful to have all of the security issues
9 worked out for a launch shortly after the first of
10 the year. The other things that we want to do along
11 the lines of the voter information portal and all of
12 those things got pushed a little bit to the back
13 burner because we don't have an infinite amount of
14 staff to work on these things and we're looking at
15 getting the website piece live as quickly as we can
16 and as... and as securely as we can and when that
17 happens the rest will be able to develop a timeline
18 and report back as to a timeline for the rest of
19 those things. We want it to happen, it would be
20 beneficial to us to reduce the amount of phone
21 traffic that we get in the lead up to election day
22 and it would certainly be beneficial to the voters to
23 be able to access their information in a way that's
24 convenient and usable for them and not reliant on a
25 live person picking up a phone during typically

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2 regular business hours. So, we're, we're going in
3 that direction but this cybersecurity issue, these,
4 these cybersecurity issues that have reared their
5 ugly head publicly I will say without wading too far
6 into the waters they are real, they are potentially
7 frightening in terms of the security aspects, if you
8 don't do what you need to do to make sure that the
9 adequate elements of security are in place. So, we're
10 concentrating a lot of our tech efforts on the
11 cybersecurity side of things because everything that
12 you suggest and I'm, I'm singling you out Chair... I
13 won't say everything, a lot of what you suggest has
14 to do with, with technology issues, well if we don't
15 have the proper fence around the property and the
16 burglars are, are hopping over and stealing all the
17 valuables that's, that's a bad thing so we're going
18 to fortify that and when we're comfortable there
19 we'll move on to the.. to the next.. [cross-talk]

20 CHAIRPERSON KALLOS: I, I might... [cross-
21 talk]

22 MICHAEL RYAN: ...and, and I might also add
23 because Dawn just reminded me not because I
24 independently remember, the AG's office and the DOJ's
25 office and the plaintiffs in the lawsuit when we were

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2 sued on required us to do a... not that they required
3 us but the solutions to the problems that were
4 presented required us to completely overhaul the
5 voter registration system and we'll be launching the
6 at... the new avid 6.0 version sometime in the first
7 quarter of 2018 which also diverted some of our tech
8 resources and slowed some of this other process down.

9 CHAIRPERSON KALLOS: My suggestion is
10 segregated systems and segregated networks so that
11 you have the internal system that is secure and safe
12 on your own network and then the public basing system
13 and you would set up a protected communications
14 tunnel between the two systems so that they're the
15 only ones who can talk to each other and then that
16 way the only way to get to you is through that tunnel
17 at least.

18 MICHAEL RYAN: You have just spoken over
19 my head but I'm certain that there's members of staff
20 that have listened to what you just said, and they
21 know exactly what you're talking about.

22 CHAIRPERSON KALLOS: That is... that is
23 kind. The State Board of Elections website allows me
24 to fill out a voter registration form by submitting a
25 form on their website and then it allows me to print

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2 it out, one question is whether or not the city board
3 can do that, the other question is I also oversee a
4 small agency called the Department of Citywide
5 Administrative Services with a several billion-dollar
6 budget called DCAS, can you tell me a little bit
7 about how you coordinate agency based voter
8 registration with DCAS?

9 MICHAEL RYAN: Alright, so another slow
10 down occurred, we made a, a decision with respect to
11 the voter registration process to not introduce any
12 new things to the current website and one of the
13 elements of the updated website is going to be
14 something along the lines of, of what you're talking
15 about. I would have to go back to, to the... to the
16 staff and find out from them how much of the process
17 that we currently engage DCAS with is going to be how
18 they allow the voters, the individual voters as
19 opposed to an agency assisted system, the individual
20 voters to go online and do that. I suspect that it's,
21 it's basically the same thing where they fill out
22 the, the information that there's a code on the form
23 that ultimately gets printed and a code that marries
24 up with the data that's in the system and that when
25 we receive the form and scan it that that will

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2 identify the previously received data file and those
3 two things will marry up and then all we have to do
4 is clip the signature off the scanned form and drop
5 it in, that's how I envision it working, that's,
6 that's my understanding of how it will work but I
7 just want to double check with our staff. Now turning
8 to DCAS, the DCAS system itself is working well, I
9 see that there's opportunity to expand that depending
10 on the attachabilities of the, the different agencies
11 beyond DCAS within the current framework, what we're...
12 what we're not seeing is the volume of people
13 returning the forms back to us. So, they're, they're
14 filling it out up to a point and then they're
15 supposed... they print it... they're supposed to print it
16 and give it back to us, we're not seeing the rate of
17 return that we would like but it is selfishly in the
18 Board's interest for things like this to take root
19 and become part of the fabric because even if we lay
20 off, leave completely off to the side the electronic
21 signature discussion that you had earlier, right, if
22 we could get people to fill out the form and have
23 that data transmitted to us, even if they still do it
24 the old fashioned way by printing it up and signing
25 it that saves us a tremendous amount of data entry

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2 work once the form is received. So, even from a
3 purely selfish perspective this is something that the
4 Board of Elections wants to happen. I'm not a
5 marketer so I don't know how to drive people to do
6 that better than, then what we've been doing but the,
7 the ability exists and now that we know that the
8 ability exists and works expanding that should not be
9 nearly as difficult as getting it off the ground in
10 the first place.

11 CHAIRPERSON KALLOS: You, you mentioned
12 an acronym avid... [cross-talk]

13 MICHAEL RYAN: Right... [cross-talk]

14 CHAIRPERSON KALLOS: ...if you can tell me
15 what that stands for, who the software vendor is and
16 if any other jurisdiction... [cross-talk]

17 MICHAEL RYAN: Right AVID is the
18 Automated Voter Information... what is it... Automated... I
19 always forget, who's got it, somebody's got it...
20 Automated Voter Information Database, I, I always
21 forget the D, right... so and it is... Intar is the
22 vendor and they are an in... basically an... they're an
23 external vendor but they're... we're their only client.
24 So, we work very closely with them and they're the...
25 that's the entity that is doing the whole rewrite of

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2 the AVID 6.0 that will come online after the.. after
3 the first of the year, some, sometime in that first
4 quarter, probably towards the end of February.

5 CHAIRPERSON KALLOS: I guess the, the
6 question I was trying to get to and I, I.. it.. do they
7 use AVID dot com or is a different vendor?

8 MICHAEL RYAN: No.

9 CHAIRPERSON KALLOS: Okay, so I guess the
10 question I was getting to be voter registration is a
11 problem that 50 states have and the question being
12 whether or not we were using similar software to the
13 other 49 states and however many counties and.. even
14 with.. and whether or not we, we were buying into a..
15 what is called often times commercially off the
16 shelves soft, software.. [cross-talk]

17 MICHAEL RYAN: I, I know that one, Cox..
18 [cross-talk]

19 CHAIRPERSON KALLOS: Cox.. [cross-talk]

20 MICHAEL RYAN: ..yes.. [cross-talk]

21 CHAIRPERSON KALLOS: So, so are we, we,
22 we're using our own proprietary software or are we
23 using something that other jurisdictions.. [cross-
24 talk]

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2 MICHAEL RYAN: It is proprietary... [cross-
3 talk]

4 CHAIRPERSON KALLOS: ...use... [cross-talk]

5 MICHAEL RYAN: ...software that was
6 designed specifically to interface with the New York
7 State NYS voter system. It's, it is developed for
8 that purpose.

9 CHAIRPERSON KALLOS: That ends a specific
10 line of questioning I was going to go into involving
11 36 other states.

12 MICHAEL RYAN: I will say that it... there
13 was a discussion earlier about syncing and it kind of
14 was just mentioned in passing and within the context
15 of the prior testimony that, that, that made sense
16 but now that this came up the amount of work that was
17 done between the New York State Board of Elections
18 and the New York City Board of Elections after April
19 of 2016 has been tremendous, our respective staffs
20 have worked tirelessly to make sure that these
21 systems are communicating effectively and I would
22 like to underscore that in 20... the Board of Elections
23 in the city of New York did not fully come on board
24 to NYS voter in terms of, you know all the clean up
25 work that was associated with getting things up to

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2 par until sometime in the early part of 2013 so when
3 the problems arose in, in 2016 this was still a very,
4 very new system and our staff has worked closely with
5 the State Board of Elections to rewrite the way that
6 the syncing process works to reduce it from a 66 to
7 72 hour process down to about a 20 to 22 hour process
8 which allows us to basically resync the entire five
9 million records of active and inactive voters that we
10 have on a... on a weekly basis and we receive the
11 information the entire data file basically every day.
12 That has reduced the amount of discrepancies between
13 our respective records, you know from... in the
14 hundreds down to in the single digits, right and, and
15 they're also engaging in periodic electronic audits
16 and, and that wasn't a small piece of work, it was a
17 big piece of work and, and both of the staffs paid
18 great attention to it and, and I believe that the
19 process is better because of it.

20 CHAIRPERSON KALLOS: And you're dealing
21 with 12 million records and several gigs of
22 information just transmitting the information is an
23 information problem. On the topic of voter lists the
24 New York City Board of Elections has... do, do you have
25 any updates concerning the comprehensive remedial

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2 plan that you are creating in response to the consent
3 decree relating to the Brooklyn Voter Purge?

4 MICHAEL RYAN: First the, the Consent
5 Decree has not been formally signed by the court yet,
6 so our primary reporting back responsibilities will
7 be to the federal court, that said the lion share of
8 what we need to do to be in compliance with the, the
9 federal court order will lie in the rewrite of the
10 AVID process... the AVID program I should say. So, AVID
11 6.0 is going to... is going to deal with a lot of the
12 issues that we have to make sure that mistakes like
13 had happened previously are not possible to happen
14 again and as I said we, we expect that that final
15 version will be completed in the first quarter of
16 2018 and then once it's in place we will then work
17 towards rewriting the, the procedures to make sure
18 that what we have available to the staff is... matches
19 with... you know with the, the written instruction and
20 we also have an internal working group that meets
21 regularly and meets with the vendors and our tech
22 folks so that they're updated every step of the way
23 with respect to the new version of AVID, what it's
24 going to be able to do and the various approval
25 levels that puts stop signs in, in place to make sure

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2 that no low level staff member can make a mistake or
3 otherwise adjust a record without the approvals being
4 captured up the chain.

5 CHAIRPERSON KALLOS: So, we are nearing
6 the end of our shorter than regular hearing and so
7 generally try to... I try not to get through any one of
8 our hearings without touching base on what got all
9 of... off... without touching on our first conversation
10 which always ends up being our conversation which is,
11 in 2013 prior to my election, prior to you taking
12 this job the Department of Investigation conducted an
13 investigation to the Board of Elections claiming
14 practices, operations, election administration, and I
15 wanted to just run through the laundry list of things
16 and where... what progress we've made over the four
17 years. So, first standardizing and, and, and the
18 quicker we get yes, no and as close to possible so
19 standardize the hiring and screening process, cease
20 the practice of hiring individuals based primarily on
21 County Committee recommendations and open BOE
22 employment to the public and conduct background
23 checks on new hires.

24 MICHAEL RYAN: The hiring of employees at
25 the Board of Elections lies solely within the

1
2 province of the commissioners under 3-300 of the New
3 York State Election Law.

4 CHAIRPERSON KALLOS: That being said in
5 previous hearings we've... you've shared that there are
6 certain titles that you're now publicly posting for
7 so poll workers, you hired 75 percent of your poll
8 workers through an open process, is that correct?

9 MICHAEL RYAN: Yes.

10 DAWN SANDOW: Yes...

11 CHAIRPERSON KALLOS: And, and were, were
12 any of the folks turned away through... from the open
13 process who didn't have a, a political relationship
14 or a political recommendation other than for the fact
15 that they may not have passed an exam?

16 MICHAEL RYAN: As long as they were a
17 registered voter, you know republican or democrat and
18 I don't know of any specific instance where somebody
19 was turned away.

20 CHAIRPERSON KALLOS: And you have quite...
21 and how many employees are civil servants?

22 MICHAEL RYAN: In our board?

23 CHAIRPERSON KALLOS: Yes.

24 MICHAEL RYAN: We don't have any civil
25 servants, we do have members of, of the CWA Local

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2 1183 so we have union workers but not civil servants
3 in that sense, we are civil service exempt.

4 CHAIRPERSON KALLOS: But, but you are..
5 you do post for technical titles?

6 MICHAEL RYAN: Yes, we do.

7 CHAIRPERSON KALLOS: How many technical
8 titles? So, how many employees do you have that are
9 technical... in, in technical titles?

10 MICHAEL RYAN: Off, off the top of my
11 head it's basically going to be largely.. our
12 electronic voting systems unit and, and our... and our
13 MIS unit as well as maybe a... you know a few others
14 here or there so, you know 30 to... 30 to 40, we have
15 the ADA coordinators that came in through a... through
16 a separate process, there are certain positions that,
17 that we do that but and there's always a but, right,
18 the constitution and the statutory construct requires
19 us to be bipartisan.

20 CHAIRPERSON KALLOS: I, I, I got it, so
21 you have the 35,000 poll workers over here who you're
22 now publicly posting for, you have the, the 30 or 40
23 technical titles who are now openly being advertised
24 for and so what's left, how many titles are not
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1
2 publicly posted, and the general public cannot apply
3 for?

4 MICHAEL RYAN: Our vacancies are posted
5 online and, and the... we... depending on when you talk
6 to me I can tell you what our head count is because
7 it does shift depending where we are in an election
8 cycle so we do bring in a, a... you, you know a, a fair
9 contingent of temporary workers that work seasonally
10 but full time employees we have typically in the 630
11 range, you know 24, you know hours a day seven days a
12 week, you know... [cross-talk]

13 CHAIRPERSON KALLOS: So, I, I respect
14 that you cited the constitution and the state
15 election law but... and, and your right as an Executive
16 Director working for County Commissioners... sorry,
17 Commissioners in each county to, to hire based on
18 their sole recommendations but it doesn't sound to me
19 like there are very many positions that you aren't
20 advertising, would, would you be willing to share
21 that with us because it seems like despite... [cross-
22 talk]

23 MICHAEL RYAN: I can... [cross-talk]

24 CHAIRPERSON KALLOS: ...reservation of
25 power... [cross-talk]

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2 MICHAEL RYAN: I can get you... [cross-
3 talk]

4 CHAIRPERSON KALLOS: ...under law that..
5 [cross-talk]

6 MICHAEL RYAN: ...you know... [cross-talk]

7 CHAIRPERSON KALLOS: ...it sounds like you
8 are doing the right thing... [cross-talk]

9 MICHAEL RYAN: Right. We're, we're doing
10 the, the, the right thing within, within the rules
11 that, that we have that, that govern us but certainly
12 I'm... I've been a lawyer long enough to know not to
13 get yourself trapped off by a question so what I
14 would prefer to do under those circumstances is to
15 get that information, you're asking for very specific
16 information... [cross-talk]

17 CHAIRPERSON KALLOS: I'm, I'm also okay
18 doing... as, as opposed to the whole situation where
19 the Mayor had to like give a list of all the favors
20 he didn't grant how about just if you can split up by
21 employee... the, the head counts and titles which ones
22 currently have... that, that the vacancies are
23 advertised and which ones that aren't and let's just...
24 before the end of the year have an idea of what it
25 looked like in 2013 and what it looks like today.

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2 MICHAEL RYAN: Sure, that's a... that's
3 fine, that's, that's, that's easy enough.

4 CHAIRPERSON KALLOS: Similarly have you
5 started to do background checks for new hires?

6 MICHAEL RYAN: No.

7 CHAIRPERSON KALLOS: So, no... so, if you...
8 if I get a... so, a person can get hired without doing
9 any background check?

10 MICHAEL RYAN: Correct.

11 CHAIRPERSON KALLOS: And that is because...
12 I appreciate your being, being short at this part of
13 the hearing. I thought we were making progress on
14 that and working with... [cross-talk]

15 MICHAEL RYAN: It, it never materialized,
16 we cannot do the background checks on our own, we
17 would rely on the Department of Investigation to do
18 that. One of the, the challenge is the timing of how
19 quickly could it... could a background check be turned
20 around, number one. Number two and when you talk
21 about sensitive information a lot of the temporary
22 workers that we bring in, in July arguably have
23 access to sensitive information so then the differ...
24 where does that line of demarcation lie because I can
25 tell you the current DOI system would not be limber

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2 enough to respond to background check in the volume
3 that we would give them in the... in the four to 500
4 range that needs to be turned around in the span of
5 two to three weeks, that's... it's just never happening
6 and then when you're talking about bringing in people
7 at a lower level of, of income and then subjecting
8 them to a background check for a temporary job that's
9 going to last from, from July to, to December and the
10 cost associated with that, you know it's difficult
11 and when... then you couple it with the push that seems
12 to be happening within the city of New York but with
13 the Second Chance Act and, and, and the push away
14 from asking about whether or not somebody has a
15 criminal background until such time as a meaningful
16 job offer has been tendered now you're starting to
17 dilute the whole purpose... [cross-talk]

18 CHAIRPERSON KALLOS: Okay... [cross-talk]

19 MICHAEL RYAN: ...of doing the background..
20 [cross-talk]

21 CHAIRPERSON KALLOS: ...so let's... so let's...
22 [cross-talk]

23 MICHAEL RYAN: ...check in the first place.

24 CHAIRPERSON KALLOS: All valid, let's
25 take a step back, you have cybersecurity experts,

1
2 part of cyber security is doing audits based on
3 physicians and accessed information, did they do such
4 an audit of who has physical access to what
5 information and what computer systems?

6 MICHAEL RYAN: Internally?

7 CHAIRPERSON KALLOS: Yes.

8 MICHAEL RYAN: Yes and what we have done
9 in that regard is limit the contact to the outside
10 world which is where the... where the cybersecurity
11 issues really come into. If someone's going to work
12 for us... [cross-talk]

13 CHAIRPERSON KALLOS: I'm, I'm going a
14 different direction... [cross-talk]

15 MICHAEL RYAN: Right... [cross-talk]

16 CHAIRPERSON KALLOS: Can we take the
17 information audit, share it with DOI and ask them if
18 they're recommendation still stands and if there's
19 any specific permanent titles that they still feel a
20 background check is necessary?

21 MICHAEL RYAN: Certainly, we have
22 previously if not in writing, but we have previously
23 asked for that guidance and to date no guidance has
24 been forthcoming in that regard.

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CHAIRPERSON KALLOS: That... I, I appreciate that you and the DOI sat at a table with me to have that very conversation and I apologize to, to you, the Department of Investigations and the people of the City of New York that there are some, some mediate... some relationships I have been able to successfully mediate between agencies and that was not something I was able to solve then but... [cross-talk]

MICHAEL RYAN: Right... [cross-talk]

CHAIRPERSON KALLOS: ...with... [cross-talk]

MICHAEL RYAN: ...but, but can I just... [cross-talk]

CHAIRPERSON KALLOS: ...but, but I think that... [cross-talk]

MICHAEL RYAN: ...add one more thing though... [cross-talk]

CHAIRPERSON KALLOS: ...if we... [cross-talk]

MICHAEL RYAN: ...on that...

CHAIRPERSON KALLOS: But I will just say I think if we take the information audit and hand it to them and then they say, you know what you're off the hook or you know what it... just these handful of

1
2 positions, I think we will be in... and I think your...
3 [cross-talk]

4 MICHAEL RYAN: Perhaps and we're... and
5 we're happy to talk about that but in terms of the
6 worker day relationship between the Board of
7 Elections and the Department of Investigations I'm
8 happy to report that it is... it is very good, and we
9 have this issue off to the side when it comes to the
10 overall operation of the agencies and DOI's
11 responsibilities and what we need to do as managers
12 of a city agency we have a very good working
13 relationship with them and we found them specifically
14 Mr. Brunsden who is the IG that interfaces with us
15 mostly, we have found them to be very responsive and
16 very professional. So, this is kind of like a, a
17 systemic issue as opposed to, you know the, the
18 direct channel of work issue.

19 CHAIRPERSON KALLOS: Provide employees
20 with notice of their whistle blower protection
21 rights.

22 MICHAEL RYAN: That, that is part of the
23 information that is distributed, I believe in the new
24 hire packet as required.
25

1
2 CHAIRPERSON KALLOS: Implement an anti-
3 nepotism policy... [cross-talk]

4 MICHAEL RYAN: And there's... and there's
5 ongoing training periodically that we do through COIB
6 and I think DOI now has migrated to online as opposed
7 to in person training, but our staff meets all of
8 those requirements.

9 CHAIRPERSON KALLOS: According to the DOI
10 online training I, I have a duty to report because it
11 was incredibly informative especially the examples
12 they had... [cross-talk]

13 MICHAEL RYAN: I took the training
14 myself, there was some nice questions that you got to
15 answer.

16 CHAIRPERSON KALLOS: Implement an anti-
17 nepotism policy, require employees to discuss family...
18 disclose family members working for city government
19 and adhere to city personnel and contracting rules
20 regarding conflicts of interest.

21 MICHAEL RYAN: I believe that the last
22 action that was taken in this regard was via a... an
23 agreement between the Chair and now Assemblyman
24 Castorina where there was a restatement of the... of
25 the Board's policy that was done at a public meeting

1
2 back when Assemblyman Castorina was a... was a... the
3 Commissioner and... [cross-talk]

4 CHAIRPERSON KALLOS: Has Assemblyman
5 Castorina who is most famous for having fired his
6 Board... his mother from the Board of Elections allowed
7 her to return to work there yet?

8 MICHAEL RYAN: Well she's, she's now
9 moved to New Jersey and she's happily retired, but I
10 do have the photograph of the Staten Island advance
11 bearing that headline in my phone and I periodically
12 will send that to the Assemblyman to bother him...

13 CHAIRPERSON KALLOS: For, for what it's
14 worth we all love our mothers, sometimes it is hard
15 to make them happy. The, the DOE should reiterate the
16 restrictions on political activities and memos to
17 managers and their employees including the
18 requirement that no one may coerce another employee
19 to engage in political activities and that no
20 superior may request that a subordinate participate
21 and political campaign.

22 MICHAEL RYAN: I don't remember when that
23 was most recently re-disseminated but it... but it has
24 been disseminated and re-disseminated periodically by
25 me.

1
2 CHAIRPERSON KALLOS: Modernize the BOE
3 time keeping system and implement safeguards against
4 time abuse and I believe city time is what you
5 implemented.

6 MICHAEL RYAN: Correct, can we cross that
7 one off the list now?

8 CHAIRPERSON KALLOS: I would... I'm just...
9 this is... this is the last hearing of the session so
10 we're just... [cross-talk]

11 MICHAEL RYAN: Right... [cross-talk]

12 CHAIRPERSON KALLOS: ...going through the
13 whole list... [cross-talk]

14 MICHAEL RYAN: Got you... [cross-talk]

15 CHAIRPERSON KALLOS: ...to show anyone who
16 is still watching and hasn't fallen asleep that maybe
17 just maybe there's been a lot of progress. Improved
18 coordination to open poll sites for poll workers on
19 time.

20 MICHAEL RYAN: Yes, I mean and, and that
21 actually has I think gotten a lot better and driven
22 our late openings way down. Again, another
23 opportunity to address the potential, municipal
24 workers as poll workers because we'd have a greater
25 control over those folks.

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2 CHAIRPERSON KALLOS: Conduct a review of
3 voter registration cancellation procedures by
4 implementing procedures for proactive response to
5 cancellation requests from voters coordinating with
6 state BOE regarding the identification of ineligible
7 individuals and subscribing to social security death
8 master file index.

9 MICHAEL RYAN: Yes and that's part of the
10 larger conversation that we had before, we have also
11 found that the social security death master file
12 index is an unreliable database on which to rely
13 including we have found employees who, who we were
14 happy to find out were not in fact dead but showed
15 up, employees from the Board of Elections showed up
16 on the social security death master file index as in
17 fact being dead. So, there are people who are alive
18 on the social security death master index and there
19 are people who are... who are not... who are dead who
20 aren't on there and we've also found that the social
21 security administration records in general are not
22 very reliable.

23 CHAIRPERSON KALLOS: I, I appreciate that
24 you are using them as a reference, but you have
25 discovered that they may not be... forgive me, beg the

1
2 question, how does the Board of Elections determine
3 if somebody is dead?

4 MICHAEL RYAN: Well... [cross-talk]

5 DAWN SANDOW: There, there were people...
6 [cross-talk]

7 MICHAEL RYAN: ...what we... what... [cross-
8 talk]

9 DAWN SANDOW: ...on there that we knew...
10 [cross-talk]

11 MICHAEL RYAN: ...well there was some
12 people on there that we knew weren't dead because
13 they were sitting, you know in the office, I think
14 one was in the Bronx but, but we typically get the
15 information from the State Board of Elections, they
16 send us periodic reports on what we call Dupes,
17 Deaths, and Felons those are the primary ones and the
18 people that show up on there is dead we then have to...
19 when we get that notification from the State Board of
20 Elections that they're only possibly dead because
21 then we have to take the points of data that they
22 supplied to us and see if those points of data
23 sufficiently match the, the, the data points in our
24 system to make sure that we're not inadvertently
25

1
2 declaring somebody deceased who is in fact not
3 deceased.

4 CHAIRPERSON KALLOS: If somebody is only
5 mostly dead but miracle Max revives them can they
6 vote?

7 MICHAEL RYAN: I'm not certain.

8 CHAIRPERSON KALLOS: That, that is a
9 princess bride reference... [cross-talk]

10 MICHAEL RYAN: Right, yes.

11 CHAIRPERSON KALLOS: Consider training
12 poll workers to check dates of birth in the
13 registration books at poll site check in.

14 MICHAEL RYAN: So, yes, we've done that
15 and in addition to the date of birth in the poll book
16 we've also added numeric age to make it jump out at
17 the poll worker so that they don't have to do a quick
18 math every time they're checking somebody in so if
19 somebody is 80 years old in the poll book and the
20 person that's standing in front of them looks to be
21 25 that might put the antenna up a little bit more
22 quickly.

23 CHAIRPERSON KALLOS: Increase... increased
24 use of role plays and hands on instruction enforced
25 rules against cheating and training providing answers

1
2 to the poll worker exam provide additional training
3 on voter privacy.

4 MICHAEL RYAN: We discussed the, the, the
5 whole poll worker exam process was completely
6 overhauled from the time that that... the report was
7 written.

8 CHAIRPERSON KALLOS: Provide a voter
9 privacy screen at scanners.

10 MICHAEL RYAN: Yes, we have that extended
11 privacy sleeve which also has the instructions on it
12 and, so we did a couple of things with that, right,
13 we, we're also saving money by recycling those
14 folders and using them election after election where
15 as previously they would get disposed.

16 CHAIRPERSON KALLOS: Eliminate use of
17 voter cards.

18 MICHAEL RYAN: Yeah, they're gone,
19 they've been gone a while. I think it was 2014 we
20 did... [cross-talk]

21 CHAIRPERSON KALLOS: Review ballot
22 security and counting procedures in borough offices,
23 eliminate the indefinite retention of unnecessary
24 updating of buff cards, use filtering technologies to
25

1
2 count write in votes and explore options to upload
3 unofficial results at poll sites.

4 MICHAEL RYAN: Right, yes all of that's
5 done and the buff cards are happily... were happily
6 removed from the locations by... what is... shred ability
7 is the company that, that we've contracted with and
8 I, I believe they're a preferred vendor as well.

9 DAWN SANDOW: And we receive a
10 certificate.

11 MICHAEL RYAN: Right and we receive a
12 certificate to destruction and we retain based on
13 current state law which means that we have to keep
14 two years of original buff cards so basically the way
15 it works is at the beginning of the year we have two
16 years' worth of buff cards, by the end of the year we
17 have three because there's an accumulation and then
18 those get disposed and we just keep it going.

19 CHAIRPERSON KALLOS: So, so that was the
20 list of 12 recommendations that we summarized from
21 the DOI report from 2013 and I'm going to call that 11
22 and a half out of 12 and... [cross-talk]

23 MICHAEL RYAN: Okay... [cross-talk]

24 CHAIRPERSON KALLOS: ...assuming a linear
25 measurement versus logarithmic that is a 95.8...

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MICHAEL RYAN: Alright...

CHAIRPERSON KALLOS: Out of 100 so it, it has been a, a pleasure working with you though we may not always agree especially around the constitution for the state and the state election law, I appreciated and there's still lots of work to do. I think the big measure will always be did somebody have to wait on election day, was their name in the poll book, I think that between the different laws that we've passed, the different initiatives that you hope to launch in terms of having the voter information portal and absentee tracking, I think we've come a long way in four years. I want to thank you for your leadership, I know that you do not stop talking about the great employees that you have at the Board of Elections especially your technical employees who you have gone to the mattresses for on many occasions, the tablets and just modernizing as much as you can given the constraints of a state law... state laws and a constitution that is perhaps outdated so just thank you for your partnership and we'll keep working together hopefully in the new year, I'd like to... [cross-talk]

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2 MICHAEL RYAN: And, and be... and before
3 you gavel out Chair because things are in, influx
4 here in the city council we never know what committee
5 assignments will be given to which members, if this
6 turns out and I'm not suggesting that, I'm advocating
7 for it but if this turns out to be the last hearing
8 that I testify in front of you as Chair of
9 Governmental Operations I, I would like to publicly
10 state that I have admired your interest in the
11 improvement in the elections process and that the
12 Board of Elections despite whatever differences we
13 might have with respect to policy has gotten very
14 fair treatment from you as Chair and I never sat at
15 this table testifying and was blindsided in a
16 grandstanding moment by the Chair of this committee
17 and for that I, I, I appreciate that greatly.

18 CHAIRPERSON KALLOS: I think both of us
19 like to get things done. I'd like to hear by adjourn
20 this meeting of the Governmental Operations
21 Committee, thank the staff for all of their great
22 work, my, my staff and all the good government groups
23 who have been involved and the media that's paid
24 attention and been driving this and just... as
25 Governmental Operations we have a lot of oversight

1
2 over many... more than a dozen agencies but nothing
3 catches the public's attention more than the Board of
4 Elections and if you're watching at home please
5 register to vote, please remember to vote and please
6 remember that this democracy belongs to you so
7 participate at every level of government.

8 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date

January 7, 2018