Testimony of Maya Wiley, Counsel to the Mayor
Before the Governmental Operations and Technology Committees, New York City Council
June 9, 2014

Good afternoon. My name is Maya Wiley, and I am Counsel to Mayor Bill de Blasio. Thank you Chairs Kallos and Vacca and members of the Committees on Governmental Operations and Technology for the opportunity to testify before you today on these three introduced bills.

Mayor de Blasio is deeply committed to ensuring that government is open, accessible, and transparent, so that residents of New York City can engage with City government in a meaningful way. And he has long been a champion on transparency. Today, I will be sharing with you some of the progress we have made on this front.

I will first briefly discuss Intros 149 and 363, and will end with a discussion of 328, OpenFOIL.

Introduction 149: Publication of City Laws Online

As you know, Intro. 149 would amend the City Charter to require Corporation Counsel to publish on the City's website the City Charter, Administrative Code, and the Rules of the City of New York in a searchable format. This bill essentially codifies what we already do. The Law Department has a contract with New York Legal Publishing to make available this body of law online, in plain text form. The text is word searchable, and is updated twice a year.

In about a year, a new contract for publication of the City's laws will be awarded. We will be reviewing our options to ensure that we continue to improve the user experience.

We are not waiting to make improvements we can make now. Until recently it was hard to find the link to the law portal on the City's website. We worked with DoITT to ensure that the link is now prominently displayed on the "Resident Toolkit" page of the City's website. See: http://www1.nyc.gov/nyc-resources/resident-toolkit.page

We are interested in and welcome feedback from the public to understand additional ways to improve the user experience.

Introduction 363: Online Publication of the City Record

Intro. 363 would require that the City publish the City Record, the official journal of the City of New York, online, and distribute an email copy to the various designated parties outlined in the Charter. As written, it would end the requirement that the Department of Citywide Administrative Services (DCAS) print the City Record.

By way of background, the City Record is published each weekday except legal holidays and contains official legal notices produced by New York City agencies. Announcements published in the City Record include: upcoming public hearings and meetings; procurement bid solicitations; selected court decisions; bid awards; public auctions and other property disposition actions; and official rules proposed and

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adopted by City agencies. Per the New York City Charter, it is manually distributed to libraries, local government offices, community boards, and various news media.

Since 2011, each day's printed City Record has been posted on the City Record On-Line ("CROL") website in a pdf format. Each individual pdf is searchable by agency, keyword and category, but there is currently no ability to search multiple pdfs at the same time.

The bill requires that the City create a beta website within 90 days of enactment that would place the City Record online in a machine and human readable format, and then create a final site within 180 days. While we applaud the goals of this legislation, and are committed to getting the City Record online in an easy-to-use format, there are a few concerns that we have with the bill that I would like to highlight.

First, there are legal issues with requiring the City Record to be exclusively published online. According to the Law Department, requiring the City Record to appear only in electronic form would not have its intended effect without a change in New York State law.

Sec. 60(a) of the New York State General Construction Law requires that an official publication like the City Record be distributed in print form in order to be a newspaper in which legal notices may be placed. In fact, the past administration advocated for an amendment of State law to allow for electronic publishing of the City Record, but those efforts have not yet been successful. In short, until State law is amended, we must print the City Record. Also, as an administration committed to helping all New Yorkers access affordable broadband, we are keenly aware that not all New Yorkers have a computer at home or the ability to easily get online.

Second, even if there were no legal issues with ending the printed version of the City Record and all New Yorkers had the ability to access it online, the timeframe afforded in this legislation to develop the website is not feasible. As I mentioned, we believe this is a worthy goal and something we would like to do, but DCAS has reviewed the bill and does not believe it could develop a beta website within 90 days because of the complexity of revising and creating code to make all City Record information searchable, and creating a database for this information.

That being said, we believe this is an important goal and we are committed to working with the Council to make sure that the City Record On-Line website is as well-designed and useful to the public as possible.

Introduction 328: OpenFOIL

As I mentioned before, Mayor de Blasio is committed to open and transparent government, and a critical element of that goal is FOIL reform. He has long been a champion of this, often in partnership with now-Manhattan Borough President Gale Brewer. As Public Advocate, the Mayor launched a citywide investigation into FOIL compliance - the first comprehensive study of its kind. In 2012, the Public Advocate's office collected and scrutinized information on more than 10,000 FOIL requests,

resulting in a "Transparency Report Card" that graded each of the City agencies on their adherence to the law.

The results demonstrate the magnitude of the challenge that we face in this effort, but I am pleased to report that the administration is making progress.

First, the Department of Records and Information Services (DORIS) – under the leadership of Commissioner Pauline Toole – is now completely revamping the way in which the City catalogues and makes government records and reports available to the public. Before the end of the year, we plan to unveil new, fully-searchable tools to dramatically expand public access to government documents.

This is important to emphasize because in the long run, the best way to ensure swift and efficient public access to government documents is through proactive disclosure. In an era in which the proliferation of electronic communications is making it more and more expensive and time-consuming to search vast volumes of records, FOIL reform must also be about proactively pushing out information into the public space and thereby decreasing need and reliance on our freedom of information laws.

In addition, today we made live the first-ever City Hall FOIL tracker. The FOIL tracker is a public-facing webpage on NYC.gov that allows individuals to submit FOIL requests via the site and then track the status of those requests.

It is the goal of this administration to create a centralized City-wide portal for all FOIL requests. This is a huge undertaking. There are dozens of agencies in City government, each having its own FOIL process and different demands and capacities. To bring all agencies' FOIL operations under one umbrella will require a large degree of coordination and planning that we have already begun, and will take time.

We see the City Hall tracker as an excellent first step in this effort. We will be able to use it as a pilot— evaluating its functionality and determining how to scale what works.

To give you a sense of the size of a project to create a centralized FOIL tracker system for the City—we estimate that the City receives more than 50,000 FOIL requests each year—and each agency has a different way of addressing them. For example, the Department of Transportation alone receives 7,000 requests per year, and has a sophisticated system and large staff dedicated to responding to requests. In order for a centralized system to work, we will need to carefully review the operations of the agencies and coordinate with all agencies to ensure that the final product increases efficiency rather than adds bureaucracy.

We share this legislation's goal to create a centralized system, but it is important that we do it right. In that vein, I would like to offer a few comments on Intro. 328.

As you know, Intro 328 would create a centralized, online portal for all FOIL requests. The bill, in part, would allow the public to submit a request to any agency from a centralized site. That site would track each request and provide the requester with an update at each step in the process of responding to the request, and make public all requests and records produced in response to all requests. The bill requires

that the site be up and running with all agencies having transferred their FOIL operations to it within a year.

As the launch of the City Hall FOIL tracker illustrates, this administration is committed to making it easier to make FOIL requests. At present, however, we have some concerns with the bill as drafted.

- We are concerned about a one year timeline for completion. This is a massive undertaking that will require resources that are not readily available. As I mentioned, some agencies have extensive and elaborate operations for responding to FOIL that will not be easy to transition quickly. If we have to do any significant procurement to implement this, a year timeline will also not be feasible. We would like the flexibility to bring something of this nature online in phases.

- As drafted, the bill does not allow the City to choose which responsive records to post publicly and which to send only to the requester. This could potentially lead to a situation where the City must post certain documents that while not entirely exempt from disclosure under FOIL are nevertheless inappropriate for mass distribution (like an individual's case file).

- The bill also appears to require agencies to post records to the centralized site before redacting them and to redact them once uploaded – that could risk broad distribution within the government of sensitive information such as personal health and education data or law enforcement materials that should only be viewed by those officials who have a need and the authority to see them.

- Lastly, the bill appears to require public disclosure of every data set from which records are produced pursuant to a FOIL request. While it is our goal to post as many data sets as possible, data sets often require careful review before posting to ensure exempt materials are not unintentionally disclosed. Requiring disclosure of every data set from which a record is drawn in response to FOIL would require the City to undertake massive data review exercises in response to FOIL requests even when the data set at issue may not be the highest priority to publish at that given time. This will lead either to a delay in responding to those FOIL requests or an ordering of the disclosure of data sets that is driven by random FOIL requests rather than well-considered prioritization.

Again, I want to reiterate the Mayor's commitment to FOIL reform, and to ensuring that completing a FOIL request is a simple, efficient, and open process. We believe that to do it right, the administration needs more flexibility than this bill currently provides.

We want to commend the City Council for helping to push forward these important issues, and I would be happy to take any questions you may have.

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THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

BOROUGH PRESIDENT GALE A. BREWER
TESTIMONY TO THE COMMITTEE ON TECHNOLOGY AND THE COMMITTEE
ON GOVERNMENTAL OPERATIONS
ON THE CREATION OF A CENTRALIZED FOIL WEBSITE
JUNE 9, 2014

Thank you, Chairs Vacca and Kallos, for the opportunity to testify today regarding Intro 328, a bill that I am proud to co-sponsor with you. As you are aware, the proposed legislation calls for the City to create a centralized OpenFOIL web portal.

Many of you know that I am a strong supporter of Open Data. In 2012, I served as the prime sponsor of Local Law 11, the Open Data Law. The passage and implementation of that law places New York City at the forefront of a growing trend of government transparency. To date, over 1,500 datasets from more than 60 agencies are available on the city's Open Data Portal and Open Data Compliance Plan.

In the spirit of Open Data and complementary to the launch of the NYC Open Data portal in 2013 that brought the City's data and statistical records into the digital age, the creation of an OpenFOIL portal will increase both the transparency and response rate of Freedom of Information Law requests made to the City of New York.

Before I go into the anticipated benefits of the proposal, I want to recognize the members of the NYC transparency Working Group who have contributed countless hours to research and develop a framework for how to best implement an OpenFOIL portal for New York City. I'd like to particularly thank the working group's co-Chairs, John Kaehny of Reinvent Albany and Gene Russianoff of NYPIRG.

I believe an OpenFOIL portal will have many benefits, and I will highlight several of the most important ones:

Increased Efficiency. Just as 311 centralizes inquiries into City services and the current NYC Open Data website centralizes the publication of agency datasets, the OpenFOIL portal will centralize all FOIL requests. This means we will be able to avoid duplicate requests. More importantly, once a dataset has been produced via FOIL and made available through the portal, it will remain accessible in the NYC Open Data portal so people seeking the same information in the future will be able to obtain the same data without having to go through FOIL again.

Improved Response Rate and Consistency. In 2013, then-Public Advocate de Blasio's report, "Breaking Through Bureaucracy," highlighted that the City's agencies vary in capacity, response rate, and response time in meeting FOIL requests. Creating the OpenFOIL portal will

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address each of the three discrepancies and elevate the City's process of responding to FOIL requests to one that will be prompt, transparent, and consistent across all agencies. For example, automated emails for receipt of requests will bring the initial acknowledgement rate to 100%. A record of each request will then be created for users to track their requests' progress at all times. Both of these functions take the burden away from agencies to use staff time for correspondence that can otherwise be handled by the centralized OpenFOIL system. This frees up capacity for quicker FOIL fulfillments, and where under-capacity had previously resulted in gaps in responding to FOIL requests, agencies will now have more staff time and resources to rectify these gaps.

Increased Cost Savings. The estimated cost for fulfilling a FOIL request is $300, and at roughly 50,000 requests per year, the City spends an estimated $15 million to fulfill FOIL requests, according to the NYC Transparency Working Group. The group also finds that, on average, $100 of this cost is expended on staff time spent on locating and gathering records. By funneling all FOIL requests through a single portal with the ability to automate request processing, avoid duplicate asks, and archive datasets that have already been produced to fulfill similar requests in the future, the OpenFOIL portal has the potential to save the City millions of dollars while delivering an improved level of services for fulfilling FOIL requests.

Consistent Enforcement of Privacy Protections. The OpenFOIL portal will keep intact all privacy protections under New York State law. This means the bill does not call for the disclosure of the requester's or the organization's identity when they submit a FOIL request via the portal. Additionally, FOIL requests will be summarized in a way that any private information will be redacted in compliance with federal and state privacy laws before they are made accessible to portal users.

With these anticipated improvements, I am confident that the City will be better equipped to respond efficiently and economically to the more than 50,000 FOIL requests made to agencies each year.

The creation of an OpenFOIL portal will not be without its technological and logistical challenges. The NYC Open Data portal required a one-time expenditure of $1.2 million in FY13 City funds to design the website; and subsequent annual operating costs are in the range of $400,000. Since its launch, the NYC Open Data website has become the example of transparency that many other municipalities now seek to emulate. Assuming similar web development and recurring operating costs, creating and maintaining an OpenFOIL website will bring about substantial savings from the current $15 million costs in the NYC Transparency Working Group's estimate. As for any technology issues, I believe that with adequate tech support and training, we will be able to overcome potential difficulties involved in establishing a new system.

Finally, I understand that the OpenFOIL portal will only be successful if there is sufficient capacity within individual city agencies to support the work required behind the face of the portal. To this end, I encourage the Mayor's Office of Operations and DoITT to train FOIL officers on how to use the OpenFOIL portal, how to interface with City agencies to provide support to different departments, and how to protect the privacy of individuals and organizations

when responding to requests. FOIL officers must also be trained on how to assist those without access to a computer to file and receive documents from their FOIL requests.

I am also committed to providing the necessary technical assistance to all of Manhattan's Community Boards so they too will have sufficient capacity to respond to FOIL requests. Through a partnership with CUNY Service Corps, each Community Board will be assigned two interns to support the Board's technology and data collection needs, a resource that will remain available after the OpenFOIL portal is up and operational.

Thank you again for the opportunity to testify today. I urge Council to pass Intro 328 and look forward to working with all of you to bring FOIL processing into the digital age.

CITIZENS UNION OF THE CITY OF NEW YORK
Testimony to the
City Council Committees on Technology and Government Operations
On Intros 149, 328 and 363
June 9, 2014

Good afternoon, Chairs Vacca and Kallos, and other members of the Committees on Technology and Government Operations. My name is Rachael Fauss, and I am the Policy and Research Manager of Citizens Union of the City of New York, a nonpartisan good government group dedicated to making democracy work for all New Yorkers. Citizens Union serves as a civic watchdog, combating corruption and fighting for political reform. We work to ensure fair and open elections, honest and efficient government, and a civically-engaged public.

Citizens Union is pleased that the Committees are meeting jointly to discuss the potential impacts of proposed Intros 149, 328 and 363, as they present important new ideas for improving the way government operates through the use of technology. As a member of the Transparency Working Group, CU helped to develop the initial draft of Intro 363, which would create an Open FOIL portal, and is pleased to see it being considered by the Committees today. On Intro 328, beginning in 2009, we worked diligently to put the City Record online, having testified before the Council on an earlier draft bill, Intro 952 of 2009 (Sears), and will be presenting some information on the history of this issue which may be of interest to the Committee as it considers this legislation.

We support as drafted Intros 149 and 328, and support with changes Intro 363.

Regarding each of these initiatives, Citizens Union has conducted a survey of other municipalities and how they provide information about public meetings, rules changes, their city charters, and Freedom of Information requests, which is attached to this testimony, and I will reference in regard to the specific legislative proposals.

Intro 149 (Lander) – Online Publication of City Laws

Citizens Union supports Intro 149, which would codify the online publication of the city's charter, administrative code, and rules in a searchable format and would ensure that is updated on a regular basis. The passage of this bill would importantly draw attention to the city's provision of this information, and revamp the way in which this information is provided to the public.

While the city currently provides this information online through the Law Department through a third party, New York Legal Publishing Corporation, it should be noted that in conducting searches of the city's own website through the homepage and in outside Google searches, this website does not come up in search results. This information is, however, linked to through the Law Department's homepage. Similarly, the URL for this website is not descriptive of its content: 72.0.151.116/nycnew/.

The city additionally has a website dedicated to its rules through http://rules.cityofnewyork.us/. This site importantly allows for an advanced search by agency, proposed, adopted and final rules, and phrase, and is easily found through outside searches.

Though not covered by the bill, it should be noted that another piece of the city's legal record – its administrative decisions made by agencies – are housed by the Center for New York City Law at New York Law School.[1]

Upon enactment of this legislation, Citizens Union urges that the city implement the following changes:

1. **Provide links to the City's online portal for the charter and administrative code where they will be most accessed by the public.** In our review of other cities and how they provided this information, many other municipalities provided the information in more logical places on their websites or were easier to locate through Google searches or through search of their main websites. We therefore recommend that linkages be provided in logical place such as the websites of the City Council, the Department of Records and Information Services, and the City Clerk to provide for maximum searchability, and that the city look into providing a URL that better describes the content of the website.

2. **The city should make the site more user-friendly and searchable** by examining development of its own website rather than going through a third party, as is currently done. For example, the current version requires users to click through to view the various sections of law, which then link to pages for each separate section. Users may wish to view larger sections of information than is currently able to be seen.

Intro 328 (Kallos) – OpenFOIL

Citizens Union supports Intro 328, which would create a central OpenFOIL website to allow the public to submit and track Freedom of Information Law requests. We were involved in the initial drafting of the legislation through the NYC Transparency Working Group, and thank our partner Reinvent Albany for their leadership on this bill.

This legislation, if enacted, would put New York City at the forefront nationally, as there are very few examples of this being implemented in other jurisdictions – we are only aware of Oakland's Recordtrac[2] and the Port Authority of New York and New Jersey's website under with Freedom of Information Code.[3]

The legislation has several key components that Citizens Union believes makes it extremely valuable:

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[1] Available at: http://www.nyls.edu/cityadmin/city_admin.php
[2] Available at: http://records.oaklandnet.com/new
[3] Available at: http://www.panynj.gov/corporate-information/freedom-information-requests.html

1. **Tracking compliance by agencies with the bill through metrics for each agency in the Mayor's Management Report through involvement of the Mayor's Office of Operations (however, the preliminary mayor's management report should be included as well);**

2. **Integration with the city's Open Data Law and portal, and a "first strike you're in" policy for inclusion of data that has been approved through FOIL requests on the open data portal;**

3. **Integration with city agency websites;**

4. **Inclusion of pending and fulfilled requests in a fully searchable manner;**

5. **Creation of a directory of records access officers at each agency; and**

6. **Access to statistics that will enable the public to monitor fulfillment of requests.**

This bill will also have cost savings for the city – Reinvent Albany estimates it could save $10 million a year. Given the potential for cost savings while improving transparency and access to public information, we believe this measure is a win-win for the city and public.

Intro 363 (Kallos) – Online City Record

Citizens Union support Intro 363's efforts to require the City Record be online in a more searchable manner but recommends that the print edition still be made available. We have advocated for and supported previous initiatives to put the City Record online, including testifying in favor of Intro 952 (Sears) of 2009 and advocating for the proposal in Citizens Union's report, *Increasing Avenues for Participation in Governing and Elections in New York City*[4], issued to the 2010 City Charter Revision Commission. In pushing for this change directly with the Department of Citywide Administrative Services, CU' actions contributed to the city's administrative actions to post pdfs of the City Record online for free, as well as create its searchable rules and online procurement notices website.[5]

At the previous hearing held by the Council on Intro 952 of 2009, the Department of Citywide Administrative Services noted there were 345 paid subscribers bringing in $130,000 in revenue, and the printing costs at that time were $1.2 million. Annual costs for subscribing are currently $500. The procurement website received 200,000 hits annually at that time. Thus, we recognize that the printing costs are significant and subscriptions do not make up for this cost.

However, in expanding access on one level by making the online version searchable, the bill may unnecessarily reduce public access by ending the print version. Whether one has internet access or not, some New Yorkers may simply prefer perusing a hard copy version. Think of the four three major daily newspapers in this city, all of which are available online, yet the public still pays to

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[4] Available at:
http://www.citizensunion.org/www/cu/site/hosting/Reports/0610CU_Charter_Revision_Report&Recommendatio ns.pdf, p. 99.
[5] Online procurement at: http://a856-internet.nyc.gov/nycvendoronline/home.asp
PDFs of print City Record at: http://www.nyc.gov/html/dcas/html/about/cityrecord_editions.shtml
Rules website with pending changes and searchable Rules at: http://rules.cityofnewyork.us/

subscribe to hard copies of these papers. New Yorkers still wish to hold and read a print edition even if they can access it online.

Additionally, nearly a quarter of New York City residents are without computers at home, as seen in the table below.

New York City Residents with Computer/Internet Access[6]

In-home Computers	Broadband Access
23.8% live in households without a desktop, laptop, notebook, or netbook	26.7% of households do not subscribe to broadband

The legislation would eliminate the printing and sending of hard copies of the City Record to libraries and community boards, places where those with limited computer skills may access the City Record in print. The Committee should reach out to community boards and libraries to determine whether their clients access the City Record currently in print or online, and determine the utility of allowing for print copies to be made available to.

Given that some New Yorkers may simply still want to hold a printed version in their hands along with the lack of access to computers of some New Yorkers, in evaluating the elimination of the printing requirements of Section 1066 of the City Charter, **Citizens Union recommends the Council not end the printing of hard copies of the City Record at this time.**

As we have already flagged with staff of the Government Operations Committee, we additionally wanted to note that there are certain print requirement for bidding processes required by state law under the General Municipal Law, Section 103 and General Construction Law, Section 60. The legislation as currently drafted, however, still would allow for the separate printing of the City Record's notices for procurement as required by state law.

Citizens Union also recommends that the city, beyond an online City Record, better publicize government meetings through its official calendar as a means of providing notice of meetings and hearings. This is the practice of other cities with regard to promoting city hearings and meetings. New York, like other cities, has a calendar of city events, yet the city's official calendar does not contain official public meetings being held by commissions, boards, and agencies. Other cities such as Boston and Oakland better integrate government meetings in their official city calendar, and provide for RSS feeds and other means to sign up for notices through the calendar – see our attached research for more information.

I thank you for the opportunity to testify, and am available to answer any questions you have.

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[6] Bridging the Digital Literacy Divide, New York City Comptroller John C. Liu, April 2013 (p. 5-7).
http://comptroller.nyc.gov/wp-content/uploads/documents/Bridging-the-Digital-Literacy-Divide.pdf

CITIZENS UNION OF THE CITY OF NEW YORK
Review of U.S. Cities and Accessible Online Government
JUNE 2014

	City Record	City Calendar	Procurements	City Charter	Open FOIL
Austin	*	-Online Calendar	-List of Bids	-Online, PDF -Third Party municode	-N/A
Baltimore	*	-Online Calendar	-Third Party CityBuy	-Online, PDF	-N/A
Boston	-PDF	-Online Calendar	-List of Bids	-Online, PDF	-N/A
Chicago	*	-Online Calendar	-List of Bids	-Not Online	-N/A
Cleveland	-PDF	-Online, PDF, Some in Online Calendar	-List of Bids	-Online, PDF	-N/A
New York City	-PDF	-Online, PDF, Some in Online Calendar	-List of Bids	-Online, searchable through third party -User Friendly Rules of NY	-N/A
Oakland	*	-Online Calendar	-List of Bids	-Online, Third Party municode	-Online, User Friendly, Recordtrac

*Not termed City Record or similar title, or not easily found online.

Austin

- The City Record
  - The City of Austin has no hard-copy publication of government hearings and meetings, procurements, or other public notifications.
- City Calendar
  - The City of Austin's calendar[1] is available on the city's main webpage.
  - The calendar is in an easily searchable, web-based html format, however, no PDF or hard-copy version is offered.
  - There is no subscription option or RSS feed connected to the calendar.
  - The calendar contains the meeting schedules of all city agencies, including the City Council.
- Procurements
  - The Financial Services department manages the contract catalogue[2].
  - All open contracts are in an easily searchable, web-based format. There is no PDF option for viewing the catalogue, however, it is possible to download the catalogue to Excel.

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[1] http://www.austintexas.gov/fullcalendar
[2] https://www.ci.austin.tx.us/financeonline/contract_catalog/index.cfm

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- o The catalogue has both an RSS feed and a vendor account option, which allows individual vendors to view open solicitations and bid online.
- City Charter
  - o The Austin City Charter is available online in PDF form through Public Records Access[3] on the city's main website.
  - o The Charter is also available in a searchable web-based format through and a third party website, municode[4]. The city's main website directs to municode through an active hyperlink.
- Open FOIL
  - o The City of Austin has no Open FOIL.

Baltimore

- The City Record
  - o The City of Baltimore has no easily found City Record type publication online.
- City Calendar
  - o The City of Baltimore's calendar[5] is available on the city's main webpage.
  - o The calendar is in a searchable web-based format, and there is no off-line form.
  - o There are both email/SMS subscription options.
  - o The calendar contains the event schedules of very few city agencies, the City Council events are not included, each agency has its own calendar.
- Procurements
  - o The Baltimore City Department of Finance directs to a third party source, CityBuy[6], to manage procurements.
  - o All bids are in an easily searchable online format only.
  - o CitiBuy allows vendors to create accounts and bid online.
- City Charter
  - o The Baltimore City Charter is available online in PDF[7] form on the city's main website.
  - o It is not easily searchable or in any web-based format through the city government website.
- Open FOIL
  - o The City of Baltimore has no Open FOIL.

Boston

- The City Record
  - o The Boston City Record is available online through the Purchasing Department in PDF[8] form.
  - o Annual subscriptions cost $50, and each issue is $2.
- City Calendar
  - o The Boston city calendar[9] is available on the city's main webpage.

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[3] http://www.ci.austin.tx.us/edims/search.cfm
[4] https://library.municode.com/index.aspx?clientId=15302
[5] http://www.baltimorecity.gov/CityCalendar.aspx
[6] https://www.baltimorecitibuy.org/bso/
[7] http://www.baltimorecity.gov/government/citychartercodes.aspx
[8] http://www.cityofboston.gov/purchasing/
[9] http://www.cityofboston.gov/calendar/

- o   The calendar is a prime example of an easily searchable, web-based html format. While many events are also published in the City Record, the online calendar has the full listing.
- o   There is an RSS feed and other subscription options for the calendar.
- o   The calendar contains the meeting schedules of many city agencies, including the City Council.
- Procurements
  - o   The Purchasing department manages the list of bids[10].
  - o   Many open contracts are in an easily searchable, web-based format, however, the City Record is the official repository for the list of open bids.
  - o   The list of bids does not have any subscription option, and the City Record has a $50 dollar per year subscription, or can be purchased for $2 an issue.
- City Charter
  - o   The Boston City Charter[11] is available in PDF form online through the City Council webpage.
- Open FOIL
  - o   The City of Boston has no Open FOIL.

Chicago
- The City Record
  - o   The City of Chicago has no easily found City Record like publication online
- City Calendar
  - o   The City of Chicago's calendar[12] is available on the City Clerk's website.
  - o   The calendar is in an easily searchable, web-based html format, and a PDF format.
  - o   There are a number of different social media options, but no subscription options for the calendar.
  - o   The calendar contains the meeting schedules of all city agencies, the City Council, and all committees.
- Procurements
  - o   The Procurement Services department manages the bid opportunities[13].
  - o   All open contracts are in an online PDF[14] format.
  - o   The Procurement Services department has an RSS feed option and allows vendors to bid online.
- City Charter
  - o   The Chicago City Charter is not available online, however, the Municipal Code is available in a searchable online format through a link on the City Clerk's office webpage to American Legal[15].
- Open FOIL
  - o   The City of Chicago has no Open FOIL.

Cleveland
- The City Record
  - o   The Cleveland City Record is available online in PDF[16] form through the City Council webpage, the Record contains the same content as the NYC Record.

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[10] http://www.cityofboston.gov/purchasing/bid.asp
[11] http://www.cityofboston.gov/images_documents/2007%20the%20charter%20draft20%20(final%20draft1%20with%20jumps)_tcm3-16428.pdf
[12] https://chicago.legistar.com/Calendar.aspx
[13] http://www.cityofchicago.org/city/en/depts/dps.html
[14] http://www.cityofchicago.org/content/dam/city/depts/dps/WeeklyBidOpportunities/2014WeeklyBidOpportunities/060214.pdf
[15] http://www.amlegal.com/nxt/gateway.dll/Illinois/chicago_il/municipalcodeofchicago?f=templates$fn=default.htm$3.0$vid=amlegal:chicago_il

- City Calendar
  - The Cleveland City calendar[17] is available on the city's main webpage, however, each agency has its own calendar.
  - The calendar is in an easily searchable, web-based html format, however, there are very few events in the calendar, the majority can be found in the City Record.
  - There is no subscription option or RSS feed connected to the calendar.
  - The calendar contains the meeting schedules of almost no city agencies. The City Council events are not included.
- Procurements
  - The list of bids[18] is available online through the Department of Finance.
  - Many open bids are on this list in a searchable, web-based format, however, the complete list of bids is published in the City Record. Bids cannot be made online over $50,000.
  - There is neither a subscription option nor a vendor account option for the list of bids.
- City Charter
  - The Cleveland City Charter[19] is available in a semi-searchable form online through the City Council webpage.
- Open FOIL
  - The City of Austin has no Open FOIL.

New York
- The City Record
  - The New York City Record is available online in PDF[20] form, and in print throughout city libraries.
  - The record costs $500 for an annual subscription.
- City Calendar
  - New York City Calendar[21] is available online, however, each agency has its own calendar, and thus no agency events or hearings/meetings are listed on the official calendar.
  - The calendar itself is accessible, however, the lack of official events undercuts this.
  - There are no subscription options for this calendar.
- Procurements
  - The office of Citywide Administrative Services has a bidding search engine[22].
  - All open contracts are in an easily searchable, web-based format, contracts are also published in the City Record.
  - The list of bids does not have subscription option, but it does have an account option for vendors.
- City Charter

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[16] https://www.dln.com/cr/index2014/May282014.pdf
[17] http://www.cleveland-oh.gov/CityofCleveland/Home/Calendar?m=6&y=2014&c=0&o=
[18] http://www.city.cleveland.oh.us/CityofCleveland/Home/Government/CityAgencies/Finance/BID
[19] http://www.amlegal.com/nxt/gateway.dll/Ohio/cleveland_oh/cityofclevelandohiocodeofordinances?f=templates$fn=default.htm$3.0$vid=amlegal:cleveland_oh
[20] http://www.nyc.gov/html/dcas/html/about/cityrecord_editions.shtml
[21] http://www1.nyc.gov/events/events-filter.html
[22] http://a856-internet.nyc.gov/nycvendoronline/vendorsearch/asp/startsearchbid.asp

- o The New York City Charter, Administrative Code and Rules are available in a <u>searchable third-party website</u>[23].
- o The Charter is also available through the <u>NYC Rules webpage</u>[24] in a searchable online format.
- Open FOIL
    - o The City of New York has no Open FOIL.

Oakland

- The City Record
    - o The City of Oakland has no easily found City Record type publication online.
- City Calendar
    - o The <u>City of Oakland calendar</u>[25] is available on the city's main webpage.
    - o The calendar is in a very easily searchable, web-based html format, however, no PDF or hard-copy version is offered.
    - o There is RSS feed option and other subscription options for the events calendar.
    - o The calendar contains the meeting schedules of all city agencies, including the City Council, and is even broken down by district.
- Procurements
    - o <u>Contracting opportunities</u>[26] are managed by the City Administration.
    - o All open contracts are easily searchable on the web-based format. There is no PDF option for viewing the list of contracts.
    - o The catalogue has a vendor account option, which allows individual vendors to view open solicitations online.
- City Charter
    - o The Oakland City Charter is available online in PDF form through a link on the City Council webpage, which directs to <u>municode</u>[27].
- Open FOIL
    - o Oakland is the only city in the country with an Open FOIL.
    - o The Open Foil is available online through <u>Recordtrac</u>[28].

[23] http://72.0.151.116/nycnew/
[24] http://rules.cityofnewyork.us/codified-rules
[25] http://www2.oaklandnet.com/Events/index.htm
[26] http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/s/Opportunities/index.htm
[27] https://library.municode.com/Html/16308/Level1/THCHOA.html
[28] http://records.oaklandnet.com/requests

THE LEAGUE OF WOMEN VOTERS OF THE CITY OF NEW YORK

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June 9, 2014

My name is Catherine Gray. I serve as Vice-President of the League of Women Voters of the City of New York (LWVNYC). The League of Women Voters is a multi-issue non-partisan political organization. We encourage informed and active participation in government. We work to increase understanding of major policy issues, and influence public policy through advocacy and education.

I am also the LWVNYC's representative to the New York Transparency Working Group, (TWG) which supports efforts to use technology to make New York City government more open and accountable, and to ensure that the public has easy access to the city's wealth of digital information.

Thank you for holding this hearing and for inviting us to testify.

The LWVNYC has continually supported the Open Data laws of NYC (Local Law 11 of 2012) with the goal of promoting more transparency in government to secure a better informed citizen.

All three of these bills will increase public access to information, encouraging more active, informed participation in government and providing for better understanding of major policy issues. The League of Women Voters of the City of New York enthusiastically supports these bills.

The Freedom of Information Act (FOIA), 5 U.S.C. 522, was originally signed into law by President Lyndon B. Johnson on July 4, 1966, and went into effect the following year. Extraordinary advances in technologically now make it possible to accomplish the full intent of the law, enabling citizens to become informed in a timely manner using machine-readable formats along with their automatic updates.

Intro 0368 (FOIA) directly correlates to the League of Women Voters of NYC's goal of promoting active public participation in government, and is one of the most important initiatives in pursuit of government transparency. An Open Data portal will make it easier to achieve this .

The bill states that the information provided by a city agency pursuant to any special requirement "shall include, in addition to any other requirements of law, publication of all such information on the agency's website, in an open format, and publication to the "open data portal created in pursuant to chapter five of this title". We hope the reference to "agency" in the bill as presently drafted, or any future revision, will include the New York City Board of Elections

LWV NYC Celebrating 95 years of promoting active and informed citizen participation in government

The League of Women Voters of NYC would also like to have all data sets searchable at a minimum through the date of publication, relevant agency, keyword, and category; such as public hearings, procurement notices and changes in personnel.

In extending "online" access to the City Record, **Intro. 0363** makes this valuable document accessible to the public "in both a non-proprietary, machine-readable format and a human readable format" in a timely manner without barriers, such as the cost and time of travel to City and County Clerks offices to read/search information found in the City Record.

In requiring Public Notices to be posted online, **Intro 0367** provides another important vehicle for New Yorkers to use, and to gain easy access to meeting dates and changes in public programs and policies.

While the League of Women Voters of NYC supports all three of these bills, we are still concerned that without carefully constructed standardized categorizing and indexing system, usage of the data will be limited to only the most savvy computer users.

Right now the New York City Charter is online but I challenge New Yorkers to find it. If you google "New York City Charter", or even if you enter it on the search page of www.NYC.gov, you will get the 2009 Charter which was used as a resource for the 2010 Charter Revision Commission. If you search and search you can find it under New York City laws but then you must look at it section by section. The New York City Charter is our constitution, our City's most important document. The Charter is less than 200 pages, which is smaller than many regularly issued city reports. A transparent government has to have its most important document front and center – accessible in its entirety from the City's home page.

That's why LWVNYC is so concerned about how these mega data sets are/will be handled. What is needed is a key word search, such as: title, type of data (maps, files, documents, annual reports, etc); person's name, department, agency, date, category/subject, etc. This system must be based on "best practices" and must be standardized throughout the city. With this done, community boards, city staff, and the public will be able to locate and use the information in some 1100 data sets available now. As a former librarian, these data sets now seem to be arranged as if all the books and materials in the Library of Congress were dumped in the center of the room and one was told "The book is in there somewhere", go and find it.

Thank you for this opportunity to testify. We look forward to working with in collaboration with the other good government groups on continuing to improve access to public information.

Catherine Gray
Vice President LWV-NYC

Testimony
of
Gene Russianoff
Senior Attorney
New York Public Interest Research Group
Co-Chair, NYC Transparency Working Group
before the
New York City Council
Technology and Government Operations Committees
Hearing on
Intro 328-2014 (OpenFOIL)
City Hall

June 9, 2014

Today, the Committees on Technology and Government Operations are holding a hearing on Intro 328-2014 and two other government transparency bills.

Intro 328 would propel New York City into having one of the best, most transparent, and most accessible Freedom of Information Law systems in the nation. Today, it is one of the most inconsistent as Public Advocate de Blasio chronicled in his 2013 report "Breaking Through the Bureaucracy: Evaluating Government Responsiveness to Information Requests in NYC (http://advocate.nyc.gov/sites/advocate.nyc.gov/files/deBlasioFOILReport_0.pdf).

That report is the most thorough, recent and comprehensive NYC FOIL analysis within memory. It strongly illustrates the need for an OpenFOIL approach. The Public Advocate reviewed 10,000 FOIL requests and identified several key areas where agencies were neglecting their responsibilities under the law:

1. **The process for submitting FOIL requests to City agencies and tracking their status is very inconsistent.** It can be extremely challenging for the public to navigate. Forty percent of City agencies lack information on their website about where to direct FOIL request. Neither 311 nor the City's Green Book provide this information.

2. **For the three months of FOIL data that was analyzed, more than 1,000 individuals or groups had not received an approval or denial determination after more than six months of waiting.** That represents one-in-ten requests that were either ignored or fell through the cracks.

3. When City agencies responded to FOIL requests, response times varied dramatically by agency.

In his report, then-Public Advocate de Blasio made several recommendations to adopt an OpenFOIL system. These included:

1. New York City should follow the federal government's lead and transition to a single online portal for processing FOIL requests to City agencies.

2. The process of filing FOIL requests should be streamlined. Requesters should get updates on the status of their FOIL submission. 311 and the City's Green Book should maintain contact information for all record access officers at City agencies.

3. **The City Council should pass legislation mandating that all City agencies must proactively publish commonly requested records online.** This would modernize FOIL disclosure practices and encourage agencies to adapt to changes in technology.

And here we are, considering Intro 328-2014, which would modernize and computerize FOIL requests. Such a system would benefit both:

- FOIL'ers (quicker, allows tracking and analysis ensuring fairer treatment of all FOIL requests, respects privacy concerns, and can download existing information off the web from previous FOILs); and

- City agencies (substantially reduces costs and administrative burden, as well as allowing downloading of existing information off the web from previous FOILs.)

Open FOIL also has two other very important open data benefits:

First, the "one strike you're in provision" in the bill will result in data sets released under FOIL being published in the City's open data portal.

Second, by revealing the topic of each FOIL request, the bill will help the City and the public identify what information New Yorkers are asking for, and help get that information online faster.

For these reasons we strongly support Intro 328-2014.

We also support the other two bills that are the subject of this hearing. These are:

- Intro 149-2014, which would put the NYC Charter, City laws and other documents on the web; and

- Intro 363-2014, which would put the City Record on the web.

β

Date: Monday, 9 June 2014
From: Noel Hidalgo, Executive Director of BetaNYC
To: NY City Council's Committee on Governmental Operations jointly with the Committee on Technology

Subject: Online Publication of City Laws, Centralizing FOIL, and Publishing the City Record online

Honorable Chairs and City Council Members,

I am Noel Hidalgo, the executive director of BetaNYC. It is a great honor to represent New York City's technology community. Particularly, a rather active group of technologists - the civic hacker.

BetaNYC works to create a New York City government for the people, by the people, for the 21 century. We meet weekly to develop new avenues for civic engagement. We are members of the NYC Transparency Working Group. Collectively, we want to see our City adopt tools, programs, and law that increase transparency, efficiency, and participation.

Last year, our community published the *People's Roadmap to the Digital New York City*. This manifesto combined 32 ideas into a foundation for 21st century open government. Today, we are here to talk about a critical component of the roadmap. Access to information.

Today's hearing covers three laws with historical importance. According to a recent survey, most New Yorkers have cell phones -- 98%, 50% have smart phones, and 40% have tablets/eReaders.

Within a few years, a majority of New Yorkers will receive a majority of their information via mobile devices. To ensure content delivery across all devices, we need information to be open and in machine readable formats.

We kindly ask that the Council add "bulk data access" and "machine readability" provisions to Intro-149.

By placing the law and City Register online and in a machine readable format, New Yorkers can connect to their government regardless of privilege or device.

Lastly, we feel this Open FOIL bill presents a transformative opportunity to increase access and lower the cost of government operations. Just as the first online search engines gave us the ability to see the world wide web, *this FOIL amendment gives the public a 21st century process to know how, when, and where information is being kept.*

We believe these three bills provide a proper foundation for a 21st century New York City government. We support the passage of these three bills and the great research Reinvent Albany has provided.

Testimony

Reinvent Albany®

John Kaehny
Executive Director, Reinvent Albany
Co-Chair, NYC Transparency Working Group

New York City Council
Technology and Government Operations Committee
Hearing on
Intro 328-2014 (Open FOIL), Intro 149 and Intro 363

June 9, 2014

Good afternoon, I am John Kaehny, Executive Director of Reinvent Albany and Co-Chair of the NYC Transparency Working Group.

My organization is among the dozens of major civic groups who have signed a memo of support calling for the passage of Intro 328, the Open Freedom of Information or Open FOIL bill. The venerable Freedom of Information Law is our single most important transparency tool and Open FOIL will vastly increase transparency, speed responses and create a fairer and less expensive NYC FOIL system. Open FOIL is inspired by the 2013 recommendations of Public Advocate de Blasio, and we urge Mayor de Blasio to join with Council members Kallos and Vacca, and Manhattan Borough President Brewer to pass this bill as soon as possible.

We also support Intro 149, which mandates publishing city laws on a city website in a searchable form, and we support the intent of Intro 363 which requires the City Record be put online in a more useful format.

Problems with the NYC FOIL Process

Groups like the Community Service Society, Legal Aid Society and Transportation Alternatives support the Open FOIL bill because they know that the Freedom of Information Law process is not working very well for New Yorkers or city government. Stated plainly, the NYC FOIL process is an expensive, bureaucratic mess. Public Advocate de Blasio's laboriously researched 2013 report found that 10% of FOIL requests to city agencies – more than 5,000 a year – are ignored, and that 40% of agencies have not put basic FOIL information on their websites. His report

noted "deep inconsistencies" in how agencies responded to FOIL, and pervasive delays.

Mayor de Blasio has even more reasons for concern. Former and current high level city officials, with decades of experience, have confirmed to us what many have long suspected: the FOIL process is highly politicized. FOIL requests which city agencies might find embarrassing or inconvenient are routinely ignored, and responses are delayed or deliberately incomplete. The state Freedom of Information Law calls for all requests to be treated fairly and equally.

It's not just politics. The paper based process used by city agencies to respond to FOIL requests is slow, unreliable, expensive and opaque. Today, Reinvent Albany released *Beyond Magic Markers*, a report on NYC FOIL costs and potential savings. Based on a cost per FOIL request of $400, we estimate that NYC spends at least $20 million a year responding to FOIL requests, and that the city could save an estimated $13 million a year by adopting a centralized online system like that used by six federal agencies and the city of Oakland California. Our cost estimate is very conservative, and assumes that NYC's hodgepodge of paper FOIL processing systems cost less than federal agencies which have been using specialized software for many years. (Federal Freedom of Information requests cost an average of $658 each, and Britain's completely automated system averages $490 per request.)

When it comes to FOIL, NYC is primitive. City agencies use magic markers to black out information on paper, and then scan that paper and mail or email it. In sharp contrast, federal agencies and Britain use a digital tool to delete privileged information from a document. Agencies are flying blind. They do not collect or report basic information about how many requests they receive, the topic of those requests, or processing costs. It took Public Advocate de Blasio's staff two years to collect basic information on city FOIL requests that federal agencies publish online and automatically update.

Benefits of Open FOIL

New Yorkers deserve better. The Open FOIL bill does four things.

First, it *centralizes* the FOIL process so that all requests and responses go through the same online portal and database, where they can be publicly tracked.

Second, it *automates* the process and gives all agencies access to the same state of the art processing tools, including the digital redaction, or removal, of protected information.

Third, it opens the FOIL process so that the public (and government) can track requests, and see the topic of the request and the documents agencies provide in response. This will ensure requests are treated fairly, and help identify the most popular information and get that information online before it needs to be FOILed. (The EPA learned from their FOIA software that 20% of all requests were related to pesticides, and so they put that data online and reduced pesticide FOIA's by 85 %.)

We believe this is by far the most important transparency provision in the bill. Accordingly, we absolutely oppose allowing an "opt out" which allows FOILers to hide their FOIL requests for public information about government activities. (Requests by individuals for information about themselves should still be given a tracking number, but can still provide crucial transparency information while respecting privacy. For instance, the online summary of a persons request for arrest information about themselves can simply say: "Information about individual's arrest record from NYPD." But transparency advocates and government still need to know what is being requested to ensure a fair and responsive FOIL system.

Fourth, Open FOIL massively *boosts the Open Data Law* by requiring that public data sets released in whole or part through an agency response to a FOIL request be published in the Open Data Portal. "One strike you're in." (In other words, if a member of the public asks for and gets a list of street trees in Brooklyn from a citywide Parks tree data base, that whole data base – all five boroughs gets published in the Open Data Portal.)

The elements of Open FOIL have been tested and proven to work by big government agencies elsewhere. Six federal agencies are using FOIAonline, an online tool which tracks and displays records requests. Oakland's RecordTrac is free, open source software that NYC can modify. Chicago is putting a record of all FOIL requests in its open data portal.

Open FOIL does a great deal, what it does not do is undermine privacy. Under Open FOIL, the same agency FOIL officers with expertise in the state Freedom of Information Law and Privacy Act, and federal HIPAA and FERPA, will be redacting

documents and summarizing request topics. They will trade magic markers for digital redaction tools, but they will have the same expertise and responsibility to comply with the federal and state privacy laws which trump city law.

There is significant government experience with online FOIL systems and privacy laws. The federal FOIAonline system publishes request and responses, and more locally, so does the Port Authority. This transparency has raised few public concerns and no evidence that it has deterred the use of FOIL requests. (Notably, the federal FOIAonline, the Port Authority and Chicago reveal the identity of FOILers --- Open FOIL does not.)

The Council may be interested to know that the state Freedom of Information Law says that non-personal FOIL requests, FOIL logs and FOIL responses are subject to disclosure. Reinvent Albany has FOILed various agency logs, and we are told by some political beat reporters that they FOIL requests to City Hall and the Governor, and for FOILs from other journalists. So, it would be odd for journalists to complain about ruined scoops. In any event, the body of experience with public FOIL tracking elsewhere, the clear distinction FOIL makes between personal and non-personal requests, and the continued participation of experienced FOIL officers suggest that Open FOIL will ensure that privacy laws are fully respected.

In sum, we strongly support the Open FOIL bill and based on a mountain of real world experience and research, we believe it will vastly improve the responsiveness, transparency and fairness of the city's FOIL process. Open FOIL will also create new opportunities to use FOIL as a tool to promote open data, and save millions of dollars. This is a great bill and we applaud Council members Kallos, Vacca and Manhattan Borough President Brewer for championing it. We Mayor de Blasio and his administration to help pass it and to work hard to get Open FOIL up and running.

Beyond Magic Markers

Faster, Less Expensive Freedom of

Information Law in New York City

June 6, 2014

Responding to FOIL Requests Costs New York City At Least $20 Million per Year

The Online "Open FOIL" System Can Save $13 Million a Year and Reduce Response Times

Introduction

New York City open government advocates strongly support the creation of an "Open FOIL," centralized, online FOIL processing system. It will increase transparency, reduce delays, and create a fairer FOIL system for all. But Open FOIL has a big additional public benefit: It will save New York City government upwards of $13 million a year.

New York State's Freedom of Information Law (FOIL) has guaranteed public access to many types of government records since 1974. This venerable law – which applies to New York City – is the single most important transparency tool New Yorkers have, and is relied upon by journalists, advocates, and the public to keep track of what the state and New York City governments are doing. Unfortunately, the paper based process used by city agencies to respond to FOIL requests is slow, unreliable, expensive and opaque.

Unlike federal agencies, New York City agencies, do not use digital to tools to redact privileged information. Instead, they use magic markers to blot out private information. Additionally they , do not collect or report basic data about how many requests they receive, the nature of those requests, or how much it costs for them to respond.

Despite the lack of NYC agencies' analysis, we can estimate the volume and cost of New York City's Freedom of Information Law regime. This is thanks to the 2013 *Breaking*

Through Bureaucracy report by NYC Public Advocate Bill de Blasio, as well as extensive data on the costs of public records requests collected by the United States federal government and United Kingdom's central government.

We estimate that, at minimum, New York City government spends $20 million annually processing FOIL requests; this is based on a conservative estimate of 50,000 annual FOIL requests, and a low average cost of $400 per FOIL request.

50,000 FOIL Requests Received in NYC Each Year

In 2011 and 2012, Public Advocate de Blasio's staff gathered information on three months of FOIL activity at 38 major city agencies and found that the agencies collectively received 40,000 FOIL requests annually.[1]

There are approximately 130 NYC agencies subject to FOIL.[2] For the purpose of our own estimate, we assume that the 100 city agencies not surveyed by the Public Advocate receive at least 10,000 FOIL requests a year. This adds up to a grand total of 50,000 annual FOIL requests received by all agencies. (Note that our estimate of only 100 FOIL requests received by each of the 100 not-surveyed NYC agencies is conservative; the surveyed agencies received more than 1,000 requests each.)

"New York City agencies ... use a hodgepodge of paper-based methods that are expensive, slow and unreliable."

The Cost of Each NYC FOIL Request: $400

Based on the detailed cost tracking done by the U.S. and U.K. governments, as well as a handful of U.S. cities, we estimate that New York City spends at least $400 per FOIL request. Again, this is only an estimate, because New York City does not track FOIL costs.

Unlike Federal government or the United Kingdom's government, few, if any, New York City agencies use even basic FOIL processing software that would make it easier to de-
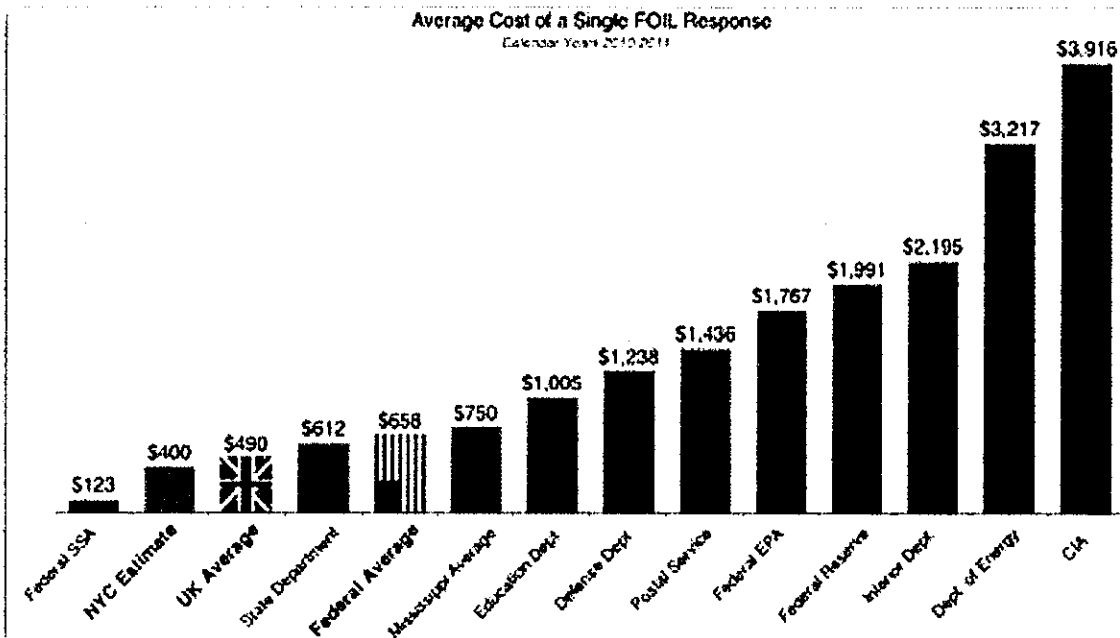
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[1] *NYC Public Advocate, Breaking Through Bureaucracy: April 22, 2013: http://archive.advocate.nyc.gov/foil/report*

[2] *NYC.gov, List of NYC Agencies: http://www1.nyc.gov/nyc-resources/agencies.page*

termine FOIL costs. Based on the range of costs on the chart below, we believe our estimate is conservative, and the real cost per FOIL is likely much higher.

Both the U.S. and U.K. governments use advanced FOIL processing software which has been shown to significantly reduce the time and cost it takes agencies to record, track, and respond to FOIL requests.

New York City agencies do not use automated FOIL processing. On the contrary, they use a hodgepodge of paper-based methods that are expensive, slow and unreliable. Instead of online redaction tools, city workers use magic markers as they work through thousands of lines of records, striking out protected information as required by law.

Average Cost of a Single FOIL Response
Calendar Years 2010-2011

Federal SSA	NYC Estimate	UK Average	State Department	Federal Average	Mississippi Average	Education Dept	Defense Dept	Postal Service	Federal EPA	Federal Reserve	Interior Dept.	Dept. of Energy	CIA
$123	$400	$490	$612	$658	$750	$1,005	$1,238	$1,436	$1,767	$1,991	$2,195	$3,217	$3,916

FOIL Cost Data

The average FOIL request in Yakima, Washington costs over $1,200.[3] The US Department of Defense reports an average of $1,230 per request,[4] and dozens of federal agen-

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[3] *Yakima Herald-Republic, "A Matter of Records," 2010: http://www.localopengovernment.com/uploads/file/ Westlaw_Document_10_32_45.pdf*

[4] *Department of Defense Freedom of Information Act Report for Fiscal Year 2010: http://www.dod.mil/pubs/ foi/docs/DoDFY2010AnnualFOIA_Report.pdf*

cies spend thousands of dollars per request.[5] Across all federal agencies, the average cost of a request is $658. In the United Kingdom, it's roughly $490 per request.[6]

Therefore, we conservatively estimate the 50,000 annual FOIL requests in NYC cost the city $20 million per year, at an average of $400 for each request.

Calculating FOIL Costs

To calculate the cost of the process of releasing these documents under FOIL, we look to federal agencies which measure the cost of the entire FOIL request.

The United States Environmental Protection Agency, during its feasibility analysis of its online FOIL system, stated that there are 94 departments and agencies which process over 600,000 requests each year.[7]

"For agencies which process more than 100 requests a year, the average cost per FOIA request is over $5,400."

The total spending at all federal agencies in Fiscal Year 2013, including the actual processing, information gathering, and response development to FOIL requests, was approximately $447 million for the 678,391 requests processed.[8] Thus, we calculate that the federal government spends an average of $658 per FOIL request.

In comparison, the City of Yakima in Washington State reports that it spends $500,000 per year on FOIL requests, including staff, materials, and outside attorney time.[9] Yakima received 400 FOIL requests in 2010, which means each FOIL request costs, on aver-

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[5] US Department of Justice, Summary of Annual FOIA Reports for Fiscal Year 2012: http://www.justice.gov/oip/docs/fy2012-annual-report-summary.pdf

[6] The Cost of Freedom of Information, Anna Colquhoun, University College London, December 2010: http://www.ucl.ac.uk/constitution-unit/research/foi/countries/cost-of-foi.pdf

[7] Environmental Protection Agency, FOIA Module Feasibility Study, February 9, 2011: http://www.scrib-d.com/doc/66404265/Responsive-Documents-CREW-EPA-Regarding-Proposed-FOIA-Tracking-System-9-26-2011-EPA-Documents

[8] US Department of Justice, FOIA.gov, retrieved March 1, 2014: http://www.foia.gov/data.html

[9] Yakima Herald-Republic, "A Matter of Records," 2010: http://www.localopengovernment.com/uploads/file/Westlaw_Document_10_32_45.pdf

age, $1,250. There are a significant number of abusive requests filed in Yakima; one person has requested 65,000 pages of records,[10] but this figure is not wildly out of proportion.

As another example, the US Department of Defense reports an average of $1,230 per request. Among all federal agencies, the DoD's average cost per request is only the 38th-most expensive: the EPA ($1,700 per request) and the CIA ($3,916 per request) are significantly higher. Notably, for agencies which process more than 100 requests a year, the average cost per FOIL request is over $5,400.[11]

These examples significantly exceed our federal average of $658 per request, which is itself relatively high. The United Kingdom, which has made significant investments in automated FOIL systems and open data initiatives to reduce FOIL costs,[12] spends an average of $490 per FOIL request.[13]

We expect that governments which still use an entirely analog FOIL response process have much higher costs. For example, the State of Mississippi estimates that every FOIL request answered by its transparency website, rather than by a FOIL request (i.e. a request which is avoided entirely), saves the state approximately $750 in staff time.[14]

Steps in the FOIL Process
While the Federal Government has reported statistics for each agency's total FOIL cost for the last 16 years, agencies are only required to break down FOIL costs into two categories: "processing" and "litigation-related." This leaves us with no real way of estimating the cost of each step in the FOIL response process, which are as follows:

1. **Correspondence:** receiving and recording each request, as well as drafting and sending response letters.

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[10] ibid.

[11] Data provided by FOIA.gov

[12] Open Data White Paper, Unleashing the Potential, The Right Honorable Francis Maude, Minister for the Cabinet Office and Paymaster General: http://www.cabinetoffice.gov.uk/sites/default/files/resources/ CM8353_acc.pdf

[13] The Cost of Freedom of Information, Anna Colquhoun, University College London, December 2010: http:// www.ucl.ac.uk/constitution-unit/research/foi/countries/cost-of-foi.pdf

[14] United States Public Interest Research Group, Following the Money 2013: http://www.uspirg.org/reports/ usp/following-money-2013

2.   **Tracking:** generating unique tracking numbers for each request and recording them, as well as staying constantly apprised of approaching deadlines.

3.   **Document retrieval:** locating and accessing the original record, which may involve shipping reams of paper through intra- or inter-office mail. A 2011 report[15] in Broome County, New York, found that this step costs an average of $65 per request. Prorated for New York City, this works out to about an average of $100 per request.

4.   **Document Production** (Copying/Scanning): we have interviewed several people with experience in NYC agencies who indicate the act of copying and scanning documents, along with manual redaction, are the most time- and labor-intensive steps of the FOIL retrieval process. Most agencies lack access to high-speed or sophisticated copying facilities – this is extremely time-consuming.

5.   **Legal Review:** while FOIL officers must have a working knowledge of local, state, and federal privacy rules and regulations (like FERPA and HIPAA), there are always edge cases or appeals which require legal oversight.

6.   **Redaction:** after copies of the original record are created, FOIL officers must often redact and re-photocopy the copied records to ensure the illegibility of the portions of records which cannot be released.

7.   **Document Retention:** after the records are redacted, yet another copy is created for the FOIL officer's logs. Again, for voluminous requests, this is extremely time-consuming.

8.   **Archiving:** a file folder is compiled and stored with all correspondence between agency and requestor, as well as the records released, if any.

9.   **Appeals:** if the initial request is denied, FOIL allows requesters to have their requests reviewed by a second FOIL officer.

10. **Litigation:** if the appeal is denied, the requester can challenge the denial in court. At the federal level, the cost of litigation represents just over 5% of the total cost of FOIL. We have no reason to believe local FOILers are any more litigious than federal ones.

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[15] Jennifer Royer, *Implementing Broome County's Freedom of Information Law*, April 25, 2011: http://www2.binghamton.edu/ccpa/public-administration/pdfs/Jennifer%20Royer.pdf

Online FOIL Processing Reduce FOIL Costs By 66%

We estimate that an online Open FOIL system like Oakland's[16] or the federal government's will save New York City roughly $13 million per year.

Online FOIL processing systems reduce the costs of processing FOIL requests in two ways. First, they reduce the time it takes agency personnel to track and respond to each request. Second, they reduce the number of requests agencies receive. Online systems reduce requests by helping agencies easily identify and upload frequently requested information to online "reading rooms" or open data portals where it's easy for the public to find.

Reductions in Cost Per FOIL

The New York State Department of Health's newest version of its Smart FOIL Processing System reduced their average FOIL response time from up to 60 days to less than 20 days and reduced their backlog by 90%.[17] Less time spent processing FOIL requests means less money spent processing the same number of FOIL requests.

> "New York City agencies... use a hodgepodge of paper based methods that are expensive, slow and unreliable."

The Congressional Research Service's 2014 report on FOIA administration estimated that the FOIA Online portal would save the six agencies currently participating in the FOIA Online pilot program $200 million in FOIL costs over five years.[18] These agencies only spent about $45 million processing FOIL requests last year;[19] when FOIA Online saves these agencies $40 million per year, it will reduce FOIL expenses by nearly 90%.

[16] *An open source web site that publicly tracks the progress of all FOIL requests in the city of Oakland. Launched in October 2013: available at http://records.oaklandnet.com*

[17] *New York State Department of Health, Technical Implementation of the Smart Processing FOIL System, published September 13, 2010: http://www.nysforum.org/events/annualmeeting-9-13-10/Smart_Processing_-FOIL_System.pdf*

[18] *Congressional Research Service, The Freedom of Information Act (FOIA): Background, Legislation, and Policy Issues, January 23, 2014: http://www.fas.org/sgp/crs/secrecy/R41933.pdf*

[19] *According to the CRS report, the six agencies testing the FOIA Online portal are the National Archives and Records Administration, Environmental Protection Agency, Department of Commerce, Department of the Treasury, Federal Labor Relations Authority, and the Merit Systems Protection Board.*

This 90% in cost savings also appears in earlier estimates from the Federal Environmental Protection Agency. The EPA's preliminary feasibility report for FOIA Online states their online FOIA system will cut the FOIA costs at an average federal agency from about $18 million to $2 million.[20]

Likewise, the US Secretary of Defense's office believes that advanced FOIL processing software, which includes digital redaction capabilities, will reduce their annual FOIL costs by between 50% to 90%.[21] The Department of Defense has already reduced FOIL processing costs by 1/3rd using processing software without such capabilities.[22]

Reducing the Number of FOIL Requests

Based on federal studies and our own assessment of automated FOIL processing systems, Reinvent Albany estimates that Open FOIL can reduce the number of FOIL requests by at least 20%, just by identifying and uploading frequently FOILed documents to "Reading Rooms" and the city's open data portal.[23] A reduction in FOIL volume of that magnitude in NYC would amount to at least 10,000 "avoided" requests, and would save almost $3.5 million across all agencies.

Posting sought-after information online saves money. The EPA reduced the number of FOIL requests it receives by nearly 2,000, and saved $3.6 million[24] in yearly FOIL costs, by putting their most frequently requested documents online. The EPA was able to pinpoint which records were most frequently requested, thanks to their automated FOIL system. For example, they learned

> "...a Frequently Requested Documents site reduced redundant FOIL requests by as much as 60%."

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[20] *U.S. Environmental Protection Agency, FOIA.gov Feasibility Analysis Report, February 9, 2011: at http://www.scribd.com/doc/66404265/Responsive-Documents-CREW-EPA-Regarding-Proposed-FOIA-Tracking-System-9-26-2011-EPA-Documents*

[21] *Reinvent Albany interview with Aaron Graves, Senior FOIA Advisor in the Office of the Secretary of Defense, December 20, 2011.*

[22] *Ibid.*

[23] *"Reading Room" is the name that federal agencies give to web pages which feature frequently-requested documents. For example, the US Department of Defense's reading room: http://dod.mil/pubs/foi/foiaLibrary.html*

[24] *Calculated using the average cost for a single FOIA request at the EPA: $1,814 over the last 5 years. Source: FOIA.gov*

that roughly 800 documents related to pesticides made up 20% of all FOIL requests, so they put those records online.[25]

Today, pesticide-related documents make up just 3% of all requests to EPA, a reduction of nearly 2,000 FOIL requests.[26] If NYC used the same approach to achieve similar savings, it would reduce the number of FOIL requests it receives by 17% – roughly 8,500 FOIL requests – from uploading just a single dataset. This one step would save NYC almost $3.5 million a year, at our estimated average cost of $400 per request.

Similarly, in an interview, the US Secretary of Defense's office said that the creation of a "Frequently Requested Documents" section of their website reduced redundant or non-applicable FOIL requests by as much as 60%.[27]

By studying which sets of data are responsive to FOIL requests, city agencies may be able to identify databases which can be exposed to the public (or are already exposed but are not easily located). This saves processing time, not just on responding to a handful of popular requests, but on entire categories of requests.

Automated software can do that work, instead of asking FOIL officers or open data coordinators to tabulate the most-requested individual documents by hand.

Public Benefits Beyond Cost Savings
An online Open FOIL system in New York City would have many benefits beyond saving millions of dollars of public funds:

1. All records released under FOIL are, by definition, public information. OpenFOIL will improve New Yorkers' access to public information by reducing FOIL response times.

2. A unified, transparent FOIL regime will make sure each FOIL request is treated equally. Agency staff have told Reinvent Albany that, historically, city commissioners have played favorites with FOIL requests and ordered

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[25] *Testimony of Larry F. Gottesman, National Freedom of Information Officer, U.S. Environmental Protection Agency, to the House Committee on Oversight and Government Reform on March 18, 2010: http://epa.gov/ocir/hearings/testimony/111_2009_2010/2010_0318_lfg.pdf*

[26] *Ibid.*

[27] *Reinvent Albany interview with Office of the Secretary of Defense, December 2011.*

that requests from interests they disliked be delayed or given non-responsive answers.

3. Automated systems allow agencies to identify what data is commonly requested and to then publish that data online in in a prominent location where the public can easily find and download it – saving agencies an enormous amount of time. For example, the Environmental Protection Agency reduced its FOIL backlog by 96% by embracing information technology in its FOIL process, and by creating online "reading rooms" where previously requested documents were uploaded to the public.[28]

4. Potential efficiency gains can't be identified without statistics about the FOIL process. Automated FOIL systems can create and track dozens of key metrics while still saving money. With automated FOIL systems, data can be easily collected on the volume of requests, the amount of a request backlog, and how long requests take to process or the rate at which requests require legal action. These statistics allow FOIL managers to determine more accurately where resources should be devoted to handling each stage of the FOIL response process.

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[28] *Government Executive, "Posting Information Online Could Preempt FOIA Requests," March 18, 2010:*
http://www.govexec.com/oversight/2010/03/posting-information-online-could-preempt-foia-requests/31089/

596 Acres • Advocates for Children • ALIGN • Alliance for Quality Education • BetaNYC • Brennan Center for Justice/ NYU LAW • Citizen Action • Citizens Union Common Cause Community Service Society • Community Voices Heard • Good Jobs NY • Legal Aid Society • League of Women Voters NYC Make the Road by Walking • NRDC • NYC Environmental Justice Alliance • NY Civic Engagement Table • NYPIRG • NY Lawyers for the Public Interest • OpenPlans • Participatory Politics Foundation • Pratt Center for Community Development Reinvent Albany • Riders Alliance • Riverkeeper • Sunlight Foundation • Voices of Community Activists and Leaders NY Transportation Alternatives • Tri-State Transportation Campaign West Harlem Environmental Action • Women's City Club of NY

MEMO IN SUPPORT

INTRO NO. 328-2014
"OPEN FOIL"

Memo In Support
Intro No. 328-2014 "Open FOIL"

In Council, Intro 328-2014. Introduced by Council members Kallos and Vacca on behalf of Manhattan Borough President Gale Brewer.

A Local Law to amend the New York city charter, in relation to the creation of a centralized FOIL website.

SUMMARY OF PROVISIONS:
This bill mandates the creation of "Open FOIL," a centralized, automated, online process for submitting, tracking, and responding to Freedom of Information Law requests, and for making the content of requests and responses public, while fully protecting personal privacy.

STATEMENT OF SUPPORT:
The Open FOIL bill creates a centralized, online process that will make the Freedom of Information Law easier to use, and will make city agencies more responsive and transparent to the public. The Open FOIL portal will make it much easier for the public to track requests and responses, and to see important, non-personal, government information FOILed by others. The online system will also make it faster and easier for agencies to respond to FOIL requests, and --- based on the federal experience with automated systems --- save agencies an estimated $13 million a year in processing costs. Open FOIL also includes an important open data provision: it requires that agency responses, and the complete datasets they were produced from, be published in a machine-readable format in the city's open data portal.

A 2013 report by then-Public Advocate Bill de Blasio found that 10% of FOIL requests to New York City agencies – more than 5,000 a year – are ignored. The report also found that 40% of agencies do not have the necessary information for members of the public to make a FOIL request on their web sites. Furthermore, some agencies appear to expedite or delay FOIL requests based on who makes the request, and what the topic of that request is.

Open FOIL addresses the issues raised in the Public Advocate's report, and builds on the proven best practices that have been successful in cities like Oakland, California and Chicago. It also recognizes the increase in transparency produced by New York City's adoption of 311 and the NYC Open Data Law.

Privacy Protection and OpenFOIL

OpenFOIL and Privacy Concerns: Key Facts

1. OpenFOIL changes the *process* and software by which city agencies comply with the State's Freedom of Information Law. OpenFOIL *does not* (and cannot) *modify* the privacy protections established by the state FOIL or federal privacy protections.

2. OpenFOIL calls for publishing the "content" of each request, and response to each request. It does not require publishing the identity of the person or organization making the request.

3. It is common in the United States for governments using automated FOIL processing systems to publish the topic, status, and response to the request. (As well as the identity of people and organizations making FOIL requests.) Here are some prominent examples of agencies which do this:

- The federal FOIA Online, which processes requests for eight agencies.

- City of Chicago's FOIA request logs in open data format.

- Port Authority of NY/NJ FOIL logs; this site also includes the actual records request and response.

4. Under the New York State FOIL, logs of FOIL requests and requests themselves are subject to disclosure. In other words, you can FOIL the FOIL requests received by agencies, and Reinvent Albany has. The FOIL request logs sent to us include the name, organization and topic of request. This is all already public information; political beat reporters regularly request FOIL logs from City Hall, and request the FOIL requests of other journalists.

5. The summaries of FOIL requests and records published in the OpenFOIL portal will be redacted to comply with all federal and state privacy laws. The agency FOIL officer will write the topic of each FOIL request. (The Port Authority and Chicago have good request summaries.) Agency FOIL officers are already familiar with special privacy laws applying to their agencies, and they understand how to protect the privacy of the people described in agency records.

6. Responses on the OpenFOIL site will comply with existing privacy protections. Those responses which entirely pertain to non-public information will not be published. Any responses which contain some private information will be redacted by agency FOIL officers, exactly as they are done today.

7. Under State FOIL, people can submit disclosure requests on paper or via email. §2.f of OpenFOIL notes this, and requires agencies to track paper requests in the OpenFOIL portal.

Privacy Provisions in FOIL and Other Laws

FOIL makes all agency records public, except records or portions of records which would constitute an "unwarranted invasion of personal privacy" if released. FOIL provides examples of specific disclosures of information which would constitute unwarranted invasions of personal privacy: they are included, but not limited to:

i. Employment, medical, or credit histories;

ii. Medical or personal records of clients or patients in medical facilities;

iii. Lists of names and addresses if they would be used for fundraising purposes;

iv. Personal information which is not relevant to the agency and which would result in economic or personal hardship to the subject of information;

v. Personal information reported in confidence which is not relevant to the ordinary work of the agency; and

vi. Personal information contained in a worker's compensation record.

In addition, other subject-matter specific laws make certain agency records public or private. For example, the Election Law states that the names and addresses of registered voters are public information. The Real Property Tax Law makes homeowners' names, addresses, and assessed home values public information. The New York State Penal Code (until very recently) made the name and address of any person with a gun license public information.

The Social Services Law makes information about people applying for or receiving financial assistance private. The Public Health Law makes documents about people

with HIV and AIDS-related illnesses private. The Mental Hygiene Law makes identities, diagnoses, and treatments of persons with chemical dependencies private information. There are too many more examples to list here.

In addition to the laws of New York State, there are Federal laws, like HIPAA and FERPA, which impose even more privacy considerations on city agencies.

City FOIL officers are already dealing with this legal and regulatory privacy regime; they already know what's public and what's not. The State's Department of Health FOIL officers know that when someone requests their FOIL logs, the DOH must redact the names and case numbers. The Office of Mental Health and Hygiene, in their FOIL logs, describes requests for family history as simply "Genealogy" with no other identifying information.

Again, the OpenFOIL bill does not (and cannot) require agencies to disregard these state laws, or other federal privacy laws or regulations. Rather, requests that can be published online will be published online, and requests which would cause an unwarranted invasion of personal privacy or would otherwise violate privacy laws or regulations if published online will not be published online.

Actual FOILed document from NYS Department of Health.
Redacted by the FOIL officer before public release.

Support for OpenFOIL Portal Legislation

Introduction

The proposed legislation for an online freedom of information law ("FOIL") request tracking portal would greatly benefit New Yorkers. This portal would centralize the process of requesting records from City agencies for the public, and vastly streamline every step of the process of responding to FOIL requests for records access officers. It would catalyze the City open data initiative by allowing for analytics-based publication of open data sets. It would simply improve public access to information, and do so while saving taxpayers $10 million per year.

What the FOIL Portal Does

The portal offers numerous benefits to the public and agencies:

- All requests and responses are archived and publicly searchable. Members of the public will see if their question has already been asked and answered. Records access officers will avoid repeat requests for the same information.

- Records access officers will have the benefit of automated tools in the portal which track requests and generate applicable correspondence for each step.

- Records officers will upload responsive documents to the portal and "attach" them to the applicable request, where records access officers will review, redact, and release them in digital formats.

- Redacting records will also be done within the portal itself, without the need to print, manually redact, and re-scan thousands of sheets of paper.

- FOIL responses will no longer need to be mailed on CDs if they're too large to email. Records officers will upload responses to the portal for public download.

The Benefits of Open FOIL

New York City will save at least $10 million annually by implementing an open and automated FOIL process through the OpenFOIL portal. This savings will come from improved efficiency in the FOIL response process at City agencies. There are roughly 50,000 FOIL requests filed in the City, and at an average cost of $300 per request, the FOIL regime costs $15 million annually. Automated

FOIL processing technology like that included in the Open FOIL portal has reduced the cost of FOIL responses by between 66% and 90% elsewhere, which represents savings of at least $10 million.

There is currently no information about the cost of responding to FOIL requests in New York City, and limited information about the volume of requests at City agencies. However, we can estimate the potential savings based on evidence from the numerous governments nationwide which have already adopted automated FOIL processing software. There are too many examples at the federal, state, and local government level to list them all here, but a selection will demonstrate our conservative

Massive Efficiency Gains

Numerous federal agencies and departments make use of this kind of software and have seen dramatic improvements in efficiency. For example, the US Department of Defense has reduced its FOIA-related labor costs by 33%, and estimated that the use of digital redaction tools (of the kind required by this proposed legislation) would reduce FOIA costs by up to 90%. The New York State Department of Health adopted an award-winning automated FOIL processing system[1] and has since cut its average time to respond to a FOIL request by more than 50%; previously, the average response time for requests exceeded the statutory time limit. The new system has also reduced the FOIL backlog by over 90%.

These kinds of improvements come not just from speeding the process of gathering and reviewing records, but also in records staff and management having a complete view of the state of FOIL at their agency. Resources can be allocated intelligently and work can be effectively coordinated within departments. Duplicate requests are eliminated. Correspondence is automatically generated. Redaction is streamlined with digital tools instead of markers and photocopies.

Estimating the Cost of FOIL

To calculate the savings, we must apply the efficiency improvements to our current FOIL costs. Again, neither City nor the State of New York collect any information about how much they spend on FOIL in a year. But we know that at the federal level, where freedom of information act ("FOIA") requests and their costs

are quantified in annual reports,[2] the average cost of responding to a FOIA request (excluding litigation) is roughly $608.[3] In the United Kingdom, where the average cost is roughly $450,[4] roughly 15-20% of requests to the central government go through an online FOI portal.[5]

The City's $300 cost per FOIL request is based on a 2011 report[6] on the costs associated with FOIL requests in New York State, which showed that simply locating records responsive to a request costs, on average, nearly $100. This doesn't account for copying, reviewing, and redacting the records, or litigating appeals. The federal government includes all of those costs in its annual FOIA reports, and notes each request costs $645 on average, or $608 excluding litigation; in the UK, it's $450 per request. Both governments are working with automated FOIA processing software. The City has made no such investment yet, but nonetheless, an extremely conservative estimate of $300 per FOIL request – less than half the federal average, and 33% less than the UK's average – is applied here.

Annual Volume of FOIL Requests

The City's FOIL volume is public thanks to then-Public Advocate de Blasio's 2013 report surveyed on the City's FOIL responses, which found the annual FOIL volume for the City agencies in the report is more than 40,000 requests. De Blasio's office surveyed just 38 agencies; the City web site lists almost 130 agencies. Even assuming the 38 surveyed agencies were the ones with the highest FOIL volume, there are nearly 100 other agencies subject to FOIL unaccounted for in the survey. The annual FOIL volume of all agencies is likely close to 50,000 requests, which is the number we have used for our estimates.

Secondary Benefits

In addition to saving money, the FOIL portal will give an unprecedented picture of the City's fundamental transparency device: the FOIL process. By quantifying the process at every step, City officials will be able to see what's working and what's not working with FOIL. De Blasio's 2013 report gave only 5 agencies an A, and found that fully 10% of requests fell through the cracks and were lost or otherwise ignored. The wildly inconsistent statistics from agency to agency are indicative of a process that is dysfunctional and in need of management.

When the City begins measuring FOIL, it can manage FOIL. Best practices from one agency can be repeated at other agencies, and agencies which are struggling because of a lack of resources (and not because of a poor workflow) can get the recognition and help they need to remain compliant.

In addition to FOIL metrics being critical to the management of FOIL, they can help inform the release of data from agencies to the public as open data, as well as between two agencies or two parts of the same agencies. The City has heavily invested in data exchanges of high value data both internally and externally, using the Office of Analytics's DataBridge to share data with agencies and other stakeholders.[7] With a big-picture view of FOIL requests, city managers can more completely understand what stakeholders need, and power the release of data.

References

[1] New York State Department of Health, *Technical Implementation: Smart FOIL Processing System*, September 2010: http://www.emc.com/collateral/customer-profiles/h8732-new-york-state-dept-health-cp.pdf

[2] United States Department of Justice, *Annual FOIA Reports*, visited April 3, 2014: http://www.justice.gov/oip/reports.html

[3] United States Department of Justice, *Summary of Annual FOIA Reports for Fiscal Year 2012*, July 18, 2013: http://www.justice.gov/oip/docs/fy2012-annual-report-summary.pdf

[4] *The Cost of Freedom of Information*, Anna Colquhoun, University College London, December 2010, http://www.ucl.ac.uk/constitution-unit/research/foi/countries/cost-of-foi.pdf

[5] What Do They Know, visited April 3, 2014: https://www.whatdotheyknow.com/help/about

[6] Jennifer Royer, *Balancing Transparency, Privacy, Technology, and Efficiency: Implementing Broome County's Freedom of Information Law in the 21st Century*, 2011: http://www2.binghamton.edu/ccpa/public-administration/current-students/capstone/Royer%20Final.pdf

The $100 figure is derived from the hourly labor cost for agency employees in Broome County, New York locating records responsive to FOIL requests, adjusted for the average salary statewide in New York, using data compiled by the Fiscal Policy Institute in *New York State Regional Wage/Salary/Cost of Living Differentials*, 2007: http://www.nyspef.org/pst2007/files/appendix_revised.pdf

[7] NYC Analytics, *NYC by the Numbers Annual Report – 2013*, December 2013: http://www.nyc.gov/html/analytics/downloads/pdf/annual_report_2013.pdf

THE COUNCIL
THE CITY OF NEW YORK

$$\boxed{Appearance\ Card}$$

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 6/9/14

(PLEASE PRINT)

Name: Maya Wiley

Address: City Hall

I represent: Mayor's Office

Address: _____

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Date: 6-9-14

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Address: 215 W 101 St   NY, NY 10026

I represent: myself

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

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I represent: myself

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THE COUNCIL
THE CITY OF NEW YORK

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Name: Paula Z. Segal

Address: _____

I represent: 596 Acres

Address: 69 Ninth Street

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I intend to appear and speak on Int. No. 149/328 Res. No. _____

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Date: 5/9/204

(PLEASE PRINT)

Name: Rebecca Williams

Address: 1818 N St Suite 300 Washington DC

I represent: Sunlight Foundation

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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☒ in favor ☐ in opposition

Date: 9 Jun 14

(PLEASE PRINT)

Name: NOEL HIDALGO

Address: 85 DRIGGS AVE 11222

I represent: BETA NYC; CODE FOR AMERICA

Address: _____

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Appearance Card

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Date: _6/9/14_

(PLEASE PRINT)

Name: GENE RUSSIANOFF

Address: 9 MURRAY ST

I represent: NYPIRG

Address: _____

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I intend to appear and speak on Int. No. _328_ Res. No. _____

☒ In Favor 148
☒ Favor 363

☒ in favor   ☐ in opposition

Date: _6/9/14_

(PLEASE PRINT)

Name: John Kaehny

Address: 601 W 113 NY 10013

I represent: Reinvent Albany

Address: 148 Lafayette St

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 149, 328, 363 Res. No. _____

☒ in favor   ☐ in opposition

Date: June 9, 2014

(PLEASE PRINT)

Name: Rachael Fauss

Address: _____

I represent: Citizens Union

Address: 299 Broadway Suite 700

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THE COUNCIL
THE CITY OF NEW YORK

| Appearance Card |

I intend to appear and speak on Int. No. __328__ Res. No. _____
☑ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Gale Brewer, Manhattan Borough President

Address: 1 Centre Street, 19th Fl, NY NY 10007

I represent: _____

Address: _____

▶ *Please complete this card and return to the Sergeant-at-Arms* ◀

THE COUNCIL
THE CITY OF NEW YORK

| Appearance Card |

I intend to appear and speak on Int. No. 149 328 363 Res. No. _____
☑ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Catherine Gray

Address: _____

I represent: League of Women Voters NYC

Address: 4 West 43rd, NYC

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