

COMMITTEE ON GOVERNMENTAL OPERATIONS, STATE

AND FEDERAL LEGISLATION

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CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL
OPERATIONS, STATE AND FEDERAL
LEGISLATION

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April 19, 2024
Start: 10:17 a.m.
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HELD AT: COMMITTEE ROOM - CITY HALL

B E F O R E: Lincoln Restler, Chairperson

COUNCIL MEMBERS:

Gale A. Brewer
David M. Carr
Shahana Hanif
Vickie Paladino
Inna Vernikov

COMMITTEE ON GOVERNMENTAL OPERATIONS, STATE
AND FEDERAL LEGISLATION

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A P P E A R A N C E S

Ethan A. Carrier, General Counsel for the
Conflicts of Interest Board

Carolyn Miller, Executive Director at the
Conflicts of Interest Board

Michael McSweeney, New York City Clerk

Damaris Acosta, New York City Clerk's Office

Patrick Synmoie, New York City Clerk's Office

Paul S. Ryan, Executive Director at the New York
City Campaign Finance Board

Ben Weinberg, Citizens Union

Susan Lerner, Executive Director of Common Cause
New York

Rachel Faus, Senior Policy Advisor for Reinvent
Albany

Blair Horner, Executive Director of the New York
Public Interest Research Group

Christopher Leon Johnson, self

1 COMMITTEE ON GOVERNMENTAL OPERATIONS, STATE AND
FEDERAL LEGISLATION

3

2 SERGEANT-AT-ARMS: Good morning. This is a
3 microphone check for the Committee on Governmental
4 Operations, State and Federal Legislation. Today's
5 date is April 19, 2024, located in the Committee
6 Room, recording done by Pedro Lugo.

7 SERGEANT-AT-ARMS: Good morning and
8 welcome to the New York City Council hearing of the
9 Committee on Governmental Operations, State and
10 Federal Legislation.

11 At this time, can everybody please
12 silence your cell phones.

13 If you wish to testify, please go up to
14 the Sergeant-at-Arms' desk to fill out a testimony
15 slip.

16 At this time and going forward, no one is
17 to approach the dais. I repeat, no one is to approach
18 the dais.

19 Thank you for your cooperation.

20 Chair, we are ready to begin.

21 CHAIRPERSON RESTLER: [GAVEL] Good
22 morning. My name is Lincoln Restler, and I am the
23 Chair of the Committee on Governmental Operations and
24 State and Federal Legislation. That's a mouthful. I'd
25 like to welcome my Colleagues who've joined us this

1 morning, especially Council Member Brewer who I'm
2 very happy to see and, of course, Brooklyn's newest
3 Council Member, the one and only David Carr. It's
4 good to see you both.
5

6 At today's hearing, the Committee will be
7 conducting an oversight will be conducting an
8 oversight hearing on New York City's lobbying laws
9 and necessary reforms. Governing doesn't happen in a
10 vacuum. We rely on external stakeholders for policy
11 expertise and technical information, but we must
12 ensure that there is transparency, accountability,
13 and integrity in our government and that certain
14 actors do not have an outsized influence. We need to
15 put careful limits and reporting requirements in
16 place to prevent people from profiting off of
17 government service and to demonstrate to our
18 constituents that this is a fair and just city with
19 leaders who are prioritizing the needs of our
20 constituents over special interests or self-dealing.
21 It's been over a decade since the City Council has
22 held a lobbying oversight hearing or considered
23 legislative updates to our current lobbying laws. I
24 want to thank Speaker Adrian Adams for her support in
25 holding our hearing today.

1
2 In the past decade, the lobbying industry
3 has exploded. In 2023, lobbyists were paid over 131
4 million dollars to lobby City officials. That's
5 nearly double what they brought in since our last
6 lobbying oversight hearing over a decade ago. It's
7 past time to take a fresh look at our lobbying laws
8 and consider what improvements we can make to
9 strengthen them. It is our responsibility to make
10 exceedingly clear to the public who has the ear of
11 their elected officials and how much they are paid to
12 exert their influence.

13 In addition to examining the
14 effectiveness of our City's lobbying laws, we will be
15 hearing three bills today that I believe would help
16 increase transparency and integrity in our city.
17 Intros 76 and 77 will close loopholes in existing
18 lobbying rules to end the revolving door of senior
19 staff exiting City government and immediately using
20 their power to lobby on behalf of shady clients. I
21 will offer the example of the Mayor's first Chief of
22 Staff, Frank Carone. He was involved in the hiring of
23 all senior officials. He was involved in every key
24 policy decision that was made by the Adams
25 Administration and, yet, he freely admitted that he

1 was building a future lobbying practice while working
2 in this very building. When he left City government
3 at the end of 2022, he was legally permitted to lobby
4 99 percent of City workers the very next day. The
5 only restriction he faced was advocating on behalf of
6 clients to people who worked in the Office of the
7 Mayor, but every other Mayoral agency was fair game.
8 To offer some insight into the scale of his practice
9 at Oak Tree Solutions, New York Magazine recently
10 reported that Carone's firm is generating at least 24
11 million dollars annually in lobbying fees.

12
13 Beyond senior City Hall staffers, current
14 laws fail to take into account the relationships that
15 the most senior agency leaders build across City
16 government, which is why our legislation would ban
17 the most powerful policy makers from lobbying any
18 City agency after leaving public service, not just
19 the one they work for. Our legislation would finally
20 make New York City's post government service lobbying
21 restrictions consistent with the widely heralded
22 paragon of good governance, Albany, New York. No one
23 should be allowed to leave a position of power in
24 City government and exercise that power to influence
25 City agencies as they pass through the revolving

1 door, and that applies to city Council Members, too.
2 That's why our second piece of legislation proposes
3 an expansion of anti-lobbying rules to ban former
4 Council Members from appearing before any City agency
5 for two years, not just the Council.
6

7 The loopholes in our existing system
8 undermine the integrity of our government and the
9 faith that New Yorkers have in us when their needs
10 are being overlooked at the expense of special
11 interests. We need to ensure our public officials are
12 committed to the public good, not to enriching
13 themselves.

14 Intro. 742, sponsored by my Colleague,
15 Council Member Gale Brewer, would prevent individuals
16 who have worked as a campaign fundraiser or political
17 consultant from lobbying the elected official whose
18 campaign they worked for a period of two years. When
19 a Council staffer leaves my office, they must wait
20 for a period of time before engaging the Council on
21 work-related issues. The same should be true for our
22 campaign staff.

23 I want to thank our Committee Staff,
24 Counsel Jayasri Ganapathy and Erica Cohen, for their
25 hard work in putting together this hearing. I'd also

1 like to thank my Communications Director, Nieve
2 Mooney, for her terrific work. She's also getting
3 married next week, so happy almost wedding, Nieve,
4 and I lastly want to thank my Chief-of-Staff, Molly
5 Haley, for putting so much work into this and being
6 extraordinary.
7

8 During the hearing, I will be calling on
9 panelists to testify. I'd like to remind everyone who
10 is testifying via Zoom that you will be on mute until
11 you are called on to testify at which point you will
12 be unmuted by the host.

13 For those of you who are testifying in
14 person, be sure to sign up with the Sergeant-at-Arms
15 in the back, even if you registered in advance. You
16 may approach the witness table when your name is
17 called and turn on your microphone before giving your
18 testimony.

19 At this hearing, we will be inviting
20 testimony from the Conflicts of Interest Board and
21 the City Clerk's Office, and then from members of the
22 public.

23 During the hearing, if Council Members
24 would like to ask a question of the Administration or
25

1 a specific panelist, please let me know and I will
2 call on you in order.
3

4 For all panelists, when called to
5 testify, please share your name and the organization
6 you represent, if any.

7 We will be also including the Campaign
8 Finance Board to answer questions as well.

9 We will now call representatives of the
10 Administration to testify. We will be hearing
11 testimony from the City Clerk Michael McSweeney, and
12 Deputy Clerk Damaris Acosta, Ethan Carrier, General
13 Counsel at the Conflicts of Interest Board and
14 Carolyn Miller, Executive Director of the Conflicts
15 of Interest Board, and we will also be joined for
16 questions by Paul Ryan, Executive Director of the
17 Campaign Finance Board.

18 At this time, I'd like to firstly
19 recognize Inna Vernikov. Thank you very much, Council
20 Member, for joining us this morning.

21 I'd like to call on the Committee Counsel
22 to administer the affirmation.

23 Oh, and Council Member Shahana Hanif. I
24 didn't see you sneak in there. Good morning.

1
2 Why don't we go to Council Member Brewer
3 for her opening remarks, and then we'll swear in the
4 folks testifying today. Thank you.

5 COUNCIL MEMBER BREWER: Thank you very
6 much, and thank you, Chair Restler, for your focus on
7 this issue. Many years ago, I was Chair of Government
8 Operations Committee, and I know how important this
9 topic is to the City of New York.

10 I want to just start by saying I have a
11 lot of respect for lobbyists. I think they bring
12 information that is crucial. They often have
13 lengthier careers in topics that sometimes because of
14 term limits and the way our City operates, more
15 expertise than many others, and it's vastly needed by
16 our City so I want to say that to start with.

17 Intro. 742, which I am a sponsor of,
18 along with Council Member Restler and others. He said
19 it correctly. If I have a staff member who is leaving
20 and becomes a lobbyist, they have to wait a year in
21 order to talk to me about any substantive issue.
22 However, just like many other people, I employ
23 individuals who helped me get elected, known as a
24 campaign advisor, sometimes it's a company, sometimes
25 it's an individual, sometimes it's a combination of

1 people. Those individuals, in my opinion, should
2 stick to campaign work. They should not be contacting
3 me about issues. According to the wonderful briefing,
4 and I always want to thank the Staff because these
5 briefings are phenomenal, lobbying of City Council
6 Members in 2023 accounted for 24 percent, and
7 lobbying of City Council Staff was 17 percent,
8 spending on lobbying the Mayor and his Staff
9 accounted for 9 percent, which apparently was much
10 more than previous Mayors, who averaged between 4 and
11 6 percent and, as you heard from the Chair, there's a
12 lot more money involved in lobbying today so it is
13 important for me, when you think about the Mayor, the
14 Public Advocate, the City Comptroller, the Borough
15 President, and Council Members, all of whom, I
16 believe, employ individuals to help us get elected. I
17 personally don't want somebody who's helping me get
18 elected, for whom I have great respect, coming to me
19 with an issue. Number one of lobbying topics is real
20 estate followed by non-profits, and I may have a lot
21 of respect for the real estate firms and a lot of
22 respect for the non-profits but, if they want to talk
23 to me, they should call me individually. I'm happy to
24 talk to almost anybody. There may be a few people I
25

1 don't want to talk to, but most people I will talk
2 to, and so the issue is do it that way, do not have
3 your campaign people. Similarly, somebody who's
4 working with you on substantive lobbying issues, I
5 don't want them to be running somebody's campaign. To
6 me, that is a mix that should not exist. To my
7 experience, most people separate them. They either do
8 campaign work or they do lobbying work. They don't
9 mix. But there are some that do, and I think that's a
10 situation that should not exist. Thank you very much,
11 Mr. Chair.

13 CHAIRPERSON RESTLER: Thank you so much,
14 Council Member Brewer. I will say that in preparing
15 for this hearing, I did look back to transcripts from
16 when you were Chairing the Committee and was very
17 impressed, and it's unfortunate that we're still
18 talking about some of the same issues that you were
19 advocating for 15-odd years ago today, but that's
20 where we are and we're going to keep pushing.

21 Without further ado, I'd like to invite
22 the members of the Administration who are here to
23 testify or members of City government who are here to
24 testify. I'll call the representatives again up to
25 join the panel, City Clerk Michael McSweeney and

Deputy Clerk Damaris Acosta, Ethan Carrier and
Carolyn Miller from the Conflicts of Interest Board,
and Paul Ryan from the Campaign Finance Board, and
Patrick Synmoie from the Clerk's Office as well.

COMMITTEE COUNSEL GANAPATHY: Thank you,
panelists. Will you please raise your right hand so I
can administer the affirmation?

Do you affirm to tell the truth, the
whole truth, and nothing but the truth before the
Committee and respond honestly to Council Member
questions?

ADMINISTRATION: I do.

COMMITTEE COUNSEL GANAPATHY: Thank you.
You may proceed.

CHAIRPERSON RESTLER: Should we start with
COIB and then perhaps the Clerk's Office after that?

GENERAL COUNSEL CARRIER: Yeah, that's
just fine with us. We just want to make one little
note before we start. We're not part of the
Administration. We're an independent City agency.

I am Ethan Carrier. Good morning, Chair
Restler and Members of the Committee on Government
Operations, State and Federal Legislation. I'm the
General Counsel at the Conflicts of Interest Board.

1 Here with me is the Board's Executive Director,
2 Carolyn Lisa Miller. We are here on behalf of COIB to
3 offer testimony about Intros 76 and 77 of 2024.
4

5 Since its creation by the voters of the
6 City of New York in 1989, COIB has been entrusted to
7 administer the City's Conflicts of Interest Law found
8 in Chapter 68 of the City Charter to fulfill a
9 critical mission to preserve the trust placed in
10 public servants of the City, to promote public
11 confidence in government, to promote the integrity of
12 government decision-making, and enhance government
13 efficiency. COIB supports the Council's interest in
14 furthering this mission. However, when considering
15 proposed amendments to Chapter 68, it is critical to
16 maintain the delicate balance of both public
17 interests at play here, the need to limit the reality
18 and appearance of undue influence by former public
19 servants on government decision-making versus the
20 need to continue to attract highly qualified people
21 to City service. By seeking to amend Chapter 68
22 through legislation rather than through a Charter
23 Revision Commission, that balance may not be
24 achieved, the interests of the impacted stakeholders
25 will likely not be fully accounted for, and

1
2 unintended consequences could well result. First,
3 some brief historical background. The first post-
4 employment communication ban imposed on former public
5 servants in New York City was proposed by the 1986-88
6 Charter Revision Commission and approved by the
7 voters in November 1988. That restriction found in
8 Charter Section 2604(d)(2) was narrowly tailored and
9 straightforward, prohibiting almost every public
10 servant from appearing, a defined term in Chapter 68
11 that essentially means communicating for
12 compensation, before their former City agency for one
13 year. For elected officials, deputy mayors and the
14 heads of six named city agencies, the restriction
15 extended to the branch of government served, which
16 for Council Members was the City Council and, for the
17 other named officials, was the entire executive
18 branch. This new prohibition supplemented two long
19 standing post-employment restrictions, Charter
20 Section 2604(d)(4), which prohibits a former public
21 servant from profiting from or communicating with any
22 city agency about a particular matter on which they
23 worked at the City, and Charter Section 2604(d)(5),
24 which prohibits a former public servant from using or
25 disclosing confidential information obtained from

1 City service. In essence, Charter Section 2604(d)(2)
2 was added to serve as a one-year buffer for former
3 public servants communicating with their former City
4 agency, even on matters that they had nothing to do
5 with in their City work and involve no confidential
6 information. Charter Section 2604(d)(2) remained
7 unchanged for 32 years. During that 32-year period,
8 COIB provided extensive guidance and education to
9 former public servants about the application of the
10 one-year post-employment communication ban, including
11 31 advisory opinions and countless pieces of formal
12 and informal advice to individual public servants.

14 The first and only changes to the
15 original one-year communication ban were proposed by
16 the 2019 Charter Revision Commission created by the
17 City Council. The proposal substantially increased
18 the complexity of the ban by creating a multi-tiered
19 restriction. The first tier is most public servants
20 still subject to the same one-year ban. The second
21 tier is elected officials and the same small group of
22 high-level officials identified in the original first
23 year post-employment ban for a branch-wide
24 prohibition. They have the same branch-wide
25 prohibition, but now for two years instead of one.

1 The third tier is a new group of public servants, the
2 head of an agency that is not a board or commission,
3 the executive director, or highest ranking public
4 servant employed by a board or commission, and any
5 paid member of a board or commission. For this third
6 tier, they are now subject to a two-year ban, but
7 only for their agency served. The proposed amendments
8 were approved by the voters in November 2019 and
9 became effective for public servants who left City
10 service in January 2022.
11

12 So some concerns about process. These
13 significant changes are the only changes to the
14 restrictions to Chapter 68 since it was approved by
15 the voters in November 1988, and they took effect
16 just over two years ago. Two years is too short of a
17 time to judge the impact of those Charter amendments,
18 in particular, the impact on that delicate balance
19 between limiting the appearance and reality of undue
20 influence on government decision-making with the need
21 to attract the best professionals to City service.
22 There may come a time when it becomes clear that
23 amendments to the post-employment communication ban
24 are necessary, but now is not that time. Moreover, if
25 such a time should come, proposals to amend the

1 Charter should be considered through a Charter
2 Revision Commission process. This is how the
3 prohibitions of Chapter 68 have been amended
4 historically, and for good reason. The Charter
5 Revision Commission engages in a longer deliberative
6 process and seeks through multiple public hearings
7 the input of a large cross-section of stakeholders.
8 Here, such stakeholders would include the current
9 public servants impacted by change in their post-
10 employment job opportunities, hiring managers at City
11 agencies such as the Department of Housing,
12 Preservation, and Development, who have struggled to
13 retain and replace essential professionals in the
14 current job environment, and those who work in
15 transition teams or appointment offices on the
16 recruitment, appointment, and retention of agency
17 heads and people to serve on city boards and
18 commissions. Finally, if any changes to Charter
19 Section 2604(d)(2) were to be made now, they should
20 be limited to the referendum on the conduct of
21 elected officials in Intro. 76. To proceed as now
22 proposed, that is to enact both Intro. 76 and Intro.
23 77, would effectively restrict the conduct of non-
24 electeds first. Then, if and when such referendum was
25

1 on the ballot, there would be no real choice for
2 voters because what voter would want a ban on elected
3 officials to be less restrictive than other senior
4 government officials?
5

6 Some concerns about substance. Chapter 68
7 itself and the 2019 amendments were the result of an
8 extensive deliberative process with substantial input
9 and consideration. Any serious change to the
10 regulation of former public servants' conduct should
11 be carefully crafted and as narrow as possible to
12 balance the admirable purpose of ensuring the
13 integrity of government decision-making while not
14 unduly restricting the future professional lives of
15 current public servants. Any additional restriction
16 might have serious collateral consequences for the
17 recruitment of qualified people for important
18 positions throughout City government. COIB's concerns
19 about the substance of Intro. 77 reflect only what
20 this agency has identified in the brief time it has
21 considered this legislation. We would anticipate that
22 additional substantial concerns would come from the
23 many voices that would emerge in a Charter Revision
24 Commission process.
25

Some concerns about part-time and unpaid policy makers. Chapter 68 imposes lesser restrictions on the conduct of part-time public servants with the implicit understanding that their public service must co-exist with their primary, private employment.

Intro. 77 erases this distinction by adding public servants charged with substantial policy discretion, what we call policymakers, to the category of those with a two-year post-employment communication ban.

Many policymakers are part-time public servants, largely those who are members of boards and commissions and some part-time members of boards and commissions are unpaid. Intro. 77 would impose a one-year post-employment citywide communication ban on part-time unpaid policymakers followed by a second-year of an agency specific ban. The unwanted

consequences of this proposed change are demonstrable in one such Commission, Landmarks Preservation. LPC

Commissioners are policymakers who serve part-time and unpaid. Under Charter Section 3020, the 11

Commissioners of the LPC shall include at least three architects, one historian qualified in the field, one city planner or landscape architect, and one realtor.

Under the current law, an architect serving as an LPC

1 Commissioner is prohibited from communicating with
2 LPC during their City service and for one year after
3 departure. Under Intro. 77, that architect would be
4 prohibited from communicating with LPC during their
5 City service but, after departure, would have a much
6 more extensive restriction citywide for one year and
7 then LPC for a second year. A citywide communication
8 ban would effectively preclude an architect from
9 maintaining their practice in the city by prohibiting
10 them from communicating with agencies essential to
11 construction, such as the Department of Buildings,
12 the Department of Transportation, and the Department
13 of Environmental Protection. The City needs industry
14 professionals to be willing to serve on LPC. It is
15 difficult to imagine any architect, city planner, or
16 realtor willing to make that level a professional
17 sacrifice for an unpaid City position, and it is
18 likely that current LPC Commissioners who are active
19 industry professionals would resign before Intro. 77
20 takes effect. The same circumstance exists for many
21 other similarly situated City Boards and Commissions,
22 including many barely paid members of Boards and
23 Commissions, and the recruitment challenges would
24 impact elected officials other than the Mayor. The
25

1 Taxi and Limousine Commission and the Board of
2 Correction, for example, both have part-time unpaid
3 Board Members appointed by the City Council and would
4 be subject to a two-year post-employment
5 communication ban, including a citywide ban of the
6 first year.
7

8 I'm going to talk a little bit about
9 full-time policymakers. Policymakers is a term
10 defined in Board Rule Section 1-02. These are public
11 servants designated as such by their agencies. The
12 designation criteria are imprecise and vary greatly
13 depending on the agency's size, hierarchy, and
14 service structure, whether operating centrally or in
15 district or borough offices. Mindful of this, over
16 much of 2023, the Board worked to amend Board Rule
17 Section 1-02 to create a more uniform set of
18 policymakers across differently sized and structured
19 City agencies but failed to identify criteria that
20 would not be either over-inclusive or under-
21 inclusive. Without a better option, the Board elected
22 to leave the policymaker definition as is and engage
23 in more fact finding and auditing instead. In its
24 current form, policymakers is a widely overbroad
25 category upon which to impose a two-year post-

1 employment communication ban. It likely includes
2 hundreds of public servants without the portfolios or
3 responsibilities that would cause them to have any
4 influence on an agency other than their own. For
5 policymakers at agencies already experiencing
6 difficulties with hiring and retention, approximately
7 60 at the Department of Housing, Preservation, and
8 Development, over 100 at the Department of Health and
9 Mental Hygiene, for example, there is a strong
10 possibility that there would be resignations before
11 Intro. 77 took effect and even greater challenges in
12 recruiting good candidates.
13

14 A couple of other overbroad categories.
15 While there may be others, COIB has identified two
16 other anomalies that would result from Intro. 77's
17 new multi-tiered structure. In Intro. 77's second
18 category, the Executive Director or highest-ranking
19 public servant employed by a board or commission
20 would be subject to a one-year citywide ban followed
21 by a second-year agency-only ban. This would mean
22 that district managers at Community Boards earning
23 between 75,000 and 95,000 dollars per year on average
24 would be prohibited from communicating with all of
25 City government for one year, the result

1 disproportionate to their influence with any City
2 agency other than their own Community Board. In
3 Intro. 77's third category, policymakers "in service
4 of the Executive Office of the Mayor" would be
5 subject to a two-year citywide ban. This would mean
6 that the 19 members of the Mayor's Advisory Committee
7 on the Judiciary, part-time unpaid policymakers,
8 would be subject to a two-year citywide communication
9 ban. Members of the Mayor's Advisory Committee on the
10 Judiciary who include law firm partners, arbitrators,
11 and the CEOs of the City not-for-profit would likely
12 resign before being subject to such an expansive
13 prohibition, and it is hard to imagine what qualified
14 individuals would be willing and able to replace
15 them.
16

17 These are just a handful of the examples
18 of the impact of the proposed amendments on the
19 hiring and retention of qualified individuals to
20 serve in City government, whether as full-time
21 professionals or part-time board members. We would
22 anticipate that those who work in recruitment and
23 hiring of agency heads and board members would have
24 even more examples. COIB stands ready to work to
25 advance, as the Charter mandates, both the integrity

1
2 and efficiency of City government, and we are
3 available to answer any questions the Council Members
4 may have. Thank you.

5 CHAIRPERSON RESTLER: Thanks for that.
6 We'll now turn over to the Clerk.

7 Actually, if you don't mind, I just want
8 to thank Council Member Paladino for joining us
9 today. Sorry. Mr. Clerk.

10 CITY CLERK MCSWEENEY: Chairperson
11 Restler, Council Members, it is an honor to be
12 invited to testify in the Council Chambers today. I
13 thank the Committee on Government Operations and
14 State and Federal Legislation for this privilege.

15 Let me start by acknowledging some of my
16 Senior Staff Members who are in attendance today.
17 Damaris Acosta, Deputy City Clerk in charge of the
18 Lobbying Bureau, , newly returned Deputy General
19 Counsel Jaime Chirichella who has joined us but not
20 at this table, and General Counsel Patrick Synmoie.

21 Since Local Law 129 of 2013 has been
22 enacted, lobbying compensation has doubled as you
23 pointed out earlier. Our 2014 Annual Report listed
24 lobbying compensation in the amount of almost 63
25 million dollars. Our most recent report in 2024

1 listed compensation to the tune of almost 131
2 million. In 2014, we reported that 1,972 statements
3 of registration were filed as compared with 2,282,
4 which were reported in 2024. The Office of the City
5 Clerk is responsible for the regulation of all
6 lobbying activity in New York. Our Office first
7 regulated lobbying of local officials in 1972, when
8 the Council passed Local Law 79 of 1972 and then
9 Local Law 86 of 1973.
10

11 Through the Lobbying Bureau, we conduct
12 outreach, training, compliance reviews, audits and
13 investigations, and enforcement to ensure that all
14 entities who attempt to influence New York City
15 government, namely lobbyists and clients, not only
16 file requisite reports timely and accurately, but
17 adhere to the text and spirit of the law. Our primary
18 goal has been and continues to be transparency in
19 government. The promotion of transparency in
20 government is a tool that not only educates the
21 public but also serves as a cornerstone to protect
22 integrity in government and to combat waste, misuse,
23 fraud, and corruption.

24 New York City Administrative Code
25 Sections 3-211 through 3-223 regulate the conduct of

1 lobbyists and their clients. There are two types of
2 lobbyists, the professional standalone lobbyist and
3 lobbyist client filers who are essentially in-house
4 lobbyists. A lobbyist is a person, business, or
5 organization that is retained by a client to engage
6 in lobbying in New York City. A lobbyist client filer
7 is an entity whose employees lobby on behalf of the
8 person, business, or organization itself. The client
9 is any business, person, or organization who retains,
10 employs, or designates another entity to engage in
11 lobbying activities on its behalf. Currently, there
12 are approximately 200 lobbyists, 450 lobbyist client
13 filers, and 2,282 clients registered in e-Lobbyist.
14 In 2023, 2,891 statements of registration were filed
15 by lobbyists and lobbyist client filers.
16

17 The law defines lobbying as an attempt to
18 influence 11 specific activities, including 1)
19 legislation by the City Council, 2) local legislation
20 by the Mayor, 3) contracts or public monies, for
21 example, discretionary funds awarded by Council
22 Members, 4) determinations involving zoning or land
23 use, 5) determinations regarding the sale or purchase
24 of real estate, 6) any determination regarding a
25 rule, 7) agency rate-making proceedings, 8) the

1 agenda or determination of a New York City Board or
2 Commission, 9) calendaring or scope of a Council
3 oversight hearing, 10) Mayoral Executive Orders, and
4 11) any support or opposition of federal or state
5 legislation, rule, or regulation by a New York City
6 elected official or employee. The lobbying reporting
7 system is a self-reporting system and the
8 determination of whether an activity is reportable is
9 a detailed fact-specific three-part analysis. The
10 filer must first review the 11 defined activities,
11 which I just stated, the list of excluded activities,
12 and the reporting threshold of over 5,000 dollars per
13 year, and determine whether reporting is required.
14 The obligation is on the filer upon consultation with
15 their counsel, if they have one or they choose to
16 retain one, to review the facts and law and report
17 accordingly. Ultimately, the filer must look to the
18 nature and intention of the communications, who is
19 communicating with whom and for what purpose, and
20 determine whether reporting is required.
21

22 Required reports are client-based and
23 include a statement of registration and up to six
24 periodic reports for each client, fundraising and
25 political consulting reports if applicable, and

1
2 termination notices if applicable. Every client is
3 responsible for filing termination notices as well as
4 a client annual. I want to emphasize the point that
5 the Lobbying Law apply applies the same to all
6 entities, regardless of whether an entity is a for-
7 profit or a non-profit organization. This includes
8 foundations, not-for-profit organizations, and
9 charities. Per the Administrative Code, all people
10 and all entities that attempt to influence the City
11 government fall under the jurisdiction of the Office
12 of the City Clerk regardless of trade or profession.
13 I would like to point out that there is no such thing
14 as illegal lobbying as lobbying is a constitutionally
15 protected form of freedom of speech. The question
16 falls as to whether communication with elected
17 officials or officers or employees of the City
18 government are reportable.

19 Since its inception in 1972, the Lobbying
20 Law has been amended multiple times. However, the
21 most significant amendments occurred via Local Law 15
22 of 2006 and Local Law 129 of 2013. The amendments
23 contained in Local Law 129 of 2013 were based in
24 large part upon the recommendations of the Lobbying
25 Commission. The Lobbying Commission consisted of a

1 panel of experts from all areas of government, both
2 public and private sector. The amendments of 2013
3 were expansive and included an expansion of the
4 definitions of lobbying, increasing the City Clerk's
5 reporting requirements, codification of daily late
6 fines for late reports, implementation of a mandatory
7 training program for all lobbyists, initiation of a
8 one-time amnesty program, and the creation of a
9 system for applications for waivers or reductions of
10 late fines and civil penalties. The amnesty period
11 commenced on January 1, 2016, and continued through
12 June 30, 2016. The Lobbying Bureau received 127
13 applications for amnesty and, ultimately, 120
14 entities were granted amnesty, allowing them to file
15 reports without penalty.
16

17 From 2013 to 2023, the rules of the City
18 have been amended four times to implement numerous
19 important changes, including the amendment of the
20 rules in their entirety in 2015 to conform to newly
21 mandated provisions of Local Law 129 of 2013, the
22 amendment of Section 1-16(d) (2) regarding the
23 deadline for submission of amnesty applications, the
24 addition of Sections 111(c) (2) and (3) to add a
25 provision defining what constitutes minor

1 authorizations by the City Planning Commission on
2 minor decisions related to real property and most
3 recently, 4) amendments to remove automatic
4 extensions granted due to late enrollment per Section
5 111(c) (2).

7 In 2018, the Lobbying Bureau announced
8 the New York City Lobbyist Search Database. The
9 enhanced capabilities of this system greatly assisted
10 our continued efforts to promote transparency in
11 government. The enhancements included dropdown menus
12 by year, lobbying subjects and lobbying targets, text
13 search capabilities including the ability to search
14 by any lobbyist, client, employee, or government
15 target name, the ability to print reports, and the
16 expansion of the available information, including
17 retainer agreements and fundraising and political
18 consulting reports. NYC Lobbyist Search, which is
19 updated twice monthly, has allowed the public to
20 access lobbying information more quickly and more
21 efficiently. The implementation of NYC Lobbyist
22 Search allows any member of the public to have
23 information at their fingertips rather than submit a
24 FOIL request, which can be a lengthy and time-
25 consuming process.

1
2 In addition, we were able to partner with
3 the NYC Office of Technology and Innovation, OTI,
4 formerly known as DoITT, to create a lobbyist data
5 platform as part of NYC Open Data. The program allows
6 any member of the public to download the entire
7 lobbying database without confidential information in
8 CSV format. Both Lobbyist Search and NYC Open Data
9 have served as a tool for not only the public but
10 also the media and fellow governmental agencies from
11 all levels and from all over the country to conduct
12 their own research and investigations. For example,
13 recently we received inquiries from the City of
14 Chicago and the Federal Reserve Board, Department of
15 Research and Statistics, and we've had many more
16 going back years before that. Each year, the Lobbying
17 Bureau staff reviews over 20,000 reports submitted on
18 the e-Lobbyist system for timeliness and
19 completeness. On average, the Lobbying Bureau
20 collects between 200,000 and 250,000 in registration
21 fees each year. In addition, each year, the Lobbying
22 Bureau continues its efforts to uncover unreported
23 NYC lobbying by comparing statements of registration
24 filed with the New York State Commission on Ethics
25 and Lobbying in Government, CELG, with the statements

of registration filed on the e-Lobbyist system. In 2022, 6,777 state reports were reviewed. In 2023, 9,141 reports from the state were reviewed.

Since 2013, late filers have been afforded the opportunity to apply for a waiver and/or reduction of late fines and civil penalties.

Applications are reviewed by a Committee per the standards set forth in the Administrative Code. The Committee takes the following factors into account in determining whether a waiver or reduction is appropriate including whether and how the lobbyist or client has filed late in the past, the annual operating budget of the lobbyist or client, whether the lobbyist lobbies solely on its own behalf, for periodic reports the number of lobbying matters, number of hours spent, working on those matters, and the amount of compensation and expenditures that were not reported during the relevant period and the significance of the impediments to timely filing faced by the lobbyist or clients.

Pursuant to the rules, significant impediments are used in Section 1-12(f)(ii)(D) of the rules are limited to the death of the principal officer or designee or immediate family members

thereof, the illness of the principal officer or
designee, or a force majeure.

The Lobbying Bureau works diligently to
timely and accurately respond to all requests for
filing assistance and provides written responses and
advisory opinions interpreting the law. In 2023, we
responded to over 5,000 requests for filing
assistance and interpretations of the law. Each year,
our annual report contains data and analytics on the
type and numbers of requests received.

The Office of the City Clerk is engaged
in numerous outreach and training initiatives. Every
new lobbyist is required to attend training within 15
days from its first registration. Every experienced
lobbyist attends training every two years. Training
is held via Microsoft Teams platform and is also
available via pre-recorded video. Each year we
conduct approximately 10 to 15 sessions, which are
attended by 300 lobbyists on average. Notably, our
help desk is available via phone and email to answer
basic questions or for step-by-step e-Lobbyist filing
assistance and opine on complex inquiries.

When it comes to lobbying in New York
City, the constant pattern has been one of growth.

1 Each year, as mandated by the Administrative Code, we
2 publish an annual report which contains detailed
3 analytics including the number and complaints
4 received from the public, the number of random audits
5 conducted by the City Clerk and the outcomes thereof,
6 compliance programs developed and implemented for
7 lobbyists and clients, the number and type of
8 requests for assistance related to the Lobbying Law
9 received by the City Clerk, the number of lobbyists
10 and filing and statements of registration for the
11 first time, the subject matter of lobbying activity
12 most frequently reported by lobbyists, the lobbyist
13 targets most frequently reported by lobbyists, the
14 lobbyist that received the highest compensation, and
15 such other information and analysis as the City Clerk
16 deems appropriate.
17

18 We are pleased to provide feedback with
19 respect to the proposed law changes and answer any
20 questions regarding the enforcement of the City's
21 Lobbying Law. Thank you for your time and attention.
22 I'd be happy to answer any questions from the
23 Committee.

24 CHAIRPERSON RESTLER: Thanks so much, Mr.
25 Clerk. Appreciate you and your team being here, and

1 thank you, Mr. Ryan, we appreciate you being here for
2 questions.
3

4 I think I'll start with some questions
5 for COIB then kick it over to my Colleagues, and then
6 ask questions of the other agencies. So just firstly,
7 my understanding is that COIB has a relatively small
8 staff, just 21 positions currently budgeted. I think
9 that's down 16 percent from 25 positions prior to the
10 Mayor coming into office in 2021. Is that right, and
11 do you have sufficient resources to meet all of your
12 charter mandates, and what impact does the recent PEG
13 that the Mayor imposed, which would cut two
14 positions, have on your operations?

15 EXECUTIVE DIRECTOR MILLER: We endeavor.
16 Right now, we have 22 employees. The PEG is for 21
17 so, when the next employee, whomever he or she might
18 be leaves, we won't be authorized to hire a new
19 replacement for that person. We've lost someone in
20 our Education Unit. We've lost a paralegal who
21 supports the legal work of the entire agency and,
22 most recently, an attorney in our Enforcement Unit,
23 which an Enforcement Unit of four people, losing one
24 person is essentially 25 percent of the ability of
25 the agency to pursue complaints of violations of the

1
2 Conflicts of Interest Law so we have always been a
3 very small City agency. We consider ourselves
4 punching above our weight as it were but, in an
5 agency that in January 2022 was 25 people and now is
6 just 22 people, it's a very significant to lose those
7 individuals who work to give advice, to pursue
8 enforcement, and to train over 300,000 City
9 employees.

10 CHAIRPERSON RESTLER: I think we'd all
11 agree that the COIB (INAUDIBLE) count has long
12 punched above its weight. Just in all seriousness, as
13 Mr. Carrier testified at the beginning of his
14 remarks, COIB is not technically a Mayoral agency,
15 but it's subject to Mayoral approval on your
16 headcount and your budget. Is that problematic that
17 you're both tasked with kind of ensuring ethics
18 compliance of the Mayor and he's responsible for
19 determining your staff capacity, and budget.

20 EXECUTIVE DIRECTOR MILLER: The Conflicts
21 of Interest Board has long sought an independent
22 budget in various, when there have been Charter
23 Revision Commissions, the Board has testified seeking
24 an independent budget like the Campaign Finance Board
25 and other similar agencies have. The Board proposed

1 extensive series of Charter amendments back in 2009
2 and submitted them to the City Council at that time,
3 also with the request for an independent budget, so
4 there are challenges to have the same sort of
5 category of individuals who are subject to the
6 regulation of the Conflicts of Interest Board aAlso
7 decide the staffing and budget of the Conflicts of
8 Interest Board.
9

10 CHAIRPERSON RESTLER: Great. We did read
11 those 2009 recommendations and would certainly
12 support them. A review of COIB's enforcement actions
13 showed that there had only been approximately 30
14 fines imposed for post-employment violations in the
15 previous decade. How do you monitor potential
16 violations, and I'll just add my back of the envelope
17 math is that we see turnover about 20,000 people a
18 year in City government so over a decade we're
19 talking about 200,000 people that have left City
20 government, but we've seen only 30 post-employment
21 violations issued so that's less than one-tenth of 1
22 percent. How have we been doing it? What more can we
23 be doing to identify folks who are violating this
24 rule?
25

EXECUTIVE DIRECTOR MILLER: I'd say first that the City workforce is huge, people work 24 hours a day, Sanitation workers start shifts in the middle of the night, City doctors, City teachers have very regulated schedules. It's very difficult to reach City employees to educate them about their obligations under the Conflicts of Interest Law. That all being said, among the provisions that's most commonly understood by people is the gifts rule and the one-year post-employment communication ban, and I would say that it's quite effective that most times when our educators go into City offices to teach people about the Conflicts of Interest Law, most people will raise their hand that they understand that they can't communicate with their former City agency for one year so I think in some ways the lack of enforcement actions is a reflection of a very effective educational structure by our agency and by agencies themselves for their own employees. Many agencies have in the offboarding, there's probably a better word for that, procedure to tell people about the post-employment restriction. We have no investigators on our staff. That was a structure that was created by the Charter Revision Commission back

1
2 in 86-88 to separate the enforcement mechanisms from
3 the investigation mechanisms so we rely on the
4 Department of Investigation to investigate, but I
5 will say that because most City employees are aware
6 of that one-year agency-only ban, if a former
7 colleague communicates with them about a private
8 business or a not-for-profit or some other city
9 contract, the contact is very limited. It's just that
10 one communication, and someone reports it either to
11 the agency or to the Conflicts of Interest Board.
12 There could always be more education. We are very
13 serious about doing enforcement so, if there's a
14 complaint that we receive, we pursue it, we prosecute
15 it, and we endeavor to educate the public servant
16 involved because usually the complaint happens so
17 quickly that they're still in their first post-
18 employment year, and so we can ensure that no further
19 violations occur.

20 CHAIRPERSON RESTLER: When we're finding
21 approximately three violations a year and 20,000
22 people are leaving City service, it's possible that
23 everybody's just complying with the rules and the
24 law. It's possible that the loopholes are so big that
25 people can drive a truck through them, or it's

1 possible that we just don't have the enforcement
2 capacity to catch people that are doing the wrong
3 thing.
4

5 I want to ask about, why don't we shift
6 to the hypothetical situation of the Mayor's Chief-
7 of-Staff who had approved all hiring decisions, been
8 involved in every key policy decision in the Mayor's
9 first year in office, decides to leave City
10 government. Could you just remind us what are the
11 restrictions currently on who he can appear before
12 after he leaves City service?

13 GENERAL COUNSEL CARRIER: Before I do
14 that, let me just add a fourth category to the three
15 that you listed of why it is there aren't that many
16 post-employment violations. When you have a City
17 workforce that's very well-educated about what the
18 post-employment restrictions are, when a former
19 public servant of that agency tries to contact his
20 former colleagues, they know what the rules are, and
21 they tell that person we won't talk to you so they're
22 in fact shutting this communication down before
23 anything substantive actually happens. I think that
24 happens all the time. I actually get calls from
25 attorneys at City agencies just saying, hey, we're

1 just confirming, this guy wanted to talk to us, we
2 said we can't, we're right, right, he's still in his
3 first year, the restriction applies that way. That's
4 right, and there's no reason to like fine somebody
5 money when the City agency identifies it right at the
6 outset and nothing...

8 CHAIRPERSON RESTLER: Of course, it's...

9 GENERAL COUNSEL CARRIER: That fourth
10 category is important, I think actually covers
11 thousands of such attempts probably each year.

12 With regard to the senior staff at the
13 Mayor's Office...

14 CHAIRPERSON RESTLER: Specifically Chief-
15 of-Staff leaves the Mayor's Office, what are the
16 exact restrictions that are on him when he departs
17 City service.

18 GENERAL COUNSEL CARRIER: Right, so the
19 Chief-of-Staff at the Mayor's Office is one of the
20 people who continues to have a one-year post-
21 employment communication ban with his former agency
22 served, which for the Mayor's Office would be the
23 Mayor's Office and all the Mayor's Offices of...

24 CHAIRPERSON RESTLER: Right.

1
2 GENERAL COUNSEL CARRIER: So all the sort
3 of satellite entities created by...

4 CHAIRPERSON RESTLER: Just to confirm the
5 Mayor's Chief-of-Staff is not permitted to speak to
6 people who work in the Mayor's Office, about 1
7 percent of City government, but is permitted to
8 engage and appear before the very next day every
9 Mayoral agency in the City of New York.

10 GENERAL COUNSEL CARRIER: Yeah, though,
11 that 1 percent is a little misleading of a number,
12 right, because it's the Mayor's Office.

13 CHAIRPERSON RESTLER: It's 1 percent of
14 the city workforce. It's maybe 3,000 or so employees
15 out of well over 330,000, and he can appear before
16 every agency head in the City of New York and lobby
17 them the very next day, 24 hours later. Correct?

18 GENERAL COUNSEL CARRIER: Yes, so he is
19 not subject to a one-year communication..

20 CHAIRPERSON RESTLER: Right.

21 GENERAL COUNSEL CARRIER: But hold on.
22 That's not the only post-employment restriction he's
23 subject to. He's also subject to the lifetime
24 particular matter ban, which would prohibit him from
25 communicating with any City agency, whether

1
2 compensated or not, about any particular matter on
3 which he worked when he was at the Mayor's office.

4 CHAIRPERSON RESTLER: I do want to come
5 back to that. It was reported widely that, while
6 working in this building as Chief-of-Staff to the
7 Mayor, he solicited and signed clients or solicited
8 clients and agreed to lobby on their behalf after he
9 departed from City service. Is that right?

10 GENERAL COUNSEL CARRIER: I have no idea.

11 CHAIRPERSON RESTLER: It's been widely
12 reported in Politico, City and State, and many other
13 outlets and, in fact, Brendan McGuire, the former
14 Chief Counsel to the Mayor who's now his defense
15 attorney, had to correct on the record his statements
16 because Mr. Carone admitted. You're aware of these
17 reported articles in the press?

18 GENERAL COUNSEL CARRIER: Yes, I've seen
19 the articles. I'm just saying I that's, and I
20 wouldn't be able to comment on anything else that I
21 might know about...

22 CHAIRPERSON RESTLER: Well, I'm going to
23 keep asking questions so is it permissible for a City
24 employee to build a book of clients, lobbying clients

1 while working in City government for future lobbying
2 practice?
3

4 GENERAL COUNSEL CARRIER: It really
5 depends on the details of those circumstances. I
6 don't...

7 CHAIRPERSON RESTLER: Give us some insight
8 here.

9 GENERAL COUNSEL CARRIER: I don't want to
10 comment here about the particular conduct of any
11 particular public servant, and that's inevitably...

12 CHAIRPERSON RESTLER: How about we do a
13 hypothetical? Chief-of-Staff to the Mayor.

14 GENERAL COUNSEL CARRIER: We know who
15 we're talking about here.

16 CHAIRPERSON RESTLER: Yes.

17 GENERAL COUNSEL CARRIER: So I don't want
18 to, I don't want to comment about the particular
19 conduct of any particular public servant.

20 CHAIRPERSON RESTLER: Okay, but I'm
21 concerned, what's the status of COIB's investigation
22 into this matter?

23 GENERAL COUNSEL CARRIER: That would be
24 illegal for me to disclose to you, even whether there
25 is such a thing, but let's focus on Intro. 77, right?

1
2 CHAIRPERSON RESTLER: No, I'm going to
3 drive the questions on this one. Somebody works in
4 City Hall, is recruiting lobbying clients, right, and
5 you're not able to confirm whether that is
6 permissible? The Chief-of-Staff to the Mayor, the
7 most powerful person in City government shy of the
8 Mayor himself, is recruiting lobbying clients for his
9 future practice, you're not able to confirm whether
10 that's legal or not.

11 GENERAL COUNSEL CARRIER: Chair Restler,
12 I'm not able to say the answer to that question for
13 two reasons. One is I don't actually know the facts
14 of the circumstance...

15 CHAIRPERSON RESTLER: But it's been widely
16 reported in the press exactly which clients he
17 retained prior to leaving office.

18 GENERAL COUNSEL CARRIER: Again, because I
19 don't know or could not disclose the facts of any
20 such circumstance...

21 CHAIRPERSON RESTLER: And you're unwilling
22 to confirm, it's been 16 months since his departure,
23 whether COIB has looked into this matter and its
24 legality.

25

1
2 GENERAL COUNSEL CARRIER: Chair Restler,
3 as I said before, I would be violating Chapter 68 if
4 I disclosed whether the Board..

5 CHAIRPERSON RESTLER: How long does it
6 typically take COIB to determine whether to look into
7 a matter of this type.

8 EXECUTIVE DIRECTOR MILLER: Just so that
9 we can back up, we're implementing a law that was
10 created in '19, by a Charter Revision Commission that
11 is intended to protect the rights of individual
12 public servants and their ability to seek advice from
13 the Conflicts of Interest Board so every single
14 public servant who seeks advice from the Conflicts of
15 Interest Board, we provide confidential advice to
16 that person and we will disclose to nobody whether
17 that person has sought advice and what advice they
18 received.

19 CHAIRPERSON RESTLER: But that wasn't my
20 question.

21 EXECUTIVE DIRECTOR MILLER: Similarly,
22 when there's a complaint about a public servant,
23 whether in the press or by an individual person,
24 whether we've received a complaint is confidential as
25 a matter of law under the City Charter. That's the

1
2 way the Charter is structured. Whether we referred it
3 to DOI for investigation, that's confidential as a
4 matter of law. If you saw it from DOI, whether or not
5 DOI's conducting an investigation, we believe also
6 DOI would keep that confidential. They're required to
7 by the Charter. The only time the Board can speak
8 about the past conduct of a public servant is when
9 the five-member Board has made a final finding that
10 public servant has violated the conflicts of interest
11 law. I can confirm that no such finding has been made
12 by Frank Carone. That's the only time...

13 CHAIRPERSON RESTLER: I understand.

14 EXECUTIVE DIRECTOR MILLER: No staff
15 member, no Board Member could answer the questions
16 that you're posing as illegal.

17 CHAIRPERSON RESTLER: So I'm asking
18 approximately how long does it take on average for
19 COIB to come to that determination that wrongdoing
20 may have occurred?

21 EXECUTIVE DIRECTOR MILLER: So that's the
22 question?

23 CHAIRPERSON RESTLER: Yeah.

24

25

EXECUTIVE DIRECTOR MILLER: Right, that's a question that's, right, we don't have investigators at the Conflicts of Interest Board.

CHAIRPERSON RESTLER: I understand.

EXECUTIVE DIRECTOR MILLER: So DOI conducts its investigations. They have a broad mandate, and they've also experienced budget cuts so how long a DOI investigation takes can vary widely from a year to much longer than that depending on the nature of the conduct alleged, the investigation, what it's required, witnesses, subpoenas, and other things, but I'm not the expert on how DOI conducts its investigation.

CHAIRPERSON RESTLER: I understand. I'm just looking for context on how long it might take for you all to look into a matter like this, and do you look into similar matters based on reports of potential illegality in the press?

EXECUTIVE DIRECTOR MILLER: Not potential illegality. When we read articles in the press or we receive complaints that, if true, would constitute violations of the City's Conflicts of Interest Law, which is a limited law which regulates very specific conduct, we refer those complaints or press reports

1 to the City's Department of Investigation for
2 investigation. Every single complaint we receive is
3 reviewed by an attorney and is evaluated for whether
4 that, if true, would constitute a violation of the
5 conflicts of interest.
6

7 CHAIRPERSON RESTLER: But you are actively
8 monitoring press reports and, if there are concerns,
9 you will investigate them accordingly.

10 EXECUTIVE DIRECTOR MILLER: If there are
11 reported conduct that would constitute a violation of
12 the Conflicts of Interest Law, which, again, there's
13 many things that public officials may do that's way
14 beyond what the limited Conflicts of Interest Law
15 regulates.

16 CHAIRPERSON RESTLER: Right, but you're
17 unwilling to testify today when the Chief-of-Staff to
18 the Mayor of New York engages Northwell Health, the
19 largest private employer in New York State, as a
20 client that he's going to lobby on their behalf prior
21 to leaving City service, that Northwell Health gets
22 11 million dollars in new City contracts
23 significantly more than they've ever received
24 immediately after Mr. Carone leaves public service,
25

1
2 you're unwilling to testify whether that may be a
3 potential violation.

4 EXECUTIVE DIRECTOR MILLER: I would hope
5 that my insistence, our insistence, on following the
6 mandates of the Conflicts of Interest Law would not
7 be read as unwillingness but rather as adherence to
8 the legal requirements of confidentiality that our
9 Board is required to uphold.

10 CHAIRPERSON RESTLER: As you noted in your
11 testimony, the post-employment ban does not just
12 restrict lobbying, it prohibits all communication for
13 compensation, through the end of last year in the
14 case of Mr. Carone. We all know that he and the Mayor
15 have been in active communication during that time
16 period as he serves as the Chair of his reelection
17 campaign. I realize you're not going to offer any
18 insight into specific guidance that you've offered,
19 but can you confirm that COIB is monitoring the
20 situation or if any guidance has been provided to
21 ensure that there has not been illegal communication
22 in the previous year?

23 EXECUTIVE DIRECTOR MILLER: The Conflicts
24 of Interest Law, the City Charter mandates as a
25 matter of law that any communications we have with

1
2 any individual public servants seeking advice is
3 confidential and any advice that person received is
4 confidential so if any Council Member had sought
5 advice from the Conflicts of Interest Board and a
6 reporter called us and said did so and so Council
7 Member seek advice from the Conflicts of Interest
8 Board, we wouldn't say whether they asked, what they
9 asked about, or what we told them. Again, I cannot as
10 a matter of law...

11 CHAIRPERSON RESTLER: I hear that, but
12 oftentimes we'll hear elected officials, public
13 officials say I consulted with the Conflicts of
14 Interest Board, they told me this was fine, and we
15 have no insight whether you did tell them it was fine
16 or whether they're accurately describing the guidance
17 that they received. When an elected official publicly
18 misrepresents the guidance they've received from the
19 Conflict of Interest Board, what will you do then?

20 EXECUTIVE DIRECTOR MILLER: The law
21 prohibits the Board from disclosing whether someone
22 sought advice or what advice they received.

23 CHAIRPERSON RESTLER: I have to say when
24 we're identifying three cases out of 20,000 people
25 leaving City service for violating post-employment

1 restrictions and we're unable to really drill down
2 that somebody in the most senior role in City
3 government is creating a lobbying practice while
4 working at City Hall, that there's potentially
5 legality happening, I find myself quite frustrated.

6
7 I just want to move on to the substantial
8 discretion policymaker list. Could you describe the
9 proposed changes to the substantial discretion
10 policymaker list that you're pursuing in recent
11 updates to the capital rules?

12 GENERAL COUNSEL CARRIER: Yeah, the Board
13 is in the process of considering some proposed
14 changes to the policymaker rules that are just about
15 the process of doing that work, that is trying some
16 efforts to, the current law has agencies designating
17 policymakers once a years. The Board concluded that
18 wasn't frequent enough because of turnover, you want
19 to have more accurate risk list so that's being
20 updated to be twice a year now and is requiring that
21 agencies provide some additional information,
22 including some organizational charts so that the
23 Board and the Board staff can do a better job of
24 evaluating whether or not the people that agencies
25 are designating are, in fact, the people who have the

1 authority and responsibilities that should be
2 designated as policymakers, they're not leaving
3 people out or adding people on that shouldn't be
4 there. In addition to that, the Board is codifying a
5 practice the Board began several years ago where the
6 Board has taken over the responsibility of notifying
7 policymakers of their additional legal obligations
8 directly rather than relying on agencies to do that
9 just to ensure that it's happening and that the
10 communications about those are uniform. Those
11 procedural things, there was a public hearing for
12 that yesterday and the Board at an open meeting
13 sometime in the near future will evaluate those
14 procedural changes.
15

16 CHAIRPERSON RESTLER: In addition to
17 potentially requiring organizational charts, which I
18 think would be helpful for verifying the accuracy of
19 these lists, have you considered other requirements
20 such as agency heads or Deputy Mayors signing off on
21 the accuracy of these policymaking lists? We've found
22 there's like wild discrepancy from agency to agency
23 on who gets added to these lists and who doesn't, and
24 so we think it would be helpful for there to be some
25 senior officials who have more global views verifying

1 the accuracy of who is actually on the substantial
2 policymaking list.
3

4 GENERAL COUNSEL CARRIER: Right, the Board
5 hasn't contemplated that because it hasn't been our
6 experience that agencies have been reluctant to add
7 people to the policymaker list when the Board or even
8 Board staff suggests that they should be on there so
9 the truth is there's just not really much of an
10 incentive for a City agency to limit that list at the
11 moment because the additional restrictions that those
12 public servants are subject to are not particularly
13 onerous, there's a fundraising restriction and a
14 restriction on holding very high offices for
15 political parties, and while it would also mean that
16 they would have to file an annual disclosure report,
17 almost all of the people who are designated as
18 policymakers are already annual disclosure filers
19 anyway by virtue of the managerial level of position
20 that they're in so agencies don't really push back on
21 those lists, and I think at the moment it's mostly
22 just a matter of when agencies have reorganized they
23 maybe have not looked again at whether or not the new
24 organization, the people in their new roles in the
25 agency really match up with the way the rule would

1
2 require, and so there's a little bit of cleanup that
3 probably needs to happen and that's mostly what we've
4 been aimed at.

5 CHAIRPERSON RESTLER: I just want to say
6 on the record, having worked in City government for
7 over a decade, I totally disagree with your
8 assessment that people don't care about being on or
9 off the list. People actively try to stay off the
10 list. You're not able to fundraise, be on a host
11 Committee, you can't be involved in all kinds of
12 political activities that people care about if
13 they're on this list and, in my experience, when I
14 worked in the de Blasio Administration, there was
15 wild discrepancies agency to agency on how they
16 approached this list and a lack of uniformity in who
17 was considered a substantial policy maker and, while
18 we appreciate some of the improvements that are
19 considered in the rules, we don't believe you're
20 going nearly far enough in ensuring that the right
21 senior policymakers are being accurately reflected on
22 this consistently across the board.

23 I have a bunch more questions for you
24 all, and I haven't even had a chance to bother the
25 Clerk yet, but let me kick it over to Colleagues who

1 may have questions, I know everyone has busy days.

2 Let me start with Council Member Brewer, if that's
3 okay, former Chair of this Committee as she has a
4 bill, and then we'll go to Council Member Carr.

5
6 COUNCIL MEMBER CARR: Thank you very much,
7 and I'm not exactly sure who would help, but I think
8 it would be the Clerk's office. The idea is what we
9 described Intro. 742, persons who are active in
10 political campaigns could not be lobbying and
11 lobbyists who are active as lobbyists could not be
12 campaigners, but if they are insistent on having the
13 conversation between the campaign and the elected
14 officials so is that something that you could carry
15 out in terms of enforcement? Do you think you have
16 the capacity to do that? It does have an additional
17 type of person, perhaps, and maybe what kind, if it
18 was to be the law, what kind of information would you
19 need in order to enforce it?

20 DEPUTY CITY CLERK ACOSTA: We would
21 certainly be willing and able to carry it out. It
22 would require some changes, but I also would like to
23 point out that there is a limitation in the law
24 because it includes for-compensation political
25 consulting. It does not include political consulting

1 and fundraising that is done pro bono, that is not
2 compensated so that is an important distinction and
3 it does curb the amount of reporting that is engaged
4 in by lobbyists, for example, because if they're not
5 compensated for their political consulting, they do
6 not have to disclose it, but we could certainly
7 undertake, with proper legal changes, we would be
8 able to carry it out. We'd have to make technological
9 changes to our filing systems, which obviously we'd
10 have to do that in consultation with OTI and there's
11 budgetary constraints and technological issues that
12 have to be worked out, but we do feel that it would
13 be in line with our current operations and
14 enforcement and that we would be able and willing to
15 follow any policy changes.

17 COUNCIL MEMBER BREWER: All right, thank
18 you. One other question just generally and maybe it's
19 in the briefing and maybe you mentioned it, but
20 what's the percentage of people that you find and how
21 do you find them? Is it from individuals who make
22 complaints? How do you find people who you feel are
23 abusing the law? How does that mostly get
24 communicated to the City Clerk?

1
2 CITY CLERK MCSWEENEY: We get phone calls.
3 We get tips from time to time. It's not a great
4 number, and we're not getting contacts from good
5 citizens who are trying to advise us of unreported
6 lobbying. It's usually another lobbyist or somebody
7 in the community with a beef, and they're carrying
8 out a vendetta. That's usually where the primary
9 source of information comes from.

10 COUNCIL MEMBER BREWER: Interesting. All
11 right. Thank you very much. Thank you, Mr. Chair.

12 CHAIRPERSON RESTLER: Council Member Carr.

13 COUNCIL MEMBER CARR: Thank you, Chair. I
14 guess this question is for COIB. You talked in your
15 response to the Chair's questions earlier about how
16 agency officials will contact you and say that they
17 shut down attempted communications by former
18 employees who were still within their scope of their
19 post-employment ban talking to their former agency.
20 What's the point at which you deem that to be
21 actionable on your part? Because you're saying like,
22 oh, the communication was shut down, nothing ended up
23 happening because the agency knew better, but that
24 doesn't mean people aren't making multiple attempts
25 at that over the time with different agency

1 personnel. At what point does it rise to the level
2 where nothing happened, but you'd still want to maybe
3 have that referred or considered on your part?
4

5 EXECUTIVE DIRECTOR MILLER: Yeah, there's
6 a variety of factors that go into it, and it's the
7 decision that's of the Board itself, it's not a staff
8 decision about whether to pursue enforcement.

9 Certainly, if we had a record that they received
10 formal written guidance before they left City service
11 and they still made a prohibited communication, then
12 we know that the sort of the pre-shutdown hadn't
13 worked and then enforcement would be appropriate. If
14 the contact wasn't just a casual, let's set up a
15 meeting, but the meeting itself, then we would likely
16 pursue enforcement. Because the post-employment
17 communication is not lobbying. It's a whole wide
18 array of communications that former City employees
19 make, and many City employees stay in the fields in
20 which they worked in City service so we're talking
21 about an ACS case worker who goes to work for
22 private, not-for-profit foster care agency and if, at
23 that private foster care agency, they call ACS to
24 say, hey, we're wanting to make sure we have all the
25 right information or case files or something like

1 that, what would be a prohibited post-employment
2 communication, not lobbying. We would want to look at
3 that and make sure that person understood what their
4 obligations were. If they're at a big meeting about
5 the contract, then that's probably something we
6 pursue it for.
7

8 COUNCIL MEMBER CARR: So you said the
9 Board makes all the decisions. Is there no time when
10 staff will say that this isn't worthy of Board
11 attention? You're presenting every case to the Board.

12 EXECUTIVE DIRECTOR MILLER: No, not every
13 single case. If there's something that we can deal
14 with, that's just like someone made a phone call, the
15 phone call wasn't returned, it immediately came to
16 us. Sometimes there's a voicemail message, hey, Bob,
17 it's Sheila, I used to work there, and it immediately
18 comes to Ethan's shop who's, in addition to being
19 General Counsel, supervises the Legal Advice Unit.
20 Our goal is to prevent violations before they occur
21 so if we can reach out to a former public servant and
22 educate them about the Conflicts of Interest Law,
23 we're trying to solve these problems sort of one
24 public servant at a time.
25

1
2 COUNCIL MEMBER CARR: Understood. So in
3 the event that you have a clearcut violation of the
4 Conflicts of Interest Law being alleged to you, a
5 complaint is submitted to you, what level of
6 verification do you engage in about whether or not
7 this is, at what point does it become actionable in
8 your view because it's possible someone makes a
9 frivolous complaint, it's some possible someone just
10 makes something up and it may even get reported on
11 publicly so what kind of assessment do you engage in
12 whether or not that specific allegation is even
13 credible?

14 EXECUTIVE DIRECTOR MILLER: Yeah, so if
15 something is reported in the press, almost always
16 it's going to require a formal investigation by the
17 Department of Investigation obtaining documents,
18 interviewing witnesses and the like. In the post-
19 employment context uniquely is that often when we get
20 complaints, the person who was the sort of recipient
21 of the prohibited communication is telling us, hey,
22 former employee Sheila was at this meeting and she
23 just left the agency six months ago so both for the
24 goals of that's enough evidence for us to establish a
25 violation and because we want to prevent the former

1
2 employee from engaging in any additional prohibited
3 conduct, we would proceed with that evidence that we
4 had already so the post-employment one-year ban
5 violations are the ones we can move most quickly on.

6 COUNCIL MEMBER CARR: This is for COIB and
7 perhaps also the City Clerk's Office. There are
8 plenty of folks who leave City service, right, who
9 were maybe civil service employees, they took tests
10 to get their positions, but then there's the folks
11 like us in the Committee, the elected officials, high
12 ranking members of agencies and the Mayor's Office.
13 Are there particular people that you monitor upon
14 leaving City service based on what they do, whether
15 they're going to not-for-profits or into the lobbying
16 field in order to make sure that they're complying
17 with lobbying registration and whatnot, if they're
18 engaging in those activities, or is it purely
19 reactive to complaints and allegations?

20 EXECUTIVE DIRECTOR MILLER: The first line
21 of proactiveness is always education so to the extent
22 that the City Service Departure Checklist includes a
23 handout that we've created about the post-employment
24 restrictions. That's the ideal scenario. There's no
25 monitoring that we do. Again, we're a staff of 22

1
2 people. We have no investigators. As Chair Restler
3 noted, 20,000 or so public servants leave City
4 service every year so this is way beyond the capacity
5 or really probably appropriateness of the agency, but
6 we try to educate as much as we possibly can.

7 COUNCIL MEMBER CARR: Thank you, Chair.

8 CHAIRPERSON RESTLER: I'd like to turn
9 over to my friend and neighbor, Council Member Hanif.

10 COUNCIL MEMBER HANIF: Thank you, Chair
11 Restler.

12 I'll start with the City Clerk's office
13 and just thank you so much for being here. This is a
14 topic of great interest but, also if I wasn't a
15 Council Member, I'd be tuning in to this hearing.
16 Specifically, the 2013 Lobbying Report suggests that
17 the Lobbying Bureau should have a designated full-
18 time staff person responsible for conducting
19 education and outreach, not just to registered
20 lobbyists, but in venues where there are likely to be
21 people who may be subject to the requirements of the
22 lobbying laws but may not be registered. Do you have
23 a staff member or members who are responsible for
24 conducting outreach?

1
2 CITY CLERK MCSWEENEY: We did hire a staff
3 person after the enactment of Local Law 129 of 2013.
4 That person ended up leaving, and we had difficulty
5 retaining another person to perform the training
6 function so my Deputy City Clerk and Deputy General
7 Counsel have been conducting the training and some of
8 the outreach, but we kind of got into the habit of
9 training those people through those two people so
10 that we've met our training requirement, but it just
11 got easier to make sure we met our training
12 requirement and, after having difficulty in retaining
13 that person, we haven't successfully gotten back to
14 that.

15 COUNCIL MEMBER HANIF: Got it, so two
16 members of the team who are not the outreach
17 representatives are right now filling that role or
18 have as a part of their portfolio. Could you just
19 walk me through what the extent of the outreach looks
20 like and the trainings that you're fulfilling?

21 DEPUTY CITY CLERK ACOSTA: As part of the
22 amnesty program, there were very specific activities
23 that we were required to undergo. We were required to
24 take out advertisements, attend public meetings,
25 distribute materials, public commercials, and we

1 fulfilled all of those activities that were
2 specifically mandated by the law, but there's other
3 activities that we conduct on a yearly basis,
4 quarterly basis to conduct outreach and to train, and
5 we continue to do those activities even without that
6 staff position, so examples include every year we
7 contact every single agency that receives
8 discretionary funding and inform them of the lobbying
9 law and invite them to communicate with our office if
10 they need more information. In addition, we review
11 every single report filed with the New York State
12 lobbying entity to make sure that if they are
13 lobbying in New York City, they're also reporting
14 with our office. For example, last year, we reviewed
15 approximately 9,000 reports filed with the State, and
16 we compared them with the approximate 3,000 reports
17 filed with the City and made sure that anyone that
18 wasn't in our system came into our system and, as a
19 result of that, we contacted approximately 94
20 entities, but we definitely haven't been able to
21 physically go out there and attend as many meetings
22 and conduct as much community outreach as we did when
23 we had the trainer because, for example, when we had
24 the trainer, the trainer along with other staff
25

1 that's sitting here, we went to every single
2 community board meeting, every single borough board
3 meeting to publicize the information, so we've had to
4 cut back a little bit on some of our field
5 operations, but certainly we continue to review all
6 publicly available information to make sure if we see
7 evidence that there's unreported lobbying, we
8 investigate and we haven't decreased those efforts
9 even without that staff person.
10

11 COUNCIL MEMBER HANIF: But would it be, of
12 course, better to have the staff person?

13 DEPUTY CITY CLERK ACOSTA: Of course,
14 right? More help is always going to be beneficial.

15 COUNCIL MEMBER HANIF: And now is somebody
16 in the process of being hired or could you just walk
17 me through what are the proactive steps to make sure
18 that folks who were not meant to do this specifically
19 are not bearing the obstacles?

20 CITY CLERK MCSWEENEY: We actually could
21 not because of the PEGs that our agency had endured,
22 our headcount was reduced. Our headcount was 62, and
23 it went down to 55 in the last PEGs so we cannot hire
24 anyone new at the present time.

25 COUNCIL MEMBER HANIF: You said to fifty...

1

CITY CLERK MCSWEENEY: 55.

2

COUNCIL MEMBER HANIF: 55, from sixty...

3

CITY CLERK MCSWEENEY: 62.

4

COUNCIL MEMBER HANIF: Got it.

5

DEPUTY CITY CLERK ACOSTA: Sorry, I just

6

want to add we are the marriage bureau, right, that's

7

the love side, and also the lobbying bureau, which I

8

call the non-love side so just to clarify, the

9

Lobbying Bureau has five staff that full time work on

10

the Lobbying Bureau.

11

COUNCIL MEMBER HANIF: And then the, I was

12

about to say the love bureau, but...

13

DEPUTY CITY CLERK ACOSTA: Right, the love

14

Bureau so that number includes both bureaus in

15

addition to our other functions, such as our esteemed

16

Commissioner who presides over City Council meetings,

17

Commissioner of Deeds, Oaths of Office. We conduct

18

bonds and certainly my General Counsel could speak

19

more to that so we have multiple functions that we

20

are performing with that headcount, and it's five

21

people that are performing in large part the

22

activities and functions of the Lobbying Bureau.

23

COUNCIL MEMBER HANIF: Thank you. Chair, I

24

have a few more questions. Turning now to COIB, and I

25

1 do have to of course celebrate the social media
2 presence, really appreciate it. I want to just get
3 some clarity on the two pieces of legislation. Are
4 you making a recommendation that we pursue a Charter
5 Revision and go through that route as opposed to
6 these two pieces of legislation?
7

8 GENERAL COUNSEL CARRIER: We're
9 recommending that if the City Council wants to
10 contemplate changing the restrictions in Chapter 68,
11 in particular the post-employment restrictions, that
12 would be the better process because it would really
13 provide the sort of multiple public hearings and sort
14 of massive outreach to get all the people who are
15 stakeholders in this the opportunity to get a way in,
16 in particular the public servants who are going to be
17 affected by this who when they become private
18 citizens are going to have their speech restricted
19 with regard to their communications with City
20 government and the people in City government now who
21 do the hard work of trying to recruit good people
22 into the City positions that hearing what those
23 people think is a thing that the Charter Revision
24 Commission could do, and it could really take its
25 time to figure out how changes to this post-

1
2 employment restriction fit into what is really an
3 interrelated set of post-employment restrictions, the
4 lifetime particular matter ban and the confidential
5 information ban work with this restriction, and so
6 when you alter one piece of that, trying to make sure
7 it fits in with the others, which is not to say that
8 there might not be room for some improvement, though
9 we did just have changes come into effect just over
10 two years ago, some pretty substantial ones, and our
11 thought is it might make more sense to, at least in
12 large part, let's see how those go. The last version
13 was worked for 32 years. Let's see how this version
14 works for more than just a couple of years before we
15 start changing it again, but the Charter Revision
16 process, we feel like is a sort of better way of
17 doing the hard work of getting this right, and it's
18 also the way that the Chapter 68 has always been
19 changed in the past so it feels like that the best
20 process.

21 COUNCIL MEMBER HANIF: And could you for
22 everybody who's listening in on this great hearing
23 who would be leading that process? Would it be on
24 COIB to identify the public hearings? Would that be
25 staff capacity at COIB?

GENERAL COUNSEL CARRIER: A Charter

Revision Commission should be independent even from us. We would obviously be eager testifiers and providers of information to a Charter Revision Commission, but that should be a Commission that really also has a cross-section of people with different points of view and so forth who are trying to take testimony from everybody and kind of figure out what's best for the City so it shouldn't be us who's doing that, but it should be a nice diverse set of people who constitute a separately created Charter Revision Commission.

COUNCIL MEMBER HANIF: Got it. Then for what types of organizations are former elected officials and public servants lobbying in your experience?

GENERAL COUNSEL CARRIER: Oh, well that's an interesting question. So this prohibition, I don't know the answer to that question because we don't regulate lobbying. We regulate former public servants who are communicating with the City under this post-employment restriction, which is both sort of broader and narrower. It's not all lobbyists, because probably most lobbyists are not former public

1 servants, I'm guessing, I'm assuming most of them are
2 not, but our concern is only about those former
3 public servants. And it's broader in that it's
4 communication of all different kinds, not necessarily
5 stuff that would qualify as lobbying, though I'm not
6 expert in what requires somebody to become registered
7 as a lobbyist, but it's all kinds of communications
8 as long as you are paid by somebody to communicate so
9 not just classic lobbying, but also routine business
10 communications, seeking non-ministerial licenses and
11 permits from the City, lots of things that I think
12 people would not normally think of as being
13 necessarily the kind of advocacy kind of thing that
14 maybe we think of when we think of lobbyists so this
15 is just a different kind of restriction. It's really
16 mostly focused on only former public servants, and
17 it's mostly focused on trying to make sure that
18 government officials, who might know those former
19 public servants because of the work that they did,
20 are not being unduly influenced so it's a cooling off
21 period, would be maybe the way to describe it.

23 COUNCIL MEMBER HANIF: Thank you. Thanks
24 for being here.

25 GENERAL COUNSEL CARRIER: Thank you.

CHAIRPERSON RESTLER: Thank you so much.
Council Member Hanif.

So just to do a little bit of a recap,
you testified that the Mayor's Chief-of-Staff, the
widely recognized most powerful person in City
government shy of the Mayor, could appear before 99
percent of City government the day after he left
office, and you've also testified that you believe
the current laws on post-employment restrictions are
appropriate and good, that they've worked well, I
think was your language, over the last series of
decades. I could not more strongly disagree. You've
testified in opposition to the bills that we're
considering today to impose further restrictions and
recommended that the appropriate way to consider
modifications would be through a Charter Revision
Commission. I have to ask, you're appearing before
the City Council, we're the duly elected
representatives, we pass bills every single month,
why are we not equipped to pass legislation here?

GENERAL COUNSEL CARRIER: I certainly did
not say that you're not equipped to pass legislation.

CHAIRPERSON RESTLER: Okay.

1
2 GENERAL COUNSEL CARRIER: I'm just
3 suggesting that for a change that's going to impact
4 so many public servants and that is a really
5 complicated change in the post-employment
6 restrictions that there are a lot of different
7 stakeholders who should be heard from and that it
8 should be done over some time where people really get
9 to spend a lot of time, like a group of people really
10 get to spend a lot of time sort of thinking about
11 this and hearing testimony from a lot of people and,
12 as Charter Revision Commissions are the entity that
13 have done that for Chapter 68 in the past, it just
14 seems like the best process for us. It's not to say
15 there might not be other processes, just that would
16 be the best practice.

17 CHAIRPERSON RESTLER: Yeah. You also
18 testified that you had a limited time to review our
19 bills. We introduced them well over a year ago so I
20 believe there was more than ample time to review
21 them.

22 I just have to dig in a little further.
23 As you noted, we had the 2019 Charter Revision
24 Commission that imposed a more extensive ban on
25 Deputy Mayors, Directors at OMB, Corp Counsel, DCAS,

1
2 Finance, DOI, CPC Chair, now they all have a two-year
3 ban from appearing before any agency in the branch of
4 government that they served. Why should that not
5 apply to the Mayor's Chief-of-Staff or the Mayor's
6 Chief Counsel or the HPD Commissioner?

7 GENERAL COUNSEL CARRIER: Oh, I'm not
8 actually saying that I don't think it should.

9 CHAIRPERSON RESTLER: You just don't think
10 that it's appropriate for us to move forward with
11 that change at this time so it may be something that
12 you could support in the future, you just don't
13 support it today. Is that right?

14 GENERAL COUNSEL CARRIER: I'm saying two
15 things. One, I think that, because we've just had
16 these changes in the post-employment restrictions, it
17 would be good to see how they work out because we
18 really haven't had the sort of big turnover of an
19 Administration to see what the impact of these new
20 changes would be because these changes came into
21 effect in the first year of this this current
22 Administration so seeing that sort of big turnover
23 moment and what the implications are of that for the
24 future recruitment and how well that's working I
25 think it's a little bit yet to be seen. Then the

1 second thought is just one about process, right? We
2 just want to make sure that we have good process and
3 that we've really heard from everyone. Certainly, the
4 law has always required and should require that
5 higher level public servants are subject to greater
6 restrictions than people who have lesser authority or
7 authority...

9 CHAIRPERSON RESTLER: But haven't you
10 testified today that isn't the case? We've
11 acknowledged 10 times on the record today that the
12 most powerful person in the City of New York, shy of
13 the Mayor himself, in City government, could lobby 99
14 percent of City officials hours after leaving public
15 service. How is the current law working well? How do
16 we have the appropriate restrictions in place? I'm
17 flabbergasted by COIB's approach to this.

18 GENERAL COUNSEL CARRIER: We didn't write
19 the law that exists today...

20 CHAIRPERSON RESTLER: Right, but you're
21 saying that you don't want to see changes to it at
22 this time, and that is shocking to me, considering
23 that we can all see that the current law is broken.
24 We have far greater restrictions in Albany, New York,

1 in the biggest swamp of the entire United States than
2 we do here at City Hall. How is that acceptable?

3
4 GENERAL COUNSEL CARRIER: Council Member,
5 I think that you've identified one position in City
6 government that may need greater restrictions. It's
7 not to say that the...

8 CHAIRPERSON RESTLER: No, I'm just giving
9 an example. I want to be clear I could keep going if
10 you'd like me to. It's just a very ripe one.

11 GENERAL COUNSEL CARRIER: What I'm trying
12 to say is, we've had a newly enhanced post-employment
13 restriction in effect for just a couple of years.
14 There is no such thing as a law that fits perfectly
15 for every person, right? There's always going to be
16 some people for whom the law is applying, perhaps too
17 strictly or perhaps not strictly enough, and I'm not
18 disagreeing with you about its application in the
19 example that you've provided. I'm not disagreeing
20 with you that there may be other people for whom it's
21 not applying very well at the moment either, but I'm
22 saying overall for 300,000 public servants, overall,
23 it's working pretty well we think. We would like to
24 see what the changes that happened just a couple
25 years ago, how they work out, particularly once we've

1 made it past perhaps another changeover in
2 Administration and just see if they're really doing
3 the job. As I said in my testimony, it's not to say
4 that there may come a time when we need to look at
5 the post-employment communication ban to see whether
6 or not there should be some changes. We're just
7 saying that perhaps this particular moment is not
8 quite right yet.

10 CHAIRPERSON RESTLER: Mr. Carrier, as you
11 testified, the mission of COIB is to preserve the
12 trust placed in the public servants of the City, to
13 promote public confidence in government, to protect
14 the integrity of government decision-making, and the
15 current laws do not allow for that. They allow for
16 legal corruption, and so I'm just shocked that COIB
17 wouldn't come before us today to say, yes, there are
18 clearly improvements we need to make, yes, when the
19 Mayor's Chief-of-Staff is leaving City government and
20 has a 24-million-dollar-a-year lobbying practice 24
21 hours after leaving City government, he is building a
22 lobbying book while working in this building, that is
23 egregious. It is egregious, and you're telling me
24 that you don't think it needs to be changed. I could
25 give you 100 examples just like this, but I'm shocked

1 that considering the mission of your agency, you
2 wouldn't be here testifying, saying you're right, we
3 do need to close these loopholes, we do need to work
4 and do more together to ensure the integrity in our
5 local government because that is not what I heard
6 today. I heard you testify in opposition to these
7 issues and to claim that it's going to undermine
8 recruitment and retention in City service, but Mayor
9 Adams was able to recruit Deputy Mayors, Finance
10 Commissioners, Investigation Commissioners, and all
11 of these other positions subject to these new
12 restrictions that we are advocating for in this
13 legislation to expand to get more positions so what
14 proof or evidence do you have beyond your anecdotal
15 insight that modifying post-employment restrictions
16 would have any impact on recruitment and retention?

18 GENERAL COUNSEL CARRIER: Council Member,
19 I'm sorry that's the message that you've taken away
20 from my testimony today. I don't think that's what
21 I've testified to. I think that what we've been
22 trying to articulate on behalf of our Board is just a
23 slower approach to making changes to this restriction
24 to make sure that we're getting it right because we
25 think that there are a lot of public servants who

1 would be affected by, a lot of positions in City
2 government, who would be affected by this proposal in
3 a way that would have some significant unintended
4 consequences.
5

6 CHAIRPERSON RESTLER: I hear you, but when
7 I see corruption taking place, I don't believe that a
8 slow approach is appropriate. We have to step up,
9 intervene, and fix it. I'm not here to sit around and
10 watch paint dry to see if maybe in a few years things
11 might get better. We see broken systems today. They
12 need to be fixed today. That is my approach to
13 governing, and it's the approach of the City Council.

14 I do want to recognize my friend and
15 neighbor, Council Member Gutiérrez. Thank you for
16 joining us. If you have any questions, just let us
17 know. We'll jump in whenever.

18 Okay, I have a couple more questions, and
19 then I'd like to shift to the other agencies who've
20 been gracious enough to join us today but, just to
21 clarify on the recruitment and retention piece, do
22 you have any evidence to underscore your concern that
23 these policies will undermine recruitment and
24 retention?
25

EXECUTIVE DIRECTOR MILLER: I think, Chair Restler, the testimony is clear that we're identifying issues and concerns, and the process of a Charter Revision Commission, we are not hiring managers, we don't work in appointment offices, we're not involved in the recruitment and agency heads. This is not our field of expertise. That is exactly the reason your identification of what evidence is in fact why we think the Charter Revision Commission is the proper process because it would allow the opportunity for those individuals who work in those fields, who have the experience who are in City government to be able to provide that testimony and information.

CHAIRPERSON RESTLER: Okay, so I heard we don't have proof or evidence to this effect. You're just expressing that these are potential concerns that you think could exist.

EXECUTIVE DIRECTOR MILLER: We're not a research agency. We care...

CHAIRPERSON RESTLER: I understand, but you're that your opposition to this legislation is because you think it could undermine recruitment and retention. I'm saying we don't have a record of that

1
2 with the Mayor's recent round of appointments that
3 have been subject to these expanded lobbying
4 restrictions that we think should be expanded yet
5 further.

6 EXECUTIVE DIRECTOR MILLER: They weren't
7 subject to the restrictions that are in this bill.

8 CHAIRPERSON RESTLER: They were not, but
9 they were subject to the 2019 Charter Revision
10 Commission restrictions that are similar to the
11 restrictions that we would impose in this bill to
12 more public officials and, relatedly, you're saying
13 we should go through a Charter Revision Commission
14 process. The Charter calls for COIB to review Chapter
15 68 and submit recommendations to the Council at least
16 once every five years. It appears the last
17 recommendations we received were in 2014. Could you
18 explain?

19 EXECUTIVE DIRECTOR MILLER: The Board has
20 had a substantial amount of turnover in part because
21 of the changes to the Board that were implemented by
22 the 2019 Charter Revision Commission. We have
23 multiple Board Members who've served less than two
24 years on the Board so the Board is working to
25 acclimate themselves to the Conflicts of Interest

1
2 Law. Also, we had a very experienced Board put before
3 the Council extensive recommendations to the Charter
4 that were not taken up by the Council at that time so
5 the Board still believes that those extensive
6 proposed revisions to the Charter remain worthy of
7 consideration.

8 CHAIRPERSON RESTLER: We share your
9 assessment. We think that many of the recommendations
10 that you made in 2009 were smart and appropriate, and
11 we do hope to revisit them.

12 One item that I believe you considered
13 back then related to pre-employment restrictions and
14 a proposed cooling off period for public servants
15 when they enter City service. We'll stick with the
16 example of the day because it's just easier to use
17 specifics. Mr Caron famously was an attorney for many
18 different clients with business before the City when
19 he was appointed Chief-of-Staff. Are there currently
20 any restrictions that are in place for someone like
21 that who has been an attorney for clients with
22 business before the City, lobbyist for real estate
23 clients, lobbyist for others when they enter City
24 Hall? Can they continue to talk to their former
25

1 clients and advocate for their interests from the
2 inside?

3
4 GENERAL COUNSEL CARRIER: So Chapter 68,
5 you're correct, and that was one of one of the
6 proposals I believe in the 2009 Charter Revision
7 recommendations from our Board. Chapter 68 does not
8 contain a pre-employment restriction. There are other
9 jurisdictions that have such pre-employment
10 restrictions, but that's not to say that the Charter
11 doesn't restrict conduct of public servants who
12 recently entered City service with regard to some of
13 their prior interests insofar as they continue to
14 have any kind of financial connection, bills that
15 haven't been paid yet, continuing to have say if
16 they've dissolved their membership in a partnership,
17 the time that it takes to dissolve that membership
18 and have their be paid out for that. When those
19 financial interests continue to exist for that
20 duration of time, a public servant still is
21 prohibited under Charter Section 2604(b) (3) from
22 being involved in matters involving whoever that is,
23 whether a person firm they still have that, but there
24 isn't an express pre-employment restriction.

1
2 CHAIRPERSON RESTLER: We appreciated the
3 recommendations that you made in 2009 to consider
4 greater pre-employment restrictions, and I think we'd
5 be very interested in working together with you to
6 revisit it.

7 I do just have one last question for you
8 all, at least for the moment. I apologize, I may
9 think of others, but I wanted to ask you about a
10 comment you made, Mr. Carrier, that relates to a
11 lifetime particular matter ban for issues that
12 somebody works on when they're in City Hall. For
13 positions like Chief-of-Staff to the Mayor that touch
14 just about everything of consequence, what review is
15 conducted by COIB or otherwise to determine what are
16 the issues that individual X is not permitted to work
17 on subsequently following their service in local
18 government.

19 GENERAL COUNSEL CARRIER: Chair Restler,
20 because we are just an agency with currently 22
21 people, we do not conduct a review of that type. We
22 don't go out to do that, but many public servants
23 come to us to seek advice about that subject and then
24 we will review the questions they've got and try to
25 help them.

1
2 CHAIRPERSON RESTLER: Like for a position
3 like this one, just as an example, or a Deputy Mayor,
4 that's touched so much in City government while they
5 work here, how can you evaluate the scale of issues
6 that they should no longer be engaged with?

7 GENERAL COUNSEL CARRIER: Really, the
8 information about what they have worked on, what
9 particular matters they have worked on, and the
10 standard is worked on personally and substantially is
11 information that they or their agency would have to
12 provide to us. We're an independent agency. We don't
13 know what the day-to-day work of every public servant
14 is.

15 CHAIRPERSON RESTLER: No, look, I'm super
16 sympathetic, you've got 22 people and dozens of folks
17 asking you every single day for advice and guidance
18 is a lot on your plate with a relatively limited
19 capacity. I appreciate the longstanding
20 recommendations you've had to have more investigative
21 capacity in-house to be able to take ownership for
22 more of this work, but it feels like a Sisyphean task
23 to be trying to hope that all 20,000 people that are
24 leaving City government every year are following
25 their post-employment restrictions. Indeed, we're

1 only identifying three people a year who are and, for
2 something like this on the issues that the most
3 senior officials are unable to work on or should not,
4 it's very challenging to have any oversight to inform
5 what those issues are, and I think it would be
6 helpful to work together to think about how you all
7 could be resourced to actually provide that oversight
8 in a rigorous and effective way.

10 Last one, and I told you that you
11 couldn't trust me when I said last one so last one
12 for now. The Mayor's previous Counsel said in an
13 interview that his office had worked with COIB to
14 provide a set of guidelines to senior officials, and
15 I know you won't provide a specific guidance for an
16 individual and that that could be considered
17 confidential, but for something like this where the
18 Mayor's Chief Counsel said that he worked with COIB
19 to provide guidance to senior City Hall officials on
20 related matters, are those guidelines that could be
21 shared with us or could you confirm that you worked
22 with the Mayor's Chief Counsel to craft those
23 guidelines?

24 GENERAL COUNSEL CARRIER: Any read any
25 documents or records that are in our possession are

1 not things that we can provide and, when we provide
2 advice, including by working with General Counsels at
3 City agencies, Chief Counsel, the Mayor, and General
4 Counsel here at the City Council to help provide some
5 advice about policies that agency might be interested
6 in working on, I couldn't answer the question of
7 whether we've done that for any particular agency,
8 but the confidentiality is for them, so they are free
9 to disclose that sort of guidance. Now, all that
10 being said, we work with any City agency's General
11 Counsel or Chief Counsel who comes to us who would
12 like some help in trying to comply with the conflicts
13 of interest law. We are, of course, eager to help. We
14 want to help people comply with the law. Our goal is
15 to take whatever steps we possibly can to do that.

17 CHAIRPERSON RESTLER: Okay. Thank you very
18 much.

19 I'd like to shift to the Clerk and your
20 team. Thank you again for being with us today.

21 As I wrote noted in my opening remarks,
22 last year, lobbyists were paid 131 million dollars,
23 almost double what they were paid a decade ago. Could
24 you just remind us on exactly how many staff Lobbying
25 Bureau has overseeing this industry, how has the

1 staffing capacity of the Lobbying Bureau changed over
2 the past decade, and do you think, given that we've
3 seen a doubling in the amount of lobbying activity,
4 should the City Clerk's Lobbying Bureau have doubled
5 as well in that intervening time, and then lastly,
6 just on that, could you let us know if the recent
7 PEGs that you've been subject to by the Mayor have
8 impacted the Lobbying Bureau's operations?
9

10 CITY CLERK MCSWEENEY: The Lobbying Bureau
11 currently operates with Damaris Acosta, our Deputy
12 City Clerk. She oversees the Lobbying Bureau, our
13 Deputy General Counsel, Chief Investigator, an
14 Investigator, and a Paralegal. In addition, my
15 General Counsel, my Deputy City Clerk overseeing the
16 Marriage Bureau and myself, we contribute to the work
17 of the Lobbying Bureau together. After Local Law 129
18 of 2013, as I said before, we did hire a full-time
19 trainer to assist us with rolling out the amnesty
20 period and doing the outreach for that and,
21 unfortunately, that person departed and we do need to
22 fill that vacancy. Before that, we've had a couple
23 more investigators at one time, but we found that
24 it's been very difficult for us to retain people for
25 these tasks. The people that are working that I have

1 described are very hard-working people, and we've
2 been doing a lot of juggling to make sure that we
3 carry out our mandates. Would we like to see the
4 number of staff doubled? We would welcome any
5 increase of resources that we could get.

6 Unfortunately, our PEGs, as I mentioned before, have
7 been substantial, and we're not even in compliance
8 with our headcount because, when the PEGs were given,
9 we couldn't lay anybody off so things were done on an
10 attrition basis, but between the fact that we haven't
11 met our attrition goals and we've had three people
12 returned from maternity leave who went on maternity
13 leave prior to the PEGs, we're actually over our
14 required headcount, and the one other person who's
15 still out on maternity leave contacted us recently
16 and expressed that she would like to return earlier
17 so, with the PEGs that are in place, there's no way
18 we can hire anyone new until we meet those goals. It
19 would be nice if the PEGs that have been extended
20 into the outyears can be addressed during the budget.
21 I would love to see that. That would be huge for us.

22
23 CHAIRPERSON RESTLER: We will do our best
24 and focus on that as we enter into the budget
25 negotiations.

1
2 Could you just remind us how many audits
3 are conducted each year? How is that changed over
4 time? Our review found that these audits generated
5 between 50 and 130 findings that required actions
6 annually. Is that a high rate of findings? Do you
7 think more audits would be beneficial to help
8 identify more issues that exist within these lobbying
9 reports?

10 CITY CLERK MCSWEENEY: Yes, we do think
11 more audits would be helpful. The audits help us to
12 find where lobbyists are not providing information
13 about their targets, they're not identifying the
14 Local Law, they're not identifying the borough,
15 block, and lot number which is required for any kind
16 of real property or land use lobbying, and we make
17 corrections to these lobbyists and notify them that
18 these are very important things that they're required
19 to do and often do not do so the audits are very
20 helpful. When we first had the law changed, I think
21 it was Local Law 15 of 2006, that incorporated the
22 random audit program, we started with 30 audits and
23 then, in 2012, we increased that number unilaterally
24 to 45 audits and we definitely think it was worth
25

1 raising the number and we definitely should consider
2 raising it again.

3
4 CHAIRPERSON RESTLER: We're still at 45
5 audits a year, despite significant increase in the
6 amount of lobbying activity. It's a staff capacity
7 issue...

8 CITY CLERK MCSWEENEY: That's correct.

9 CHAIRPERSON RESTLER: But we would benefit
10 from clearly having more audits in place.

11 DEPUTY CITY CLERK ACOSTA: Excuse me,
12 Chairperson. Just to add, we review every single
13 statement of registration and retainer agreement
14 filed by every single lobbyist, even if they're not
15 selected for audits, and we do that every year so
16 even everyone else, the information in their
17 registrations is still being checked. Anything that's
18 missing is, they're served notice of secure, asked to
19 correct it and provide it so it's not as though there
20 are 45 entities that are being examined and everyone
21 else is not.

22 CHAIRPERSON RESTLER: No. I appreciate it.
23 You're looking at everything, but in the 45 audits
24 you're doing, you're identifying on average one to
25 three findings that require action, that's a not

1 insignificant amount, annually, and we've seen a
2 great increase in the amount of lobbying, and it
3 would clearly be helpful if we had capacity to
4 conduct more audits.
5

6 I just wanted to ask specifically on the
7 question of a what it would take to ban somebody from
8 being a lobbyist in New York City, knowing and
9 willful violations. Could you expand upon that?

10 CITY CLERK MCSWEENEY: In terms of knowing
11 and willful violations, first of all, we've actually
12 tried to look at a standard for knowing and willful,
13 and we've actually talked to the Law Department about
14 that, and there's no standard that they were able to
15 identify in anywhere in this structure of what
16 constitutes willful so we would have to look at case
17 law in the criminal context to find that. We haven't
18 found where someone's conduct was so egregious that
19 it rose to the level of willfulness that we said this
20 is clearly willful without that standard, because for
21 the most part, we find that most lobbyists in the
22 system do try to comply and, when there is an issue
23 when it comes to late fees or with a failure to file
24 a certain report, the Lobbying Law contains a 14-day
25 cure period so before we can take any further action,

1 we have to send out notices to cure for any
2 discrepancy in a lobbyist's filing, so that kind of
3 limits our ability. You know everybody has a chance
4 to cure their lobbying so that kind of can hide a
5 multitude of sins as it were.

7 CHAIRPERSON RESTLER: The Clerk's Office
8 with a five-person Lobbying Bureau, I don't imagine,
9 has the ability to conduct proactive investigations
10 so could you share with us a breakdown kind of year-
11 over-year of how many cases, if any, have been
12 referred to DOI maybe in the last few years and, if
13 it's easier to follow up in writing, that would be
14 fine. Similarly, I think we'd be interested in a
15 breakdown of how many cases were pursued for
16 different types of violations, failure to report,
17 filing incorrect information, or is that something
18 you could follow up with us in writing perhaps
19 subsequent to the hearing or if you have any of that
20 information today?

21 CITY CLERK MCSWEENEY: Generally speaking,
22 we could definitely follow up with you on the
23 investigations. It seems that we have one to three
24 investigations a year that come up usually due to
25 somebody...

1
2 CHAIRPERSON RESTLER: Get referred to DOI...

3 CITY CLERK MCSWEENEY: In terms of
4 referrals to DOI, we have a lot of contact with DOI,
5 but it's mostly DOI contacting us for information
6 about lobbyists. We have not found any knowing and
7 willful violations that were required to be reported
8 to DOI. In fact, there haven't been a lot of
9 situations on the lobbying side where we've had to
10 call DOI in. There was one situation I think
11 involving pension lobbying that we contacted them and
12 that was it, but there haven't been really any
13 incidents to speak of that required that to happen.

14 DEPUTY CITY CLERK ACOSTA: And just in
15 terms of the violations, it's actually reported. It's
16 included in our annual report so we'd be happy to
17 compile it and provide analytics on it, but that is
18 something that we include in our annual reports.

19 CHAIRPERSON RESTLER: Thank you, and I did
20 review last year's annual report and found it to be
21 very helpful so thank you for that.

22 I'd like to ask about the topic of
23 unregistered lobbyists, which I think was a major
24 goal of the '06 and 2013 lobbying reforms, and my
25 sense is we made some meaningful progress at that

1
2 time on this issue. I'd imagine it's impossible to
3 estimate the scale of unregistered lobbying or to
4 know how many people may be lobbying without properly
5 filing with the Clerk's Office. I just wanted to
6 think about it from a little bit of a different
7 direction. Is there education that's required of City
8 employees on lobbying laws and reporting
9 requirements? Do you think if people like us, folks
10 on the Mayor's side, and the City agencies were
11 better trained, if the targets of lobbying activity
12 were better trained, we could help ensure that or we
13 could help flag for you all potentially unreported
14 activity?

15 CITY CLERK MCSWEENEY: We believe it would
16 be helpful because we don't conduct training of City
17 employees with respect to lobbyists so it would
18 definitely be helpful in our opinion.

19 CHAIRPERSON RESTLER: Great. I think it's
20 something that we should think a lot about whether
21 there are opportunities for us to require more
22 training of the targets of lobbying so that we can do
23 a better job of informing you all. I think it would
24 be an interesting case study to look at who I've
25 talked to in the last four months and who reported it

1 to you and who is missing, and I imagine that there's
2 quite a few people that are.
3

4 We really appreciate the data that's
5 included in the annual report and the data that's
6 accessible in Open Data. Is it possible to update the
7 data from the Clerk's Office on the Open Data portal
8 on a more frequent basis?

9 CITY CLERK MCSWEENEY: In preparation for
10 the hearing, I reached out to our contact at OTI, and
11 they would be more than willing to look at it. We've
12 talked about doing it, and it's something that
13 they'll be happy to look into. They have the same
14 resource issues that every City agency has, but
15 they're definitely willing.

16 CHAIRPERSON RESTLER: Great. We will
17 definitely follow up with you all on that.

18 This is another issue that I think is
19 probably mostly a technology issue, the fundraising
20 and political consulting reports. I have to say I did
21 not know much about these until Courtney Gross' great
22 reporting on them, was that last year, but I found it
23 very insightful and looked into it a bunch in advance
24 of this hearing. I know Council Member Brewer has
25 known about this for a very long time, but I learned

1 about it last year. I guess just help me on these,
2 just on the record, if I wanted to know how much
3 money lobbyists raised for Mayor Adams in 2023, could
4 you describe the process for how I would access that
5 information?
6

7 DEPUTY CITY CLERK ACOSTA: It can be
8 accessed two different ways. You could go to Campaign
9 Finance and look at their filings, or you could go to
10 our public system, NYC Lobbyist Search, and you could
11 obtain the information. The limitation is that you
12 have to enter the lobbyist and then you have to
13 basically select their report and then, if they filed
14 one for the year, you look at one. If they filed up
15 to six, you look at six. We've been aware of this
16 issue and we have been in consultation with OTI, and
17 they are expecting that by December 31st they're
18 going to expand the Open Data platform to include
19 those reports.

20 CHAIRPERSON RESTLER: Oh, great.

21 DEPUTY CITY CLERK ACOSTA: So that would
22 be really helpful.

23 CHAIRPERSON RESTLER: That would be very
24 helpful.
25

DEPUTY CITY CLERK ACOSTA: And also we are looking into whether they can update Lobbyist Search to add a left navigation field so that it can just be accessed directly. Also, for now, we willingly provide the information to anyone that requests, if they want the reports or if they want a spreadsheet, we've provided that information, but we are looking to so hopefully...

CHAIRPERSON RESTLER: That's great because it is quite a cumbersome process to go report by report, to dig in and find it and even to know where to look is, it's not straightforward, and I'm thrilled to hear that you've been successfully working with OTI and expect to have that information on the Open Data portal by the end of the year and that you're looking into a navigation system to make it more easily accessible for everyone. I think that's great.

Just relatedly, is the Clerk's Office on track to publish the lobbyist fundraising and political consulting data on the NYC Open Data portal by December 31st of this year, which I believe is what's required of you all?

1
2 DEPUTY CITY CLERK ACOSTA: It's not
3 currently required, but we have been wanting to
4 implement it regardless, and we are on track to do it
5 by December 31st.

6 CHAIRPERSON RESTLER: Oh, great. Okay.
7 That's great. Okay. I think I misunderstood.

8 CITY CLERK MCSWEENEY: We're cautiously
9 optimistic.

10 CHAIRPERSON RESTLER: Cautiously
11 optimistic. Every technology project...

12 DEPUTY CITY CLERK ACOSTA: I think maybe
13 you meant to include it in our annual report.

14 CHAIRPERSON RESTLER: I did. I am
15 interested in that too. Is it something that you
16 would all consider inclusion?

17 DEPUTY CITY CLERK ACOSTA: Yes.

18 CHAIRPERSON RESTLER: Yes? Great. That
19 would be terrific. Relatedly, and maybe this is a
20 question for Mr. Ryan as well, but are these reports
21 proactively shared with the CFB or could they be,
22 should they be? What do you recommend?

23 CITY CLERK MCSWEENEY: There is
24 information from our reports that DoITT shares
25 automatically with Campaign Finance Board to our

1 knowledge so I don't see any reason why we couldn't,
2 one of the things we would have to work with OTI on,
3 so that it could be done automatically, but sometimes
4 certain things are done automatically and certain
5 things are done manually and, for manual things on
6 their end, it could be more time-consuming.

8 CHAIRPERSON RESTLER: Maybe I'll shift to
9 Mr. Ryan for a moment, and we're hoping to have a
10 future hearing to dig into this topic in much greater
11 detail, but my understanding is that a lobbyist
12 operating as a fundraiser for the Mayor is required
13 to complete these forms, submits the forms to the
14 Clerk's office that they raised X amount of dollars
15 for the Mayor over the previous time period but,
16 depending on how the fundraiser is structured, they
17 may or may not be required to report to CFB that the
18 lobbyist was raising money for the Mayor, that they
19 may not be required to be reported as an intermediary
20 in CFB's process. Is that right?

21 EXECUTIVE DIRECTOR RYAN: Sounds like it's
22 correct, but I want to make a couple things clear.
23 First of all, the intermediary disclosure
24 requirements are imposed upon the Campaign Committees
25 so it is incumbent upon the Committees to ascertain

1 who is serving as an intermediary with respect to
2 contributions that that Committee receives and then
3 the Committee submits to us an intermediary report.
4 Probably the most important reason we receive
5 lobbyist data is to enforce our lower contribution
6 limits that apply to those doing business with the
7 City and to lobbyists..

9 CHAIRPERSON RESTLER: And because those
10 funds are not matchable.

11 EXECUTIVE DIRECTOR RYAN: Correct, not
12 matchable. They also don't count towards
13 qualification for the thresholds for the public
14 funding program.

15 CHAIRPERSON RESTLER: Do you know, does
16 the CFB proactively crosscheck with the information
17 that is submitted in the lobbyist reports?

18 EXECUTIVE DIRECTOR RYAN: With respect to
19 eligibility and match, yes, we scrutinize those
20 contributions quite carefully, and my excellent team
21 at the Campaign Finance Board has gone pretty deep
22 into the trees, so to speak, on Intro. 742, but I
23 want to make sure we don't miss the forest for the
24 trees. I have two pretty significant concerns with
25 the bill, one constitutional, one with respect to

1 administration of the bill that I would love to speak
2 to...

3
4 CHAIRPERSON RESTLER: Please.

5 EXECUTIVE DIRECTOR RYAN: If I may. So one
6 of those concerns relates to the constitutionality of
7 the law. The other relates to the administrability of
8 the law and, if addressed, I think would likely
9 address many of the more granular issues that my team
10 flagged for me and perhaps would address some of the
11 more pointed questions you might have for me today.
12 As clearly stated in the title of Intro. 742, this
13 law would prohibit certain lobbying by individuals
14 engaged in campaign fundraising or political
15 consulting activities. This framework turns the
16 conventional approach to regulating in this arena on
17 its head. The conventional approach is to regulate
18 particular activities of lobbyists. The bill's
19 framework, prohibiting certain lobbying activities by
20 those engaged in fundraising or consulting, could
21 have significant constitutional law and
22 administrative implications. First, regarding the
23 constitutional law implications, applying campaign
24 finance restrictions on lobbyists is fairly common.
25 These restrictions have largely withstood

1 constitutional scrutiny here in New York City, for
2 example, when lobbyists challenged the City's reduced
3 political contribution limits for lobbyists and those
4 doing business with the City, a Federal District
5 Court and the Federal Second Circuit Court of Appeals
6 upheld the City law against First and 14th Amendment
7 challenge. The case was *Ognibene v Parkes*, which the
8 Second Circuit decided in 2012. The *Parkes*, who is
9 the named defendant in this case, was the Campaign
10 Finance Board's Chair at the time, Joseph P. Parkes.
11 In considering the constitutionality of these lower
12 contribution limits applicable to lobbyists, the
13 Courts applied a heightened intermediate scrutiny
14 that is routinely applied to contribution limits
15 across the board. By contrast to political
16 contribution limits, many other types of laws that
17 burden First Amendment activities are subjected to so
18 called strict scrutiny, and there's a saying among
19 First Amendment litigators, strict in theory, fatal
20 in fact, and that's because once a Court decides to
21 apply strict scrutiny, the challenge law rarely
22 survives that scrutiny but, in *Ognibene*, the Second
23 Circuit rejected the plaintiff's argument that strict
24 scrutiny should apply, and instead the Court applied
25

1 what it called the more lenient heightened
2 intermediate scrutiny and found that the challenged
3 law was constitutionally permissible because it was
4 closely drawn to address the significant government
5 governmental interest in reducing corruption or the
6 appearance thereof.
7

8 My constitutional law concern with this
9 proposed law is that rather than applying
10 restrictions on fundraising by lobbyists, which would
11 be subject to this more lenient heightened
12 intermediate scrutiny, this law would prohibit
13 lobbying and would likely be subject to strict
14 judicial scrutiny, making it much harder to defend in
15 court if it's challenged. This differential treatment
16 in constitutional law is because lobbying is
17 considered core First Amendment activity. The First
18 Amendment explicitly protects the right to petition
19 the government and, by contrast, making political
20 contributions has been deemed by Courts to be a form
21 of indirect speech. Making a contribution is an
22 expressive act, but it is not itself speech.

23 My second concern is an administrative
24 one. There are administrative implications to this
25 unconventional approach of prohibiting certain

1 lobbyist activities of those who engage in
2 fundraising or consulting rather than regulating the
3 fundraising and consulting activities of lobbyists.
4 The law would mandate that the Campaign Finance Board
5 work with agencies and the Council to develop notices
6 and advertisements intended to reach persons that
7 engage in fundraising activities or political
8 consulting activities that will inform such persons
9 of the prohibition set forth in this law. The
10 universe of people engaged in fundraising and
11 consulting activities is a largely unknown universe.
12 To my knowledge, there is no database or list of
13 people engaged in fundraising or consulting and, by
14 contrast, if the Council were to take the more
15 conventional approach, applying fundraising and
16 consulting restrictions on lobbyists, then
17 educational efforts could focus on the known universe
18 of registered lobbyist, and that database obviously
19 does exist. The Clerk has been discussing it today,
20 and the Clerk's office maintains it. The new law's
21 starting point would be the known universe of
22 lobbyists, prohibiting them from fundraising or
23 consulting for any officeholder they have lobbied or
24 reasonably expect to lobby, which is the thrust of
25

1 the law even in its present form. Such an approach
2 would be on sounder constitutional footing and would
3 also be easier to administer. There are some
4 foreseeable potential shortcomings in my suggested
5 more conventional approach and, if the starting point
6 for this regulatory regime is registered lobbyists as
7 I suggest it should be, there could be instances in
8 which someone isn't a registered lobbyist at the time
9 they do the fundraising or consulting and they later
10 decide to lobby. One policy solution would be to
11 include the concept that's in the current bill as a
12 backstop of sorts, prohibiting such an individual
13 from lobbying the elected official they raised funds
14 for or worked for and, admittedly, this would raise
15 the same constitutional concerns I flagged moments
16 ago. However, the number of people falling into this
17 category would be relatively small, I think, and I
18 believe that including this type of provision in the
19 law as an anti-circumvention backstop rather than as
20 the entire legal framework of the law is more
21 constitutionally defensible. Even if this backstop
22 provision were challenged and held unconstitutional,
23 the rest of the law would remain in effect, which
24 would effectively regulate most of the people the law
25

1 is intended to regulate, the professional political
2 class. By contrast, in its current form, I think the
3 entirety of the law may be vulnerable to
4 constitutional challenge and, if invalidated, the
5 entire regulatory regime would be wiped out.

6
7 My team has flagged some other more
8 granular issues, but I really just wanted to get out
9 there on the table this constitutional concern, and I
10 think this change would be significant in its impact,
11 particularly in the ability to defend this law
12 against constitutional challenge, but it would not
13 substantially impact the purpose of this bill as it's
14 been proposed.

15 CHAIRPERSON RESTLER: I'll start and then
16 kick it over to Council Member Brewer. Thank you for
17 sharing your insights, Mr. Ryan. We welcome them.

18 We do have post-employment restrictions
19 in place currently, as COIB graciously testified
20 today, that have been in place for decades in New
21 York City, that are limitations imposed on what
22 former colleagues you're allowed to lobby. Why could
23 there not be similar restrictions for paid political
24 consultants and fundraisers on former colleagues that
25 they are permitted to lobby?

1
2 EXECUTIVE DIRECTOR RYAN: My fundamental
3 point is that would be an untested approach. I don't
4 know of any jurisdiction that does it quite that way,
5 and that it would likely, if enacted and then
6 challenged, be subject to strict scrutiny. I've
7 litigated some of these cases, and I know from
8 experience those cases are very difficult to win, and
9 I think there's an easier way, which is to use as
10 your starting point the known universe of lobbyists
11 and to regulate their activity so it's more
12 predictive on my part of what type of analysis the
13 courts would apply, what type of scrutiny and, if
14 there is an easier road and a more defensible road
15 constitutionally, I'm struggling to see a downside in
16 taking that.

17 CHAIRPERSON RESTLER: Just making sure I
18 follow. If the Clerk's Office, hypothetically, were
19 tasked with confirming that a registered lobbyist had
20 worked on a political campaign or conducted
21 fundraising for an elected official within the
22 previous period of time, then it would be noted in
23 their lobbying reports that they are prohibited from
24 lobbying those individuals during that period of
25

1
2 time, whatever the designated period of time is. Is
3 that essentially what you envision?

4 EXECUTIVE DIRECTOR RYAN: Yes, and that is
5 what I would describe as the backstop, because the
6 first line of improving or increasing integrity in
7 local government would be to simply say that those
8 who are lobbyists can't raise money for or serve as
9 consultants to the individuals they lobby or
10 anticipate lobbying, and that the restriction on
11 their ability to contribute is a lesser burden on
12 their First Amendment rights than the prohibition on
13 their lobbying so it's really creating what is in the
14 heart of the structure of the current bill as the
15 backstop, making the most constitutionally vulnerable
16 aspect of this proposal into this backstop and a
17 small piece of it and have a slightly different
18 structure capture most of the people we're trying to
19 get at with regulation.

20 CHAIRPERSON RESTLER: To the Clerk's
21 Office, do you think that that could potentially work
22 from your all's perspective if we were to pursue a
23 model along those lines?

24

25

1
2 CITY CLERK MCSWEENEY: I think we could
3 definitely do it. It would be a matter of how to
4 track down the data, but I don't see why we couldn't.

5 COUNCIL MEMBER BREWER: I also want to
6 always thank the Clerk's Office because no matter
7 what gets thrown at you, you always say yes, so I
8 want to tell you it is true, and Mike Sweeney has
9 been our savior from day one on that topic so thank
10 you and your staff. I want to say that.

11 I think what you're saying, Mr. Ryan, is
12 that there is already a built-in possibility for
13 enforcing what we're trying to achieve, and I don't
14 have a problem looking at that. I do think hopefully
15 it could be expanded as time goes on because you have
16 the other side of the coin where there is no list, as
17 you suggest, of people who do the campaign
18 consulting. We don't have that list. I assume that we
19 sort of have half the coin that we could work with
20 and then see if that achieves our goal. I understand
21 what you're saying. I don't want to throw the baby
22 out with a bathwater, which is what you're saying is,
23 and it is the First Amendment issue as we know from
24 the Supreme Court also, a little Citizens Union in
25 there, is a big problem that we have to address on

1 many levels. We don't want to lose it on the positive
2 side, as opposed to the Supreme Court with their
3 Citizens Union challenge so I'm certainly willing to
4 look at this and see if it accomplishes what we're
5 trying to accomplish. I think if the word gets out
6 that there is concern and a mandated prohibition
7 about basically, what I would call double dipping,
8 that's what I would call it, then you have a way to
9 approach it that would be constitutionally upheld. I
10 would love to look at that. Thank you very much.

12 EXECUTIVE DIRECTOR RYAN: And I'd be happy
13 to share a little bit about what information the
14 Campaign Finance Board does presently have in its
15 possession relevant to this bill as it's currently
16 drafted. If we're talking about outside of the
17 universe of lobbyists, simply the universe of non-
18 lobbyists, consultants, and fundraisers, we don't
19 really have much of that information, not available
20 to us in any sort of comprehensive or usable format.
21 There's no requirement that Committees report their
22 fundraisers or consultants to us in any systematic or
23 uniform way. We do see some of this information,
24 though, for example, on candidate registration forms,
25 candidates can, but are not required to, identify

1
2 their consultant. Some of them do, many of them, most
3 of them do not. We also see some of this information
4 on disclosure reports when campaigns report the
5 purpose of their expenditure, but the quality and the
6 consistency of campaign reporting of expense purpose
7 codes is, to put it bluntly, pretty poor. The most
8 commonly used purpose codes for this type of expense
9 are funder or consultant or professional or, the
10 hardest to deal with for the purpose of administering
11 this type of law, other. Making use of this data as
12 it's presently written in this bill would require
13 manual inspection, I think, particularly of
14 expenditures coded other and perhaps cross-
15 referencing with invoices and other documentation to
16 determine whether the activity done by that person
17 paid by the campaign constitutes consultation as
18 defined in the law or fundraising activity defined in
19 the law. That would be a heavily manual project and
20 it would be a difficult one.

21 COUNCIL MEMBER BREWER: I can promise you
22 there's no such list of those who do campaign, I've
23 tried to find such a thing and there's no such thing.
24 You're right, it's very haphazard, as you just
25 described, but if you look at it from the other side,

1 prohibiting from those who have a list, that's
2 something to look at. Thank you very much.

3
4 CHAIRPERSON RESTLER: That is very
5 helpful. Thank you, Mr. Ryan.

6 I do think that you've offered some smart
7 suggestions for how we might be able to achieve our
8 policy goals and appreciate the thoughtful
9 recommendations for alternative ways of getting
10 there.

11 I'd like to return to ask just a few more
12 questions of the Clerk and the team, if that's okay.
13 For the purposes of ensuring that City employees are
14 compliant with restrictions on who they can appear
15 before, do you track if newly registered lobbyists
16 recently left City employment? Do you have access to
17 that information to be able to evaluate whether there
18 may be an issue?

19 CITY CLERK MCSWEENEY: We do not track
20 that information, and we've kind of been operating
21 under the assumption that we have jurisdiction over
22 the lobbyist, COIB has jurisdiction over employees
23 and former employees, etc. so it's not something that
24 we've really looked at to any extent. I mean I'm sure
25 that we would have to and would be able to figure out

1 some way of looking at that or at least trying to
2 establish how to track that down looking at the
3 universe of lobbyists. I think we were talking about
4 maybe inserting questions into e-Lobbyist where you
5 would have to certify if you've worked for the City
6 before, what office did you work for, what was your
7 title and, and to have it kind of loaded in on the
8 front end, but that would be one way. We would also
9 probably contact our colleagues at COIB and ask for
10 their help and advice on trying to learn that better.
11

12 CHAIRPERSON RESTLER: Appreciate your
13 openness to it.

14 I think the other area that I'm
15 interested in drilling down on a little bit more is
16 some of the definitions that we have in reporting. We
17 looked online just to see how many folks had lobbied
18 me and my staff over the course of the year to date
19 and found that there were over 150 entities that
20 reported lobbying our office so far this year but, in
21 the reporting, it doesn't indicate whether it was a
22 mass email that was just sent to 51 Council Members
23 or if I had four sit-down meetings with them, which
24 are really different types of interactions. Have you
25 considered in these reports tracking with a little

1 more specificity the type of interaction that's made,
2 whether it be mass email or phone call or meeting or
3 multiple meetings to give more insight to the public
4 on how lobbying is working.

5
6 DEPUTY CITY CLERK ACOSTA: Currently, the
7 Administrative Code doesn't require that they enter
8 that information. What's required is subject matter
9 details, and the law says they have to include
10 information sufficient to identify the activity so,
11 as the Commissioner mentioned in his openings, for
12 example, if you're talking about a property you have
13 to include an address, if you're talking about a law
14 you have to include an Intro. and a year, but that's
15 really it. The Admin Code doesn't go into more detail
16 but, certainly, whatever is mandated by the Admin
17 Code, we'd be happy to enforce and carry out. When
18 organizations are audited specifically, the subject
19 details are reviewed in more detail and they often
20 are asked to include more information, but the law
21 does not require that they state that.

22 CHAIRPERSON RESTLER: I think it's
23 something that we should take a look at because I do
24 think it would be helpful and they're already
25 submitting the information. It's just not in the

1 reports, right, and you're looking at it on the
2 audits, right, so we should be able to gather that
3 information and synthesize it for a public review.
4

5 I'm always frustrated by the times in my
6 experience working in City government where people
7 will call me and say I'm an attorney for this client
8 and they're doing everything that looks, smells, and
9 acts like lobbying, but it's not lobbying because
10 they're there as the attorney for the client rather
11 than the lobbyist for the client. I'm just going to
12 say that is something that I find very frustrating
13 and would like to try to figure out a way to capture
14 that information more accurately for public review
15 and really bring more scrutiny to that issue.

16 Another area that I don't think the
17 Lobbying Law currently has appropriate clarity is, as
18 I understand it, around Mayoral discretionary
19 decision-making and so just to confirm if a lobbyist
20 calls the Mayor or his team and lobbies them to not
21 support a given project one way or another, it's not
22 rulemaking, it's not local law, it's let's say a
23 street safety project on McGinnis Boulevard, as an
24 example.
25

1
2 COUNCIL MEMBER BREWER: I was wondering if
3 it was going to come up.

4 CHAIRPERSON RESTLER: I'm very
5 predictable, I guess that's the thing. What you see
6 is what you get.

7 Is that subject to lobbying disclosures?
8 Is a lobbyist required to disclose that?

9 DEPUTY CITY CLERK ACOSTA: Sorry, we're
10 just fighting to, we're both...

11 CHAIRPERSON RESTLER: Everybody wants to
12 answer all the questions.

13 DEPUTY CITY CLERK ACOSTA: With the way
14 that the law is drafted, right, each of the 11
15 definitions is very specific, right? It lists a
16 target and it lists an activity, and then there are
17 11 exclusions, right, so that's what makes it so
18 complicated. They're only required to report exactly
19 what's listed. That's why we always say there's no
20 such thing as illegal lobbying. There's plenty of
21 lobbying that is not captured. It's a question of
22 what's reportable so our Admin Code does not capture
23 indirect attempts to lobby so, in that circumstance,
24 it would depend on what agency is making the
25 determination and how those determinations are made,

1 for example, is there a pending rule, is it a matter
2 of a contract or public funds or is it a matter of
3 limited discretion per existing laws, rules and
4 regulations and, in those situations, there are
5 exclusions for what is termed to be an adjudicatory
6 determination so that's the hardest question that we
7 get ironically, is this lobbying? That's the most
8 complicated.
9

10 CHAIRPERSON RESTLER: I can't fathom that
11 we have a large employer in Greenpoint, Broadway
12 Stages, that's very famously been advocating,
13 spending hundreds of thousands of dollars, sending
14 out mailers, robocalls, lobbying the Mayor
15 aggressively, reporting on meetings with the Mayor to
16 not support a DOT-proposed street redesign that's got
17 every elected official, 10,000 community members have
18 signed a petition in support. This entity is
19 aggressively lobbying the Mayor, spending in a very
20 public and explicit way, against a DOT proposal, and
21 it's not lobbying so we need to update the laws to
22 capture that kind of activity for something that
23 walks and talks and quacks like a lobbyist, but
24 doesn't actually fit the bill.
25

1
2 CITY CLERK MCSWEENEY: I think what you're
3 talking about is the indirect lobbying, and I don't
4 think that's captured in the 11 types of activity
5 that constitutes lobbying.

6 CHAIRPERSON RESTLER: It's the phrase
7 indirect lobbying, which I'm sure is the technical
8 phrase, it's hard to stomach because there's nothing
9 indirect about it. It's a public campaign where
10 they're openly walking out of City Hall saying we met
11 with the Mayor to discuss this issue and he's changed
12 his mind because of his meeting with us and he's no
13 longer supporting the Department of Transportation's
14 Street Safety Plan and, yet, it's not lobbying.

15 DEPUTY CITY CLERK ACOSTA: We do not
16 disagree, and I will say that the Commission in 2013,
17 the Commission did add a new definition, which would
18 be similar to adding a definition of indirect. They
19 added a provision that stated if anyone that attempts
20 to influence a New York City elected official or
21 officer or employee on any state or federal rule,
22 regulation, or resolution was captured and, before
23 2013, that was not part of the law so I do think
24 there is like a precedence for adding that type of
25 definition into the regulations.

1
2 CHAIRPERSON RESTLER: I want to just thank
3 you all for being so patient and doing two-plus, two
4 and a half hours of questions with us. I really
5 appreciate you all coming in. I think we certainly
6 got a bunch of really good suggestions from each of
7 you for ways that we should be working to update some
8 of these laws that weren't officially under
9 consideration today, but this was really our first
10 lobbying oversight hearing as a Council since Gale
11 was here before her Borough Presidency days so that
12 was some time ago, and I'm really glad that you all
13 were willing to take the time, appreciative that
14 you're willing to take the time, answer our
15 questions, engage with us constructively, and look
16 forward to being in touch with each of you in the
17 near future. Thank you so much.

18 I remind members of the public that this
19 is a formal government proceeding and that the quorum
20 shall be observed at all times. As such, members of
21 the public shall remain silent at all times unless
22 you're testifying.

23 The witness table is reserved for people
24 who wish to testify. No video recording or
25 photography is allowed from the witness table.

1
2 Furthermore, members of the public may not present
3 audio or visual recordings as testimony but may
4 submit transcripts of such recordings to the
5 Sergeant-at-Arms for inclusion in the hearing record.

6 If you wish to speak at today's hearing,
7 please do fill out an appearance card with the
8 Sergeant-at-Arms and wait to be recognized. When
9 recognized, you will have three minutes to speak on
10 today's hearing topics, New York City's Lobbying Laws
11 and Necessary Reforms.

12 If you have a written statement or
13 additional written testimony you wish to submit for
14 the record, please provide a copy of that testimony
15 to the Sergeant-at-Arms. You may also email written
16 testimony to testimony@council.nyc.gov within 72
17 hours of this hearing. Audio and visual recordings
18 will not be accepted.

19 Council Members who have questions for a
20 particular panelist, please let me know, and I will
21 call on you after the panelist has completed their
22 testimony.

23 Once again, thank you for those of you
24 who are testifying in person and registered in
25

1 advance. Please fill out an appearance card with the
2 Sergeant-at-Arms.
3

4 For panelists on Zoom, once your name is
5 called, a Member of our Staff will unmute you, and
6 the Sergeant-at-Arms will give you the go-ahead to
7 begin upon setting the timer. Please wait for the
8 Sergeant to announce that you may begin before
9 delivering your testimony.

10 I am now privileged to invite our first
11 panel to come up. We have some exceptional good
12 government groups with us. I'd like to invite Ben
13 Weinberg of Citizens Union, Susan Lerner of Common
14 Cause New York, Rachel Faus of Reinvent Albany, and
15 on Zoom, Blair Horner of NYPIRG, who is, I believe,
16 surviving the Albany budget. Thank you all for being
17 with us and feel free to testify in whatever order
18 you all prefer.

19 SUSAN LERNER: I've been elected to go
20 first. Thank you very much.

21 I'm Susan Lerner, Executive Director of
22 Common Cause New York. I want to thank you for a very
23 lively and informative hearing this morning. From our
24 point-of-view and as really explored in Zephyr
25 Teachout's excellent book regarding the history of

1 lobbying and anti-corruption measures in our country,
2 for many decades, if not centuries, lobbying was
3 considered illegal, and actually the constitutional
4 status of lobbying is quite murky as she explores. I
5 think what we heard this morning and what we've seen
6 in the 2013 Charter Revision is a lack of
7 understanding of the real way in which influence is
8 wielded in City government and the fact that
9 lobbyists and those who are part of the revolving
10 door have a real interest in ensuring that any
11 restrictions are very limited. We need to rebalance,
12 and we believe that these three measures help to
13 rebalance between the public interest and being sure
14 that our government makes good decisions based on all
15 information with integrity and the right of those to
16 petition the government, perhaps as a paid employment
17 so we very much approve the impetus behind these
18 measures. We have no problem responding to some of
19 the concerns this morning. I think that the measure
20 76 and 77 could certainly be crafted to exempt some
21 of the Commissioners, some of the Executive Directors
22 but, when we're dealing with elected officials and
23 particularly in a revolving door situation, we are
24 dealing with a position of unusual trust as well as
25

1 those who are appointed to high administrative
2 positions, and I believe that people who have the
3 privilege of serving as public servants and being
4 paid as such need to keep in mind that they have a
5 position of unusual trust in the public, both while
6 they're on the payroll and after they go off the
7 payroll. We support the impetus. We are certainly
8 open to seeing Intro. 76 and 77 restrictions nuanced
9 a bit more, but the idea that there should be two-
10 year ban bringing us in line with the State ban, and
11 that there are individuals who should have a ban on
12 any communications with any City agency is a good
13 one. I personally am very excited to see the
14 introduction of 742 because the way in which campaign
15 consultants and lobbying firms have merged and have a
16 confluence is an issue that I've been talking and
17 writing about for the last 10 years so we very much
18 support that effort. Thank you.

19
20 CHAIRPERSON RESTLER: Thank you so much.
21 Really helpful.

22 RACHEL FAUS: Okay. I was going to say
23 good morning as that's what my testimony says, but
24 good afternoon, Chair Restler and Council Member
25 Brewer. My name's Rachel Faus. I'm the Senior Policy

1
2 Advisor for Reinventing Albany. We advocate for a
3 more transparent and accountable New York government,
4 both in the city and the state, and thanks again for
5 holding this hearing. Definitely struck that it's
6 been 10 years. I was wearing a different hat at the
7 time that the changes went into effect, actually his
8 hat. We support the intent of the three bills you're
9 considering today to reduce the undue influence of
10 deep pocketed political interest and slow the
11 revolving door of City government employees lobbying
12 their former employer, the City of New York. However,
13 we urge you to aim much higher. At a minimum, New
14 York City should have a three-year lobbying revolving
15 door ban. Just to put things in perspective, Florida
16 has a six-year ban, and this is on elected officials
17 and very high-ranking folks. This was passed by
18 public referendum in 2018. I'm going to repeat that a
19 six-year ban so surely New York City can pass a ban
20 half as long as Florida's, and the two-year ban, I
21 think, exists in many states where there's two-year
22 terms. We have a four-year term, so I think that's
23 something to think about in how this is crafted. Just
24 to speak to the three-year ban, I think we'd like to
25 see it apply to all three of the bills, what category

1
2 of people, the policymaker list. I think we heard a
3 lot of discussion today about who to get, but I think
4 a bright line of three years and also a bright line
5 that it's not just your former employer, but also the
6 entire City is really important because when you have
7 different standards for different individuals, it
8 gets very confusing, and we know that enforcement's
9 challenging when there's extremely limited staffing
10 levels so the brighter the lines are, the better.

11 On a couple of other matters around
12 lobbying activity, just want to draw to your
13 attention in 2013, the City Council passed the major
14 changes to Lobbying Law, and one of those was that
15 smaller lobbyists, those that spend less than 10,000
16 dollars and do not hire outside firms, they should
17 only have to report twice a year rather than six
18 times. It's not that their lobbying reporting
19 activity is not reported. It's absolutely reported.
20 It's just the filing burden was reduced. From our
21 understanding that has not been implemented. That's
22 something I think you should consider looking at. We
23 crunched the numbers in the e-Lobbyist open data. It
24 looks like there's about 140 groups who fall into
25 that, some of them are notable, Community Service

1 Society, Habitat for Humanity, New York Botanical
2 Garden, Queensborough Public Library, a lot of non-
3 profit institutions. Full disclosure, Reinvent Albany
4 is also on that list.
5

6 Other piece, while I've got seven
7 seconds, I'm glad to hear that the fundraising and
8 political consulting data is going to be reported as
9 Open Data, that's great. We'd like you to introduce a
10 bill that would specify whether lobbyist activity is
11 in support or opposition to bills. Right now, you
12 only know they lobbied on the subject. You don't know
13 whether it was in support or opposition. This is done
14 in other states like Montana. We think you should
15 introduce a bill to help tighten up the law. Thanks.

16 CHAIRPERSON RESTLER: Thank you so much. I
17 totally agree. That's a very good recommendation.

18 I just want to say just prior to your
19 testimony, Ben, we just wanted to thank you for your
20 expert kind of analysis and guidance that you
21 provided to our office in advance of the hearing.

22 BEN WEINBERG: I was happy to help, and
23 now it's on me to thank you, Council Member Brewer,
24 both for introducing these bills and for bringing us
25 all together to discuss this important issue.

1
2 As was mentioned here, since 2007,
3 lobbyists have been required to disclose information
4 about their political consulting and fundraising
5 activities in their periodic reports. Now, that
6 disclosure was a necessary first step, but we're 17
7 years old, and that hasn't really led to any
8 reduction in the number of these kind of dual service
9 firms that serve campaigns and lobby City government.
10 In fact, our analysis as and, as the executive
11 director of the CFP mentioned, is an imprecise
12 analysis because the numbers are imprecise, but our
13 analysis did find that of the top 50 companies that
14 provide campaign consulting and professional services
15 provided in the 2021 election, 24 percent of them
16 were lobbyists, almost a quarter of the top campaign
17 consulting firms in that cycle were lobbyists, and
18 that's actually higher than had existed 10 years
19 before. Our written testimony includes some clear
20 examples of those conflicts where lobbying firms help
21 candidates to win and then go on to lobby those same
22 people in office so that's why we very much support
23 Intro. 742, which would limit the ability of firms
24 and individuals to lobby the candidates they helped
25 get elected. It was mentioned earlier that this might

1 be an unconventional approach. I should point out
2 that San Francisco has a similar restriction. They
3 actually have a stricter one of five-years ban, and
4 places like Philadelphia, Alaska, and Maryland all
5 have rules against the direct involvement of
6 lobbyists in campaign or fundraising for campaigns.
7 Some of them have been litigated. We have three
8 recommendations to strengthen this bill, or I should
9 mention two here. First, it currently covers only
10 elected officials that are former clients, and we
11 think it should cover also staff members or
12 appointees of those elected officials. This is
13 especially important for mayoral candidates and
14 really most of the kind of recent news we've seen
15 around this are about lobbying Commissioners after
16 you ran a mayoral campaign. The other one is really
17 to ensure that lobbying firms can't avoid this bill
18 by either setting up a new division or a new LLC, and
19 we have some proposed language in the bill on how to
20 counter that.
21

22 Short of time, I will just mention that
23 we also support better transparency on the lobbying
24 disclosure of fundraising and political activities.
25 As Chair Restler mentioned, it is very difficult to

1 access that information nor is the information
2 reported in the annual reports. It would be great to
3 see aggregated data of those disclosures, how many
4 fundraisers are held by lobbies, top lobbying
5 (INAUDIBLE) political consulting. I'll wrap up. I'll
6 be remiss if I won't mention that we also support
7 another important way to close a pay-to-play loophole
8 in our lobbying laws, and that is to ban lobbies from
9 bundling donations. Lobbyists and people on the Doing
10 Business Database are severely restricted in terms of
11 the size of the contribution they can give
12 candidates, but they can freely bundle donations, and
13 we have examples of lobbyists donating more than a
14 hundred times of their individual limit. In fact, in
15 the last election, from what we saw, nine of the top
16 ten bundlers were either lobbying firms, their
17 employees, or officials and companies that do
18 business with the City. As imperative, we make sure
19 we close that ban. Lastly, on the two bills on post-
20 employment bans, we support the proposal to extend
21 those restrictions for the Mayor's Office for two
22 years, which would be in line with the rules at the
23 Executive Chamber in Albany, and we also support
24 expanding the post-employment restriction to any
25

1
2 agency for policymakers at the Mayor's Office and the
3 City Council and any other high-ranking government
4 officials with broad interagency powers. We do
5 recommend not to include all public servants on the
6 policymaker list and all members of boards and
7 commissions from appearing before any agency, and
8 that is because of actually what was mentioned here
9 earlier, our concern of the effect it would have
10 about the ability of the City to recruit and maintain
11 personnel as well as the size of that group. Thank
12 you so much for the opportunity to address you today.

13 CHAIRPERSON RESTLER: Thank you so much.

14 I'd just like to ask, oh Blair, sorry, I forgot about
15 you. I forgot about Zoom. Mr. Horner, are you with
16 us?

17 BLAIR HORNER: I am. Can you hear me okay?

18 CHAIRPERSON RESTLER: We can hear you.

19 BLAIR HORNER: You're still hearing me?

20 I'm just being muted and unmuted at the same time.

21 Maybe that's Ben doing that, I don't know.

22 Good afternoon, my name is Blair Horn,
23 I'm the Executive Director of NYPIRG, a non-partisan,
24 not-for-profit research and advocacy organization. We
25 appreciate the opportunity to testify on the

1 proposals to strengthen the oversight of the lobbying
2 industry and to curb conflicts of interest that can
3 impact New York City government.
4

5 We applaud you for holding the hearing,
6 and I'll summarize our written comments, which you
7 have already received. NYPIRG supports the measures
8 under consideration by the Committee. New York City
9 has been the state's leader in tackling conflict of
10 interest issues, and this package will boost public
11 participation in the City and help advance reform in
12 Albany. As you can see in our written testimony, the
13 growth of lobbying in the City has been staggering,
14 and the temptation for public servants to cash in on
15 their governmental contacts has never been greater.
16 Thus, it makes perfect sense to strengthen revolving
17 door limitations. While the City has been a leader in
18 the regulation of lobbying and curbing conflicts of
19 interests, the growth of state lobbying and ethics
20 regulations has become deeply entwined with that of
21 the City. As a result, New York has two parallel
22 systems, similar but different. Those differences can
23 lead to confusion and may, unintentionally, create
24 obstacles to policy participation by those who simply
25 cannot handle compliance requirements that are

1
2 complex at both the State and City levels but are
3 also different. Those voices can be silenced by these
4 two systems. Our observations are not, however, a
5 call for City policymakers to weaken standards in
6 order to mirror the State. State law should be viewed
7 as a floor, not a policy ceiling, and City
8 policymakers should continue to innovate in order to
9 help the evolution of ethics and lobbying oversight,
10 both at the City and the State. Your measures to curb
11 the revolving door between public service and
12 lobbying are important and deserve support. Approval
13 will meet the policy floor standards set by the State
14 and then raise the ante. Given the enormous amount of
15 money that has spent on lobbying and the lucrative
16 nature of paid advocacy, it is critically important
17 that those in public service are restrained in their
18 ability to cash in when they leave to join the public
19 sector. Thank you for this opportunity to testify.
20 Would love to have been there in person but,
21 unfortunately, I am stuck in Albany dealing with the
22 State budget. Thank you.

23 CHAIRPERSON RESTLER: We really appreciate
24 you making time with everything that's going on in
25

1 Albany so thank you for that and your sharp
2 testimony.
3

4 I just wanted to ask one general question
5 to the panel. With regard to, and I appreciate Ben,
6 your comment that there is a model on Council Member
7 Brewer's bill in San Francisco that is being
8 emulated. What did folks think of the alternative
9 approach suggested by Mr. Ryan from the CFB in trying
10 to tackle this issue of regulating this through the
11 Clerk's Office, and do you think that could be an
12 effective approach or do you prefer how this was
13 drafted originally by Council Member Brewer?

14 BEN WEINBERG: I'll preface this by saying
15 I'm not sure I understood the entire proposal, but I
16 do think we do have already a system where lobbyists
17 disclose their political activities and their
18 fundraising activities. We have a definition in the
19 lobbying law and they must report that. If their idea
20 is to build on top of that system and those
21 disclosures, I think that totally makes sense and if
22 it would streamline the process. I will say we have
23 concerns about whether these activities are being
24 disclosed. There aren't a whole lot of them that are
25 filed, or at least that we can find. If you look at

1 the political expenses side and the CFB side, you see
2 way more companies receiving money for political
3 consulting than lobbying companies reporting their
4 political consulting. I think that we can definitely
5 use that disclosure system. We just have to make sure
6 that it is enforced, and those activities are
7 actually disclosed.

8
9 RACHEL FAUS: I totally agree. I think the
10 enforcement is really important. I know something I
11 meant to mention earlier is we absolutely support
12 independent budgeting for enforcement agencies like
13 the Conflicts of Interest Board. The City Clerk has
14 an enforcement function that clearly is being
15 hampered right now with the PEGs so I think
16 bolstering enforcement as part of passing these bills
17 is clearly very important. I think we have a Doing
18 Business List, right, and that is crucial to the
19 campaign finance program to enforce the limits.
20 Having a list of political consultants and
21 fundraisers that is just as tight and checkable is
22 important, and I think putting this out in Open Data
23 is going to help a lot as well because right now it's
24 harder to access and there's fewer eyes on it. You
25 want watchdog groups, journalists, the Council, you

1
2 want everybody to have their eyes on that so making
3 it tight, public in Open Data is going to, I think,
4 help with that effort.

5 SUSAN LERNER: Actually hearing the
6 comments from the Campaign Finance Board reminds me
7 that there is another way to approach this, which is
8 when you accept public money, you accept various
9 restrictions, and so it could be possible to look at
10 having a condition of accepting matching funds that
11 you have a contract with your consultants that they
12 will not lobby you, that neither they nor firms they
13 were associated with will lobby you and that gets you
14 around any constitutional challenge.

15 CHAIRPERSON RESTLER: That is a really
16 smart idea.

17 COUNCIL MEMBER BREWER: Great idea.

18 CHAIRPERSON RESTLER: I like that so much.
19 Was there anything you'd like to add?

20 COUNCIL MEMBER BREWER: No, I was going to
21 ask the same question, and I appreciate both the CFB
22 and your responses because, in the totem, we've got a
23 real package that I think people can be supportive of
24 so thank you very much.

1
2 CHAIRPERSON RESTLER: Yeah. Agree on both
3 accounts. I really appreciate it. Thank you. Anything
4 else this panel would like to add?

5 SUSAN LERNER: I did have a comment on a
6 possible timeframe on 742. I love, as Council Member
7 Brewer knows, starting it with certification but you
8 might want to, whatever timeframe we end up with, one
9 year, two year, three years, you might want to make
10 it to December 31st so that we don't have to worry
11 about when it starts and when it ends, of the year
12 after the certification.

13 RACHEL FAUS: I just wanted to add one
14 point on 742. We totally agree with Citizens Union
15 that you should expand it not just to the individual
16 but their direct staff. You've got to get the Mayor's
17 Office Staff, you've got to get the Council Members'
18 Office Staff and then Department Heads so I just
19 wanted to verbally say that.

20 CHAIRPERSON RESTLER: Strongly agree.
21 Thank you very much both of you for noting that.

22 BEN WEINBERG: One last comment. Susan
23 mentioned timeline. I think it's clear to all of us,
24 but we should say how important this is as we head
25 into a new mayoral election in a new citywide

1 election, which is not very soon, but not very far,
2 some of the practices that we have mentioned here, if
3 that's lobbyists that run political campaigns or
4 organize fundraisers, lobbyists that bundle, are
5 already happening now for that election, and it will
6 just increase. We should definitely not wait too long
7 to move these things forward.

8
9 CHAIRPERSON RESTLER: Great. Anything
10 else, Blair, on your end?

11 We're good. Thank you each for joining us
12 today. We really appreciate you each for joining us
13 today and for your expert insight. Thank you so much
14 and have a good weekend.

15 We've got one more panel before we close
16 out this hearing today.

17 I'd like to invite up Laura Abel from the
18 Lawyers Alliance of New York and Christopher Leon
19 Johnson who's testifying on behalf of himself.

20 Thank you, Gale.

21 You have three minutes. Go ahead, Mr.
22 Leon Johnson.

23 CHRISTOPHER LEON JOHNSON: All right. Hey,
24 Lincoln. My name is Christopher. Hey, Chair. JQ said,
25 what's up, and Puni said, he said, what's up? I want

1 to know where do you have the balls to come up with a
2 bill about this to regulate lobbying when you're
3 brazenly engaged in a fake protest and rally with
4 Open Plans, TransAlt, Riders Alliance, and Los
5 Deliveristas lobbyists and let their agenda items
6 influence your policies and other programs. Now, I'm
7 against this bill because you're introducing this
8 bill. A lot of you Members of the City Council are
9 captive to these lobbyists, such as Transportation
10 Alternatives and Open Plans and the Riders Alliance.
11 Now, what needs to start happening is, Members like
12 you and Members like Shahana Hanif, need to start
13 condemning Kathy Park Price, who's a lobbyist, who
14 need to be registered as a lobbyist. If I had my way
15 in the City Council, I would have made a bill,
16 introduced this bill to have people like Kathy Park
17 Price register herself as a lobbyist because she does
18 indirect lobbying, but we all know that she has a big
19 influence in the City Council, and we want to know
20 why that you have no problem standing next to seven-
21 time stalker, Kevin Lacherra, why are you not
22 condemning the guy? He's in a lawsuit for stalking
23 seven women, and you have no problem standing next to
24 the guy and you're not condemning the guy for what
25

1 he's doing as a Council Member. One more thing is
2 this hearing is nothing but a show. This bill will
3 not go through the City Council. Majority of you
4 Members are for are for standing next to corrupt
5 lobbyists such as Kathy Park Price and Kevin Lacharra
6 and Danny Harris and Jackson Chabat (phonetic) and
7 Elizabeth Adams and Derek Holmes and Betsy Plum and
8 Laura Shepard and Katie Denny Horowitz. It's a big
9 issue in the City Council when you have Council
10 Members standing next to lobbyists that are hellbent
11 on destroying the city so this bill is a sham. This
12 bill is not going to pass the City Council. You
13 instituted this bill for clout. This bill has been
14 standing for the past two years, and you wait until
15 2024 to do it because of Frank Carone. Yeah, Frank
16 Carone is corrupt, but you're just as corrupt as him.
17 When you're standing next to dirty lobbyists of
18 Transportation Alternatives and Open Plans and the
19 Riders Alliance and Los Deliveristas so, like I said,
20 man, I know you don't care, you're only going to
21 listen to the lobbyist. This is nothing but a clout
22 bill, this is nothing but a farce bill, and this not
23 going to pass. I'm against this so that's all I gotta
24 say. Thank you, Lincoln. Thank you.
25

CHAIRPERSON RESTLER: I'd like to just
express my strong disagreement with those remarks,
but we thank everyone for coming to testify today.

If we've inadvertently missed anyone who
is registered to testify today and is yet to be
called, please use the Zoom hand function and you'll
be called on, but I don't think we have anyone. We're
okay.

I just want to say in closing how
appreciative I am to the Conflicts of Interest Board,
the Clerk's Office, and to the Campaign Finance Board
for coming before us today to testify and each of the
good government groups that offered such thoughtful
feedback and testimony and input on this legislation.
It's really important that we provide ongoing and
consistent oversight of lobbying activity in New York
City, and it's been far too long since we had a
hearing like we did today, and it was, I think, a
healthy and productive conversation for us to
identify opportunities that are considered in the
bills for which we heard, but also new ideas that
really require our attention, and so I hope that
we'll be able to introduce some new legislation
generated from the discussion today and really look

1 forward to working with each of the agencies who had
2 the opportunity to join us in crafting that
3 legislation and hopefully signing it into law. Thank
4 you all for making the time and hope everybody has a
5 wonderful weekend.
6

7 With that, I will adjourn the hearing.

8 [GAVEL] Thank you.

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date May 20, 2024