

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL OPERATIONS,
JOINTLY WITH COMMITTEE ON TECHNOLOGY

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HELD AT: Committee Room - City Hall

B E F O R E:

BEN KALLOS
Chairperson
JAMES VACCA
Co-Chairperson

COUNCIL MEMBERS:

David G. Greenfield
Mark Levine
Ritchie J. Torres
Steven Matteo
Annabel Palma
Mark S. Weprin
Brad S. Lander

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

Gale Brewer
Manhattan Borough President

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Counsel to the Mayor
Mayor's Office

John Kaehny
Executive Director
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Noel Hidalgo
Executive Director
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2 [gavel]

3 CHAIRPERSON KALLOS: Good afternoon and
4 welcome to this joint hearing of the Committees on
5 Governmental Operations and Technology. I'd like to
6 start by thanking my Committee Counsel, David and our
7 Analyst, Tim; this is our second hearing today; we
8 just unanimously passed Youth on Community Boards, a
9 bill that was introduced at the request of Manhattan
10 Borough President Gale Brewer and co-sponsored by
11 Council Members Levine, Torres and Vacca, who was a
12 former district manager.

13 I'm Council Member Ben Kallos; you can
14 Tweet me @BenKallos. I'm please to be joined today
15 by my co-chair, Council Member Vacca. Today we're
16 hearing three pieces of legislation that share a
17 common purpose; making our city government more
18 transparent and accessible to every New Yorker.
19 Introduction 328, Open FOIL, creates a centralized
20 online Freedom of Information Portal, which will
21 vastly improve the transparency, fairness and
22 efficiency of New York City's FOIL process and
23 produce significant cost savings and better service
24 to the public, as noted in a report released last
25 year by then Public Advocate, Bill de Blasio, with 10

2 percent of all FOIL requests simply being ignored.
3 Our city has a long way to go towards improving the
4 accessibility of our government work product. This
5 information produced by the government is the
6 people's information, but that information is far too
7 often difficult to access; this bill holds agencies
8 more accountable and encourages the fair treatment of
9 members of the public submitting FOIL requests by
10 allowing an individual to track their FOIL request
11 from start to finish.

12 Introduction 363 modernizes the City
13 Record, the City's official newspaper for notices, by
14 mandating that all items currently in the paper copy
15 of the City Record published by the Department of
16 Citywide Administrative Services over which this
17 Committee has oversight, be included in the web
18 version with an open application programming
19 interface, an API, to empower developers to create
20 their own apps, track the City's contract bids and
21 awards; this also includes green cost-savings
22 initiatives to reduce waste by removing the outdated
23 requirement that the City Record be circulated on
24 paper to government offices.

2 Finally, Introduction 149 would codify
3 the Law Department's practice of putting the Charter,
4 Administrative Codes and Rules online in a searchable
5 format. In this age of complex legal requirement sin
6 so many areas of our lives, it's important that the
7 law be accessible to everyone; this is something I've
8 been working on since 2006, when I started WikiLaw,
9 and hopefully we will receive testimony today calling
10 for it to be an open and transparent publication.
11 Currently it is online; it is not search engine
12 optimized or text-friendly and in fact, if you want
13 to access it, it's held behind a non-free set of code
14 called JavaScript, which makes it nearly impossible
15 for anyone to make the code usable in any format and
16 in fact, in a commitment to making it more online,
17 I've actually posted our city's Administrative Code
18 and Charter at BenKallos.com/law, where anyone in
19 this audience; anyone watching online can literally
20 just download all of the law as a webpage. So it's
21 there and hopefully the Law Department can make it
22 permanently accessible.

23 That being said, I'd like to turn the
24 hearing over to my co-chair, Jimmy Vacca.

2 CO-CHAIR VACCA: Thank you. And I wanna
3 thank Ben Kallos and all the staff for the help in
4 preparing for today's hearing and our two committees
5 are going to be hearing testimony today on
6 legislation that Chair Kallos discussed. One, Intro
7 149, would require the Corporation Counsel to make
8 the Administrative Code of New York City, the City
9 Charter and the Rules of the City of New York
10 available online via nyc.gov.

11 Another bill we're hearing today, Council
12 Member Kallos' Intro 363, would require DCAS to fully
13 publish the City Record online. I'm one of the
14 handful of subscribers to the City Record. I feel
15 awkward saying that. I should be reading master
16 novels, [laughter] but I've been reading the City
17 Record for about 20-25 years; I was a district
18 manager for a community board before I came here, and
19 I can't tell you that the City Record is intriguing
20 and mystifying, but I can tell you that I've learned
21 a lot and I've seen a lot and I've tracked a lot in
22 the City Record. Very few people read the City
23 Record and I do think sometimes agencies put things
24 in the City Record just so that they cover
25 themselves; they did provide a notice and they use

2 the City Record for that covering perspective or the
3 aspect where they -- I don't wanna be a little more
4 blunt than that, but you know what I mean, they cover
5 themselves. But I want the City Record to be more
6 accessible and more transparent so that people can
7 truly read what City agencies are doing, what
8 projects are bid, what government agencies do and
9 administrative agencies do. So public notice today
10 is not truly transparent because this City Record has
11 a negligible leadership and what we wanna do is make
12 sure that the website is easily navigable and New
13 Yorkers can really learn about the government that
14 represents them, and I wanna make it fully functional
15 and searchable.

16 Finally, we're going to hear Intro 328, a
17 bill which my co-chair, Ben Kallos and I have
18 collaborated on with Borough President Gale Brewer
19 and this bill is in my committee, the Technology
20 Committee, and this ambitious legislation, otherwise
21 known as the Open FOIL bill, will make FOIL requests
22 drastically more transparent. Intro 328 will require
23 the Department of Information Technology (DoITT)...
24 Information Technology and Telecommunications (DoITT)
25 to develop, publish and maintain a centralized

2 website to receive, process, respond to and report on
3 FOIL requests made by members of the public to City
4 agencies. It's a drastic change to the current
5 system, which only requires individual agencies to
6 disclosed requested documents at request. The status
7 of the requested materials is not available online,
8 nor is there currently a centralized system that
9 tracks all FOIL requests made to the City.

10 Noncompliance with FOIL requests is too much of a
11 persistent problem in this city. An open, well-
12 monitored, frequently updated FOIL website could make
13 City agencies more accountable and transparent, and I
14 hope my co-sponsors and I can work closely with the
15 Administration of this important legislation.

16 And with that said, I wanna turn the
17 chair back to Chair Kallos.

18 CHAIRPERSON KALLOS: Thank you Chair
19 Vacca. I'd like to recognize Council Member Brad
20 Lander, Deputy Majority Leader for Policy, who is a
21 sponsor and introducer of the Open Law bill; also the
22 Committee Chair of Rules, which passed, among other
23 things, open legislation. So thank you.

24 COUNCIL MEMBER LANDER: Thank you Chair
25 Kallos and Chair Vacca; it's an honor to be in this

2 hearing; wonderful to be here with Borough President
3 Brewer.

4 They say ignorance of the law is no
5 excuse, but that doesn't mean it should be our goal
6 to keep people ignorant of the law and obviously all
7 the things that we can do to make sure it's readily
8 and easily accessible, simple to download and to
9 review and to require that by law seems a fairly
10 simply matter. The Law Department has a contract and
11 it has the Charter and the Ad. Code and the Rules up
12 on the website, but one, it's not required by law
13 currently and two, you know, I think one thing we
14 wanted to hear about, and I'm interested in hearing
15 what advocates have to say as well, whether there are
16 some improvements that we can make there as well
17 since I introduced that law last term, and since
18 then, as the Chair said, we actually made some
19 changes to our own rules in which we go beyond simple
20 searchability to make it possible to look at in some
21 other ways and make sure that if you wanna make sure
22 you're cross-referencing things, that it's simple and
23 possible to do so. So I appreciate to have the
24 opportunity to have the bill heard and I look forward
25 to hearing from advocates and the public what

2 opportunities we can to improve the ways that the law
3 is online, and I appreciate and look forward to hear
4 the testimony on the other bills as well, so thank
5 you.

6 CHAIRPERSON KALLOS: Thank you Council
7 Member Lander. I'd now like to call upon the
8 Manhattan Borough President for Manhattan, Gale
9 Brewer; she was the author of the Open Data bill,
10 which is a landmark Open Data bill, it's actually one
11 of the foremost in the nation and before that she
12 passed something called The Commission on Public
13 Information and Communication, which was the earlier
14 version of it, which required the City to publish a
15 list of all the pieces of data available for people.
16 So she has a decade-long commitment to this topic and
17 I am honored, along with Chair Vacca, to have
18 introduced Open FOIL at her request. Without further
19 ado.

20 GALE BREWER: Thank you both, Chair Vacca
21 and Kallos, and I am obviously Gale Brewer, Manhattan
22 Borough President, but more importantly, I love your
23 two committees, for obvious reasons. So
24 congratulations to both of you for your chairship.
25

2 You have lots of good bills before you
3 today, but I'm gonna focus on Intro 328, which I am a
4 proud co-sponsor with you, and as you know, it calls
5 for the City to create a centralized open FOIL web
6 portal.

7 As you know, and Chair Kallos mentioned,
8 I'm the strong supporter of Open Data, but just open
9 data in general. So in 2012 we passed in the City
10 Council Local Law 11, which is the Open Data Bill and
11 the implementation of that bill places New York City
12 at the forefront of a growing trend in government
13 transparency. At that particular portal I believe
14 there are now 1500 datasets for more than 60 agencies
15 available on the Open Data portal. And with Chair
16 Kallos and with others from the New York City
17 Transparency Group, we actually had a wonderful
18 discussion at the Personal Democracy conference over
19 the weekend about the whole issue of open data and
20 how the City Council can even do more, but has done a
21 lot; it was a really great discussion.

22 So in the spirit of open data and
23 complimentary to the launch of the NYC Open Data
24 portal in 2013 that brought the data and statistical
25 records into the digital age, this creation of an

2 open FOIL portal will equally increase both the
3 transparency and response rate of Freedom of Law
4 requests made to the City of New York. Before I go
5 into the anticipated benefits of the proposal, I
6 wanna recognize the members of the NYC Transparency
7 Working Group who have contributed many, many hours
8 to research and develop a framework for how to best
9 implement an open FOIL portal, similar to what they
10 did, to be really honest with you, on Open Data, and
11 I think particularly John Kaehny of Reinvent Albany
12 and Gene Russianoff of NYPIRG need to be
13 congratulated.

14 So the Open FOIL portal will have many
15 benefits; let me just list a few. (1) Increased
16 efficiency, just as 311 centralized inquiries into
17 city services and the current Open Data portal
18 website centralizes the publication of agency
19 datasets. The Open FOIL portal will centralize all
20 FOIL requests. This means we'll be able to avoid
21 duplicate requests. More importantly, once a dataset
22 has been produced via FOIL and made available through
23 the portal, it will remain accessible in the NYC Open
24 Data portal, so people seeking the same information
25 in the future will be able to obtain the same data

2 without having to go through FOIL again. (2)
3 Improved response rate and consistency. In 2013,
4 then Public Advocate de Blasio's report, which was
5 referenced earlier, "Breaking Through Bureaucracy,"
6 highlighted that the City's agencies vary in capacity
7 response rate and response time in meaningful
8 requests. Creating the Open FOIL portal will address
9 each of the three discrepancies and elevate the
10 City's process of responding to FOIL requests to one
11 that will be prompt, transparent and consistent
12 across all agencies. For example, automated emails
13 for receipt of requests will bring the initial
14 acknowledgement rate to 100 percent. A record of
15 each request will then be created for users to track
16 their request's progress at all times. Both of these
17 functions take the burden away from agencies to use
18 staff time for correspondence that can otherwise be
19 handled by the centralized Open FOIL system. This
20 frees up capacity for quicker FOIL fulfillments, and
21 where under-capacity had previously resulted in gaps
22 in responding to FOIL requests, agencies will now
23 have more staff time to rectify the gaps. (3)
24 Increased cost savings. The estimated cost for
25 fulfilling a FOIL request is \$300 and at roughly

2 50,000 requests per year, 50,000, the City spends an
3 estimated \$50 million to fulfill FOIL requests,
4 according to NYC Transparency Working Group. The
5 group also finds that on average \$100 of this cost is
6 expended on staff time spent on locating and
7 gathering records, and I've had to respond to FOIL
8 requests, and understand that that is very time-
9 consuming and it needs to be, but it needs to be
10 funneled. By funneling all FOIL requests through a
11 single portal with the ability to automate request
12 processing, avoid duplicate tasks and archive
13 datasets that have already been produced to fulfill
14 similar requests in the future, the Open FOIL portal
15 has the potential to save the City millions of
16 dollars while delivering an improved level of
17 services for fulfilling FOIL requests. (4)

18 Consistent enforcement of privacy protections. The
19 Open FOIL portal will keep intact all privacy
20 protections under State Law. This means the bill
21 does not, does not, call for the disclosure of the
22 requesters or the organization's identity when a FOIL
23 request is submitted via the portal. Additionally,
24 FOIL requests will be summarized in a way that any
25 private information will be redacted in compliance

2 with Federal and State Privacy Laws before being made
3 accessible to portal users.

4 With these anticipated improvements I am
5 confident that the City will be better equipped to
6 respond efficiently and economically to the 50,000
7 requests. The creation of an Open FOIL portal will
8 not be without its technological and logistical
9 challenges. The NYC Open Data portal required a one-
10 time expenditure of \$1.2 million in FY13 City funds
11 to design the website and subsequent annual operating
12 costs are in the range of around \$400,000.

13 Since its launch, the NYC Open Data
14 website has become the example of transparency that
15 many other municipalities now seek to emulate.
16 Assuming similar web development and recurring
17 operating costs, creating and maintaining an Open
18 FOIL website will bring about substantial savings
19 from the currently \$50 million, which is the current
20 estimate of what it costs per year.

21 As for technological issues, I believe
22 that with adequate tech support we will be able to
23 overcome potential difficulties, particularly because
24 now we have an example.

2 Finally, I understand that the Open FOIL
3 portal will only be successful if there is sufficient
4 capacity within individual City agencies to support
5 the work required behind the face of the portal. So
6 I encourage the Mayor's Office of Operations and
7 DoITT to train officers on how to use the Open FOIL
8 portal, how to interface with City agencies, provide
9 support to different departments, how to protect the
10 privacy of individuals and organizations when
11 responding to requests, and of course, to make sure
12 they have enough capacity technologically. FOIL
13 officers must also be trained on how to assist those
14 without access to a computer to file and receive
15 documents, because we can't leave them out.

16 I am committed to providing the necessary
17 technical assistance to all of Manhattan's Community
18 Boards so they too will have sufficient capacity to
19 respond to FOIL requests.

20 Through a partnership -- this is brand
21 new -- with CUNY Service Corps, each community board
22 in Manhattan will be assigned two interns to support
23 the Board's technology and data collection needs, a
24 resource that will remain available after the Open
25 FOIL portal is up and operational.

2 So I thank you for your opportunity to
3 testify today; I just wanna add, and you probably
4 also, I have received some calls from press,
5 understandably great reporters who are concerned
6 about whether they are included or not; I wanna be
7 honest about that, and that's something that we need
8 to look at, because they're nervous that if they are
9 part of this FOIL process they could lose a
10 competitive advantage; something to be considered.
11 Thank you very much and I look forward to working
12 with you on this issue. Congratulations.

13 CHAIRPERSON KALLOS: Thank you very much,
14 Manhattan Borough President Gale Brewer. Before we
15 begin questions, I wanted to recognize that we are
16 joined even by the outset by Council Members Matteo,
17 Greenfield, Levine, Lander, Weprin, and Palma. I..
18 Okay. And I also wanted to, as the Borough President
19 mentioned interns, thank all the interns from my
20 office, from the Office of Ben Kallos who are here
21 today, thank you for joining us and thank you to
22 those watching the livestream in our district office.

23 I'd like to call Maya Wiley from the
24 Administration. If you could have a member of your
25

2 staff please fill out a witness slip. Turn on your
3 microphone. [interpose]

4 MAYA WILEY: Thank you at the outset for
5 indulging my schedule and I appreciate that from the
6 Committee.

7 Good afternoon, my name is Maya Wiley;
8 I'm counsel to Mayor Bill de Blasio, and we will turn
9 to this, but thank you, Lisette Reisman, who is my
10 wonderful special assistant for setting this up;
11 we're very excited to unveil today City Hall's FOIL
12 tracker, very much in spirit with what we're talking
13 about today.

14 So thank you Chairs Kallos and Vacca and
15 members of the Committees on Government Operations
16 and Technology for the opportunity to testify before
17 you today on these three introduced bills.

18 Mayor de Blasio, as you know, is deeply
19 committed to ensuring that government is open,
20 accessible and transparent so that residents of New
21 York City can engage with City Government in a
22 meaningful way, and he's long been a champion on
23 transparency. Today I'll be sharing with you some of
24 the progress we've made on this front and acknowledge
25 some of the things we still have left to do.

2 I'll first briefly discuss Intros 149 and
3 363 and we'll end with a discussion 328, Open FOIL.

4 As you know, Intro 149 would amend the
5 City Charter to require Corporation Counsel to
6 publish on City's website the City Charter,
7 Administrative Code and the Rules of the City of New
8 York in a searchable format. This bill essentially
9 codifies what we're already doing. The Law
10 Department has a contract with New York Legal
11 Publishing to make available this body of law online,
12 in plain text form, and the text is word searchable
13 and is updated twice a year. In about a year, a new
14 contract for publication of the City's laws will be
15 awarded and we'll be reviewing our options to ensure
16 that we continue to improve the user experience with
17 this online service; we're not waiting to make
18 improvements we can make now. Until recently it was
19 hard to find a link to the law portal on the City's
20 website; we worked with DoITT to ensure that the link
21 is now prominently displayed on the Resident Toolkit
22 page of the City's website, and we're interested in
23 and welcome feedback from the public to understand
24 additional ways to improve the user experience. As I

2 said, we're gonna have more opportunities to do that
3 in the next year.

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

12 By way of background, the City Record is
13 published each weekday, except legal holidays, and
14 contains official legal notices produced by New York
15 City agencies. Announcements published in the City
16 Record include upcoming public hearings, meetings,
17 procurement bid solicitations, selected court
18 decisions, bid awards, public auctions, and other
19 property disposition actions, and official rules
20 proposed and adopted by City agencies. Per the New
21 York City Charter, it is manually distributed to
22 libraries, local government offices, community
23 boards, and various news media. Since 2011, each
24 day's printed City Record has been posted on the City
25 Record online website in a PDF format. Each

2 individual PDF is searchable by agency, keyword and
3 category, but there's currently no ability to search
4 multiple PDFs at the same time. The bill requires
5 that the City create a beta website within 90 days of
6 enactment that would place the City Record online in
7 a machine and human-readable format and then create a
8 final site within 180 days. While we applaud the
9 goals of this legislation and are committed to
10 getting the City Record online in an easy to use
11 format, there are a few concerns that we have with
12 the bill that I'd like to highlight.

13 First, there are legal issues with
14 requiring City Record to be exclusively published
15 online. According to the Law Department, requiring
16 the City Record to appear only in electronic format
17 would not have its intended effect without a change
18 in New York State Law. Section 60(a) of the New York
19 State General Construction Law requires than official
20 publication like the City Record be distributed in
21 print form in order to be a newspaper in which legal
22 notices may be placed. And as I mentioned earlier,
23 these are really important legal notices that we
24 wanna make sure we're doing in a legally sufficient
25 way. In fact, the past administration advocated for

2 an amendment of State Law to allow for electronic
3 publishing of the City Record, but those efforts have
4 not yet been successful. In short, until State Law
5 is amended, we must print the City Record. Also, as
6 an administration committed to helping all New
7 Yorkers access affordable broadband, we're keenly
8 aware that not all New Yorkers have a computer at
9 home or the ability to easily to get online.

10 Second, even if there are no legal issues
11 with ending the printed version of the City Record,
12 and all New Yorkers had the ability to get it online,
13 the timeframe afforded in this legislation to develop
14 the website is not feasible. As mentioned, we
15 believe it is a worthy goal and something we would
16 like to do, but DCAS has reviewed the bill and does
17 not believe it could develop a beta site within 90
18 days because of the complexity of revising and
19 creating code to make all City Record information
20 searchable and creating a database for this
21 information.

22 That being said, we believe this is an
23 important goal and we're committed to working with
24 the Council to make sure that the City Record online
25

2 website is as well-designed and useful to the public
3 as possible.

4 Now turning to 328, Open FOIL. As I
5 mentioned, and you all already know this, Mayor de
6 Blasio's committed to an open and transparent
7 government and a critical element of that goal is
8 FOIL reform. He's long been a champion of this, in
9 partnership with Manhattan Borough President Gale
10 Brewer, as public advocate the Mayor launched a
11 citywide investigation into FOIL compliance; the
12 first comprehensive study of its kind, and in 2012
13 the Public Advocate's Office collected and
14 scrutinized information on more than 10,000 FOIL
15 requests, resulting in a transparency report card
16 that graded the City agencies on their adherence to
17 the law. The results demonstrate the magnitude of
18 the challenge that we face in this effort, but I'm
19 pleased to report that we're making progress.

20 First, and I think extremely importantly,
21 the Department of Records and Information Services
22 (DORIS), under the leadership of Commissioner Pauline
23 Toole, is now completely revamping the way in which
24 the City catalogs and makes government records and
25 reports available to the public. Before the end of

2 the year we plan to unveil new, fully searchable
3 tools to dramatically expand public access to
4 government documents. And this is important to
5 emphasize, because in the long run, the best way to
6 ensure swift and efficient public access to
7 government documents is through proactive disclosure;
8 one of the things that the Mayor said when he
9 campaigned for office. In an era in which the
10 proliferation of electronic communications is making
11 it more and more expensive and time-consuming to
12 search vast volumes of records, FOIL reform must also
13 be about proactively pushing out information into the
14 public space, thereby decreasing need and reliance on
15 our Freedom of Information laws.

16 In addition today we made live the first
17 ever City Hall FOIL Tracker, so this is the way it
18 looks on the page; it's on the Office of the Mayor
19 page, you get a welcome, you'll see at the bottom --
20 if you can -- a Submit a FOIL request, so you can
21 actually online submit a request... [interpose]

22 CHAIRPERSON KALLOS: What's the URL?

23 MAYA WILEY: Sorry?

24 CHAIRPERSON KALLOS: What is the URL?

25 [crosstalk]

2 MAYA WILEY: It's... It's... I don't have it
3 printed, but it is directly on... if you go to the
4 NYC.gov page and the Office of the Mayor page, she
5 should see it at the bottom of the page. Got it?
6 [background comment] Great.

7 CHAIRPERSON KALLOS: Thank you.

8 MAYA WILEY: It just went live this
9 morning, something we've been working on for the past
10 several months; very much in the spirit of what we're
11 trying to understand, which is how to do this better
12 and how to roll it out citywide. So what's important
13 about this is, in addition to be able to submit a
14 FOIL request online, obviously just for City Hall,
15 but for City Hall, you can also check the status, so
16 once you've filed you can go back to the site and
17 check to see updates. Now of course people will
18 still get the traditional letter, but it's also a way
19 to keep track online. You wanna... put up the other
20 one.

21 This is just an example of what the page
22 looks like; it does give you information about the
23 FOIL law and some links to the FOIL law as well, but
24 this is how you would literally be filling it out if
25 you were filling it out online.

2 And this last one is actually how the
3 FOIL status will appear. So when you submit online,
4 you will get a tracking number and then by tracking
5 number you will be able to search, but also it
6 literally will have a page where you can see, and
7 we've uploaded and updated all of our existing... we
8 had been tracking FOILs within City Hall, but not in
9 a manner that was publicly accessible. So you can
10 actually see progress on all FOIL requests, right;
11 you can't see who the requester is, but you can get a
12 sense of the progress being made on FOIL requests
13 across the board.

14 So the FOIL tracker, public facing
15 webpage, NYC.gov, allows individual submission of
16 FOILS; it is the goal of this administration to
17 create a centralized, citywide portal for all FOIL
18 requests; I think that's really important to say. It
19 is an explicit platform item for this mayor, it's
20 something that we are committed to; this City Hall
21 FOIL Tracker is our first major step at making that
22 happen. There are dozens... But at the same time, this
23 is a huge undertaking. There are dozens of agencies
24 in City Government, each having its own FOIL process
25 and different demands and capacities; to bring all

2 these agencies' FOIL operations under one umbrella
3 will require a large degree, as we heard actually
4 from the Borough President, absolutely correctly, a
5 large degree of coordination, planning, absolutely
6 training, also a lot of understanding about how the
7 public wants to see this and how it will make use of
8 it. But we've already begun, we've already begun;
9 we've been looking at how to assess what's happening
10 in other cities, we've been looking to assess the
11 process that we need to have here for doing that; it
12 will take time. We see the City Hall Tracker as an
13 excellent first step in this effort, first step only;
14 we will be able to use it as a pilot, evaluating its
15 functionality, determining how to scale what works,
16 determining how to fix what doesn't. To give you a
17 sense of the size of a project to create a
18 centralized FOIL tracker system for a city the size
19 of New York, and remember -- I like to remind people,
20 including my children, when they ask me why I haven't
21 made sure they can get out of school when they want
22 to -- that this City is actually... if it were state,
23 would be 13th in the nation. It's no small challenge
24 to think about how to do some... anything citywide in

2 this city, let alone something that other cities are
3 just starting to try to figure out themselves.

4 So to give you a sense of the size, we
5 estimate that City agencies receive at least 50,000
6 FOIL requests each year and each agency has a
7 different way of addressing it right now. For
8 example, the Department of Transportation alone gets
9 about 7,000 requests per year and has a very
10 sophisticated system and a very large staff dedicated
11 to responding to requests. One of the first things
12 that happened in this administration was sitting down
13 with DOT because they were more sophisticated and had
14 a better operation because of the volume of requests
15 they received; trying to understand what they did
16 right, what worked for them.

17 So in order to centralize a system, we
18 actually need to understand carefully the operations
19 of all agencies; some have significantly different
20 requests from others; some have significantly
21 different operations on how they process the requests
22 and we're trying to understand that, and we have to
23 coordinate that all agencies... that we ensure that the
24 final product actually increases efficiency rather
25 than adding bureaucracy. This is actually a very

2 important point, because I think we assume that
3 simply by automating we actually reduce bureaucracy;
4 it depends on how we do it and whether we understand
5 what we have to do within each agency to ensure that
6 it does become more efficient and doesn't add a lot
7 of add-on work.

8 We share this legislation's goal to
9 create a centralized system; it's important that we
10 do it as smart government; in that vein, I would like
11 to offer a few of the comments of the things we're
12 worried about.

13 As you know, Intro 328 would create a
14 centralized online portal, all FOIL requests,
15 something we must do. The bill would in part allow
16 the public to submit a request to any agency from a
17 centralized site; it's an important premise; that
18 site will track each request and provide the
19 requester with an update at each step of the process;
20 same thing that we're prototyping in City Hall right
21 now. The bill requires that the site be up and
22 running within all agencies having transferred their
23 FOIL operations to it within one year; that's a very
24 short timeframe. As the launch of the City FOIL
25 Tracker illustrates this Administration's committed,

2 at present we need to think about a timeline that
3 actually makes sense for determining how best to do
4 this in a city so large and with such a huge volume
5 of FOIL requests and such varying degrees of both
6 capacity, experience and types of requests throughout
7 the various agencies that we have in the city. This
8 is a massive undertaking that will require resources
9 that are not readily available. As I mentioned, some
10 agencies have extensive and elaborate operations for
11 responding to FOIL that will not be easy to
12 transition quickly. If we have to do any significant
13 procurement to implement this; a year timeline also
14 not feasible for a sophisticated procurement process.

15 We'd like the flexibility to bring
16 something of this nature online in phases. We wanna
17 learn from what we're doing, we want to learn from
18 the agencies; we want a smart, clear assessed plan
19 and we want a clear sense of cost rollout, and make
20 sure we're also learning from what others are
21 learning, for example in Oakland.

22 As drafted, the bill does not allow the
23 City to choose which responsive records to post
24 publicly and which to send only to the requester.
25 This could potentially lead to a situation where the

2 City must post certain documents that while not
3 entirely exempt from disclosure under FOIL, are
4 nevertheless inappropriate for mass distribution,
5 like an individual's case file.

6 The bill also appears to require agencies
7 to post records to the centralized site before
8 redacting them and remember, redaction is critically
9 important to protect the exemptions that are in place
10 under the current FOIL Law. Once uploaded, if they
11 are unredacted, that could.. take the NYPD
12 investigation file, suddenly you could have 10,000
13 pairs of eyes on an unredacted investigation file,
14 which wouldn't happen if it was not being posted
15 until after it was redacted appropriately. That
16 could risk broad distribution within the government
17 of sensitive information, such as personal health,
18 education data and law enforcement materials that
19 should only be viewed by those who have a need and
20 the authority to see them before they're redacted.

21 Lastly, the bill appears to require
22 public disclosure of every dataset from which records
23 are produced pursuant to a FOIL request. While it is
24 our goal to post as many datasets as possible,
25 datasets often require careful review before posting

2 to ensure exempt materials are not unintentionally
3 disclosed. So requiring disclosure of every dataset
4 from which a record is drawn in response to FOIL
5 would require the City to undertake massive data
6 review exercises in response to FOIL requests, even
7 when the dataset at issue may not be the highest
8 priority to publish at a given time. This goes back
9 to my point that we could in fact create more
10 bureaucracy, unintentionally, by doing something
11 that's laudable but may be a little bit, you know,
12 something we should be more careful and think through
13 more carefully. This will lead either to a delay in
14 responding to those FOIL requests or an ordering of
15 the disclosure of datasets that is driven by random
16 FOIL requests rather than well-considered
17 prioritization. Again, we wanna get this done, we
18 wanna get it done right; we wanna get it done in a
19 way that ensures smart government, responsive
20 government, efficient government; we wanna make sure
21 that we're not creating the impression that
22 government fails by trying to do something
23 complicated too quickly and without appropriate
24 steps, process and thought. Otherwise, what we risk,
25 what we potentially risk is actually undermining

2 public confidence and trust in government when our
3 very intent with this bill is to ensure that we
4 protect it and actually increase it in a meaningful
5 way. Thank you.

6 CO-CHAIR VACCA: Thank you. I appreciate
7 your testimony.

8 MAYA WILEY: Thank you.

9 CO-CHAIR VACCA: I didn't know the bill
10 was that bad.

11 [laughter]

12 MAYA WILEY: The goals of the bill are
13 wonderful.

14 CO-CHAIR VACCA: Oh I know, I know; I
15 appreciate... [laughter] I appreciate your input. Let
16 me ask you a couple of questions though, and
17 certainly, the one-year time period I think is
18 something I'd like to work with you on, but Gale
19 Brewer raised an issue about the news media being
20 concerned about their participation in this and
21 whether other people in the media would know what
22 someone else in the media is looking at. Now you did
23 not mention that; is that a concern to you and to the
24 Administration that this is a free press issue?

25 [crosstalk]

2 MAYA WILEY: We know it's... We know it's a
3 concern to the media, so the way we designed the City
4 Hall FOIL Tracker... now the FOIL Law exempts
5 commercial enterprise from disclosure, so for
6 example, most of the City Hall FOIL requests are from
7 news outlets, which means if we actually withhold and
8 we redact information about the actual request of one
9 news service to another... from another news service,
10 so we had a FOIL request, for example, from a news
11 outlet that said, I wanna see all the FOIL requests
12 of every other news outlet. We said no, because what
13 they're doing is fishing for what their competition
14 is trying to find out for story purposes. Now at the
15 end of the day that's... our business isn't who gets
16 what story when and how, but certainly we have to
17 follow the law in protecting the commercial
18 enterprise to not ensure that one news outlet gets a
19 competitive advantage above another news outlet. So
20 in our FOIL tracker, that's one of the reasons why
21 when you put in... when you file a FOIL request you get
22 a tracking number you don't get identified, so the
23 only identified is the tracking number, so therefore
24 all of what's in there right now, vast majority are
25 from press, but you don't know who submitted what and

2 you don't know exactly what the request is because of
3 the competitive enterprise exemption under the law.
4 So I think it is an issue that the City Council
5 should take into consideration.

6 CO-CHAIR VACCA: You are aware that prior
7 to this administration there was a difficulty in
8 getting many FOIL requests realized. Do you have an
9 agency breakdown of how long certain agencies took as
10 opposed to other agencies in responding to FOIL
11 requests; is that something you are looking at in the
12 over all picture?

13 MAYA WILEY: That's a really, really
14 important question I think. We want to get a
15 picture... let me say two things, so the short answer
16 is, we want to get that picture, it's something we've
17 started to work on; just to give you a sense of some
18 of the steps we've taken already. One is assessing
19 what people are currently doing in each agency,
20 right, 'cause as I said, each agency is very
21 different in terms of the types of FOIL requests;
22 obviously most of ours are media; that's not
23 necessarily true of all agencies. Obviously the type
24 of request you get is very different. A request that
25 the NYPD gets, significantly more sensitive than the

2 requests for contracts from SBS, right, many of which
3 the final contract's gonna be very easy to just
4 quickly make publicly available. So understanding
5 both not just volume and speed of response, but type
6 of request. So we don't have it yet, it's one of the
7 things that we need to do in the process to
8 understand this, because we want responsive
9 government. Part of being responsive though is also
10 setting the expectations of the public because some
11 requests are voluminous, some are not; some requests
12 are simple and straight forward, some are much, much
13 more complex. And so how we assess appropriately,
14 whether or not agencies are being responsive or
15 dragging their feet, we're not gonna permit
16 inappropriate foot dragging, but we have to find a
17 way to start to create the metrics by which we're
18 able to assess that. So the short answer is it's
19 something that's currently in discussion, we've
20 identified now all of the FOIL officers for the
21 agencies. As you know right now, one of the simple
22 things we need to do is make much more transparent to
23 the public who the FOIL officers are for each agency,
24 we have to do that ourselves for City Hall. So one
25 of the things that we're trying to do is first of

2 all, just identify who they all are and then make
3 sure the public knows who they all are. We've
4 actually had a meeting with the commissioners in
5 which we've talked about FOIL and its priority, we've
6 actually had a meeting with the chiefs of staff in
7 which we've talked about FOIL; we wanna coordinate
8 better. We will be doing the same thing with general
9 counsels of all the agencies. So this is part of my
10 point about it's a process, both of understanding,
11 assessing and then starting to put in place both the
12 signal that there's a shift, that this administration
13 takes it seriously and that we want it to happen and
14 that we wanna be more coordinated and better
15 coordinated, and we wanna listen and understand so
16 that we're not being kneejerk, so that we're being
17 smart and understanding real challenges,
18 understanding real capacity needs and also
19 understanding, you know where we have to push, so
20 that's on our way.

21 CO-CHAIR VACCA: You did mention I think
22 before, you alluded to the New York City Department
23 of Transportation and your assessment or your
24 inventory indicated that they had 6,000 FOIL requests
25 last... [interpose]

2 MAYA WILEY: 7,000. 7,000.

3 CO-CHAIR VACCA: 7,000 last year. So... so
4 that... [interpose]

5 MAYA WILEY: Actually, I don't have the
6 timeframe, but I believe it was last year. Yeah.

7 CO-CHAIR VACCA: Last year. How many
8 FOIL requests did New York City take in last year?
9 How many FOIL requests were there citywide that you
10 have... [crosstalk]

11 MAYA WILEY: So we can't answer that
12 question because... to the point of the Committee that
13 I think the Committee's so rightly raising. There's
14 no one centralized resource to say how many each had.
15 The only thing we have is the study from the Public
16 Advocate's Office. What we are going to be doing, as
17 you know, one of the commitments that the Mayor made
18 was to have FOIL statistics in his MMR in September,
19 so we're working towards the goal of being able to
20 answer that question, at least for the period of time
21 of this administration. But right now we can't say
22 from the previous administration how many FOIL
23 requests there were.

24 CO-CHAIR VACCA: But I have to be honest,
25 to me that's glaring. If we cannot tell... if this

2 committee cannot be told how many FOIL requests were
3 made in 2013, then there's not appropriate oversight...
4 well there's not appropriate recordkeeping or there's
5 not a coordination; there's something missing in this
6 metrics that we cannot be given that number, because
7 you do not have it, but why wouldn't that be...

8 [interpose]

9 MAYA WILEY: Well...

10 CO-CHAIR VACCA: compiled very
11 accurately?

12 MAYA WILEY: I think you're absolutely
13 right, that this is something that anyone sitting in
14 this seat should be able to answer; it's not that
15 there isn't an answer, it's that it's not being
16 coordinated and compiled, so that goes back to the
17 point I made earlier, that this kind of coordination
18 is something we're trying to build... we have to
19 remember this is a sea change, because the
20 administration has said that this is a goal, and so
21 part of what we're trying to build, essentially, is
22 we're trying to build the muscle and we want the
23 metrics. So first we're gonna... that's why hopefully
24 in the MMR you're gonna get obviously a lot more
25 information than we have today and we wanna keep

2 building towards that, so we're very committed to
3 working with the committee and we'll come back on a
4 regular basis and try to make this a much more
5 transparent process, both about what we're doing,
6 what we're learning and obviously we're starting to
7 try to normalize being able to answer these
8 questions.

9 CO-CHAIR VACCA: And just lastly, part of
10 the process that we will use is that certainly your
11 testimony will be taken into consideration, you've
12 raised many good points and we're going to have our
13 staff be in touch with your staff... [interpose]

14 MAYA WILEY: That'd be wonderful.

15 CO-CHAIR VACCA: and we'd like to work
16 collaboratively with you on a bill, but we realize it
17 may take a while to get there, but we're willing to
18 do what we should be doing and I think you.

19 MAYA WILEY: We look forward to working
20 with you.

21 CO-CHAIR VACCA: Thank you. 'Kay.

22 MAYA WILEY: Thank you.

23 CO-CHAIR VACCA: Thank you Chair Kallos.

24 CHAIRPERSON KALLOS: Thank you Chair
25 Vacca, great questions. Thank you Counselor Maya

2 Wiley, thank you very much. So just overall it seems
3 that the Administration is supporting all three of
4 these bills?

5 MAYA WILEY: So the Administration... as I
6 said, my testimony stands, so we have... in the first
7 instance we're already doing it, so you know, I think
8 we can talk more about what that means, but it's
9 already being done currently; I don't know if there's
10 a need for legislation then to legislate what's
11 currently happening; we can certainly talk about
12 that. In the case of the second one, you know we've
13 raised some of the issues we've had. In the case for
14 the third one, our view is that we should work to
15 make sure we have a clear assessment of what needs to
16 happen, because if we don't do this right, I think we
17 will have a bigger problem than we have right now.
18 Our view is that we should actually go through the
19 process of prototyping, make sure we have an adequate
20 and full assessment and that we actually make sure
21 that we understand how to make this work effectively
22 before we actually say how it has to happen in this
23 form.

24 CHAIRPERSON KALLOS: I think what a
25 difference a new administration makes, the fact that

2 you're here at least with an overall support with
3 some changes is incredibly great, especially to have
4 a mayor where this is... all things that we're either
5 doing or it's a goal and it's just a question of the
6 details and I would like to echo my colleague's
7 support; I believe we... I know the Mayor has an entire
8 city to run, but we have been eager to work with the
9 Administration on this and can we have your
10 commitment that we'll be able to work with you on
11 hashing out the details on these bills so we can get
12 them passed?

13 MAYA WILEY: So we will certainly be
14 willing to talk with you; obviously I'm going to say
15 today what I've already said in testimony, which is...
16 [crosstalk]

17 CHAIRPERSON KALLOS: Perfect.

18 MAYA WILEY: that we have one bill we
19 believe is... we already do what the bill would like to
20 legislate, the second one we should talk about our
21 concerns and the third we think is premature.

22 CHAIRPERSON KALLOS: Sure. So let's talk
23 a little bit about Open FOIL. I am so excited to be
24 co-chairing this hearing where the Mayor has

2 announced a FOIL portal and I think that's an amazing
3 thing. Is this a beta site or is it the final site?

4 MAYA WILEY: Well in my view this is a
5 learning process, because as I said, we're embarking
6 on something that hasn't been done before in the City
7 of New York, so from my perspective it's up, it's
8 running, it's what we're gonna be using, and we're
9 gonna be learning from it, which means the likelihood
10 is we may learn some things we need to change. As we
11 start to think about how... what this may mean as DoITT
12 goes through its process of assessing what a citywide
13 FOIL tracker would look like, some of the steps that
14 I mentioned; obviously we might see some changes also
15 to the City Hall tracker as we go through that
16 process. So we... if you can call it... it depends on
17 how you define beta. From my perspective this is
18 hopefully something that will be a learning process,
19 but it's live, it's functional, it's operational,
20 we're using it.

21 CHAIRPERSON KALLOS: When was this
22 commissioned; when did work on this begin?

23 MAYA WILEY: When did work on it begin?

24 CHAIRPERSON KALLOS: Yeah.
25

2 MAYA WILEY: The work began at the
3 beginning of the administration, so we... [interpose]

4 CHAIRPERSON KALLOS: So January 1st or
5 January... [interpose]

6 MAYA WILEY: Well I came on January 19th,
7 so I'm not gonna speak to anything that happened
8 before January 19th, but [laugh] but as I said, this
9 is a platform issue, this is something that the Mayor
10 and I discuss; this is something that we felt we
11 could at least... given the process and the steps that
12 we needed to go through to do what we think we had to
13 do smartly on a citywide system, we also thought but
14 there's some things we can do now, even in advance,
15 it's gonna help us learn and start to figure out
16 stuff that's gonna be much more sensible in terms of
17 how we roll up into a citywide system. So we've been
18 talking about this since I came aboard and we're
19 thrilled that we could take it live.

20 CHAIRPERSON KALLOS: So I also wanna
21 commend you, because you... this is day 142 for you,
22 and this is day 160 for the administration; this
23 legislation puts forth a 270-day timeline and
24 generally beta is the period between when it has been
25 built and when it is internally reviewed and then

2 what we have right now would be considered live. So
3 you've actually been able to build this, get it
4 implemented from thought to announcing it in a 160
5 days, which is 110 days quicker than this legislation
6 speculates for. So help me... first, kudos; that is
7 really quick and that is what technology products
8 should look like, that's how long technology products
9 take nowadays, it takes a couple hundred days, it
10 doesn't take years, it doesn't take... [interpose]

11 MAYA WILEY: Well a couple of
12 differences... [crosstalk]

13 CHAIRPERSON KALLOS: Yeah.

14 MAYA WILEY: 'cause I take your question.
15 One, this is one agency; not citywide. As I said,
16 each city agency currently handles these very
17 differently and the types of reque... we also... it's
18 very clear what kind of requests we get, it's very
19 clear who our requesters are, generally, vast
20 majority are press, so it's not this... and we don't
21 have to go through a procurement system to do this.
22 Remember, we don't have to bid this out, we could
23 just do this within City Hall with our own MIS team.
24 Once you start to talk about a citywide... that's a
25 whole different ballgame, both in terms of the

2 procurement rules that we have to live by, but also
3 what are we procuring; what is the software that's
4 gonna be most effective, and we can't just go to a
5 software decision quickly until we also assess what
6 we have to do with each agency; we're gonna wanna do
7 that process, we're gonna wanna do it smartly... take
8 Oakland, for example, we already... Oakland is one of
9 the cities that's done it; they're already also
10 getting complaints from users because they use
11 scribbled [sic]; would we use scribbled; would we do
12 something else and have actually something that's
13 system-based that we would... I mean there are
14 different things that we have to consider from a
15 technological standpoint for what will work citywide
16 that we could skip over when we're just doing City
17 Hall.

18 CHAIRPERSON KALLOS: Well I guess one
19 question is, you were talking about procurement, so
20 your MIS team internally was able to do it; how much...
21 how many people were necessary to do it; how many
22 hours did it take and what skill sets do those MIS
23 people have and what code did they use for this?

24

25

2 MAYA WILEY: Well I'd be happy to have
3 someone from MIS come and answer those questions...
4 [interpose]

5 CHAIRPERSON KALLOS: Okay.

6 MAYA WILEY: I'm the person who gets to
7 sit in a chair and say... Jean Luc Picard and say make
8 it so and then I have all these wonderful who do; I
9 can't possibly tell you, but we'd be happy to get you
10 the answers to those questions. But again I'm gonna
11 say, that's not the same process, nor would the
12 answers actually be illustrative about what would
13 happen effectively in a citywide process that
14 includes every agency of the city rolled up into one
15 online centralized portal.

16 CHAIRPERSON KALLOS: It's beyond the
17 scope of our powers in the Council, especially on
18 legislation, but if I might suggest that what you did
19 you did right, you did it in-house, you did it cost-
20 effectively, hopefully, once we hear that number, you
21 did it in a fraction of the time of a typical
22 project; you did it in less than 270 days, which is
23 even quicker than we hope for in this legislation, so
24 rather than procurement, which is something that
25 actually we heard at Personal Democracy Forum, is

2 fundamentally flawed and broken, doing it in-house.
3 Oakland's code can be downloaded from their website
4 and I'm almost certain you're probably using... I'm
5 almost 100 percent certain you're using the Oakland
6 code right there, which is why it was so easy to set
7 up, so I'd hope the City could do that. And the
8 other question is... So I actually was in Room 9 the
9 other day talking to them about the Open FOIL Bill
10 and they actually all swore to me that there no City
11 Hall reporters that had ever FOILED another City Hall
12 reporter's FOILs... [interpose]

13 MAYA WILEY: Well they can swear to you
14 all they want; I will sit here under oath if you
15 would like me to and tell you that that's not the
16 case.

17 CHAIRPERSON KALLOS: No, I... I think it's...
18 [laughter] I think it's important and you said that
19 the... [interpose]

20 MAYA WILEY: Being the one who receives
21 the FOIL request.

22 CHAIRPERSON KALLOS: Absolutely. But
23 this administration has made the choice that you're
24 not going to release the FOIL requests of other FOIL

2 requesters when it is media on media, as it were,
3 but... [interpose]

4 MAYA WILEY: We... let me just... just point
5 of clarification...

6 CHAIRPERSON KALLOS: Yeah.

7 MAYA WILEY: no, we're following the law...
8 [interpose]

9 CHAIRPERSON KALLOS: Okay.

10 MAYA WILEY: so the law directs us;
11 that's our interpretation of the State Law and we're
12 following it. That's not our decision is my point.

13 CHAIRPERSON KALLOS: Thank you. So as
14 written, you believe that our transparency
15 requirements would violate that law by doing it or
16 jus tin compliance the FOIL counsels would just say
17 listen, this is a reporter FOILING [sic] other things
18 from reporters or for reporter purposes they could
19 leave it off the side or perhaps... what would be
20 different about this versus the current process?

21 MAYA WILEY: You mean in terms of the
22 legis... the... the proposed... [crosstalk]

23 CHAIRPERSON KALLOS: Yeah.

24 MAYA WILEY: legislation? Well for... it
25 sounds like, and some of this is just the way we've

2 interpreted the plain language of the legislation,
3 that it would require that it doesn't give the
4 option, the flexibility of the agency to say this we
5 don't post or we don't post in this way, because
6 we're concerned that it would violate the commercial
7 enterprise exemption of State Law.

8 CHAIRPERSON KALLOS: In your testimony
9 you talk about FOIL requests where the FOIL responses
10 are only sent to the requester versus when things are
11 sent to the world at large. If a requester gets
12 something and puts it online, is there a privacy
13 issue there?

14 MAYA WILEY: If the requester puts it
15 online... there's not a privacy issue if a person
16 waives their own privacy. So an individual can
17 always waive their own privacy rights, obviously. We
18 can't waive them for that individual though.

19 CHAIRPERSON KALLOS: In your testimony
20 you also used the word random FOIL requests for
21 setting priorities versus an agency's choice; I guess
22 one thing I just wanted to share is that we're here
23 to serve the people and the requests aren't random,
24 this is information somebody wants, so we... I guess
25 the question is; would you agree that if something is

2 being requested by our residents that we must serve,
3 shouldn't that be something we prioritize; shouldn't
4 there not be a conflict there between what the agency
5 wants to provide versus what the people want?

6 MAYA WILEY: Just to be clear, that part
7 of my testimony referred to the datasets that were
8 underneath the request. So in other words, as we
9 understand the legislation, someone requests
10 something and there's underlying datasets to that
11 request that the datasets themselves would have to be
12 made publicly available; the issue there then is, the
13 bureaucracy that it requires to go through the
14 datasets to make sure there's no exempt data that
15 would be produced itself will create a lot more cost
16 in terms of posting, whereas rather than responding
17 to putting up and going through that process with
18 datasets... when the requester maybe didn't request the
19 datasets, the whole underlying datasets; that what
20 that means is, agencies that would otherwise be doing
21 that in a more orderly process on the things that
22 many, many, many more New Yorkers were interested in,
23 that prioritization might get bumped because someone
24 made a request on a particular topic. So that's
25 different from whether the request gets answered and

2 the publicly available information gets posted;
3 that's the underlying datasets that we were referring
4 to.

5 CHAIRPERSON KALLOS: If a single
6 individual requests something and then there is a
7 dataset under it, wouldn't that dataset, once it's
8 released, preclude future people from making that
9 same request and save us all a lot of time and money?

10 MAYA WILEY: If it's a dataset that a lot
11 of people are gonna request; I think the assumption
12 in that formulation is that by virtue of the fact
13 that one person requested it, there is another 500 or
14 more who are interested in it and I think what we're
15 saying is, it's not necessarily the way FOIL works in
16 the real world. We get some arcane requests
17 sometimes that I promise you is not very interesting
18 to the vast majority of New Yorkers. We're not
19 saying that person should not get the... we absolutely
20 believe that the person should get what they are
21 asking for if it's responsive to their request and
22 not otherwise exempt. The question is; does that
23 mean going to the next level of taking government
24 resources into the underlying datasets if it's
25 something that people aren't necessarily that

2 interested in and taking time away from the datasets
3 that are of more interest. So I think what we share
4 is a view that we should be making as much
5 information as possible that can be disclosed to the
6 public, like underlying datasets, available to them.
7 The question is; what's the most important to the
8 public interests. There are lots of folks in this
9 city, quite frankly, who don't avail themselves of
10 FOIL, so to make the assumption that because someone
11 who does avail themselves of FOIL is actually
12 reflecting the interests of the city I think is an
13 assumption that we shouldn't make.

14 CHAIRPERSON KALLOS: If I may just share
15 an anecdote, I sent a FOIL request to the Board of
16 Elections for the entire statewide voter file; I was
17 the first person in the state to put that voter file
18 online so anyone could search it, and I have served
19 hundreds of thousands of New York residents by
20 providing them with their voter registration
21 information that otherwise the Board of Elections was
22 gonna have to serve.

23 MAYA WILEY: That's fantastic.

24 CHAIRPERSON KALLOS: So I think that... at
25 there... [sic] [interpose]

2 MAYA WILEY: But you're giving me an
3 example of something that you would say we should
4 prioritize and I'm not suggesting we would disagree
5 with that; what I'm saying is, when you get the
6 person -- and I'll give you a primary example -- a
7 person that wants the Bloomberg era menus from every
8 dinner served at Gracie Hall, okay, 'cause we get
9 those kinds of FOIL requests [laugh]. I mean, so all
10 I'm saying is, we wanna be rational... [crosstalk]

11 CO-CHAIR VACCA: I don't want the menus;
12 I want the food that was in the request [sic]...
13 [crosstalk]

14 MAYA WILEY: [laughing]

15 CO-CHAIR VACCA: now... now I'm getting an
16 appetite.

17 MAYA WILEY: As do we all. So the point
18 isn't to suggest that there aren't datasets that
19 shouldn't be made available to the public in order to
20 reduce future requests or because people didn't think
21 to ask and it's a really good thing for people to
22 know. What we're suggesting is to require it just by
23 virtue of the fact that one person submitted a FOIL
24 request is not necessarily prioritizing the right
25 datasets... [interpose]

2 CHAIRPERSON KALLOS: How many people...

3 MAYA WILEY: the ones that'll be more
4 interesting, like the ones you're suggesting.

5 CHAIRPERSON KALLOS: I'm very technical;
6 what number would you say is a... could you come back
7 to us with this... with a number or do you have one off
8 the top of your head where if three people ask for
9 it, if 10 people ask for it, if 100 people ask for
10 it; if a million people ask for it; what is the...
11 [interpose]

12 MAYA WILEY: That would not be smart
13 government, so I'm not gonna respond to it that way.
14 I think smart government is saying, what are the
15 kinds of things that we think the public should know
16 and yes, if we see a pattern in the kinds of requests
17 -- I'll give you an example from the City Hall
18 standpoint. Lots of people wanna see the Mayor's
19 schedule, so we're just going to proactively be... and
20 we've started just proactively pub... we're behind
21 schedule, I admit, but trying to get to a system
22 where we're proactively just putting it up every
23 month. What those look like... and it would... to just
24 give an arbitrary number, because there could be
25 something that two people request, but become

2 immediately apparent that they're extremely important
3 and there might be something pretty mundane and not
4 too interesting that 10 people suggest and not that
5 interesting for most of the city. So rather than
6 doing something formulaic, I would say it's much more
7 important to think about the way you have been
8 thinking about it I think is... which is, what's really
9 in the public interest; what really advances the
10 public's need for information, things that will
11 actually help them transact better with government,
12 better understand how government is functioning, all
13 of those I think is not... those are the kinds of
14 datasets that we wanna see up and available. But
15 just doing it numerically I think doesn't necessarily
16 respond... or doesn't necessarily look at it with a
17 framework of responding to what's in the public's
18 interest.

19 CHAIRPERSON KALLOS: As a person who was
20 a huge advocate for the Rules reform, which includes
21 arbitrary numbers and formulas for things like member
22 items and a 34-member trigger that allows us to force
23 a hearing on things, I would respectfully disagree
24 and ask that you please consider finding a number
25

2 that you'd be willing to submit to. I also...

3 [interpose]

4 MAYA WILEY: I... I... just to follow up,
5 because I think what you've said makes perfect sense
6 for the Council; this is just a different animal.

7 CHAIRPERSON KALLOS: So the other piece
8 is just, Open Data was done with phases; I have
9 proposed two phases; a beta phase and a live phase;
10 could the administration put together a timeline for
11 phases where you believe that you could hit those
12 mile markers and that the phases would be more
13 constructive than having a beta and live rollout?

14 MAYA WILEY: I think that's something we
15 could talk about after we finish an assessment. I
16 think to do that in a way that is meaningful and...
17 because we wouldn't obviously want to take something
18 out of thin air and give you something that wasn't
19 supported by some form of assessment; that the way to
20 do that would be to finish our assessment process in
21 order to have a better sense of that.

22 CHAIRPERSON KALLOS: When is that slated
23 to... when will you be...

24 MAYA WILEY: We don't have a cal... I mean
25 it's in process to... it's actually working... I just

2 started working on that; I don't have... I can't... I
3 can't tell you what that is yet.

4 CHAIRPERSON KALLOS: Whenever you've got
5 it, we'd love it. I'd like to move on to city law
6 online, unless you want to discuss Open FOIL further.

7 MAYA WILEY: I... I... [interpose]

8 CHAIRPERSON KALLOS: Okay.

9 MAYA WILEY: appreciate your questions; I
10 think they were very thoughtful.

11 CHAIRPERSON KALLOS: Yeah. Hold on one
12 second. Can I... So with the city law online, I love
13 it to death; just by way of background, I've been
14 trying to get this law online, not only ours, but
15 nationally since 2006. Under the current
16 requirements what happens is, the Legislative Bill
17 Drafting Commission makes it available to McKinney's
18 and the Consolidated Legal Service and another
19 company that then publish it and then sell it to
20 Westlaw and Lexis and other online service providers,
21 which are collectively referred to often as Wexis;
22 they are certified by the State as the official law,
23 and I am a councilperson and I want to see the laws
24 that I want to change; if I want to be able to use
25 them in a more friendly format than what the City Law

2 Department has contracted for, then I have to pay a
3 subscription to Wexis in order to access the very
4 laws that it is my fiduciary duty to have a role in
5 commenting on and changing, so I think that that
6 system's somewhere between Hammurabi, who did it
7 right by making it available for everyone in the
8 format of the times, to now has gotten a little bit
9 broken. So I guess my question is whether or not our
10 laws could be updated live, if there could be an open
11 API with a bulk download and for the version that is
12 offered by the City to be certified.

13 MAYA WILEY: So I think that's a... that'll
14 be a... those are important questions and what I would
15 do is take those back to the Law Department, which is
16 actually responsible for the contract [background
17 comment] with the provider. As I said, you know the
18 important opportunity we have is that this contract
19 is gonna come up and I think we're really open to
20 thinking about what our options are there.

21 CHAIRPERSON KALLOS: Thank you. And then
22 with the City Record online, do you know how much it
23 costs to print the City Record?

24

25

2 MAYA WILEY: I believe someone is here
3 from DCAS; that's a question I think more
4 appropriately posed to DCAS.

5 CHAIRPERSON KALLOS: Where is the print
6 City Record distributed and available?

7 MAYA WILEY: There are... I know that
8 there's a list and I don't have it in front of me and
9 we could definitely get you that list.

10 CHAIRPERSON KALLOS: Do you... [background
11 comment]

12 CO-CHAIR VACCA: I know that the
13 community boards get it, I get it at my City Council
14 office... [crosstalk]

15 MAYA WILEY: Community boards I believe
16 is... yeah, community boards, council... [crosstalk]

17 CO-CHAIR VACCA: also the li... the New
18 York Public Library gets it... [crosstalk]

19 MAYA WILEY: it's... yes, New York Public
20 Library; there's a... there's a... [crosstalk]

21 CO-CHAIR VACCA: yes, 'cause I've seen
22 them there.

23 MAYA WILEY: there's a... there's a list; I
24 just don't have it in front of me, so I don't want to
25

2 omit anything that's important and in terms of who
3 gets it. [crosstalk]

4 CO-CHAIR VACCA: Well you certainly have
5 to be cognizant of what you said before, that if we
6 have to modify that legislation, because if there's a
7 state requirement that we have a written City Record,
8 then we wanna comply with that, and it should be in
9 the li... [crosstalk]

10 MAYA WILEY: For the purpose of
11 publication, just to be clear. It's not that we
12 couldn't, but if we did, we wouldn't be able to use
13 it on first sta... in compliance with State Law for all
14 the publication; we'd have to do a separate
15 publication that also had a print version. So
16 certainly City Council could say, we don't... you know,
17 just put it all online, but then the very purpose we
18 use it for, we would not be in compliance with State
19 Law and... [interpose]

20 CO-CHAIR VACCA: Yeah and I think at
21 minimum it should be in public libraries. We assume
22 everybody has a computer and everyone does not...
23 everyone does not have a computer. [crosstalk]

24 MAYA WILEY: And that... that's... that's...
25 that's... that's really an important point.

2 CO-CHAIR VACCA: Yes. Okay.

3 CHAIRPERSON KALLOS: With regard to
4 internet accessibility, it seems that all the places
5 that the City Record is currently available are
6 places where there is internet access. Is that
7 correct? [interpose]

8 MAYA WILEY: Well people go to this... I'll
9 tell you, the New York Public Library, for example, I
10 think is a really important one, 55 percent of those
11 who go to the New York Public Library go because they
12 don't have internet access, so yes, that's important.
13 Our point is that, the way the law reads, it sounds
14 like it would be an exclusive online and when you go
15 to the City... when you go the libraries, you know one
16 of the issues that we have is, you can only sign up
17 for half-an-hour, there's generally a line and
18 therefore you don't really have full access and there
19 may be other things that you have to prioritize,
20 whether it's looking for a job and you're half-hour
21 can be eaten up very quickly, so having other ways
22 for people to access it can actually be pretty
23 important for people who don't have online. So it's
24 not... certainly for efficiency standpoint, I think we
25 agree it'd be... our goal is make sure everybody can be

2 online whenever they want and be able to afford it.
3 We're working on that one too, but that's gonna take
4 some time and so it's just important to think about
5 that print version.

6 CHAIRPERSON KALLOS: I guess it seems
7 like a false construct, because anywhere the City
8 Record is currently available there is internet
9 access, so it would still be available between 9 and
10 5 in the government offices, but it... [interpose]

11 MAYA WILEY: But then you have to get to
12 a government office, right. So if you're... and I
13 think the spirit of what the City Council... uhm-hm.
14 [crosstalk]

15 CHAIRPERSON KALLOS: So right now it's...
16 it's in paper and it's in paper and [background
17 comment] if I wanna read this piece of paper, the
18 City Record, I have to go to a government office
19 between 9 and 5 where there is internet and now we're
20 just saying we can only have it online so when you go
21 to that government office you can sit down at a
22 computer and look at it, plus a whole universe of
23 other people are going to be able to access it
24 online.

2 MAYA WILEY: So I'm gonna stick with the
3 testimony; I understand your point; I'm gonna say
4 that we think there still should be some print
5 versions and at the end of the day you gotta... have... I
6 mean we all have to worry about what the State Law
7 compliance issues are, so.

8 CHAIRPERSON KALLOS: So I... I... I...
9 [interpose]

10 MAYA WILEY: There is an effort to amend
11 the State Law, as we said, from the previous
12 administration.

13 CHAIRPERSON KALLOS: So the good news... So
14 let's just engage on the State Law piece, 'cause I...
15 I'm a lawyer, I spend my weekends when I'm looking
16 for something fun to do, reading through the State
17 Law. So... and the City Law, so... [interpose]

18 MAYA WILEY: I hope you didn't do it this
19 past weekend, 'cause it was too beautiful for that.

20 CO-CHAIR VACCA: I did more fun things
21 this weekend... [laughter]

22 CHAIRPERSON KALLOS: I... I... I missed the
23 Puerto Rican Day Parade to go to a funeral,
24 unfortunately, but I promise you... [crosstalk]

25 MAYA WILEY: Oh I'm sorry.

2 CHAIRPERSON KALLOS: I would've rather
3 been going through legislation and [background
4 comment] redrafting things..

5 MAYA WILEY: I'm sorry to hear that.

6 CHAIRPERSON KALLOS: No, it's okay. So
7 in the City Law, generally we'll have a public notice
8 requirement and then it'll say there is a public
9 notice which shall be done by publication in the City
10 Record. So a lot of the things that end up in the
11 City Record isn't something where it's like, there
12 should be public notice; it actually specifically
13 says, in the City Law it goes in the City Record. So
14 I guess the question is; since the City Record is a
15 creation of the City Administrative Code and the
16 publication requirements relate to specific locations
17 where it says, this will go in the City Record; why
18 does... and just so you know, there's other places in
19 the law, because we have a separate bill called
20 Electronic Notices that engage with newspaper
21 publishing requirement pieces. The newspaper
22 publishing requirement items are completely separate
23 from the City Record; there are some where there is
24 overlap, where things... right, David; they must be
25 published in both the City Record and in a newspaper

2 or is that... [background comment] We can double-check,
3 but I guess, [background comment] why do you believe
4 that if it's in the City Record it must also be
5 published in a newspaper?

6 MAYA WILEY: State Law, it's the Law
7 Department's interpretation of State Law 60(a).

8 CHAIRPERSON KALLOS: So there is a
9 universe of items that are not currently published in
10 the City Record or newspapers and... [interpose]

11 MAYA WILEY: I'm happy to refer you to
12 Zach Carter, because as I said, what I'm sharing is
13 the Law Department's interpretation. If you have a
14 different interpretation, we should definitely share
15 it with the Law Department, but our testimony is
16 based on the Law Department's interpretation of the
17 requirement.

18 CHAIRPERSON KALLOS: There's something
19 like 200 different places in the law where there's a...
20 [crosstalk]

21 MAYA WILEY: But there... this is all
22 online, by the way; I think what we're... [interpose]

23 CHAIRPERSON KALLOS: Yeah.

24 MAYA WILEY: I mean just so we're clear,
25 the question is whether there's a print version, not

2 whether it can or cannot be online; it's... so it is
3 online and there is currently a small print version
4 run, so I think the... just so we're clear; I mean I
5 don't think we're fighting, [background comment]
6 really, and if there's... obviously if there's a view
7 that there is a different interpretation of State
8 Law, we should take that under advisement as well.

9 CHAIRPERSON KALLOS: I would love to talk
10 to the Law Department, which this Committee also has
11 oversight over... [interpose]

12 MAYA WILEY: Yeah.

13 CHAIRPERSON KALLOS: about that. So yes,
14 the City Record's already online and I guess the one
15 question is, so it's online, it's searchable, we'd
16 love to have it as an open API and bulk download so
17 you could just look at all of it together at once,
18 and I think the other piece of it is just to make
19 sure that all the items currently in the City Record,
20 and a lot of them don't make it into the searchable
21 version, should just be added to it and honestly, the
22 concept of removing the publication requirement is
23 theirs for cost savings to pay for this, because I
24 don't believe in unfunded mandates, and also for the
25 green counterpart. So I wanna thank you and again, I

2 think we agree about almost everything; the devil is
3 in the details; I'm a perfectionist, I like getting...
4 it sounds like we're already at 90 percent; I just
5 like getting to the 100 percent and then wonder where
6 that extra 10 percent is, 'cause I like 110 percent;
7 my scales are slightly broken. [laugh] I want to
8 recognize and thank Council Member Lander for his
9 patience through this questioning.

10 COUNCIL MEMBER LANDER: Thank you to the
11 Chairs, thank you to the Counselor, especially for,
12 you know, the diligent work you've done in a short
13 period of time to start moving the City forward here
14 and to be having a dialogue that is about a shared
15 goal of the Administration and the Council to move us
16 to a higher level of transparency is refreshing
17 still, even though we're now a few months into this
18 administration; we appreciate it a lot.

19 Couple questions, first on 149, and I
20 think you're right, that as drafted -- and this was
21 actually drafted, I forget how long ago, in last
22 term, when we had more limited expectations of just
23 how much transparency we'd be able to get, and since
24 then, partly through the Council's own rules reform
25 process and our own commitment to a higher set of

2 standards for our legislative process, I think we
3 have prepared for this hearing knowing we're gonna
4 hear from advocates about going further with it and
5 requiring some of the things that the Chair was
6 talking about -- bulk downloads, search downloads --
7 so [background comment] and not just to have to
8 download the whole thing at once, but if I wanna see
9 [background comment] every law related to courtyards,
10 I can do my courtyard search and then download that
11 set of records and perhaps open API as well. So I
12 think there are additional steps we're gonna wanna
13 take in the next iteration of the law and I hear you
14 that there's... well some of those... it would be easier
15 to do in the renegotiation of the contract; some of
16 those may be able to be done very simply; you know,
17 if you look at the version that the Chair put online,
18 you can bulk download them from his website, so I'm
19 confident our current contractor could do that at a
20 minimal cost. So would you be able to do a
21 conversation about some of the next standards and
22 thinking about the timelines; what we might be able
23 to get from the contractor sooner? [crosstalk]

24 MAYA WILEY: Absolutely. Absolutely. I
25 mean I think the points you raise are important; our

2 point was that there is an opportunity coming up on
3 the calendar, given the fact that the contract's
4 gonna be up in a year and as I think we share with
5 you, whatever we can do in the interim we should be
6 doing. So to the extent that there are specifics --
7 again, this is something that falls under the purview
8 of the Law Department; not City Hall, so what I'm
9 really referencing is, you know, the research we've
10 done from the Law Department where things currently
11 stand; I would suggest that the Law Department -- and
12 we can certainly broker that -- would be the right
13 place to have the conversations about what needs to
14 be con... because they're responsible for the contract,
15 but absolutely.

16 COUNCIL MEMBER LANDER: Sure. So and
17 we'll follow up with the Law Department afterwards
18 and have a conversation with them, I... [crosstalk]

19 MAYA WILEY: And... and we're... we're
20 helpful to support... and Council... for the Mayor,
21 obviously we're perfectly willing to support in any
22 way we can.

23 COUNCIL MEMBER LANDER: Great. And I
24 think... you know, I mean, open API is somewhat more
25 complicated; I think those two simple things of both

2 bulk download and search download are pretty easy to
3 do and render it; just a lot more useful to
4 [background comments] people, so we'll follow up with
5 the Law Department and see whether it's possible to,
6 you know, set up a timeline and then modify the
7 legislation to match. [sic] [crosstalk]

8 MAYA WILEY: And the more we understand,
9 I think, about how it can be... will also feed into, to
10 the extent anything can't, [background comment] what
11 kinds of things that the Law Department should be
12 looking at as it looks for a new contractor..
13 [crosstalk]

14 COUNCIL MEMBER LANDER: Great. [sic]

15 MAYA WILEY: so I think those are all
16 helpful.

17 COUNCIL MEMBER LANDER: And yeah, it may
18 be possible then, you know, in the phased model that
19 we would set some... you know, we would... if we do this
20 by law, we set a... you know, we figure out what can be
21 done in the near future and then what would have to
22 be done as part of the next contract.

23 MAYA WILEY: And you may... I mean and I
24 think this is one thing that's important to think
25 about, is our opportunity to do things without

2 legislating. I mean if we... if they have an existing
3 contract and if things can be done under the guise of
4 the existing contract, I mean we're not going to...
5 we're actually gonna be, obviously, allies with our
6 contractors and saying get it done. So it may
7 obviate the need for legislation; it may clarify the
8 need for what kinds of legislation we have, so...

9 [crosstalk]

10 COUNCIL MEMBER LANDER: So I'll just I
11 guess make those two points then; I mean if bulk
12 download and search downloads were available in the
13 near future, then that would obviate our need to
14 redraft the bill and pass a law to do it and I think
15 though... again, there has to be a conversation with
16 the vendor, but I think those are both fairly
17 straight forward. [crosstalk]

18 MAYA WILEY: Yeah. Yeah. Yeah.

19 COUNCIL MEMBER LANDER: On the FOIL law,
20 and I was thinking about this question of privacy,
21 both for individuals trying to get something personal
22 and for journalists and other commercial enterprises
23 and it strikes me that there's... I mean you talked
24 about waiving that privacy; have you thought at all
25 about using the FOIL tracker to enable people to do

2 that? There are obviously a set of people who really
3 to whom it's very important to protect their privacy
4 and then there's a set of people who would be glad,
5 either upon request or upon receipt, to waive that
6 privacy and allow then the tracker to show that
7 information [background comments] in a way which... be
8 mixed, 'cause then you would have some things that
9 were clear... you know, that [background comment] which
10 you could see and then some things you wouldn't, but
11 would instantly render it a much more interesting and
12 in some ways more usable database. So have you
13 thought about that at all in relation to the City
14 Hall version or could we think about that as one way
15 to navigate the challenge? It wouldn't mean that if
16 you asked to not waive it, it still might not be
17 something that you would have to make public at the
18 future, my decision as a requester doesn't define,
19 you know how the State Law reviews it, but at least
20 if I waived it, [background comment] then you
21 certainly can... and you could really even automate
22 that in a way that would...

23 MAYA WILEY: Yeah. And certainly what we
24 have been thinking about primarily is what we're
25 gonna learn about... it's gonna help us see a pattern

2 of what's being requested, number one, and actually
3 help us better understand how folks use an online
4 system; we have not gotten to that stage of actually
5 thinking about those next steps; what we're looking
6 for right now is identifying the types of requests
7 that are repetitive where we can start putting stuff
8 up proactively; that's mostly where we focused our
9 time, that being primarily right now; some of the
10 obvious things, including the Mayor and the First
11 Lady's schedules. Obviously we're open... because
12 we're City Hall, I think some of the issues I was
13 raising was other than commercial enterprise, which
14 is a whole different story. But in terms of
15 individual privacy interests, those are the kinds of
16 things that come up much more frequently in other
17 agencies than ours.

18 COUNCIL MEMBER LANDER: Okay, I just... I
19 mean then I think obviously... [crosstalk]

20 MAYA WILEY: I mean it's a learn... I think
21 your point is important, which is, we hope that this
22 is a learning process and the more we can understand
23 what we should be trying to learn from it, you know,
24 in terms of what the Council's also thinking about;

2 that gives an opportunity to use it as a learning
3 process.

4 COUNCIL MEMBER LANDER: So then maybe I'm
5 sharing this with the sponsors as much as with you;
6 it seems to me that one relatively simple way of
7 addressing the concerns, both of the media and of
8 individuals seeking privacy, would be, for starters,
9 to enable people to waive or, [background comment]
10 you know, by default not waive their... [background
11 comment] their privacy rights and I think an awful
12 lot of people would be glad to allow folks to see
13 what they're requesting and what they're getting and
14 where they didn't... it wouldn't be a final word, but
15 at least it would save your... [crosstalk]

16 MAYA WILEY: And I should... yeah, and I
17 should clarify, because I'm realizing, in the
18 question, I just wanna make sure we understand. This
19 is not yet automatically posting everything that's
20 requested, it's posting what we see requested
21 regularly, you know what we see a pattern on. We
22 haven't gotten to the... so... just so we're clear, we're
23 not at that... we haven't made that kind of decision
24 yet with this particular tracker; we were mostly
25 focused on getting it up and getting it up and not...

2 making sure we weren't undermining any existing legal
3 strictures that are upon us. So some of what you're
4 suggesting is also what additional things we can
5 think about with this particular FOIL tracker.

6 COUNCIL MEMBER LANDER: And I'm happy to
7 make suggestions... [crosstalk]

8 MAYA WILEY: Yeah, yeah. And... and we're...

9 COUNCIL MEMBER LANDER: both for this
10 FOIL tracker and for the Open FOIL Law... [crosstalk]

11 MAYA WILEY: and we're happy to receive...
12 Exactly; we're happy to receive obviously those kinds
13 of... when... I know you haven't had a chance to... to
14 actually review it and play with it; hopefully when
15 you do, if you have suggestions, we'd be happy to
16 receive them.

17 COUNCIL MEMBER LANDER: Thank you.

18 MAYA WILEY: Thank you.

19 CHAIRPERSON KALLOS: Just wanna let you
20 know that we have Sunlight Foundation here, who are
21 actually the ones who helped me to put all the laws
22 online, so I will be asking them to make sure that
23 you guys have access to that code, so literally if
24 you want the scraper that we used to make the law
25

2 available online, and feel free to take the bulk
3 download... [crosstalk]

4 MAYA WILEY: I have a lot of respect for
5 Sunlight and know its president well, so. 'Kay.

6 CHAIRPERSON KALLOS: Very good. So... and
7 I also invite you and the Administration to join me
8 March... sorry, June 12th, 13th and 14th; I'll be at
9 MIT Media Lab with presentations by hopefully other
10 council members on setting the law free,
11 specifically, and they are doing an entire legal
12 Hackathon around setting our city laws free; our
13 state laws free and the country's laws free, and this
14 follows up on something that started in '09 called
15 Open Legislation, which... where we... I posted all the
16 Albany legislation online and now they've launched
17 something called Open States, where they've posted
18 the legislation from all 50 states online. So we are
19 part of something larger than ourselves. Thank you
20 so very much. [background comment]

21 MAYA WILEY: I'd really like to thank the
22 Committee; your questions were excellent; it's given
23 us a lot of things to take back and think about, and
24 we really look forward to working with you on these
25 important issues.

2 CHAIRPERSON KALLOS: Thank you.

3 [background comment] Do you know if DCAS will be
4 testifying?

5 [pause]

6 CHAIRPERSON KALLOS: Hearing none, I will
7 call the next panel. I'd like to call John Kaehny
8 from Reinvent Albany, Gene Russianoff from NYPIRG,
9 Katherine Gray from League of Women Voters, and
10 Rachael Fauss from Citizens Union, all of whom are
11 members of what the Manhattan Borough President Gale
12 Brewer referred to as the Transparency Working Group.
13 Thank you.

14 CO-CHAIR VACCA: I would ask to be
15 excused; I am on the Budget Negotiating Team and
16 we're getting very near to that and I'm gonna have to
17 excuse myself, but I leave you in the capable hands
18 of my co-chair.

19 CHAIRPERSON KALLOS: You can start
20 whenever you're ready.

21 JOHN KAEHNY: I'm John Kaehny; I'm
22 Executive Director of Reinvent Albany and I'm co-
23 chair of the New York City Transparency Working
24 Group. Thank you so much for having this hearing
25 today and for sponsoring the legislation before us.

2 I'm gonna speak mainly to Intro 328, the Open FOIL
3 Bill.

4 First I'd like to just take the
5 opportunity to hold this up for everyone here to see;
6 this is a list of 30 major New York City civic groups
7 that support Open FOIL, as written, today; not as
8 changed later and the principles in there in the
9 specific language and this includes many, many
10 significant New York City civic groups, including the
11 ones sitting next to me and others that aren't here
12 today, like New York Lawyers for the Public
13 Interests, Make the Road by Walking, the Legal Aid
14 Society, and on and on and on. Open FOIL is a bill
15 whose time has come; it is not premature, as
16 characterized by the City Hall; it is overdue, if
17 anything. And the reason that 30 major New York City
18 civic groups signed the memo of support for this
19 bill, is because they're fed up and they know that
20 the New York City FOIL process is badly broken.

21 A couple of things that the Mayor should
22 be concerned about, along with FOIL responses not
23 being... requests not being responded to, which he
24 documented every year, there are more serious
25 concerns with the Freedom of Information Law. In

2 particular, the fact that the law is not being
3 responded to equally and is highly politicized. We
4 have direct statements from senior agency officials
5 from the previous administration, some of whom are
6 still in office, that they routinely discard FOIL
7 requests that they find politically inconvenient,
8 bureaucratically inconvenient or otherwise
9 embarrassing and that this indeed is a common part of
10 the FOIL process in New York. This comes as no shock
11 to anyone who has submitted a Freed of Information
12 request, no shock to any advocate and no shock to any
13 journalist. So we're very, very concerned, not only
14 with the primitive state of FOIL and that fact that
15 it's a system that exists on paper in which magic
16 markers are used to redact sensitive information;
17 we're also concerned about the fact that the bill..
18 that... pardon me... that Freedom of Information Law
19 process in New York City, as it currently is, is
20 badly broken and it will continue to be broken until
21 we adopt an Open FOIL Law that creates accountability
22 provisions, transparent provisions so that the public
23 can see what topics are being requested and how the
24 responses to those topics and how agencies respond to
25 those topics. So I want to directly link and point

2 to you that it is absolutely critical that in any
3 FOIL legislation going forward and any reform that we
4 the public are able to see what's being requested and
5 what's being sent in response to that request,
6 otherwise the gaming and the politics of FOIL will
7 continue on and on and on.

8 A couple of other key points though.
9 FOIL is not just broken and paper-based and
10 political, it's also very expensive and we just today
11 are releasing a report, right here, that we call
12 "Beyond Magic Markers," which documents the cost of
13 FOIL in New York City and the potential savings of
14 Open FOIL.

15 So we've heard some earlier cost
16 estimates today; we put a solid number on the request
17 per FOIL at \$400 per request on average, at a total
18 cost to the City of over \$20 million a year. We
19 estimate that Open FOIL could save over \$13 million a
20 year in FOIL processing costs while vastly speeding
21 up responses and creating a transparent and more
22 accountable system, and that's why we're here
23 speaking in favor of Open FOIL.

24 A couple of other key points that I'd
25 like to make today. (1) The provision in FOIL that

2 calls for disclosing the topic and disclosing the
3 response is something that is being done by the
4 Federal Government right now, using their Open FOIA
5 system in response to hundreds of thousands of FOIL
6 requests a year; that's Freedom of Information Act
7 responses nationally. It's also being done by the
8 City of Chicago and by the City of Oakland, so we are
9 on well-trodden ground here. I just wanna make that
10 clear, that what we're doing here is novel to New
11 York, but something that government agencies
12 nationally have a lot of experience with. (2) The
13 provision in the Open Data Bill that calls for
14 releasing datasets to the Open Data portal, after
15 they're released under FOIL, is absolutely crucial
16 and without that provision, this bill means a lot
17 less. I'll give you a specific example where this
18 has already helped New York City. One of the biggest
19 databases released under the Open Data Act is the
20 PLUTO Database; that's Tax Lot Data, and the reason
21 that database was released was because it was
22 successfully FOILED from the Department of City
23 Planning in a machine readable or a computer readable
24 format, which then allowed advocates and advocates
25 internally to make the case that that PLUTO database,

2 which is one of the most heavily used, should be put
3 into the Open Data Portal so there is a direct link
4 between FOIL and releasing information that has been
5 FOILed in Open Data, and that provision, which we
6 call One Strike, You're In, has to stay in the Open
7 FOIL Bill and it's absolutely crucial. Just to
8 clarify, and it's too bad the Administration is not
9 here; perhaps someone's taking notes, the intent of
10 this bill, and we believe the plain language of the
11 bill, is not that that data has to go immediately
12 into the Open Data Portal; it is simply that data
13 that is successfully FOILed has to be put on the
14 agency Open Data schedule for release, along with
15 many, many other datasets under the Open Data Law.
16 So there is really no mechanical problem with that
17 concept of One Strike, You're In to drive Open Data.
18 We think that we're doing the Administration a huge
19 favor here by codifying this in a rational and
20 succinct way.

21 A couple other key points. One thing
22 that Open FOIL does not do, not at all, is to
23 undermine privacy. This bill does not change any
24 privacy laws at all, and in fact, the same agency
25 FOIL officers who are experts in the State Freedom of

2 Information Law and the Privacy Act and Federal HIPAA
3 and FERPA and all those other privacy bills, will be
4 the same ones who are redacting data using Open FOIL,
5 but now they'll be redacting or removing that private
6 or privileged information using a digital tool
7 instead of a magic marker. So this is a change in
8 how information is processed, but it does not at all
9 change the privacy rules of the game whatsoever.

10 Again, we strongly support Open FOIL and
11 we support the intent of the other bills here today,
12 and we'd be happy to share with you additional
13 research on the topic, including all of the various
14 benefits the Freedom of Infor... pardon me, of the Open
15 FOIL Law that we've published a number of reports on
16 our website and that my colleagues will additionally
17 cover. Thank you.

18 RACHAEL FAUSS: Good afternoon Chair
19 Kallos. My name is Rachael Fauss and I'm the Policy
20 Research Manager for Citizens Union, a nonpartisan
21 good government group dedicated to making democracy
22 work for all New Yorkers. I'm gonna try to
23 paraphrase my testimony here and since there are some
24 updates, I've got a lot of notes here to make sure to
25 mention. But just first off, we are please the

2 Committee's meeting to discuss these bills; we think
3 they're very important ideas for improving the way
4 that government operates through the use of
5 technology. We're also a member of the Transparency
6 Working Group that was mentioned and we are very
7 involved with them in working on the Open FOIL
8 legislation, so we're a big supporter of it. And on
9 the Open Record though, the City Record bill online,
10 we had a history of working on that bill when it was
11 in the Council in 2009 and it was done
12 administratively, in part with our pushing and the
13 pushing of many others, including you, Chair Kallos.
14 But we have some recommendations on this iteration of
15 the issue that I'll be sharing.

16 First on the Intro 149, the publication
17 of the City Laws; we support codifying what the City
18 is already doing and thing there are a number of
19 things that could be considered possibly as
20 amendments to this legislation or things that could
21 be done administratively to improve the way that the
22 public finds this information. We had trouble
23 ourselves finding the Law Department's website; if
24 you do Google searches outside of the City's website
25 it's very hard to find; if you do it within the

2 City's website it was also very hard to find; perhaps
3 it'll be easier now that it's on the Resident Toolkit
4 on the homepage. But just as a quick note, the URL
5 for this website is a bunch of numbers: /nycnew,
6 which is not very descriptive, and that may be partly
7 why it's very hard for the public to find that
8 outside of the Law Department's website. The City
9 also has a Rules website, which is a lot more user-
10 friendly in terms of finding this information.

11 Something we wanna flag that is not
12 covered under this bill but could be considered, is
13 that the administrative decisions that are made by
14 agencies, so advisory opinions, for example, they are
15 actually housed outside of the City's website at the
16 Center for New York City Law at New York Law School;
17 perhaps that's something else to consider looking at.

18 But in providing the City Charter,
19 Administrative Code and Rules in places where they're
20 most accessible by the public, what the City should
21 do is provide linkages on other websites where they
22 would be logically found, such as the City Council's
23 website, Department of Records and Information
24 Services, the City Hall Library, for example; maybe
25 somewhere that the public would look for this; the

2 City Clerk is another place that they might look for,
3 and also a better URL would certainly be helpful to
4 helping the public find this information.

5 And also, it was mentioned that the
6 third-party website now isn't necessarily the most
7 searchable; something that I did notice in perusing
8 it is that you have to click through each section;
9 it's very difficult to find a larger section of text;
10 the search functions could certainly be improved and
11 the download ability so that the public can find
12 exactly what they're looking for, not maybe just a
13 tiny piece or all of it in a large PDF; there's
14 certainly a better balance that can be struck.

15 On the Open FOIL Bill, Intro 328, we
16 support the legislation and, as I mentioned, were
17 involved in the initial drafting, but we'd like to
18 thank our partner Reinvent Albany for their
19 leadership on this bill.

20 If enacted, it would put the City at the
21 forefront nationally; there are very few examples of
22 this being done elsewhere, but I think, as John
23 mentioned, the ones where it is being done, it's
24 shown that there are ways to address some of these
25

2 thorny issues that have been mentioned around
3 privacy.

4 There are some components we think that
5 are crucial that make this legislation as drafted now
6 extremely important if it were enacted.

7 The tracking of compliance by agencies
8 with the bill through metrics in the Mayor's
9 Management Report, we think the bill could also
10 include the Preliminary Management Report; that would
11 be useful. It sounds like the Administration is
12 thinking about how to incorporate FOIL requests in
13 with the Mayor's Management Report now; I think
14 that's encouraging, but I think having it in the bill
15 spelled out explicitly would be useful.

16 The integration with the City's Open Data
17 Law is also very important. As John mentioned, the
18 "First Strike, You're In" policy is something that we
19 strongly support, and again, this would be done
20 according to the Open Data Law, which allows for
21 agencies to do a schedule and it wouldn't necessarily
22 mean that it would be automatically posted on the
23 Open Data portal.

24 The full integration with city websites
25 is an important part of the bill; right now the bill

2 requires that all the agencies have a link to the
3 FOIL portal. You go on many of these agencies'
4 websites and there's no information about the FOIL
5 officers... no information about how to complete a FOIL
6 request. Some have nothing and some have good
7 information, but clearly, there should be linkages to
8 the centralized portal that would be created under
9 this bill.

10 The inclusion of pending and fulfilled
11 requests in a searchable manner is extremely
12 important. We support all FOIL requests being put on
13 the portal, rather than an opting in system that was
14 flagged earlier. The bill as drafted now has a
15 unique identifier for each requester; I think that
16 would help address some of the privacy issues, but
17 just wanted to flag that at the Port Authority, right
18 now you can see the name, address, telephone number,
19 everything of people who are requesting information
20 through the Port Authority of their FOIL tracker, so
21 obviously this bill is much narrower in scope than
22 what's already being done in other places.

23 The director of records access officers,
24 we think that's another important component,

2 especially given that this information is not
3 currently on City websites.

4 And then access to statistics that will
5 enable the public to monitor fulfillment of requests.

6 Again, as John mentioned, I think the
7 accountability of this effort is incredibly
8 important; many of the Open Data Laws that our groups
9 have advocated for and Citizens Union has advocated
10 for, like the City's Open Data Law, there's a State
11 Executive Order; deadlines are very important to make
12 sure that things are happening in a manner that can
13 be tracked by the public, so accountability tools in
14 this legislation I think would ensure the success of
15 Open FOIL, if the City is gonna push it forward and
16 to it in a comprehensive way with all agencies.

17 Lastly, on the City Record bill, we
18 support the bill's efforts to put the City Record
19 online in a more searchable manner, but we recommend
20 that the print edition still be made available. As I
21 mentioned, we've advocated for this in the past; we
22 also had it as part of our recommendations for the
23 City Charter Revision Commission in 2010.

24 As far as the costs, I just wanted to
25 flag this for the Committee, one thing that I saw in

2 preparing for this is that in 2009 there were 345
3 paid subscribers, bringing in \$130,000 in revenue, and
4 the printing costs at the time were \$1.2 million. I
5 know that was a question that was raised. That was
6 2009, so obviously things may have changed since
7 then. The current subscribing cost to subscribe is
8 \$500.

9 However, in expanding access on one level
10 by making the online version more searchable, the
11 bill may unnecessarily reduce public access by ending
12 the print version. So we just caution the Council to
13 consider those who may have limited internet access,
14 since almost a quarter of New Yorkers live in
15 households without a desktop, laptop, notebook or
16 netbook at home.

17 So another thing we wanted to flag for
18 the Committee is that reaching out to community
19 boards and libraries to determine whether their
20 clients access the City Record in print versions may
21 be useful to help determine the utility of keeping
22 the print copies available in some form.

23 We reviewed the issue that was raised by
24 the Administration about the State Law; we do think
25 that, you know there were some issues raised there

2 about procurement and bidding that may still require
3 print versions, but as drafted, this bill wouldn't
4 necessarily preclude that from still occurred, it
5 just would specify that the City Record would be
6 online and fully searchable; that wouldn't mean that
7 there wouldn't necessarily... they wouldn't be able to
8 print those notification requirements in another way
9 to fulfill State Law, so we just wanna flag that.

10 So in reviewing other cities and what
11 they've done in regards to public access to
12 information, one thing I wanted to mention is that
13 other cities do a really great job publicizing public
14 meetings, hearings and meetings of government bodies.
15 Right now, other than through a formal notification
16 process like the City Record that New York has, other
17 cities have calendars of public events, of city
18 events; New York City has on its website a calendar
19 of events going on in the city, but strangely there
20 are no... very, very few government meetings, hearings,
21 etc. that are actually on that website. So beyond
22 making the City Record as it is now fully searchable,
23 easier to find public meetings, notices and whatnot,
24 integration with the City's current calendar I think
25 would be another useful way of getting information

2 out to the public about public meetings held by the
3 various bodies of the city.

4 Thank you for the opportunity to testify,
5 and I'll be happy to answer questions later.

6 GENE RUSSIANOFF: Good afternoon. I'm
7 Gene Russianoff from the New York Public Interest
8 Research Group and I am the Co-Chair of the
9 Transparency Working Group, along with John. I'm
10 gonna focus my comments on Open FOIL, Intro 328, and
11 maybe I'm a little... suffering from skipping lunch,
12 but I came away with a hopeful feeling, after legal
13 counsel Wiley's testimony; I think that they share
14 the same goal that we have, which is creating a
15 central portal which all FOIL requests go through and
16 they share our view that there's a problem here; the
17 part where we differ a little bit is how much work
18 it's gonna take to make that happen. I'm confident
19 that this mayor can create 200,000 units of
20 affordable housing and I'm confident that he can do
21 universal pre-kindergarten, and so I am also
22 confident that he can take on the issue of Open FOIL
23 and make it a more transparent and open process.

24 I base that view on the fact that he is
25 the author of a 2013 report which goes into great

2 detail about how broken the FOIL system is in New
3 York and I'm just gonna say one or two things from
4 it.

5 It really makes the case -- his report
6 was called "Breaking Trough the Bureaucracy" and it
7 looked at FOIL on an individual agency basis.

8 One of the things he found was that the
9 process for submitting FOIL requests to City agencies
10 and tracking down their status is very inconsistent;
11 it can be extremely challenging for the public to
12 navigate; 40 percent of the City agencies lack the
13 information on their website where to direct to FOIL
14 and neither 311 nor the City's Green Book provides
15 this information. Among the encouraging... the tea
16 leaf reading [sic] during Maya Wiley's testimony is
17 that they put together a list of FOIL officers at
18 agencies and that is incredibly valuable; hopefully
19 there'll be easy access to the information, but just
20 fining out where you direct your request is very hard
21 and obviously an Open FOIL portal system would change
22 that.

23 Then-Public Advocate Bill de Blasio found
24 out through the three months of FOIL data that was
25 analyzed, more than 1,000 individuals or groups have

2 not received an approval or a denial determination
3 after more than six months of waiting. That
4 represents 1 in 10 requests that were either ignored
5 or fell through the cracks. There's a problem.

6 If you look at the report, he basically
7 recommends what we're advocating for and urges that
8 the City Council pass legislation mandating that all
9 City agencies must proactively publish commonly
10 requested records online and follow the Federal
11 Government's lead. You know, you just have to look
12 at Chicago, Oakland; Washington, D.C.; they found
13 ways to make this information available without
14 violating the privacy concerns and enjoying the
15 benefits of the law. So for FOIL'ers like myself,
16 the bill allows quicker tracking and analysis,
17 ensuring fairer treatment of all FOIL requests,
18 respects privacy concerns and allows downloading of
19 information that's already there. And for the City
20 agencies, this is gonna substantially reduce their
21 costs and administrative burdens, as well as allowing
22 information to be downloaded off of the central
23 portal.

24 This is one that we're gonna have to hang
25 in there; obviously the Administration has some

2 concerns, but they share the goals and this is an
3 area where it's important that the City take action
4 to back up its views of openness and transparency.
5 Thank you very much.

6 CATHERINE GRAY: My name is Catherine
7 Gray and I serve as the Vice President of the League
8 of Women Voters in New York City and the League of
9 Women Voters is a multi-issue, nonpartisan political
10 organization; we encourage informed and active
11 participation in government. We work to increase
12 understanding of major policy issues and influence
13 public policy through advocacy and education. I'm
14 also the League's representative on the Transparency
15 Working Group, which supports efforts to use
16 technology to make New York City government more open
17 and accountable and to ensure that public has easy
18 access to the City's digital data. I thank you for
19 holding this hearing and for inviting us to testify.

20 The New York City League of Women Voters
21 has continually supported the Open Data Laws of New
22 York City and the goals of promoting more
23 transparency in government to secure a better
24 informed citizen.

2 Freedom of Information Act was created in
3 1966 by LBJ on July 4th, it went into effect a year
4 later. Today's technology should make it possible to
5 accomplish the goals and intent of that law fully to
6 enable citizens to become informed in a timely manner
7 using machine readable data that is constantly
8 updated.

9 The FOIL request correlates directly to
10 the League of Women Voters' goal of promoting active
11 public participation in government and is one of the
12 most important initiatives in pursuit of government
13 transparency. An Open Data portal will make it
14 easier to achieve this. The bill states that
15 information provided by City agencies pursuant to any
16 special requirement shall include, in addition to
17 other requirements of the law, publication of all
18 such information on the agency's website in an open
19 format and publications to the Open Data portal
20 created in pursuant of Chapter 5 of this title. We
21 hope the reference to "agency" in this bill as
22 presently drafted or in future reference... sorry...
23 revisions will include the New York City Board of
24 Elections. The League of Women Voters would also
25 like to have the datasets searchable with as minimal

2 keys as date of publication relevant agency and
3 keyword categories, such as public hearing,
4 procurement, notice change and personnel. [sic]

5 As to the City Record, it's a valuable
6 document accessible to public in both non-paper,
7 [sic] machine readable format and human readable
8 format in a timely manner without barriers, such as
9 cost and time of travel to the city and court
10 offices.

11 The problem with some of the issues with
12 the print document in some locations, such as the
13 Brooklyn Public Library, is storage of the item. I
14 know that people really do like... and some people can
15 only read the print item.

16 The public notices to be introduced
17 online, 367, provides another important vehicle for
18 New Yorkers to use and gain easy access to meeting
19 dates and changes in public programs and policy.

20 I agree with Rachael about the calendar,
21 that would be interesting; I had a request from
22 somebody that... from a meeting, that could not find
23 the location of this meeting without my help.

24 While the League of Women Voters supports
25 all three of these bills, we are still concerned that

2 without careful construction of standardized
3 cataloguing and indexing systems, the use of data
4 will only be limited to the most savvy computer user.

5 As to the City Charter online, I
6 challenge any New Yorker to find.. if you Google New
7 York City Charter or even if you enter the search
8 page on www.nyc.gov, you will only get the 209 [sic]
9 charter, which was used in the resource for the 210
10 [sic] revision. If you search and search you will
11 find it under New York City laws, but then you must
12 look at section by section. The New York City
13 Charter is our constitution, our city's most
14 important document; the Charter is less than 200
15 pages, which is smaller than most regularly-issued
16 city reports. A transparent government has to have
17 its most important document front and center,
18 accessible in entirety from the City's homepage.

19 The League of Women Voters is concerned
20 about how these mega [sic] datasets are and will be
21 handled; that is why we recommend a keyword search,
22 such as title, type of data, map, files, documents,
23 annual reports, etc.; persons' names, department
24 agency status, dates, categories, subjects -- this
25 system must be based on best practices and must be

2 standardized throughout the city. When this is done,
3 the community boards, city staff and the public will
4 be able to locate and use the information in some --
5 I thought 1,000 and 100 [sic] data, but Gale Brewer
6 said it was 1500 are available. As a former
7 librarian, these datasets now seem to be arranged as
8 if all the books in the Library of Congress were
9 dumped on the floor and we were told the book is
10 somewhere in the pile and you should go get it.

11 Thank you for the opportunity to testify
12 and we look forward to working with... in collaboration
13 with other good government groups on improving access
14 to public information. Thank you.

15 CHAIRPERSON KALLOS: Thank you very much.
16 I wanted to first ask those of you in the room -- I
17 see a bunch of you who I think wanna testify, but I
18 have not received testimony slips, so if you have not
19 filled one out it means you won't be called up; you
20 can get it from the sergeant at arms in back. Gonna
21 ask all of you to please send your testimony and
22 reports in digital format, non-PDF, because we're
23 gonna be posting it on BenKallos.com, which will make
24 everything that you've just said search engine
25 optimized and accessible. One of the problems I've

2 noticed from our first couple of hearings is that all
3 of you and many of the people in the audience come up
4 with brilliant testimony, but it gets printed, handed
5 to us scanned and then posted on our legistar system,
6 which is not search engine friendly and as a result,
7 unless, like Citizens Union, you post your testimony
8 on your own website; it disappears into this pile of
9 books in the middle of the Library of Congress. You
10 can also... for those of you watching over the
11 livestream who couldn't take time off or are watching
12 an archived version because you couldn't take off
13 between 9 a.m. and 5 p.m. and come down to City Hall
14 to give testimony, you can visit
15 BenKallos.com/legislation and see the legislation
16 that we're talking about today and actually click on
17 it, comment on it there and whatever you give I will
18 pass on to the City Council.

19 My first question is for the entire panel
20 regarding Open FOIL and reporters. The Mayor's
21 Office has indicated that the State Law prohibits the
22 disclosure of FOIL requests made by reporters; the
23 Manhattan Borough President has brought this up as a
24 concern and yet the Mayor's Office has also said that
25 reporters have FOILED for other reporters requests

2 and then I guess another question is just, is there
3 an instance of a reporter actually getting another
4 reporter's FOIL request that your agencies are aware
5 of anecdotally or through others? But I guess the
6 number one issue is how can we... what should we be
7 doing with this legislation that admittedly your
8 organizations helped to draft, because now it's about
9 good governments drafting legislation; not special
10 interests as it were?

11 JOHN KAEHNY: Sure, I'd be happy to
12 comment on that. One, we know it's common practice
13 in Albany in particular for the beat reporters to
14 FOIL each other's FOILs and they are disclosed by the
15 Governor's Office at least, so we thought it was
16 novel that City Hall was claiming a commercial
17 exemption for FOIL requests about other journalist
18 FOILs. And I will just comment that our
19 understanding is the opposite and that FOIL logs
20 should be disclosed and that it's a little
21 problematic to declare the Mayor's FOIL log a
22 proprietary commercial document. So we're gonna
23 definitely take another look at that and consult with
24 Bob Freeman from the State Committee on Open
25 Government, who has advised us that FOIL logs are

2 subject to FOIL disclosure, period. So you know,
3 he's our last word on this and he says other than
4 what the Mayor's Office is saying.

5 In terms of journalism and Open FOIL
6 elsewhere, Chicago is the best example, they put all
7 FOIL requests online and as do six major federal
8 agencies, including who's making the request, and
9 Open FOIL does not identify who's making the request,
10 but in Chicago and both the Federal Government, using
11 the Open FOIA system, for some years now they have
12 been making the entirety of the request, the response
13 and who's making the request public and it seems to
14 be okay somehow. So it's... you know, how can we deal
15 with the concern of the New York press, which seems
16 to be more nonplussed than maybe the National press
17 or Chicago press; it's pretty easy; I think we can
18 put a delay into the disclosure of the responses.
19 The law as written says 10 days is the deadline for
20 publishing the response. So that would be a pretty
21 simple way of ensuring a scoop. That said, you know
22 my personal opinion is that, per Chicago and per the
23 Federal Government, that the more exclusions and
24 exceptions that are put into this, the more difficult
25 it becomes to ensure transparency and accountability.

2 CHAIRPERSON KALLOS: Would any of the
3 other organizations care to touch on this or?

4 GENE RUSSIANOFF: I don't have anything
5 really substantive to add other than to note my sense
6 of irony that a major group of people questioning the
7 statute or the legislation are journalists themselves
8 who are trying dispense, one thinks is trying [sic]
9 to dispense information, plus my reading of the law
10 is that if I made an FOI request for all the FOI
11 requests filed by reporters, I'm not in commercial
12 competition with those reporters and I would have
13 different reasons for wanting to look at them; many
14 of them classic FOIL reasons.

15 RACHAEL FAUSS: I would just add, from
16 Citizens Union perspective, public information
17 shouldn't be privileged information, it's something
18 that belongs to everyone. If it's subject to the
19 Freedom of Information Law, you know we believe in
20 proactive disclosure and moving in the direction that
21 this bill establishes would put us in line with that,
22 so I think what John mentioned about a 10-day delay
23 might be a way to address concerns, but in principle,
24 public information should not be privileged.

25 CHAIRPERSON KALLOS: Thank you.

2 CATHERINE GRAY: I also feel that the
3 City Government should not decide which FOIL requests
4 should be put online and which shouldn't.

5 CHAIRPERSON KALLOS: Thank you.

6 Assuming, generously, that the Administration decided
7 that they were going to build this site on New Year's
8 Day, on January 1st, 2014, they have been able to put
9 this site online in 160 days; at the same time, the
10 Administration has expressed concerns with the
11 current timeline of this, which would take effect one
12 year after enactment, so on and so forth, that DoITT
13 shall take such actions and so on and so forth,
14 further provided that shall submit an implementation
15 plan and implementation manual to the Council
16 describing to the Councils and agencies the steps
17 necessary to implement this law and providing
18 guidance to agencies and standards of tracking... what...
19 do we need something more like a phase-in, as was
20 part of Open Data or is there a different timeline or
21 is this timeline generous enough, given the fact that
22 the Administration was able to do it for itself in
23 the Mayor's Office in less than 160 days?

24 JOHN KAEHNY: A phased-in guideline
25 developed in consultation with the Administration

2 makes a ton of sense, so maybe there are increments
3 there. But the part of Maya Wiley's testimony that
4 was the biggest concern to us is that she committed
5 to no deadlines whatsoever, and we're concerned that
6 without some accountability, without some deadlines
7 that nothing will happen, bluntly, because good
8 intentions are good intentions. So if the
9 Administration wants to work with you and your co-
10 sponsors on a timeline that they find reasonable and
11 acceptable, that's fine, but we need, as the public,
12 to see some kind of deadlines and some kind of
13 commitment in writing to meeting those deadlines, and
14 that could be a phased-in... it could be phased in by
15 agencies or by steps. But really, this lends itself
16 with the open source software developed by Oakland,
17 which we believe that they've used for their City
18 Hall FOIL tracker, to start testing right away at
19 different agencies. If there's five agencies or two
20 that are ready for it, they should start testing
21 them. But we'd like to see something codified in law
22 that has real deadlines in it.

23 GENE RUSSIANOFF: And to me the broa...
24 [clearing throat] pardon me... the broader question
25 here is, should Open FOIL be the subject of the

2 legislation? Part of the testimony by the City
3 Administration was that they'll see what's involved
4 and they'll make judgments and maybe they should run
5 the whole thing and I think this is particularly an
6 appropriate subject for legislation, for the Council
7 setting a policy on dispensing of information to the
8 public, and I think the Council would be remiss not
9 seriously considering the legislative route and
10 taking the Administration's word that they're gonna
11 get to it.

12 CHAIRPERSON KALLOS: Thank you. I'd like
13 to move on to the City Record online. Seems like,
14 and to be quite honest, the reason for removing the
15 publication requirement was to save the City the \$1.2
16 million that we're currently spending on its
17 publication and in hopes of creating responsible
18 legislation that is not unfunded mandates, but
19 actually funds itself. That being said, it seems to
20 be something that people have objective to, including
21 your own panel. How many people do you believe have
22 access to it in paper that would not have access to
23 it online or don't have access to it online already?

24 RACHAEL FAUSS: Speaking on behalf of
25 Citizens Union, you know, we've admittedly not done

2 that research; I do know that, like I said, in 2009
3 we knew the number of subscribers; it would be very
4 interesting to see if DCAS could provide that again
5 this time to the Committee to see the number of
6 subscribers to the print City Record. You know in
7 general it's our view that this legislation should be
8 increasing public access to the City Record. The
9 goals of putting it online in a searchable and user-
10 friendly manner are extremely laudable and many would
11 benefit from that; we just wanna make sure that there
12 aren't any populations that are being left behind in
13 that move, and that's the thrust of our suggestion
14 that the print requirements not be eliminated
15 entirely. We think that some logical places for the
16 Committee perhaps to look for more information is in
17 reaching out to libraries and community boards; those
18 two seem like the avenues where the print
19 publications are currently going, where there may be
20 people who have limited computer literacy, so those
21 are some places to look. It could be that the staff
22 at the libraries and the staff at the community
23 boards are able to help the members of the public
24 digest the City Record online, print it out; figure
25 it out, but it's just something that we wanted to

2 ensure that the Committee did a little more looking
3 at. And there may be some members of the public who
4 just simply prefer having a print edition. There are
5 still people on the subway who read a print New York
6 Times every day, so you know, obviously \$1.2 million
7 in 2009 with \$130,000 of revenue doesn't make sense;
8 maybe there is a different balance that could be
9 [background comment] struck so that there can be some
10 print for the people who want it or need it and then,
11 certainly less printing requirements for those people
12 who don't need it; Council, for example, is on the
13 list; I imagine that all the Council staff is able to
14 go online and see the City Record, but perhaps
15 there's a balance we can strike in the middle.

16 GENE RUSSIANOFF: And If I understand
17 Ms. Wiley's testimony correctly, it's a matter of
18 State Law; whether you... I don't think you have the
19 authority to get rid of the... completely the print
20 version, I think there are State Law requirements
21 that constrain you. And if I understood her
22 correctly, it sounded like the Bloomberg
23 administration had gone to Albany and said, you know
24 we're losing \$1.2 million bucks and nobody reads this
25 thing. So it may not be... an intro may not be the

2 best way to try and deal with this; talking with the
3 Administration about what the options are for... you
4 know, we would not have any love loss... I get the City
5 Record every day and I feel guilty; I try looking
6 through it and it's a tough read. [laugh] But so my
7 group, it doesn't seem to serve that much purpose,
8 but... and it sounds like the Bloomberg people agreed
9 and tried to get rid of the print requirement and
10 failed. You know, we don't know the details, but it
11 was unsuccessful.

12 RACHAEL FAUSS: We also looked at the
13 State Law requirements and it could simply be the
14 issue of how you define a newspaper and how you
15 define the City's publication of its own information.
16 So if State Law requires that procurement bids be put
17 in print version, paper version; perhaps this bill
18 could be changed so that it's clear that it's not
19 circumventing State Law. But as I said, we still
20 obviously see some value in print versions for a
21 certain population, so just wanna flag that.

22 CATHERINE GRAY: Checking through each
23 subscriber and asking them which version they want
24 will eliminate quite a few people that would not have
25 to have the bound issue and thus cut the costs down.

2 But allowing like the Brooklyn Public Library access
3 to it electronically without storing the bound
4 volumes would be useful, because I think right now
5 they're either required to house the bound volumes or
6 not get it at all.

7 CHAIRPERSON KALLOS: At the risk of being
8 perhaps too transparent and showing how the
9 legislation is crafted, would your organizations be
10 friendly to maintaining, if our Committee Counsel
11 would indulge me on this, and go through all the
12 places that it's currently being disseminated and
13 making sure that in places like City Council offices
14 and government offices where we do have internet
15 access or should have internet accesses, if we still
16 have offices that don't, remove those publication
17 requirements but maintain them in libraries and for
18 subscription services and anywhere where it could be
19 otherwise publicly accessed so that we might be able
20 to chip away at that \$1.2 million and hopefully get
21 it down to a number much smaller, because after all,
22 a million dollars is quite a lot of money. So I
23 guess the question is; would you support a limitation
24 on the publication requirements so that we don't... it
25 doesn't necessarily need to be available in City

2 Council offices, for instance, so that if.. for
3 example?

4 RACHAEL FAUSS: We'd be happy to chat
5 with your office later and work out some details in
6 looking at it, but I don't wanna speak without seeing
7 what exactly it looks like, but I think in principle
8 it sounds like that would be in line with what we're
9 thinking.

10 GENE RUSSIANOFF: And I'm of the
11 generation where sometime reading things online is
12 really difficult and looking at a print copy of the
13 City Record is easier, so you know, there are people
14 like me to worry about.

15 CHAIRPERSON KALLOS: I wanna just thank
16 you all for your leadership on Open FOIL, on Open Law
17 and on the City Record online and to Citizens Union
18 for having actually gotten most of the City Record
19 online, even if it's in PDF or unfriendly search
20 terms, and for just all of this; it is a pleasure to
21 be the Chair of Governmental Operations, inheriting
22 so much of what has already happened and begin able
23 to continue to push forward. Thank you very much for
24 your testimony today.

2 I'd like to now do something. We have...
3 Some people think we have three branches of
4 government; I was actually always taught we have four
5 branches of government. So the fourth branch is, of
6 course, the Fourth Estate, the press, and the press
7 has brought up concerns about this legislation and
8 whereas typically the press might give an op-ed or
9 something else; I have actually asked my friends and
10 colleagues from the other branch whose responsibility
11 it is to check this branch and the other three, to
12 engage in the process that we have here, which is
13 providing hearings between the hours of 9 and 5 at
14 City Hall and I was very lucky to have two take me up
15 on the offer, so and something that is slightly
16 nontraditional, and for those watching the
17 livestream, I think it's worth covering because it
18 is... while it is Metanews, it is great and I do
19 appreciate their courage for stepping forward and
20 saying on the record what their concerns are with
21 this legislation so that we can react to it in a
22 transparent and public way. So without further ado
23 I'd like to call Azi Paybarah [sp?] who is here
24 representing himself and Kristen Meriwether who is
25 here representing herself.

2 KRISTEN MERIWETHER: Hello. So my name
3 is Kristen Meriwether; I am a local reporter here in
4 New York City; I'd like the record to show that I am
5 representing myself and not the publication that I
6 work for.

7 The idea of bringing transparency to a
8 very opaque process and using technology to do it is
9 something I support; there are however some issues
10 that relate specifically to reporters and that's why
11 I'll be testifying today.

12 Showing how all the City agencies respond
13 to FOIL requests is the main objective; that is
14 something I, as well as other reporters
15 wholeheartedly support, but showing what each
16 individual reporter looking for and when is something
17 that is not necessary to achieving the above goal;
18 therefore I object putting the information we are
19 seeking on the portal in real time.

20 By putting this information online in
21 real time you'll be compromising the competitive
22 advantage a reporter has; any other reporter could
23 just scan the portal and see who's working on what.
24 It would be even worse when their request is finally
25 filled and published online; another reporter could

2 come along and use that information for their own
3 story.

4 I believe the bill as written said it
5 will give 10 days after the request has been filled
6 before being put online; I think that leeway is on
7 the low end of what would work for reporters; it
8 might work in some cases and not in others. Good
9 stories can take time to put together, especially if
10 there's a lot of data. What if the FOIL request...
11 what if the response to the FOIL request required me
12 to submit another request; another reporter could
13 just follow along, tracking that information. I've
14 been told we don't need to... we don't have anything to
15 worry about, because reporters... FOIL requests of
16 other reporters; while I have no doubt that may go
17 on, although I personally have never heard of this,
18 there's a world of difference between submitting that
19 request and opening up a website and getting the
20 exact same information. Someone also argued that
21 this is being done at the federal level; I would
22 argue that just because something is done somewhere
23 else doesn't mean it's right here. This is a local
24 law and I strongly believe local conditions should be
25 taken into account. I would argue that this is one

2 of the most competitive media markets in the country;
3 while that may be trivial to some, it's not to me and
4 my fellow reporters; this is our livelihood, this is
5 how we put food on our table and pay our taxes.
6 Staying competitive is how we stay employed and I
7 would hope the Council takes those concerns into
8 consideration. And now Azi will provide you with a
9 few more examples.

10 CHAIRPERSON KALLOS: Azi, please share
11 your Twitter name, 'cause I'm having trouble pulling
12 it up.

13 AZI PAYBARAH: It's A Z I, just the first
14 name. [background comment] Hopefully it's easy to
15 follow, if it's not easy to pronounce.

16 Some of the concerns that reporters have
17 had about the proposed legislation I think have been
18 addressed to some degree in some of the remarks
19 earlier. As Kristen said, there is a concern about
20 the data being revealed as reporters are seeking it;
21 compromising some of the competitive nature of the
22 work that we do. There's also some questions about
23 when that information would be revealed, but I think
24 the news that the Administration revealed a FOIL
25 tracker for the Mayor's Office was welcomed news, and

2 I'm sure it has been described as a sea change, the
3 fact that everyone is working towards the same goal
4 of increasing transparency and everyone who I've
5 communicated with about this bill -- reporters,
6 lawmakers -- share that goal, but like you said, the
7 devil is in the details. If you look at what was
8 just posted online by the Mayor's Office, the Freedom
9 of Information Law Tracker, you have a tracking
10 number as opposed to a reporter's name or
11 identification and I think that's a welcomed approach
12 about how to go about this. The second column shows
13 status, and so far all the statuses are either
14 pending or completed; so far they have not denied one
15 that they have put online. They have the date of the
16 request and then the date of determination. Again,
17 as partly tracking this, it's a helpful sign. I
18 think Counsel Wiley had said that they're not
19 including all requests in this at this time, making
20 it something of an opt-in approach, but one thing
21 that seems to be missing is the reason why requests
22 are pending and what is the nature of a request that
23 has been completed; does a denial count in the
24 completed category or does the release of information
25 also count? That's unclear; in fact, it's [siren]

2 it's not even clear that all FOIL requests made
3 during the time period that are reflected on this
4 site have even been given a FOIL number in order to
5 track. And again, without disclosing what I or some
6 of my colleagues might have been working or
7 requested, you know, is every FOIL request that they
8 have received been given a FOIL number that people
9 can look at if they wanted to on this website? I'm
10 not sure. And I think, just lastly, I'll finish my
11 remarks by saying, the objection that people have
12 about reporters requesting other reporters' FOIL
13 requests, we may not like it, but if it's allowed by
14 law it's something that has to stand and if the City
15 Administration is taking it upon themselves to
16 interpret that law in a different way than has been
17 in the past, A. that could be problematic, and B.
18 that could in itself explain why the Council needs to
19 legislate this rather than have an agreement with the
20 current administration. As we saw last year,
21 governments change, city governments take new
22 directions and the laws that this body passes are
23 meant to stand change in administrations. Thank you.

24 CHAIRPERSON KALLOS: Thank you both for
25 appearing in your individual capacities. Were we to

2 create a narrow carve-out for reporters, both of you
3 in fact; Azi, you've written about lack of FOIL
4 compliance; part of the tool here is to create
5 transparency around requests so that instead of you
6 and the Associate Press and others having to
7 continually write the same story over and over again,
8 and there's only a certain number of times you can
9 pitch an editor or a publisher the fact that people
10 aren't responding to FOIL requests, so at the end of
11 the day this is more as an empowerment tool for the
12 Fourth Estate. So if you're not there and your FOIL
13 requests are going unanswered and everyone else's are
14 tracked and are answered in a timely fashion because
15 of the system, how does that serve the Fourth Estate
16 and your requests?

17 AZI PAYBARAH: Well my initial reaction
18 is to be somewhat reserved about the idea of making
19 special provisions and carve-outs for reporters
20 rather than, let's say the panel that was before us,
21 like a good government group; if Gene Russianoff
22 sends in a request for the Mayor's schedule, for
23 example, and I send in the same request, you know, we
24 shouldn't be treated any differently under this law.
25 So I'm gonna put aside the issue of like a carve-out

2 per se for reporters; I think this legislation, as
3 it's been proposed, sort of has two components to it,
4 right; one is reporters have a concern about
5 protecting the nature of their work and I would argue
6 that anyone who... most people who are requesting data
7 or FOIL may not be prepared to see... to reveal that
8 information as they're seeking it, only because the
9 context of what they're looking to do or see or
10 ascertain cannot always be understood in the
11 immediate. You know there's annual reports that come
12 out, because you need time for information to
13 metastasize and people to understand the information
14 that they're gathering. So if we're able to not put
15 the emphasis on revealing in real time what
16 information is being gathered, that might alleviate
17 some reporters' concerns about the competitive nature
18 of the work that they do. The second component of
19 this legislation is holding this government
20 accountable for releasing their information. That I
21 think is appropriate and if not required for this
22 government body to sort of look at. Now if there is
23 a more detailed breakdown than what's been presented
24 today in this one category of status; that I think is
25 something that could be looked and revealed; the idea

2 that each department should be held accountable for
3 the number of requests that they fill out or for
4 being able to articulate why certain information was
5 denied, if that could be gathered over, you know, a
6 quarterly period or a biannual period or at least put
7 in the Mayor's Management Report; that would help
8 provide the kind of accountability that I think
9 you're seeking. I don't thing revealing it the day
10 that it's submitted does anything more than that.

11 Now with respect to a story I have written in the
12 past about FOIL responsiveness in this administration
13 and the Associated Press having their story, the
14 intent to assist the media in that I think is a
15 laudable goal, but I don't know if that's really the
16 domain of the City Council; it's up to the news
17 organizations themselves to determine if that's news,
18 when it's news and have that healthy tension between
19 reporters and editors and serving the public's needs
20 with that. So I would say as long as the focus is on
21 the FOIL officers specifically and how responsive
22 they are and then if you're able to track that by the
23 department; that would enable the public to say if
24 there is this one department that's so lacking their
25 ability to be responsive to FOIL requests, is it the

2 part of the FOIL officer or is it the fact that their
3 department head hasn't provided more assistance to
4 that officer? If they see that the NYPD or the
5 Department of Corrections is being inundated with
6 FOIL requests, at some point, you know, if we're able
7 to track it down to the officer and then the
8 department, we could see, is there a systematic
9 approach to stifling FOIL requests by not providing
10 more resources to the area that clearly there is that
11 need for it.

12 CHAIRPERSON KALLOS: Kristen, you
13 mentioned the 10-day delay as not being substantial
14 and Azi, you slightly referenced that, is there a
15 delay that would be more helpful?

16 KRISTEN MERIWETHER: I mean I obviously
17 can't speak for every reporter; I think if you're
18 doing a pretty beefy investigative piece, I mean
19 something like 30 days, 6 weeks, something like that,
20 we had talked earlier, there had been a discussion,
21 once a quarter, I think quarterly or annually, like
22 those kind of reports; I think that's a little bit
23 long. For me, I'm thinking more along 30 days; 6
24 weeks, but I don't know, I mean that's something... I
25 think we'd have to come together and... I think that's

2 for a discussion that needs to have a lot more people
3 than just myself and... I don't know, do you... what do
4 you think as far as...

5 AZI PAYBARAH: I mean I think that's one
6 of those details that could be worked out a little
7 bit later. I don't know if City Hall or the City
8 Council should be required to release data once it's
9 been given to a reporter or to a requester upon the
10 completion of a FOIL request. The Daily News has
11 written a story about the Mayor's schedule; there was
12 a story written about it, it was widely picked up;
13 now that that information is out there and at least
14 gathered, is it City Hall's responsibility to put up
15 that selection of the Mayor's daily schedule or
16 should it have been onto that news organization to
17 decide whether or not to make that dataset available
18 to its readers? I mean I think the Daily News had
19 their decision to make and maybe they're in the
20 process of making it; I'm not sure, but they clearly
21 are the masters of their domain when it comes to what
22 to do with that information that they have attained.
23 Now it's up to City Hall... I don't know if it should
24 be legislated that they are required to do this; if
25 Maya Wiley's gonna make the point that it could delay

2 information being disclosed, that would certainly be
3 something to be considered, but if your legislation
4 is able to track in a broad brush scope the type of
5 information -- schedules, communications with outside
6 organizations -- in a regular period, that would
7 provide all of us the ability to, as Jimmy Vacca
8 says, to see what's been coming in and see how
9 they're responding to it. So I think that the timing
10 issue can be dealt with -- 10 days, 2 months --
11 something we're getting reported [sic] but the idea
12 it has... like there has to be a focus on the person
13 who's responding and holding them accountable, and
14 one question is, in this legislation; is there any
15 penalty for not responding? I mean I think we've
16 seen any number of times in New York City government
17 and in New York City politics, you know the limited
18 power of shaming someone; you know if shame was
19 enough to sort of compel action, you know, arguable
20 there would be many different actors in government
21 doing a lot of different things. So just because
22 there's the ability to public show that someone is
23 not responding to a FOIL request, I don't know if
24 that's enough to actually compel them into action.

2 CHAIRPERSON KALLOS: Good questions.

3 Thank you. The... I think just as the tables seems to
4 be turning as reporters tend to ask more questions
5 [laugh] in interacting with elected officials, the
6 thought is that when there is public information and
7 that it belongs to the government, that we have an
8 obligation to make it public, not only for reporters,
9 but for everyone, so if the Mayor's schedule has been
10 released to the Daily News, the thought is that every
11 other reporter, every citizen; every resident should
12 have the ability to access that same information and
13 that's the thought behind Open Data. When one piece
14 of information is requested, there tends to be things
15 that get requested a lot, like the birth certificate
16 for President Obama; at some point perhaps there will
17 be birth certificates requested for Bill de Blasio;
18 who knows where the birthers will go next, at the
19 risk of attracting their ire. But point being that
20 when it's a schedule, that could be a dataset that
21 should be out there and as you see from the Mayor's
22 Office, given their commitment to this, the hope is
23 to move away from a culture where somebody has to
24 FOIL something every single day and literally, you
25 can do that, you can set up an Outlook task or a

2 Google task for every day, at 8 a.m. you email the
3 Mayor, requesting their schedule or we can just be
4 more proactive and I think that's the direction we're
5 heading and what we're hoping to do and the other
6 piece is cost savings, which kind of got referred to
7 in the City Record conversation, which is at \$400 per
8 FOIL request at the average cost as computed by our
9 friends and colleagues at Reinvent Albany in "Beyond
10 Magic Markers," their report released today, anything
11 we can do to prevent people asking for things that
12 we've already made available is a huge cost savings
13 to us, so. I don't think I have anymore questions
14 for you, unless you guys have questions for me.

15 [background comment]

16 AZI PAYBARAH: No real questions, but I
17 would just underscore the point that when there's a
18 reliance on a government saying we give you our word
19 that we'll provide this information on a regular
20 basis; I mean it's nice to have that kind of
21 tradition, but what happens when governments change,
22 administrations leave; officials leave? So I think
23 the idea that there is no need for this kind of
24 legislation is I think overstating it somewhat and in
25 the ongoing conversations about this legislation, if

2 the focus can be put on tracking the responses coming
3 out of City Hall rather than the requests coming in;
4 nothing is changing about City Hall knowing the
5 information... the requests that are coming in based on
6 this bill; the real potential here is to show in the
7 aggregate form what they're doing and any kind of
8 tweaks or adjustments to this bill I think have to be
9 focused on the result of the Administration rather
10 than on the different news organizations and how
11 they're trying to go about getting information.

12 CHAIRPERSON KALLOS: I promise you, I
13 remain unswayed by the Administration's repeated
14 requests for me not to legislate on various topics;
15 for the time being I am a legislature and that is the
16 tool that I have, legislation and oversight, so
17 please rest assured that I will move forward with
18 this legislation, along with, hopefully, the good
19 government, Transparency Working and technology
20 communities. Thank you so very much for this
21 unprecedented testimony today. Thank you.

22 AZI PAYBARAH: Thanks.

23 CHAIRPERSON KALLOS: The final panel and
24 if you had wanted to, please make sure to fill out a
25 slip. Is Noel Hidalgo from BetaNYC and brigade

2 commander for A Code for America, Rebecca Williams
3 from Sunlight Foundation, who joins us from
4 Washington, D.C. for the second time in a couple of
5 days, and Paula Segal from 596 Acres.

6 And so this is it, so if you have not
7 filled out a slip with the sergeant at arms you will
8 not be giving testimony, but you can give it at
9 BenKallos.com/legislation. And again, everyone is
10 reminded to please to submit your testimony
11 electronically so we can put it online in an
12 electronically searchable, search-engine-optimized
13 format on our pretty, pretty Drupal site, and when
14 you speak, please give us your name, your
15 organization, and something that is new for our
16 committee and we will hopefully be updating our
17 appearance cards to reflect it, is your Twitter
18 names. So without further ado.

19 [background comments]

20 PAULA SEGAL: Is that on? There we go.
21 Hi, I'm Paula Segal; I'm the Director of 596 Acres;
22 we are New York City's community land access
23 advocates; we work with the City's Open Data, so it's
24 interesting to be here at this committee meeting;
25 thank you for giving me a few moments to testify

2 about how data information and the Freedom of
3 Information Law currently impact our work. On
4 Twitter we're 596Acres, it's very simple.

5 I'd like to add a note about the FOIL
6 campaign that led to the release of the MapPLUTO data
7 from behind a 10-year-old paywall, which put a \$3,000
8 price tag per year on advocates having accurate
9 financial and ownership information by parcel for
10 properties in the city. In partnership with the CUNY
11 Center for Mapping and BetaNYC and our friends in the
12 media, we mobilized dozens of successful FOIL
13 requests for this dataset and each one was promptly
14 provided by the Department of City Planning for the
15 cost of duplication -- five DVDs, each in its own
16 jewel case, and each one with a price tag of \$1. So
17 through the Freedom of Information Law last year,
18 advocates were able to get for \$5 what community
19 groups had paid thousands of dollars for in the
20 decade before. It was a welcome relief to see that
21 the Department of City Planning chose to make the
22 information available through a download link without
23 the need for a formal FOIL request and to eliminate
24 the paywall entirely after several months of the
25 campaign. It's also my hope that the fees paid by

2 advocates and community-based organizations over the
3 past 10 years will someday be refunded. Our campaign
4 serves as a great model for the implementation of the
5 Open FOIL bill; I would urge that one request should
6 be enough to make it mandatory that an agency post a
7 requested document online, we shouldn't have to stage
8 a campaign.

9 To support our core work and create the
10 most accurate available map of vacant publicly-owned
11 lots that present opportunities for community land
12 access, we've used two of the datasets currently in
13 the Open Data portal. The new dataset we've created
14 is pretty good but it's not perfect and we regularly
15 rely on FOIL requests to fill in gaps we revealed in
16 agency plan information and in procedure. I'm here
17 today in support of a centralized FOIL portal that
18 will make it easier for us to do our work. It will
19 also make irregularities in FOIL responses that
20 regularly mark our correspondence much less likely.

21 As then-Public Advocate de Blasio's
22 reported noted, agencies tend to expedite or delay
23 requests based on the identify of the requester. In
24 our experience, this prejudicial treatment goes even
25 deeper. I'm going to bring one example to attention

2 of the committee -- an example that's kind of sweet
3 and illustrates that, even where agency records
4 access officers have the best intentions, the current
5 process doesn't reliably produce documents as they
6 are requested.

7 There is a swath of properties in the
8 Melrose section of the Bronx that are slated to
9 become a park under the Melrose Commons Urban Renewal
10 Plan. I spoke with the Bronx Borough Parks office
11 manager, who assured me that they were working on it
12 and that she would follow up with an email, telling
13 me what the plans were for the site, and after not
14 hearing from her for a month, I put in a FOIL
15 request. I referred to the property by its borough
16 block and lot number, by its name in the Urban
17 Renewal Plan and by the Parks Department name; it's
18 being called the Melrose Commons Park. The request
19 was acknowledged within five days and I received a
20 response within twenty, as the acknowledgement had
21 promised, but what the response revealed is that the
22 staff at Parks knows who I am, they know what we do
23 and they didn't necessarily read the request; they
24 didn't disclose anything related to the site, to the
25 borough block and lot numbers that I had actually

2 requested. Instead they sent a couple of copies of
3 community garden licenses for gardens in the
4 neighborhood of Melrose Commons -- with different
5 names and clearly different block and lot numbers.
6 Our core work is making these spaces possible, but
7 that wasn't what I had asked for.

8 So it's a sweet error, but it exposes the
9 quixotic nature of current agency responses to FOIL
10 requests. We're looking forward to a more
11 transparent and streamlined process that will make
12 such errors less likely. Thank you so much.

13 REBECCA WILLIAMS: Hello; I'm Rebecca
14 Williams; I'm up from D.C. from the Sunlight
15 Foundation; my role there is a Policy Analyst on the
16 local team, so I look at open data laws across the
17 country and I'm gonna go a little off script and just
18 tell you guys what else is happening and why this is,
19 like John said, overdue; not actually new. There's a
20 lot of examples out there of things like this already
21 happening and I'm happy to support each one of these
22 bills and even other bills that aren't at this
23 hearing today that are relevant to transparency in
24 New York City.

2 So just going through them -- first the
3 Open Law Bill. What's important about New York
4 City's current law online -- sure, you can look at it
5 in the browser and search by keyword, but it's not
6 structured; no one has talked about licensing.

7 Looking at the New York Legal Publisher, it doesn't
8 seem to have an open license -- we had something
9 similar actually happen in the District of Columbia
10 last year; we had a software developer that wanted to
11 create a bike app and he wanted to include bike laws
12 in his bike app; thought it would be simple enough;
13 not simple. It wasn't structured; there's not API;
14 also it was license, so it was illegal for him to
15 include his bike law in his bike app and that is
16 essentially the situation in New York City right now
17 and in a world where you can get so much on your cell
18 phone, laws should be the simplest thing to get
19 online. So there's a lot that could be done there.

20 And two I think points made earlier about
21 not everyone having online access, that's more reason
22 for having APIs; a lot of people don't have online
23 access at home, but they have online access on their
24 phone, so you're actually addressing a lot of the
25

2 digital divide issues, if you're getting things on
3 people's phones.

4 To the point about the Open FOIL portal,
5 this is really, really exciting stuff; I think
6 collectively all of these bills are sort of filling
7 in what might've been not addressed in the Open Data
8 legislation of New York -- just to zoom out a little
9 bit, since... there's now 40 open data laws on the
10 books across the country; that's a lot more than
11 there were in 2012, when New York City passed our
12 Open Data Law. All of these bills address data that
13 isn't just automatically structure and easy to
14 release, but information that is the public's and
15 that you can get in other ways and it's just
16 difficult. So addressing their structure and their
17 format and making them more available makes sense.
18 The examples of Oakland and Chicago and the feds were
19 already brought up in terms of FOIL requests online.
20 In addition, [sic] Chicago, Cook County, included
21 their FOIL logs be included in their open data portal
22 and their open data law, so that's happening
23 elsewhere. And then internationally, Alaveteli, the
24 international service, is in over a dozen countries -
25 - this is something that's not new -- other places

2 have been doing it for years and New York City should
3 do it because they've been a leader in open data to
4 begin with and I don't think you guys should lose
5 your lead.

6 And then the last point, the City Record
7 online -- there's a lot of procurement information
8 there that if you structured it and made it more
9 available and made it available in bulk; not just
10 searchable online in the browser, but made it
11 available to download so that you could actually do
12 real analysis about how the city functions. All of
13 this data is the harder data; it's not just
14 spreadsheets you put on the open data portal, it's
15 the stuff that lets citizens know how New York City
16 is functioning.

17 And it's incredibly important that these
18 are passed and if you guys need any advice from
19 Sunlight, let us know.

20 NOEL HIDALGO: Great. There's been so
21 much information; I will read my initial comments and
22 then riff.

23 Hi, my name is Noel Hidalgo, Executive
24 Director of BetaNYC. It's a great honor to represent
25 New York City's technology community; particularly a

2 rather active group of technologists -- the civic
3 hacker.

4 BetaNYC works to create a New York City
5 government for the people, by the people for the 21st
6 century. We meet regularly to develop new avenues
7 for civic engagement. We are members of the New York
8 City Transparency Working Group; collectively, we
9 want to see our City adopt tools, programs and law
10 that increase transparency, efficiency and
11 participation.

12 Last year our community published the
13 *People's Roadmap to the Digital New York City* -- this
14 is a manifesto combine with 32 ideas into a
15 foundation for a 21st century government. Today we
16 are here to talk about a critical component of the
17 roadmap -- access to information.

18 Today's hearing covers three laws with
19 historical importance. According to a recent survey,
20 most New Yorkers have cell phones -- 98 percent; 50
21 percent of them have smart phones and 40 percent of
22 them have tablets and eReaders.

23 Within a few short years the majority of
24 New Yorkers will receive a majority of their
25 information via mobile devices. To ensure content

2 delivery across all devices, we need information to
3 be open and in machine readable formats.

4 We kindly ask the Council to add bulk
5 data access and machine readability to improve Intro
6 149 and after this testimony, or the testimony that
7 was previously given, help with getting access to the
8 City Law Department to improve the system that
9 they're thinking about working on.

10 Additionally, by placing the law and City
11 Register online in machine readable format, New
12 Yorkers can connect to their government regardless of
13 privilege or device.

14 Lastly, we feel that this Open FOIL bill
15 presents a transformative opportunity to increase
16 access and to lower the cost of government
17 operations. Just as the first online search engines
18 gave us the ability to see the world wide web, this
19 FOIL amendment gives the public 21st century
20 processes to know how, when and where information is
21 being kept. We need this law, we need to have the
22 "one strike, you're in" provision; this is the only
23 way that this set of laws will really carry forward
24 into the 21st century. We believe that these three
25 bills provide a proper foundation for the 21st

2 century New York City government and we support the
3 passage of these three bills and the great research
4 that Reinvent Albany has provided by "Beyond Magic
5 Markers."

6 CHAIRPERSON KALLOS: Let's talk about the
7 digital divide. This is great to have you come here
8 and to be able to talk about such technical things.

9 During my primary I was actually working
10 with a small firm called Civic Actions that was
11 trying to provide accessibility for healthy eating in
12 California, and so I actually, I myself got to work
13 with their team on developing a Drupal module -- a
14 free and open source -- that allowed us to crunch
15 notes, which were effectively recipes, and sent it
16 out to people over feature phones, and because of how
17 open Drupal is, that was something we can do. Can
18 you tell me more about how we could make government
19 data accessible through feature phones, which are
20 just... not fancy smart phones, but literally like
21 Nokias with like a keypad, no letters and where you
22 have to hit a key multiple times in order to say C
23 instead of A?

24 NOEL HIDALGO: So there are a number of
25 ways that access can be provided to feature phones;

2 primarily you can use the two features that are on a
3 feature phone -- voice and SMS -- and third... well
4 actually, less used so now is WAP, which is, you
5 know, a very scaled-down web browser. But there are
6 programs and services that are currently being
7 rendered using voice recognition for subscribing to
8 government services and also SMS. You know, if we're
9 thinking about bridging the technological divide, we
10 really need access to that raw information to then
11 build IBR and SMS systems, where you can subscribe to
12 alerts. Case in point -- at the New York State
13 Senate in 2009, we had prototypes where you could
14 subscribe to bill updates via SMS. So as a bill made
15 its way through the State Senate, you could actually
16 see what was going on with the action of that bill;
17 you did not need to have a smart phone later on when
18 you had access to it; you could go and subscribe or
19 you could go look up that bill number and see what
20 was going on. Consequently, that's something that
21 could happen with the City Register -- you subscribe
22 to a key set of terms of looking for, you know, a
23 type of contract or a key piece of information and on
24 a daily basis or whenever they come up, just like we
25 have through NYC Notify, you would get a notification

2 that something has happened for you to go take a look
3 at that. That actually I think increases access,
4 bridges the printing divide and takes us into the
5 21st century.

6 CHAIRPERSON KALLOS: So if we made an
7 open API around our information, could a third-party
8 developer or a civic activist or somebody who wanted
9 to make money offer this message service to people?

10 NOEL HIDALGO: And you don't necessarily
11 have to start with the API; it's just about getting
12 bulk access. So in the course of this bill as it's
13 written, if it was uploaded to the City Open Data
14 mine; the City Open Data mine, or data catalog
15 already has an API infrastructure, so one doesn't
16 necessarily need to go through an architect, a new
17 API, but nor necessarily legislate the fact there
18 needs to be an API. What just needs to... we need to
19 have the ability to move it out of whatever
20 structured system it's in and that it's locked into
21 and we need to have that data provided in a
22 nonproprietary machine readable format. And then we
23 can allow for 1,000 flowers to bloom.

24 REBECCA WILLIAMS: I don't wanna follow
25 that up, but you can check out Sunlight Foundation's

2 Calling Congress tool, which is built on structured
3 data. I would also add that on top of digital divide
4 issues, just ADA concerns -- the more you structure
5 data and format it so that computers can read it, the
6 more you're actually opening it up to people that can
7 access it in a variety of ways through other
8 technology devices.

9 CHAIRPERSON KALLOS: I would be remiss if
10 I failed to recognize that we were joined by Council
11 Member Ritchie Torres for this hearing.

12 With regard to the 596 Acres FOIL
13 request, do you believe that the person responding to
14 your FOIL request would have done so differently had
15 they had to post it online for the entire world to
16 see?

17 PAULA SEGAL: I have to assume they
18 would, just a little bit... just a little care. I mean
19 every single property in the City essentially has a
20 barcode, right, it's a borough block and lot number
21 and it's a very simple, you know... even if they
22 wouldn't have responded more carefully; somebody in
23 their office would have seen it or somebody else
24 would have seen it and pointed out the error. It's
25

2 just a totally different set of numbers, the
3 documents that they sent.

4 CHAIRPERSON KALLOS: With regard to Open
5 FOIL, I was aware of what was happening in the United
6 States; can you tell us a little bit more about
7 what's happening in other countries and perhaps if
8 you can share the code that they are using; the only
9 code I was aware of was the code from Code for
10 America, which I actually downloaded last night --
11 not last night, but over the weekend and was playing
12 with, and it's Python code; it's a couple of short
13 lines, it's very elegantly and well-written, so.

14 REBECCA WILLIAMS: Sure. So I'm not... I
15 actually... I'm not super familiar with the back end of
16 Alaveteli, but the tool is called Alaveteli by
17 mySociety, it... Noel might have more details on this
18 actually, but it is the back end to the
19 WhatDoTheyKnow site and it's deployed in like 15
20 countries; also, the thing that's different than the
21 Oakland portal is that they include datasets attached
22 to it in some countries. So they're doing what Open
23 FOIL is internationally. But I do know the record
24 track team looked at the Alaveteli code to inform
25 their code, so you might see some of that reused or -

2 - it was informed by that, so it's all part of the
3 same open FOIL family.

4 CHAIRPERSON KALLOS: What's the URL?

5 REBECCA WILLIAMS: I tweeted it earlier
6 and... [laugh]

7 CHAIRPERSON KALLOS: I'll take a look at
8 it; we really...

9 REBECCA WILLIAMS: mySociety is the
10 organization, based out of the UK. But they've been
11 doing this for years.

12 CHAIRPERSON KALLOS: Perfect. What
13 policies or procedures exist in other cities, states
14 and countries to protect reporters?

15 REBECCA WILLIAMS: So the international
16 examples would be the ones to look at, since they're
17 attaching the data with the request; not just showing
18 the FOIL log of what was requested. We've had
19 debates about this internally at Sunlight and we've
20 talked about like a three-day delay for journalists,
21 because we have journalists that work in our
22 organization, but it's my personal feeling that the
23 10-day stipulation should be sufficient.

24

25

2 CHAIRPERSON KALLOS: Would this panel be
3 friendly to the 30-day request or the 6-week request,
4 which would put it out around 45 days?

5 NOEL HIDALGO: I have many concerns about
6 these different types of delays; I mean my
7 fundamental concern is why... government should be
8 transparent and if it's accountabil... or if it's
9 actions aren't transparent, then they should have
10 systems and procedures in place to be as transparent
11 as possible. And if it takes the public or, you
12 know, any entity request it from government;
13 government should be responsive to it. I struggle
14 with kind of default delays in the system. I think
15 that's just something that needs to be negotiated and
16 that's kind of hard to put down a specific term. If
17 the administration has specific examples of different
18 types of FOIL requests that need intentional types of
19 delays due to security concerns or other types of
20 processing, I wanna be respectful of that. But I
21 think that the intent, as demonstrated earlier, is
22 that there should be as much transparency and
23 openness as possible with as limited delay as
24 possible. And I'd like to ask the Council to
25 represent our faith in you to get that done.

2 CHAIRPERSON KALLOS: Thank you very much.
3 With regard to the City Record online, can you tell
4 us a little bit about the importance of bulk
5 download? I think you touched on it, but if you
6 could help us understand why it's so important and
7 why the current implementation where you can search
8 for certain items but not everything and items are
9 missing and you have to go through their search
10 interface and it is not an open... why does it matter?

11 REBECCA WILLIAMS: The power of bulk
12 downloads mean that you can really do some serious
13 analysis on it, you can see where things are missing,
14 you can see where things line up; it's real
15 accountability -- being able to search things in a
16 browser limits your ability to analyze that
17 information.

18 NOEL HIDALGO: I think some of my
19 concerns are around a limited access or a limited
20 number of resources that the City Record has right
21 now. So because it traditionally has been under-
22 resourced, the technology product that they would end
23 up producing may not be as advanced or as forward-
24 thinking as if you had spent millions of dollars on
25 it, and so ensuring that there is kind of like a --

2 not to use the proverbial, you know hacker term, but
3 there is a back door access to that information,
4 which effectively is a bulk data download -- one can
5 either do analysis on it or put it in a way that's
6 more useful for a developer. You know, we're seeing
7 consistently from different city agencies, including,
8 you know ones that are supposedly flying the city
9 flag about being open data just not producing
10 accurate and clean data, and so we want to be able to
11 go through and make sure that we have clean
12 information to work with when we're doing either
13 analysis or hopefully building tools that help bridge
14 the digital divide.

15 CHAIRPERSON KALLOS: How important is it
16 to make sure that when we are publishing information
17 we are publishing it in paper and circulating it to a
18 couple of hundred people in the City; is it worth in
19 your mind \$1.2 million [laugh] to circulate the City
20 Record so that it's available in print between the
21 hours of 9 and 5 at a library versus on a computer
22 terminal in that library or etc.; should we be
23 redirecting that cost savings elsewhere or is it an
24 essential public purpose that we print it and make it
25 available in government offices if somebody can find

2 out which government office, where that government is
3 and arrange an appointment for a public inspection?

4 PAULA SEGAL: So making the information
5 available to people who do not have their own device
6 or just simply aren't comfortable or don't trust
7 information that comes from their phone is incredibly
8 important, but that can be done with staff, right;
9 that can be done with staff and training; staff that
10 is available to read that information from a digital
11 interface between the hours of 9 and 5 in certain
12 government offices and libraries, and actually
13 producing paper documents may be redundant if there
14 is well-trained staff at the community board offices,
15 say, that can actually understand the information as
16 it's published digitally and assure a resident who
17 wants that information that this is the City's
18 information, it is official and give them exactly
19 what they're looking for. On the other hand, without
20 that staff person and without having the information
21 on paper, I think we're really walking a fine line.
22 What we do is actually put signs up around the City
23 in areas where there is vacant city-owned land, so we
24 mirror our online database with actual physical
25

2 interventions and space and I think I'd encourage the
3 City to do the same.

4 REBECCA WILLIAMS: Yeah, I agree that
5 paper is still useful in certain instances. I would
6 encourage the City to do analytics on who's using the
7 paper product versus who's accessing online; I think
8 you'll find that more people would be accessing it if
9 you make this available in structured, open formats.

10 CHAIRPERSON KALLOS: Do we have the
11 Google analytics for paper printing yet?

12 NOEL HIDALGO: You can. You can do
13 barcodes; I mean the Department of Buildings, under
14 the previous administration, worked on particular QR
15 codes and URLs that were accessible via paper to keep
16 track of who's using -- or at least that was part of
17 the initial white paper of like who actually uses
18 this QR code to access this piece of information. I
19 think that there is in particular explicit value in
20 having paper, but the content, if you look at every
21 other major news organization, they're going to
22 digital-first workflows. Once you have adopted to
23 21st century business practices, it is as simple as
24 writing a script to say print out every article as
25 simple to say print out, you know, a subsection of

2 these different articles onto paper. I think that it
3 would be, if properly engineering, architected and
4 thought through, which as the largest city North
5 America we are, we can do; that the City Record can
6 be designed in such a way that for those people who
7 need print, that we actually provide a better product
8 than what's currently being provided. If you ever
9 take a look at the physical print of the City
10 Register, the print is small, sometimes it's
11 unreadable; I think that we could produce a better
12 digital-first than to print product that services the
13 needs of all New Yorkers. I think if we were to go
14 to a digital print process we could easily translate
15 the City Record to multiple languages that are in the
16 City, using crowdsource systems or automatic systems,
17 like we're getting to a point where we can actually
18 service more people by going through a digital-first
19 process than to ensure or enshrining a paper process.

20 CHAIRPERSON KALLOS: So the City Record
21 might be more useful if when you showed at the
22 library you said I'm interested in seeing what
23 community board meetings are happening or whatever or
24 I just want it today and it might be cheaper to
25 actually just have the library press a button to

2 print out the City Record in the language, font size
3 and section that the person wants versus a City
4 Record for \$1.2 million that's just circulated
5 everywhere?

6 REBECCA WILLIAMS: Doesn't that make
7 sense?

8 [laughter]

9 CHAIRPERSON KALLOS: I'm seeking to
10 elicit testimony with leading questions.

11 [laughter]

12 NOEL HIDALGO: I mean, but there's... there
13 should be also kind of the traditional... and I think
14 there is a place in the middle and that place in the
15 middle is the fact that there... it's still going to be
16 a product that people will need, that they will want
17 in a format that they are comfortable with, 'cause
18 you know print is still a user interface, something
19 that they had become accustomed to; I think that
20 that's something that can be evolved into a
21 particular direction, but I don't think that there is
22 a paper-first mentality that should continue in the
23 21st century, and so finding some type of
24 accommodation between the two.

25 [background comment]

2 CHAIRPERSON KALLOS: I wanna thank all of
3 you for your testimony; I wanna thank Rebecca for
4 coming all the way up from D.C. [laugh] Before I
5 gavel out, I'd implore all of you to please join us,
6 join me at MIT Media Lab on this Friday, where we'll
7 be working on a Hackathon to hack the law and then
8 please join BetaNYC and their civic activists, which
9 are more local and in New York City on their various
10 civic projects, so thank you all and I now adjourn
11 this meeting.

12 [gavel]

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C E R T I F I C A T E

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



Date June 13, 2014