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Transportation Alternatives • Tri-State Transportation Campaign  
Tully Center for Free Speech

October 23, 2018

Board of Directors  
MTA Headquarters  
2 Broadway, 2nd Floor  
New York, NY 10004

**RE: Put MTA FOIL Completely online, Creating OpenFOIL Portal and Online MTA Police Incident Site to Reduce Costs and Delays**

Dear Members of the MTA Board,

We write you to ask that the Metropolitan Transportation Authority (MTA) overhaul its Freedom of Information Law (FOIL) and processes by: (1) adopting an Open FOIL platform for FOIL requests and (2) creating an in-house portal for requesting MTA police incident records, utilizing best practices from other jurisdictions and within New York State as described in the attached report by Reinvent Albany and summarized in this letter.

The MTA and its agencies receive nearly 9,000 requests a year, and there is widespread public dissatisfaction among journalists, watchdog groups and the broader public about how long it takes the MTA to fulfill requests. Currently, the MTA's FOIL process is fragmented between its agencies, at times still paper-based, and lags significantly behind the best practices of other government agencies in New York and nationally. Creating an Open FOIL process and making highly requested police reports requestable online will save money for the MTA and improve service for the public.

***OpenFOIL***

OpenFOIL has been embraced and implemented by governments across the country, including the federal FOIAOnline portal,<sup>1</sup> which is considered by experts to be the gold standard. Locally, the Port Authority of New York and New Jersey's Public Records

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<sup>1</sup> FOIA Online, <https://foiaonline.regulations.gov/foia/action/public/home>

Portal has been praised by open government advocates and its own administrative staff.<sup>2</sup> After the Port Authority modernized its FOI process in 2012 and created its portal, Pat Foye, then the Port Authority's Executive Director and currently the MTA's President said:

*"The new FOI Code streamlines, modernizes, and clarifies an out-of-date system that was clearly not meeting the public's needs. By holding ourselves to a higher standard of transparency and by voluntarily posting online thousands of documents now, we make the agency a stronger and more accountable institution."*<sup>3</sup>

The Port Authority's then-Vice Chairman, Scott Rechler (now a member of the MTA Board) added:

*"This is an exemplary step forward in making the Port Authority more accountable and reaching our goal of setting the best-in-class standards...This agency should never settle for mediocrity when it comes to letting the public know how we are carrying out our mission and our responsibilities."*<sup>4</sup>

Important features of the Port Authority's portal include proactively putting public records that have been released online, and the searchability of fulfilled records requests. This saves important staff time and resources. The Port Authority also has a standardized response form that makes it very clear to the public the reasons why records may not be immediately available, and the category under which the request falls.

Another local example is New York City's Open Records Portal<sup>5</sup>, which uses open source software to create a portal for FOIL requests. The platform has been positively received by NYC agency FOIL officers in terms of its ease of use, and has been refined since its launch in 2015.

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<sup>2</sup> Port Authority of New York and New Jersey, "Public Records Fulfilled Requests." <http://corpinfo.panynj.gov/pages/public-records-fulfilled-requests/>

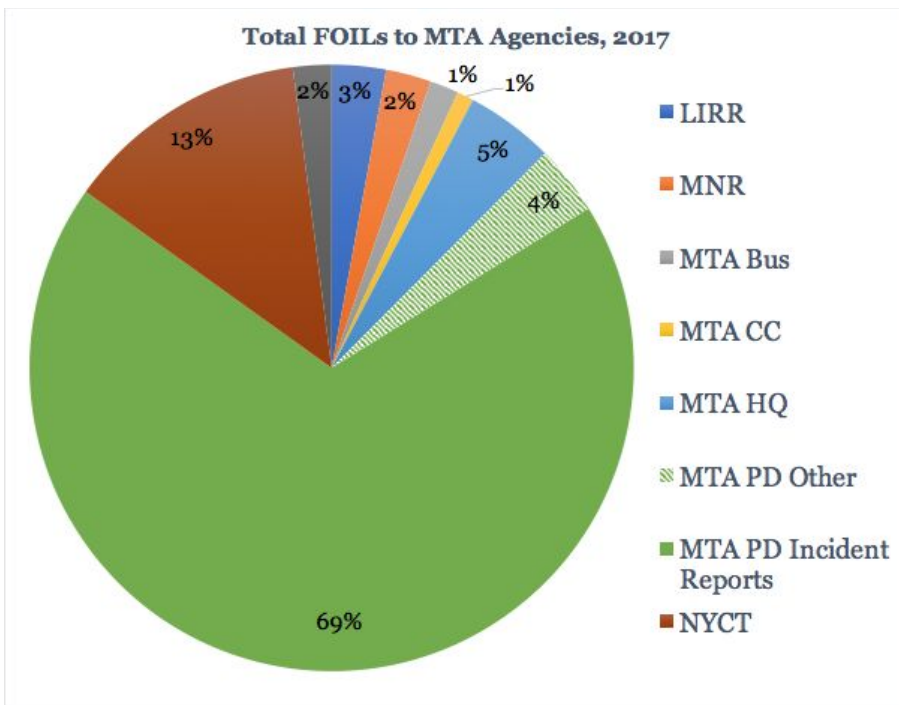
<sup>3</sup> Port Authority of New York and New Jersey. "Port Authority Makes Major Enhancements to How Agency Will Release Public Records to Provide Greater Transparency and Accountability." March 29, 2012 [http://www.panynj.gov/press-room/press-item.cfm?headLine\\_id=1553](http://www.panynj.gov/press-room/press-item.cfm?headLine_id=1553)

<sup>4</sup> Ibid.

<sup>5</sup> New York City Open Records. <https://a860-openrecords.nyc.gov/>

Governor Cuomo has recognized the value of Open FOIL, and announced in June 2018 “Open FOIL NY”<sup>6</sup>, which currently is a consolidated portal for submitting FOIL requests to up to 3 New York State agencies at a time. This builds off of NYS “Open Data” Executive Order 95<sup>7</sup>. A total of 59 other public agencies are participating - including the Empire State Development Corporation, another public authority. While the initiative is not fully implemented, there are plans to provide software to agencies, which will save state resources by simplifying tracking requests and the posting of information, creating a public-facing tracker to allow users to track their requests and receive records online, and identifying records for proactive release.

We recommend that the MTA use the NYC Open Records Portal software to create an Open FOIL platform, expanding it to proactively post released public records, and to include requestor information. Using this platform, the MTA will see a sharp reduction in duplicative requests and agency time required to process requests; all responses will be made public in a searchable and machine-readable format where they can be found by the public and FOIL officers. In addition, an automated system will give managers a complete picture of their FOIL compliance at all times, using online dashboards. Full recommendations on OpenFOIL are at the end of this letter.



### ***Online Police Incident Reports***

Reinvent Albany’s analysis of MTA FOIL logs from 2017 found that more than two-thirds of all records requests to the MTA are for MTA Police incident reports (see chart at left). Police incident reports are one of the most commonly requested records to local governments everywhere

<sup>6</sup> State of New York. “Open FOIL NY.” <https://openfoil.ny.gov/> See also Office of the Governor, “Governor Cuomo Announces Open FOIL.” June 26, 2018.

<https://www.governor.ny.gov/news/governor-cuomo-announces-open-foil-ny>

<sup>7</sup> Executive Order 95, Governor Andrew Cuomo.

<https://www.governor.ny.gov/news/no-95-using-technology-promote-transparency-improve-government-performance-and-enhance-citizen>

because they may be required for insurance claims to be processed or for legal proceedings. Several states, including New York and Pennsylvania, have created online portals for the public and those acting on their behalf (lawyers or insurance companies) to privately request incident reports for car crashes. The Port Authority also provides private access to incident reports via a contract with a third-party, Lexis Nexis.

The New York State Department of Motor Vehicles (NYS DMV) developed an in-house portal for searching incident reports<sup>8</sup>, which allows individuals to select multiple options for viewing records dating back 4 years. This portal aggregates reports filed by motorists and police, whether submitted electronically or via paper. For individuals seeking access to their private records, the website notes that there is a legally mandated fee for searching (\$7) for and/or viewing individual records (\$15). The site also provides the ability to search for a list of motor vehicle crash reports in a county for a given date without charge for statistical analysis purposes. This listing does not provide any personal information, providing only the date of incident, incident number, type of incident report filed, and license plate number. The NYS DMV provides an explainer about how to use the portal, and notes the expected time frames under which reports are made available, depending on how they are filed. For example, the website notes that it will take 14 days for crash reports filed by the New York Police Department (NYPD) to be posted on the site (the NYPD has a separate Collision Portal that can be accessed via their website<sup>9</sup>).<sup>10</sup>

The Pennsylvania State Police in September 2017 launched an Online Crash Report Requests website<sup>11</sup> to replace their paper-based request system, now allowing reports to be privately requested online with a case number or a last name together with the incident date. Reports cost the public \$22, which goes in part to the State Police to recoup the staff processing costs. The portal was developed by in-house IT staff, using their existing electronic incidents reporting software, TraCS, to create a public-facing website.<sup>12</sup> The State Police Commissioner noted the value to the public of the portal in a press release:<sup>13</sup>

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<sup>8</sup> New York State Department of Motor Vehicles. “Order and Access Motor Vehicle Accident Reports” <https://transact2.dmv.ny.gov/AccidentSales/>

<sup>9</sup> New York Police Department. Collision Reports. <https://collisionreport.nypdonline.org/>

<sup>10</sup> New York State Department of Motor Vehicles. “Get an Accident Report.” <https://dmv.ny.gov/get-accident-report>

<sup>11</sup> Pennsylvania State Police. “Online Crash Report Requests Portal.” <https://crashreports.psp.pa.gov/home>

<sup>12</sup> Interview with Cop. Adam Reed, Pennsylvania State Police. September 4, 2018.

<sup>13</sup> Pennsylvania State Pressroom. “Pennsylvania State Police Makes Crash Reports Available Online” September 14, 2017. <https://www.media.pa.gov/Pages/PA-State-Police-Details.aspx?newsid=327>

*“...The paperwork associated with even a minor crash can feel overwhelming. By embracing technology and creating an online portal to obtain relevant documents, we hope to relieve some of the stress associated with a motor vehicle crash.”*

In summary, we urge the MTA to implement OpenFOIL and create an online MTA portal for requesting Police Incident reports, using the full recommendations provided at the end of this letter.

Please contact Rachael Fauss, Senior Research Analyst at Reinvent Albany, [rachael@reinventalbany.org](mailto:rachael@reinventalbany.org) for more information on best practices.

Sincerely,

Noel Hidalgo  
Executive Director, BetaNYC

Betsy Gotbaum  
Executive Director, Citizens Union of the City of New York

Susan Lerner  
Executive Director, Common Cause New York

Peter Iwanowicz  
Executive Director, Environmental Advocates of New York

Catherine Gray  
Co-President, League of Women Voters of the City of New York

Daniel Bevarly  
Executive Director, National Freedom of Information Coalition

McGregor Smyth  
Executive Director, New York Lawyers for the Public Interest

Jane Tillman Irving  
President, New York Press Club

Gene Russianoff  
Senior Attorney, NYPIRG Straphangers Campaign

Danny Pearlstein  
Policy and Communications Director, Riders Alliance

John Kaehny  
Executive Director, Reinvent Albany

Marco Conner  
Deputy Director, Transportation Alternatives

Nick Sifuentes  
Executive Director, Tri-State Transportation Campaign

Roy S. Gutterman  
Director, Tully Center for Free Speech

### ***Recommendations on OpenFOIL and Online Police Reports for the MTA***

1. The MTA should create a **central portal for the public to submit information requests to all MTA agencies and view all public requests**, expanding upon the open source software from the NYC Open Records portal. The portal should provide in a searchable format:
  - The names and organizations of those who submit requests;
  - Public tracking of the status of all requests;
  - Notifications to requestors and FOIL staff;
  - Posting of communications by FOIL staff regarding the status of requests, and release or denial of information;
  - Automatic posting of records released in machine-readable formats; and
  - Searchability of requests, communications, and released records, creating ease of use for individuals looking for records.

The Open FOIL portal should also include the following features:

- a. **Links to a new, online portal for MTA Police Incident reports**
- b. **Requests sent to the wrong MTA subsidiary/affiliate** should be automatically forwarded to the correct agency.
- c. **A public directory of MTA FOIL Officers, including email and phone numbers.**
- d. **Access via API to all Open FOIL portal data.**
- e. **Creation of an online “Reading Room” of Frequently FOILED records and other reports of public interest**

- f. **MTA FOIL Performance Metrics, per FOIAOnline:**
    - Requests Received, Processed, and Pending
    - Median Number of Days for Processed Perfected Requests
    - Requests Fully Granted
    - Requests Partially Granted/Partially Denied
    - Requests Fully Denied
    - Number of Denials Based on Exemptions
    - Number of Denials Based on Reasons Other than Exemptions
  - g. **Annual report to MTA Board on MTA FOIL operations, performance and plans for improvement.**
  - h. **Relevant Data Sets should be posted to the NYS Open Data Portal including:**
    - Current and historic FOIL requests from the portal
    - MTA FOIL Performance Metrics
    - Any tabular data released via FOIL responses
2. **The MTA should create an in-house MTA Police portal for requesting incident reports**, using the models from the NYS DMV and Pennsylvania State Police, allowing the public to request incident reports online, subject to appropriate privacy safeguards. This should be publicized on the MTA Open FOIL portal. This portal could save the MTA significant time processing other FOIL requests, given that more than two-thirds of current FOIL requests involve incident reports.