



Reinvent Albany Statement to Committee on Open Government

December 11, 2020

My name is Tom Speaker, and I'm a Policy Analyst with Reinvent Albany. Thank you for holding this meeting and allowing me to speak.

We greatly appreciate the work you do and hope that the Committee will turn its attention to what we and many others perceive as serious problems with the FOIL process, in particular, widespread and extremely lengthy delays. Indeed, we and many other FOIL stakeholders perceive FOIL as verging on dysfunction, with small agency FOIL staff overwhelmed by the volume of requests.

In an analysis of the MTA FOIL process we did in 2018, we found that not a single MTA sub-agency we FOILED provided records within the legally mandated deadline. At one sub-agency, FOILers with open requests had been waiting an average of 215 days for records. We think the MTA is no worse than many other agencies. The bulk of the 200-plus FOIL requests we've filed with state and local agencies over the last decade have taken more than six months to be filled and typically include only partial or heavily redacted records.

Per the November 25th letter sent to you by ourselves and eight other groups, we urge the Committee to begin to collect basic data about the number of FOIL requests agencies receive, how long they take to provide the records requested by the public, how many requests are denied and the reason they are denied, how much agencies spend per request and other basic information. As of today, this Committee has no objective way to determine whether FOIL is working in New York State and lacks even rudimentary information – for instance, how many FOIL requests are submitted annually in New York State.

Gathering basic information about FOIL will take time, but this Committee needs to get started, and if that requires legislation, it should be recommended in the annual report or future reports. (We note that Congress has passed laws requiring federal agencies to provide detailed public reports on federal FOIA requests, and there is a tremendous amount of data online that allows for congressional oversight and continuous

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improvement.) We hope to see New York state take similar steps to establish greater transparency.