COMMITTEE ON OPEN GOVERNMENT
STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
TELEPHONE: (518) 474-2518
FAX: (518) 474-1927
WWW.OPENGOVERNMENT.NY.GOV

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2024 REPORT TO THE GOVERNOR

AND STATE LEGISLATURE

The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears.

- Barack Obama, 2009

Whenever the people are well informed, they can be trusted with their own government; that whenever things get so far wrong as to attract their notice, they may be relied on to set them to rights.

- Thomas Jefferson, January 8, 1789

NEW YORK STATE OF OPPORTUNITY. | Committee on Open Government

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I. INTRODUCTION

Over the last year, the Committee on Open Government (Committee) has continued to hear from hundreds of citizens who remain frustrated about persistent issues of compliance with the requirements of the Freedom of Information Law (FOIL) and Open Meetings Law (OML). As in prior years, in our Report we aim to reinforce our commitment to strengthening government transparency while addressing legal and administrative challenges that can hinder progress toward that goal. This year, the Committee calls your attention to the following issues, some of which we have addressed for many years and some of which are newly-arising, and our recommendations and proposals to address them, including:

- improvements to the oversight and enforcement of FOIL compliance to better ensure against costly delays and lawsuits, as current mechanisms for FOIL and OML enforcement impose high costs and are extremely burdensome to both citizens and agencies;

- requirements for FOIL data collection and proactive disclosure of records, which would ensure better tracking of FOIL requests, outcomes, and response times, leading to enhanced transparency;

- statutory clarification of recent amendments to both FOIL and OML to ensure that ambiguities in interpretation of these amendments do not lead to inconsistent outcomes, unfair application of the law, and continued frustration of the Legislative intent;

- clarification of longstanding FOIL language to stop in its tracks a disturbing trend in the courts, which we believe will undermine transparency and frustrate Legislative intent with respect to the availability of non-exempt portions of records in response to FOIL requests; and

- clarification of the text of the very new amendment to FOIL requiring a process for notifying public employees of certain FOIL requests, but which is neither clear nor reflective of the intent explained in the bill memorandum.

II. PROPOSALS

A. Need for More Effective and Efficient Oversight of Open Government Compliance

The Committee once again urges reform of the system for oversight of agency compliance with FOIL and OML obligations. As described in past reports, the current statutory construct for appeal and enforcement imposes an expensive and time-consuming burden on citizens seeking redress for violations of the open government statutes. This Committee itself has no enforcement powers but is keenly aware of the need for a more efficient and inexpensive way to process and resolve compliance disputes. One of *the* most frequently received complaints the Committee hears from individuals

concerns the absence of an enforcement mechanism for these laws that is accessible to the average citizen.

This issue continues to deserve the immediate attention of the Governor and the Legislature. New York needs a revised framework for providing government transparency in New York that leverages new technology, simplifies procedures, and allows prompt dispute resolution at an administrative level that can reduce costs, increase citizen engagement, and promote government accountability. While the Committee lacks sufficient information on the specific ramifications for state and local governmental agencies to permit it to recommend a specific framework, we believe that improved enforcement measures are necessary. We urge the Legislature to investigate new ways for achieving timely and cost-effective access to government information through improved oversight and enforcement mechanisms. After nearly fifty years, the time for such a comprehensive review and overhaul is long overdue.

Proposals currently before the Senate and Assembly noted below recognize these concerns and propose alternative mechanisms to minimize the burden on citizens of enforcing open government laws. As reflected in these proposals, and in examples of improved enforcement mechanisms recently adopted in several other states, there are multiple ways to achieve the desired expertise, uniformity, and efficiency in the resolution of disputes.

NY State Senate Bill S5945

In March 2023, Senator Skoufis and Assemblymember Vanel introduced S5945/A7028, which amends the Executive Law to grant the Attorney General authority to investigate and prosecute any alleged violation of the Public Officers Law, compels public employees or officials to cooperate with such investigations, and criminalizes the failure to do so. We note that in addition to FOIL and the OML, Public Officers Law contains Articles and Sections addressing the appointment, qualifications, and duties more broadly of public officials. Therefore, violations of FOIL and the OML would likely only be a portion of the cases investigated by Attorney General's Office under this section. This bill remains in committee in both chambers.

NY State Assembly Bill 7933-A

Assemblymember Rosenthal introduced A7933, which amends the Public Officers Law to add a new Article 9 to create a special proceeding for FOIL and OML reviews. In January 2024, this bill was referred back to committee but has not made further progress. The proposed legislation directs the chief administrator of the courts to establish a FOIL and OML review program in the supreme court, whereby individuals may file a petition, for $50.00, to review open government claims. The Committee cannot know the full impact of this proposal on the Office of Court Administration or the fiscal or administrative burden it might impose on the court system. However, the Committee believes that this proposal might help citizens who currently believe that access to further assistance once an agency has denied their appeal for records is impossibly expensive, complicated, and time-consuming, and could have the result

of imposing some consistency among decisions that would assist agencies seeking clarity on close questions of compliance with existing law.

NY State Senate Bill S1641

Introduced by Senator Tedisco and Assemblymember McGowan, S1641/A4633 imposes certain administrative obligations on state agencies ("any state department, division, commission, public authority or public corporation"). In January 2024, this bill was referred back to committee but has not made further progress. When a state agency grants a request for records from a person and the records are not made available within thirty days of such request, the head of such agency shall have a duty to review such request and direct such agency, in writing, to make the records available to the person who made the request no later than ninety days from the date of such request, and to ensure such records are made available. When a state agency receives a request for records and provides a statement of the approximate date when such request will be granted or denied, the head of such agency shall have a duty to direct such agency, in writing, to make such determination no later than thirty days from the date of such request, and to ensure such determination is made by such agency within such time. When a state agency has not denied a request for records or made records available within thirty days of a request for records, the head of such agency shall sign a certification affirming certain actions taken by the head of the agency, under penalty of perjury, which shall be signed and posted on the agency's website within forty-five days of the date of the request.

If such state agency fails to determine to grant or deny a request within forty-five days of the request, or fails to make the requested records available within ninety days of the request, the governor, and any senior appointed staff member of the governor, shall each sign a separate certification, under penalty of perjury, which shall be signed and posted on the governor's website within sixty days after the record request and shall state whether the governor, or any senior appointed staff member, directed such state agency, in writing, to determine within forty-five days of the request and whether the governor, or any senior appointed staff member, directed such state agency to make the requested records available within ninety days of the request, if such agency granted such request.

Additionally, the proposal amends the penal law to criminalize as a class B misdemeanor a failure on behalf of a state agency to comply with FOIL where the governor, any senior appointed staff member of the governor, or the head of a state agency has a duty to review a request for records, to direct a state agency to make a determination, to direct a state agency to make records available in response to a request for records, or a duty to provide a signed certification, and such person, with intent, fails to do one or more of the above duties imposed by law.

The Committee does not have sufficient information concerning the potential logistical (such as the statutorily required trade secret designation and review process), financial, and staffing impacts of this proposal at the agency and executive chamber levels, but notes that while it supports legislation that makes agencies more accountable in relation to FOIL compliance, it cannot support the imposition of criminal penalties on a public officer for failure to comply with FOIL.

NY State Senate Bill 5801-A

Introduced by Senator Liu and Assemblymember Steck, S5801-A/A5357-A amends the attorneys' fees provisions of both FOIL and the OML to mandate the award of attorneys' fees for all successful petitioners (removes the word "substantially" from the prior standard of "substantially prevailed," leaving simply all who "prevail" in their action). The Senate version of the bill passed the Senate on June 7, 2023, and was thereafter delivered to the Assembly and referred to committee. The Committee continues to support this proposal as it removes significant ambiguity and subjectivity from the analysis of the award of attorneys' fees; further, the Committee believes that the proposal serves as a concrete disincentive for noncompliance with FOIL. This bill passed Senate and was referred to the Assembly in May 2024.

NY State Senate Bill S5174

Introduced by Senator Jackson and Assemblymember Thiele, S5174/A5118 amends the attorneys' fees provision of FOIL to make permissive the assessment of certain fees and costs upon wrongful denial of access to records under FOIL when either the person has substantially prevailed, or if the agency failed to respond within the statutory time. This bill advanced to the third reading in April but was referred back to committee in June 2024. The Committee continues to support this proposal because it serves as a disincentive for noncompliance with FOIL.

NY State Assembly Bill A5707

Introduced by Assemblymember Steck in March 2023, A5707 amends § 89(4)(a) by designating the Committee on Open Government as the Appeals Officer for all FOIL appeals, rather than the "head, chief executive or governing body of the entity, or the person therefor designated by such head, chief executive, or governing body." This bill would likely alleviate some concerns regarding the current internal agency structure by designating a third-party to review the initial FOIL determination; however, the Committee lacks sufficient staffing and resources to handle review of all FOIL appeals statewide. This bill remains in Assembly committee.

NY State Senate Bill S2865

In January 2023, Senator Skoufis introduced S2865, which would transform the Committee on Open Government into a hearings office, requiring the Committee to conduct investigations, conduct hearings regarding claims of denial of access under FOIL and violations of the OML, and order remedies. The Committee would have authority to defend any appeal of its decisions made to the judiciary. This bill includes authority for the Committee to hire additional staff as necessary. It remains in Senate committee.

NY State Assembly Bill A9135

Introduced in February 2024 by Assemblymember McMahon, A9135 requires "all village clerks, town clerks, city clerks, legislative clerks to a county legislature or bord of supervisors, village attorneys, town attorneys, city attorneys, county attorneys or other designated attorneys for a public body, and all designated records access officers and FOIL appeal officers" complete two hours of training on the OML and FOIL each year. The Committee is responsible for approving the training courses that fulfill this requirement. The bill remains in committee.

NY State Senate Bill S8410A

Introduced by Senator Mayer and Assemblymember Otis, S8410A/A9988A amends the General Municipal Law, General City Law, Town Law, and Village Law to require each member of the corresponding public bodies complete five hours of training annually, one hour of which must be provided by the Committee or an approved entity on the requirements of the OML. The training requirement may be waived but must include the reasons why in public notice or resolution depending on the body. This bill passed the Senate in June 2024 and was delivered to the Assembly.

NY State Senate Bill S1063

Finally, we note that Senator May and Assemblymember Steck have introduced legislation, S1063/A4429, which would amend the New York State Constitution to create a fundamental right of the people to public information. This bill was submitted to the Office of the Attorney General for an opinion that has since been completed and referred to the Judiciary Committee. While the concept of a constitutional declaration concerning access to public information is laudable and non-controversial, the Committee believes that the legislative solutions discussed herein that provide concrete assistance and clarification of the current law are more likely to resolve persistent issues of noncompliance with law.

B. Need for Improved FOIL Data Collection

Currently, FOIL requires agencies to send to the Committee a copy of each appeal received and the corresponding determination. *See* POL § 89(4)(a). While the Committee reviews each appeal determination for compliance with law and performs outreach where there is an obvious opportunity for education, there is additional information, such as the number of requests received or average response time, that the Committee currently cannot track either due to lack of information provided or lack of resources.

Additional data collection regarding agency FOIL responses, including data concerning response times, number of requests, and request outcomes, would enable the Committee to monitor compliance, more readily identify problematic areas, and recommend specific changes to remedy consistent or systemic misunderstandings or other issues. For example, the Committee hears public feedback suggesting that

some requesters experience extended wait times for FOIL responses from some agencies. Requiring agencies to provide data concerning these elements would allow the public to understand average response times within agencies and across agencies; this would great assist to reveal the extent of any perceived problem concerning FOIL related delays.

The Committee fully supports proposals that would require agencies to track certain FOIL metrics and either post them to their websites or report them annually to the Committee.

NY State Senate Bill S8671A

Introduced in February 2024 by Senator Hoylman-Sigal and Assemblymember McDonald, S8671A/A9621 requires all agencies submit an annual log of all FOIL requests having an "open" status at any point over the course of that reporting year. It would also give the Committee authority to "prescribe and define" the data that must be included on such form. The logs must be in the of a "machine-readable, tabular spreadsheet." The Committee supports this proposed bill but notes that a lack of resources may constrain the ability of the Committee to ensure that these collected forms are synthesized and analyzed, and that the data therein is thereafter posted to the public in such a way as to make the data most useful.

C. Need for Additional Proactive Disclosure

The Committee on Open Government has long called for improved transparency through proactive disclosure. While the Legislature has passed and amended some laws to strengthen this aspect of government transparency, we continue to believe that New York must improve access to government records, and we support legislation seeking to broaden proactive disclosure**.**

Several bills (*e.g.*, S3371/A2787, S802, and S3438/A6831) have been introduced this term that seek to advance this goal to varying degrees, but none has been adopted. The Committee urges the Legislature to be thoughtful and deliberate in the crafting of this legislation, with an eye toward avoiding vague language and implementation delays that will frustrate its purpose, while also keeping in mind the administrative and financial realities faced by agencies.

In 2023, Senator Kavanagh and Assemblymember Rozic introduced legislation (S623/A1436) that would authorize and direct the Committee to study proactive disclosure as a means of increasing transparency and access to government information. This bill passed the Senate in March 2024 but remains in the Government Operations Committee within the Assembly. The Committee agrees that this proposal could greatly assist with an understanding of the needs associated with this issue but notes that undertaking such a study might require the Committee to be provided additional resources.

There are several other bills requiring agencies to post particular types of records. S3574A/A2507A expands the requirement that the Commission on Ethics and Lobbying in Government post financial disclosure statements to include candidates for statewide office or a candidate for a member of the Legislature. S1571/A7739 requires the Ethics Commission for the Unified Court System to post financial

disclosure statements of state-paid judges and justices, without regard to annual compensation amount, and none of the information may be deleted except upon individual determination by the Commission. This bill passed the Senate, did not advance in the Assembly, but passed the Senate and was re-delivered to the Assembly in June 2024. S9171/A10281 requires posting specific fields of information regarding emergency contracts or otherwise exempt contracts within thirty days of execution.

D. Need to Clarify Aspects of FOIL

1. Need for Clarity Regarding Repeal of Civil Rights Law § 50-a

In our last few annual reports, the Committee pointed to a need for the Legislature to clarify its intent in enacting Chapter 96 of the Laws of 2020, repealing Civil Rights Law § 50-a and amending FOIL to add new provisions relating to law enforcement disciplinary records. These amendments removed a blanket, statutory grant of confidentiality that had been extended to law enforcement disciplinary records by § 50-a and directed that those records now fall within the FOIL disclosure mandate, subject only to the exemptions in FOIL itself. Under the 2020 amendments, the content of law enforcement disciplinary records now must be analyzed pursuant to the exemptions in Public Officers Law § 87(2)(b)-(t) to determine whether they may be withheld from the public.

The Committee previously identified two key concerns that arose in the aftermath of the repeal of Civil Rights Law § 50-a: (i) whether the repeal applies retroactively to records created before June 2020 and to former officers no longer employed by law enforcement agencies after June 2020; and (ii) whether unsubstantiated or pending complaints of misconduct can be withheld due to privacy concerns. Both issues have given rise to multiple lawsuits.[1]

a. Retroactivity

After the repeal of § 50-a, several trial courts reached conflicting decisions on whether the repeal of § 50-a applies retroactively to preexisting records. The Court of Appeals has not yet addressed the issue; however, the Appellate Divisions in the First, Second, and Fourth Departments have found the provision to apply to personnel records created prior to the repeal of § 50-a.[2] The Third Department has not yet rendered any decisions relating to retroactivity. The Committee agrees that the repeal must be applied

[1] A discussion of conflicting caselaw, including currently pending matters, can be found in Appendix II of this Report.

[2] *NYP Holdings v. New York City Police Department*, 220 A.D.3d 487, 198 N.Y.S.3d 7 (1st Dep't 2023); *Matter of Gannett Co., Inc. v Town of Greenburgh Police Department*, 229 A.D.3d 789, 216 N.Y.S.3d 620 (2nd Dep't 2024); *Matter of New York Civil Liberties Union v. Nassau County*, 228 A.D.3d 864, 214 N.Y.S.3d 105 (2nd Dep't 2024); *Matter of Abbatoy v. Baxter*, 227 A.D.3d 1376, 210 N.Y.S.3d 555 (4th Dep't 2024).

retroactively to fulfill the express intent of the Legislature to promote transparency and accountability for law enforcement agencies**.** In light of ongoing litigation, the Committee still recommends that the Legislature clarify its intention that the repeal have retroactive application, and all law enforcement personnel records – whenever created – are subject to disclosure under FOIL unless they come within one of its statutory exemptions.

b. Unsubstantiated or Pending Reports of Misconduct

The repeal of § 50-a has given rise to intense disagreement about how the FOIL privacy provisions apply to unsubstantiated or uninvestigated allegations of wrongdoing by law enforcement officers. Courts in the past have widely recognized that public employees have very limited expectations of privacy concerning how they perform their public functions. Were it otherwise, privacy concerns of public employees would thwart the meaningful public oversight FOIL itself seeks to promote. Nevertheless, since the repeal of § 50-a, FOIL privacy provisions have repeatedly been invoked to prevent disclosure of allegations concerning police misconduct unless those allegations have been both fully investigated and determined to be entirely correct. This is an untenable situation that threatens to undermine the purpose for the repeal – to increase police transparency and accountability.

The issue of whether law enforcement agencies can assert a blanket exemption over records concerning "unsubstantiated" allegations is currently before the Court of Appeals in *New York Civil Liberties Union v. City of Rochester*, No. 2023-0085 and *NYP Holdings v. New York City Police Department* No. 2024-00057. We urge the Court to reject a broad application of the privacy exemption to law enforcement disciplinary records which can in some way be identified as "unsubstantiated" or not fully investigated or adjudicated within an agency. Accepting it would mean that a failure to investigate an allegation, or an inability to definitively resolve all surrounding facts, could be deemed a sufficient justification for withholding all information about the allegation and the officers' conduct, regardless of the surrounding facts or their public importance.

Such a blanket application of the privacy exemption would bring back the large-scale withholding of information that occurred before the repeal of § 50-a, seriously impede public oversight of law enforcement agencies, and further erode public confidence in those agencies. The contention that the FOIL privacy exemption can be applied on such a blanket basis appears to contradict the legislative purpose in repealing § 50-a. It is also inconsistent with settled FOIL principles that require a case-specific weighing of the competing public and private interests when the privacy exemption is invoked. A mandatory exclusion from public disclosure of any "unsubstantiated" allegation is clearly inappropriate because the circumstances of any given case will affect both the privacy interest and the public interest against which it must be balanced.

c. 2024 Legislative Proposals to Clarify Both Issues

In 2024, the Legislature acknowledged these ambiguities and several members have proposed legislation designed to clarify them once and for all.

In January 2024, in response to the question about the treatment under FOIL of not-yet-substantiated allegations of wrongdoing by law enforcement officers raised by court decisions discussing the repeal of § 50-a, Senator Bailey and Assemblymember Gonzalez-Rojas reintroduced Senate Bill 2322 and corresponding Assembly Bill 2442, which, according to the sponsors' memo, would amend FOIL to reaffirm and clarify the full scope of § 50-a repeal. The memo explains that "law enforcement agencies cannot continue to withhold these records beyond the narrow categories defined in the earlier repeal legislation, and it will provide courts with an unambiguous declaration of the legislature's intent with respect to such records."

The bills add a new subdivision 4-c to § 87 of the Public Officers Law:

> An agency responding to a request for law enforcement disciplinary records as defined in section eighty-six of this article shall not deny access to such records or portions thereof on the grounds that such records:
>
> (a) constitute an unwarranted invasion of personal privacy as described in paragraph (b) of subdivision two of this section because such records concern complaints, allegations, or charges that have not yet been determined, did not result in disciplinary action, or resulted in a disposition or finding other than substantiated or guilty;
>
> (b) are compiled for law enforcement purposes as described in paragraph (e) of subdivision two of this section;
>
> (c) are inter-agency or intra-agency materials as described in paragraph (g) of subdivision two of this section;
>
> (d) are or were designated as confidential, secret, or otherwise private by a private agreement, including but not limited to a settlement, stipulation, contract, or collective bargaining agreement; or
>
> (e) were created prior to the effective date of this subdivision.

These bills have been referred to committee but have had no further action. While we appreciate that the Legislature is attempting to provide the clarity the Committee seeks, the Committee continues to believe that every record must be individually evaluated for the applicability of exemptions to disclosure. To the extent that this bill removes such an individualized review for these categories of information and mandates disclosure in all cases, the Committee has concerns that such unreviewed disclosure of this category of records could result in harms that are mitigated by thoughtful review to ensure applicability of appropriate statutory exemptions to disclosure. The Committee supports the

proposed legislation to the extent that it clarifies that the repeal of § 50-a was intended to be retroactive to apply to records created prior to June 2020.

NY State Senate Bill S4595

Senator Palumbo introduced S4595, which offers definitions for an unsubstantiated and unfounded "complaint, allegation or charge," but would prohibit the public disclosure of such complaints, allegations or charges. The bill was introduced in February 2023 and remains in committee.

NY State Senate Bill S7089

Senator Palumbo and Assemblymember JA Giglio introduced S7089/A2727, which amends Civil Rights Law to re-establish Civil Rights Law § 50-a. This bill defines records regarding an investigated, unfounded complaint contained within the personnel file of a police officer, peace officer, firefighter, corrections officer, or emergency medical provider as confidential. This bill clarifies that access to records of founded and unfounded complaints within the personnel files of such identified law enforcement personnel must be treated differently. However, it does not clarify how uninvestigated complaints should be viewed in light of the exemptions to disclosure under FOIL.

NY State Senate Bill S8910

In March 2024, Senator Weik introduced S8910, restoring Civil Rights Law § 50-a. This bill has not progressed and remains in committee. The Committee does not support this proposed legislation.

2. Proposed Amendment to FOIL to More Strictly Define Period for Providing Records

The Committee has opined that a series of extensions providing progressively later dates by which an agency will respond to a FOIL request is inconsistent with the language and intent of FOIL, but New York courts by and large have not agreed.

In 2023, Senator Harckham and Assemblymember Zebrowski reintroduced bills (S01726/A05613) that would clarify the required response periods for FOIL requests. This bill addresses this issue (and some of the other technical concerns the Committee has raised relating to compliance with FOIL) and clarifies the intent of the Legislature for FOIL requesters and governmental entities subject to FOIL by more strictly defining the time in which an agency is required to respond to FOIL requests. In May 2024, this bill was amended and recommitted to committee. The Committee supports these amendments.

Senator Tedisco and Assemblymember McGowan reintroduced S01641/A04633 (also referenced above with regard to oversight), taking a different approach to this issue. Their bill would require, in part, that

an agency grant or deny a request within thirty days, and if granted, produce the requested records within ninety days. It remains in committee.

Senator Weik has reintroduced a bill, S05322, that would require agencies to grant or deny a request within twenty-five days from receipt and produce records within forty days from receipt. This bill also remains in committee.

In January 2024, Senator Skoufis and Assemblymember Raga introduced S8128/A8586, which clarify that agency failure to adhere to the statutorily prescribed timeframes constitutes an appealable denial and requires the FOIL acknowledgement to include an estimated date of decision that may not exceed thirty days form the date of the request unless the agency is granting the request. The acknowledgement must explain why more than thirty days is reasonable under the circumstances of the request. When such circumstances apply, the agency must produce a full response within sixty days of the date of the request. This bill advanced to the third reading and was committed to the Rules committee.

While the Committee agrees that disclosure can take too long under current law, our view remains that tinkering with statutory deadlines will do little to effectively improve compliance times. The varying administrative and financial needs of agencies and the differing scope of requests make "one size fits all" mandates unrealistic.

3. Intra-/Inter-Agency Exemption as it Relates to Outside Consultants

In what has become the seminal case on the intra- and inter-agency exemption to FOIL, the New York Court of Appeals, in *Xerox Corporation v. Town of Webster*, 65 N.Y.2d 131,133 (1985), found that reports prepared by outside consultants and retained by agencies (specifically, real estate appraisal reports prepared for the town by a private consulting firm in connection with possible revaluation of petitioner's property), should be treated as if they were prepared by agency staff and should, therefore, be considered intra-agency materials and as such could be considered exempt subject to the exceptions to that statutory exemption. For this conclusion, the Court of Appeals noted that "[i]t would make little sense to protect the deliberative process when such reports are prepared by agency employees yet deny this protection when reports are prepared for the same purpose by outside consultants retained by agencies." *Id*.

The Committee agrees with the reasoning of the Court of Appeals on this issue and accordingly the Committee does not support a current legislative proposal found in NY State Senate Bill 3502A/A06103B to amend this provision. This bill advanced to the third reading and was committed to the Rules committee in June 2024.

E. Structure of the Committee on Open Government

Since its original enactment in 1974, FOIL has authorized the existence of the Committee on Open Government (previously known as the Committee on Public Access to Records) with a majority of public, *i.e.*, non-governmental, members. Section 89(1)(a) of the Public Officers Law states, in pertinent part:

> The committee on open government is continued and shall consist of the lieutenant governor or the delegate of such officer, the secretary of state or the delegate of such officer, whose office shall act as secretariat for the committee, the commissioner of the office of general services or the delegate of such officer, the director of the budget or the delegate of such officer, and seven other persons, none of whom shall hold any other state or local public office except the representative of local governments as set forth herein, to be appointed as follows: five by the governor, at least two of whom are or have been representatives of the news media, one of whom shall be a representative of local government who, at the time of appointment, is serving as a duly elected officer of a local government, one by the temporary president of the senate, and one by the speaker of the assembly.

Currently, the Committee has four gubernatorial appointments serving, with one vacancy. We commend the Governor for her appointments and urge her to fill the remaining long-standing vacancy to ensure that the Committee functions in the manner envisioned by the Legislature.

NY State Senate Bill S3438

In 2023, Senator Skoufis and Assemblymember Vanel introduced legislation (S3438/A6831) that would, among other things, change the makeup of the Committee. The proposed legislation reads:

> i. The committee on open government is continued and shall consist of seven persons, none of whom shall hold any other state or local public office except the representative of local governments as set forth herein, to be appointed as follows:
>
> - two representatives, each of whom is from the news media or a nongovernmental nonprofit group that works on issues related to transparency or open government,
> - two representatives of local government who, at the time of appointment, are serving as duly elected officers of a local government, and
> - three private citizens of the state, none of whom may be custodians of public records, members of the news media or a nonprofit group that works on issues related to transparency or open government, or a staff

member or spokesperson for an organization that represents custodians or requestors of public records.

Of the seven members, at least two shall be attorneys admitted to practice in New York and

[A]t least two shall possess expertise concerning electronic records, including electronic storage, retrieval, review, and reproduction technologies.

ii. Members of the committee shall be appointed from a pool of applicants identified by the governor and the governor shall publish on the governor's website notice of the governor's intent to consider applicants for positions on the committee on open government and the notice shall include the application procedures, criteria for evaluating applicants' qualifications, and procedures for resolving any conflicts of interest; and solicit recommendations for committee members from agencies, news media, and nongovernmental nonprofit groups that work on issues related to transparency or open government; and post names and qualifications of applicants on the governor's website; and when evaluating an applicant, consider the need for geographic, political, racial, ethnic, cultural, and gender diversity on the committee and ensure the neutrality of the committee.

iii. Subject to the advice and consent of the senate, the governor shall appoint the members of the committee from the pool of applicants created pursuant to this section.

iv. The committee shall meet at least monthly, but may meet at any time.

The Committee is concerned that, with such strict criteria for membership, particularly the requirements that members receive Senate confirmation and meet at least monthly (especially if in-person quorum requirements continue), it will be difficult to find qualified, interested candidates. The Senate confirmation requirement may also have the unintended consequence of setting a cumbersome precedent for statutorily created public bodies going forward. Further, the legislation does not contemplate Committee membership by any representative of State government. In the opinion of the Committee, it is vital to maintain such representation as the experience of our State government members is critical to the guidance the Committee provides to the Governor and Legislature. Accordingly, the Committee does not support this legislative proposal. The bill advanced to the third reading and was committed to the Rules committee in June 2024.

F. Proposed Amendment to the OML to Require Public Bodies to Livestream their Open Meetings

The Committee supports legislation that increases public access to open meetings; however, the Committee recognizes that there are concerns that this requirement could place a significant burden on municipalities with limited broadband services. The Committee recommends that the Legislature take these potential limitations into consideration when evaluating proposed bills. Currently, the following proposals are pending:

NY Senate Bill S4475 and NY Senate Bill S4476

In 2023, Senator Addabbo and Assemblymember Paulin introduced bills (S4475/A2700) that, according to the bill memos, would amend the OML to require the open meetings of *all public bodies* be,

> to the extent practicable and within available funds, broadcast to the public and maintained as records of the public body. If the public body maintains a website and utilizes a high speed internet connection, such open meeting shall be, to the extent practicable and within available funds, streamed on or available through such website in real-time, and video recordings of such open meeting shall be posted on such website within five business days of the meeting and for a reasonable time after the meeting and such recordings shall be maintained for a period of not less than five years.

The bills have been referred to committee. As in prior years with similar bills, the Committee supports this proposal.

Also in 2023, Senator Addabbo and Assemblymember Paulin reintroduced bills (S04476/A03991) that would amend the OML to require *local governments* (as opposed to all public bodies as in the bill discussed above) "to the extent practicable, to stream all open meetings and public hearings on its website in real-time. Each local government shall post video recordings of all such open meetings and public hearings on its website within five business days of the meeting or hearing and shall maintain such recordings for a period of not less than five years." The bills have been referred to committee.

NY State Assembly Bill A9339

In March 2024, Assemblymember Kelles introduced the "public meeting modernization act." This bill requires all meetings to be held in hybrid format unless the public body receives a hardship waiver. The hybrid format would require that the body take public comment. The OML is currently silent with respect to public comment and bodies are not under any obligation to allow the public to speak during public meetings. It would also require that a quorum of the membership attend the physical, in-person location and require that the meetings be recorded and posted for a minimum of five years. The Committee would be granted authority to receive and decide "hardship waiver" applications from a municipality on behalf of a "non-elected local public body" demonstrating that "despite best efforts, the public body is unable to conduct hybrid meetings due to insufficient staff, resources, or infrastructure." Interestingly, the waiver grants the body permission to hold fully remote meetings instead of hybrid meetings or to conduct meetings in-person only when the body is unable to conduct fully remote meetings.

This bill further amends State Finance Law to establish the "municipal hybrid meeting trust fund." Funded by "appropriations, bond proceeds or other money authorized or transferred to such fund from

the general fund and local assistance account, or any other monies required to be transferred or deposited pursuant to law, and any interest earned on such money." Approved "non-elected municipal bodies" can use the funds to improve technology necessary for hybrid meetings. The fund would be jointly administered by the Committee and Office of Information Technology Services.

NY State Assembly Bill A10266

In May 2024, Assemblymember Simone introduced A10266, which would remove the expiration date from Section 103-a and implement several other amendments to the OML, including requiring public bodies to use a remote platform offering closed captioning for open meetings and American Sign Language interpretation upon request, if such request is made "within a reasonable time prior to such meeting."

The Bill would require the posting of meeting notices on the public body webpage and social media accounts and all public bodies would be required to maintain a "page on an official government internet website." The notice must also inform the public of where to find any required records and the bill mandates that required documents must be posted twenty-four hours before the meeting, eliminating the "to the extent practicable" language currently found in Section 103(e). Recordings must be posted with closed captioning enabled.

The bill continues to require an in-person quorum for any public body that consists of elected officials. For other public bodies, the bill requires that the presiding officer, or designee, be present in-person for meetings. The bill removes the requirement that remote participation by a member be pursuant to an "extraordinary circumstance" but still apparently presumes that members will attend in person in most circumstances. This bill also eliminates the requirement that a public body hold a hearing before adopting written procedures regarding videoconferencing for the body.

The bill requires that meeting minutes include the electronic videoconferencing method used, the names of any members attending remotely, the times any members joined and left the videoconference, and whether there were any technical difficulties during the videoconference.

Finally, the bill further modifies the definition "public body" in the following manner:

> "Public body" means any entity, for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for the state or for an agency or department thereof, or for a public corporation as defined in section sixty-six of the general construction law, or committee or subcommittee or other similar body consisting of members of such public body, or an entity created or appointed to perform a necessary function in the decision-making process for which a quorum is required in order to conduct public business and which consists of two or more members ~~. A necessary function in the decision-making process shall not include the provision of recommendations or guidance which is purely advisory and which does not require further action by the state or agency or department thereof or public corporation as defined in section sixty-six of the general construction law~~ **including any formally**

chartered entity which has officially delegated duties and organizational attributes of a substantive nature.

NY State Senate Bill S3486

Senator Skoufis and Assemblymember Hyndman introduced S3486/A9268 permitting members of a public body to attend remotely as long as, among other requirements, a quorum of the membership attends an in-person location. This bill is very similar to § 103-a but does not require a member attending remotely to be experiencing an extraordinary circumstance.

NY State Assembly Bill A7914

Introduced in August 2023 (without a Senate same as) by Assemblymember Simon, A7914 requires all public bodies to permit public participation through telephone or video conference. Laws governing participation by members of the public body would remain unchanged. It has not advanced and remains in committee.

There are also several proposals that would only permit members of certain types of public bodies to participate remotely. Senate Bill 8793/Assembly Bill 8049 removes the in-person requirement for community board meetings in a city with a population of more than one million (New York City). It remains in committee. Senate Bill 584 is a similar bill granting authority for New York City community boards, community councils, and the New York City Board of Education to conduct open meetings remotely.

Senate Bill 1647A/Assembly Bill 10276 reduces the in-person quorum requirement for "advisory bodies" of New York City community boards to one quarter of the members and the presiding officer. "Advisory body" is defined as "an entity that is involved in an advisory capacity only." This bill passed the Senate and was delivered to the Assembly in June 2024.

Senate Bill 8811/Assembly Bill 7705 permits "city board, city-wide councils, community councils and school based management teams" to hold wholly remote meetings as long as the meetings otherwise comply with subsections sections (d), (f), (g), (h), and (i) of Section 2 of Public Officers Law § 103-a.[3] This law also only applies to those public bodies within New York City.

Senate Bill 9010/Assembly Bill 10642 authorizes members of committees and subcommittees serving only an advisory function to attend its meetings by videoconference and count those attending remotely toward the quorum requirement for that body. The meeting must still include at least one physically accessible location. This section is added to § 103-a, presumably meaning that the meeting must be held consistent with all other requirements of § 103-a, and would be repealed with repeal or expiration of § 103-a. The bill remains in Senate committee.

Senate Bill 954 (no Assembly same as) grants public bodies of municipal corporations, as defined in General Construction Law, authorization to conduct meetings remotely so long as the meeting is

[3] § 103-a(2)(d) requires all members to be "seen, heard and identified," (f) requires the meeting notice state that videoconferencing will be used and where meeting documents and records can be located, (g) requires meetings to be livestreamed and recorded with record posted within five days for a period of five years, (h) requires that public comment be taken remotely, if permitted, and (i) requires the public body to maintain a website.

livestreamed, recorded and posted, and the body makes available a public space for the public to view such meetings if requested at least forty-eight hours before the meeting.

G. Definitions of FOIL "Agency" and OML "Public Body"

NY State Senate Bill S3406

In 2023, Senator Skoufis and Assemblymember Otis introduced S3406/A6617 to amend FOIL to expand the definition of agency within FOIL to include all entities created by an agency or that are governed by a board of directors or similar body a majority of which is designated by one or more state or local government officials. The bill passed Senate, was delivered to Assembly, and has been referred to committee but has not made further progress. The Committee supports this amendment, which codifies judicial precedent relating to "quasi-governmental" entities.

NY State Senate Bill S2451

In 2023, Senator Comrie introduced S2451 originally without an Assembly same as to amend the Not-for-Profit Corporation Law to subject certain not for profit corporations to both FOIL and the OML. The bill passed Senate but did not advance in the Assembly in January 2024. It has since advanced to the third reading and was committed to the Rules committee. In May 2024, on behalf of the Committee on Rules, Assemblymember Bichotte Hermelyn introduced A10458 as a same as bill. The Committee does not support this broad expansion of FOIL.

NY State Senate Bill S7910

Introduced in January 2024 by Senator Parker, S7910 (no Assembly same as) includes in the definition of "public body" entities created by Executive Order of the Governor consisting of two or more members subject to the requirements of the OML. The bill has not advanced and remains in committee.

H. Limitation on Trade Secret Exemption

NY State Senate Bill S3257

In 2023, Senator Hoylman-Sigal introduced S3257 (originally without an Assembly same as) to require entities that submit records to state agencies that may be exempt from disclosure because the entity has established that the information within the records constitute "trade secret" to periodically re-apply for the exemption. The bill passed the Senate and was delivered to the Assembly in May 2024. While the Committee does not have information sufficient to draw a conclusion about the impact this new requirement might have, we support efforts to ensure that the trade secret exemption does not unnecessarily restrict access to information for which confidentiality no longer serves a compelling purpose while also balancing the need for agencies to have access to private sector services.

Relatedly, Assemblymember Raga introduced A4453 in February 2023 to limit an agency's use of copyright protections. This bill adds a new section to POL § 89 that waives an agency's right to withhold records otherwise available under the POL, with few exceptions. Agency records containing particular types of content subject to copyright by another owner may still be protected at the owner's discretion.

This bill did not advance in the Senate, after approval of the Assembly, but was again passed in the Assembly and delivered to the Senate in March 2024. It remains in Senate committee.

I. Miscellaneous Legislative Proposals

NY State Senate Bill S8701

Senator Skoufis and Assemblymember Lavine introduced S8701/A1758 in March 2024 amending Public Officers Law § 87(2)(e). This amendment would expand the list of records compiled for law enforcement purposes to include records that if disclosed would "reveal any statement made by a witness or victim relating to sexual abuse or misconduct." Civil Rights Law § 50-b already requires agencies to withhold any record in its entirety that identifies or tends to identify the victim of a sex offense as defined in Penal Law §§ 255.25, 255.26 or 255.27. In theory, this amendment could permit agencies to withhold records in their entirety in circumstances not covered by the Penal Law. This bill has not progressed and remains in committee.

NY Senate Bill S4044A (no same as)

Introduced by Senator Gonzalez, S4044 amends the Personal Privacy Protection Law (PPPL). Specifically, the bill amends the definition of "personal information" and adds definitions of "911 services dispatcher," "emergency medical services personnel," "law enforcement agency," "law enforcement officer" and "police agency" in Public Officers Law § 92. The bill also amends § 96 to limit the exchange of records relating to federal immigrations and out-of-state law enforcement agencies and requires a warrant before law enforcement can obtain "records of personal information." Finally, the bill amends the remedies available under § 97. The bill was amended in March 2024 but has remained in committee.

NY Assembly Bill A2788

Assemblymember Paulin introduced A2788 clarifying that a public body may not enter executive session for the purposes of discussing candidate qualifications when filling a vacancy of an elected position by appointment.

J. Obligation to Redact When Records Contain Both Exempt and Non-Exempt Material

In the past few years, the Appellate Division, First Department has issued five decisions relating to rights of access under Public Officers Law Article 6, the Freedom of Information Law, specifically concerning the obligation to redact portions of records to protect information exempt under FOIL, which we believe are *inconsistent with binding Court of Appeals precedent* on the issues addressed therein.

In these recent decisions the First Department appears to interpret one Court of Appeals decision, *New York Civil Liberties Union v. New York City Police Department*, 32 N.Y.3d 556, 568-69 (2018) (the *NYCLU* decision), which addressed only one of the many circumstances in which a response to a FOIL request might require the redaction of records, but failed to address other binding Court of Appeals precedent addressing the many other circumstances in which that Court has held that redaction of records is

necessary. The First Department, interpreting the 2018 *NYCLU* decision, has now issued a line of cases[4] holding, essentially, that an agency is obligated to redact records *only* when disclosure of the redacted information would constitute an unwarranted invasion of personal privacy and in no other circumstances is required to do so. Stated another way, the First Department holdings appear to suggest that where redactions to a record will render the remainder of the record available and not subject to any FOIL exemption, agencies need not provide even the non-exempt portion of the record if *any* portion of the record is exempt for any reason other than on grounds of personal privacy.

We believe this is an erroneous statement of Court of Appeals precedent and will serve to improperly limit FOIL disclosure of non-exempt portions of records.

It is the opinion of the Committee on Open Government that the First Department's interpretation of the *NYCLU* decision, upon which it relies for its recent holdings, goes beyond what the Court of Appeals intended. In our view, the recent decisions issued by the First Department are inconsistent with the plain language of the statute relating to the disclosure of "records or portions thereof" (POL § 87(2)) and prior Court of Appeals decisions requiring that agencies review responsive records for both exempt and non-exempt material. The agency *may* redact the exempt portions but *must* disclose the non-exempt portions.

In the *NYCLU* decision, the Court of Appeals addressed a situation in which a record is specifically exempt from disclosure by state or federal statute pursuant to POL § 87(2)(a) and held that access to such record is governed by the separate statute and not FOIL. Under those circumstances, the agency is not obligated to delete identifying details even if "preservation of individual confidentiality – may be served by deletion of identifying details." *NYCLU*, 33 N.Y.3d at 569. The Court of Appeals addressed no other FOIL exemption. Indeed, underscoring this conclusion is a footnote within the decision, which serves to clarify its intended limits: "our holding today . . . appl[ies] only to Public Officers Law § 87(2)(a), the FOIL exemption at issue. To the extent another FOIL exemption might authorize redaction as a means of separating "exempt" from "non-exempt" material within a record . . . , that issue is not before us." *Id.* at 570.

As the Court of Appeals referenced within this footnote in the *NYCLU* decision, it has previously addressed situations in which a record contains both "exempt" and "non-exempt" material under other applicable exemptions to FOIL. For example, in *Matter of Xerox Corp. v. Town of Webster*, 65 N.Y.2d 131, 133 (1985), the Court of Appeals held:

> To the extent the reports contain "statistical or factual tabulations or data" (Public Officers Law § 87[2][g][i])), or other material subject to production, *they should be redacted and made available to appellant*. Since it does not appear that either court below reviewed the reports to

[4] *Judicial Watch, Inc. v. City of New York*, 178 A.D.3d 540, 541, 114 N.Y.S.3d 342 (1st Dep't 2019); *Stengel v. Vance*, 192 A.D.3d 571, 140 N.Y.S.3d 707 (1st Dep't 2021); *Queensrail Corporation v. Metropolitan Transportation Authority*, 222 A.D.3d 501, 502 202 N.Y.S.3d 53, 54 (1st Dep't 2023); *Center for Constitutional Rights v. New York City Administration for Children's Services*, 224 A.D.3d 537, 205 N.Y.S.3d 365, 366 (1st Dep't 2024), *Aron Law, PLLC. v. New York City Health and Hospitals Corporation*, --- N.Y.S.3d ---, 2024 WL 4885731, at *1 (1st Dep't 2024).

> make such a determination, the matter must be remitted to permit an *in camera* inspection.

(emphasis added). Further, citing *Matter of Xerox*, in 1996 the Court of Appeals held in *Gould v. New York City Police Dep't*, 89 N.Y.2d 267, 275 (1996), that:

> blanket exemptions for particular types of documents are inimical to FOIL's policy of open government . . . . Instead, to invoke one of the exemptions of section 87(2), the agency must articulate "particularized and specific justification" for not disclosing requested documents . . . . If the court is unable to determine whether withheld documents fall entirely within the scope of the asserted exemption, it should conduct an *in camera* inspection of representative documents and *order disclosure of all nonexempt, appropriately redacted material*."

(emphasis added; internal citations omitted).

In light of this clear line of precedent, which in our opinion is consistent with the underlying goals and aims of FOIL in New York, we are concerned with the First Department decisions, which we believe improperly expand the limited holding in *NYCLU* and fail to address other binding Court of Appeals precedent discussed herein.

In sum, it is the opinion of the Committee that when a record contains both exempt and non-exempt material, the agency:

- must withhold the record in its entirety if it is exempt from FOIL disclosure by state or federal statute and access is governed by that separate statute (POL § 87(2)(a));
- may withhold the record if disclosure "would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of this article" (POL § 87(2)(b)), but that "disclosure shall not be construed to constitute an unwarranted invasion of personal privacy . . . when identifying details are deleted" (POL § 89(c)(i)); and
- with respect to records other than those that are exempt from FOIL disclosure by state or federal statute, and which contain both "exempt" and "non-exempt" material, *may* redact the portions subject to one or more of the permissible grounds for denial, but *must* disclose the remaining portions.

To ensure clarity on these important precedents, the Committee proposes the following amendment to Public Officers Law § 87(2):

> Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, except those records or portions thereof that may be withheld pursuant to the exceptions of rights of access appearing in this subdivision. <u>Except for any record that is exempt from disclosure by state or federal statute pursuant to paragraph (a) of this subdivision, when a record contains portions that may be denied pursuant to this article, as well as portions that must be disclosed, an agency may redact or withhold the portions subject to one or more of the permissible grounds for denial, but must disclose the</u>

remaining portions. A denial of access shall not be based solely on the category or type of such record and shall be valid only when there is a particularized and specific justification for such denial. Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, except that such agency may deny access to records or portions thereof that:

APPENDIX I

2023-24 LEGISLATIVE AMENDMENTS TO THE OPEN GOVERNMENT STATUTES

On April 20, 2024, Governor Kathy Hochul signed into Law Chapter 58 of the Laws of 2024. Part KK of Chapter 58 provided for a two-year extension – without other modification – until July 1, 2026, of the amendment to the OML established by Chapter 56 of the Laws of 2022 expanding the use of videoconferencing by public bodies to conduct open meetings, under extraordinary circumstances, regardless of a declaration of emergency. See previously issued guidance on this topic, which remains applicable, here.

Chapter 58 also amended Public Authorities Law to add a new § 2829 to clarify and reinforce the fact that state and local authorities are subject to both FOIL and the OML:

> All state and local authorities, as such terms are defined in section two of this chapter, as well as all subsidiaries of such state and local authorities, as such terms are defined in section two of this chapter, shall be subject to the provisions of articles six and seven of the public officers law relating to the freedom of information and open meetings laws respectively.

The amendment further provides that all such authorities and their subsidiaries

> shall, to the extent practicable, stream all open meetings and public hearings on their website in real-time, post video recordings of all open meetings and public hearings on their website within five business days of the meeting or hearing and maintain such recordings for a period of not less than five years.

This amendment relating to public authorities went into effect on May 20, 2024

On September 4, 2024, Governor Kathy Hochul signed into Law Chapter 302 of the Laws of 2024 to amend FOIL to include a mandate that "[a]ll agencies subject to the requirements of this article shall develop a policy regarding providing a notification to public employees in the event that the agency is responding to a request for such employee's disciplinary records." Public Officers Law ("POL") § 87(6). Since that time, the Committee has received multiple requests for advice concerning the implementation of the mandate and the notification it contemplates. One such opinion is included as Appendix III of this report.

We note that Senator Jackson and Assemblymember Pheffer Amato introduced S8509A/A9211 in February 2024 requiring public employers notify employees when a request for his or her personnel records has been approved and what records were requested and provided. The employee must be permitted to review his or her file and any documents referencing the employee. This bill remains in committee.

APPENDIX II
2023-24 COURT DECISIONS OF NOTE

A. Freedom of Information Law

Matter of Abbatoy v. Baxter, 227 A.D.3d 1376, 210 N.Y.S.3d 555 (4th Dep't 2024): The Fourth Department held that the repeal of Civil Rights Law § 50-a applies to police disciplinary records created prior to the repeal. The court reasoned that a statute is not retroactive when made to apply to future transactions merely because such transactions relate to and are founded upon antecedent events.

Abrams v. The Seaview Association of Fire Island New York Inc., 83 Misc. 3d 1283(A) (Supr. Ct., New York Co. 2024): New York County Supreme Court held that the Seaview Association of Fire Island New York Inc., an incorporated not-for-profit Homeowners Association governed by New York State Not-For-Profit Corporation Law (N-PCL), is not an "agency" subject to FOIL and its Board of Directors is not a "public body" subject to the OML.

Appellate Advocates v. New York State Department of Corrections & Community Supervision, 40 N.Y.3d 547, 228 N.E.3d 588 (2023): Court of Appeals held that legal counsel for a government agency is free to determine the best method to communicate legal advice to the client. Records prepared for and used during Board of Parole training were covered by the attorney-client privileged as they provide Commissioners with counsel's legal analysis and advice on the statutory, regulatory, and decisional law that Commissioners should consider during their decision-making process.

Aron Law, PLLC. v. New York City Health and Hospitals Corporation, --- N.Y.S.3d ---, 2024 WL 4885731 (1st Dep't 2024): The First Department held that redactions to records requested under FOIL are available only under the personal privacy exemption and not the intra-agency materials exemption.

Matter of Barletta v. Martuscello, 83 Misc.3d 1229(A), 212 N.Y.S.3d 917 (Supr. Ct., Albany Co. 2024): Albany County Supreme Court held contraband confiscated and used as evidence in correctional facilities for disciplinary hearings are akin to physical evidence in a criminal proceeding, and not records for meanings of FOIL. The court further held that even if it were to find that the letters were records for the purposes of FOIL, the letters would be exempt from disclosure because disclosure could endanger the life or safety of any person (§ 87(2)(f)).

Matter of Center for Constitutional Rights v. New York City Administration for Children's Services, 224 A.D.3d 537, 205 N.Y.S.3d 365 (1st Dep't 2024): The First Department held that if the documents at issue contain both materials protected by the intra-agency exemption and nonprotected factual information, FOIL petitioner is not entitled to redacted documents because redactions to records requested under FOIL are available only under the personal privacy exemption. This decision is inconsistent with prior Court of Appeals precedent in *Matter of Xerox Corp. v. Town of Webster*, 65 N.Y.2d 131, 133 (1985) and *Gould v. New York City Police Dep't*, 89 N.Y.2d 267, 275 (1996).

Matter of Cobb v Forbes, Slip Copy, 2024 WL 4113894 (Table), 2024 N.Y. Slip Op. 51222(U) (Supr. Ct. Kings Co. 2024): Kings County Supreme Court held that agencies are required to provide particularized and specific justifications for denying access to records. With respect to records withheld pursuant the exemption for records specifically exempted by state or federal statute per § 87(2)(a), where disclosure of medical records would constitute an unwarranted invasion of personal privacy per § 87(2)(b), and for

court records which are not agency records the court found that shorthand descriptions of the records fulfilled that requirement. However, the court found that a description of the contents of records withheld pursuant to the inter-agency or intra-agency materials exemption of § 87(2)(g) must be sufficient to determine the applicability of the exemption on the record. Records withheld pursuant to the personal privacy exemption of § 87(2)(b), but not contained within the non-exhaustive categories of records in § 89(2)(b), must also be sufficiently described to determine the applicability of the exemption.

DeWolf v. Wirenius, 229 A.D.3d 929, 215 N.Y.S.3d 575 (3d Dep't 2024): In response to petitioner's appeal of Albany County Supreme Court's order to dismiss his petition, the Third Department reversed the order and remitted the matter to Supreme Court to allow respondent to file an answer. The Third Department held that 4 NYCRR 208.3, a Public Employment Relations Board (PERB) regulation giving stenographers the exclusive rights to reproduce transcripts and minutes, was incompatible with the broad disclosure requirements of FOIL and the State Administrative Procedure Act § 302(2) requirement that an "agency shall prepare the record together with any transcript of proceedings . . . and shall furnish a copy of the record" upon request. Additionally, the Third Department remanded the question of whether the County properly certified that the requested transcripts were not within the County's control when outside counsel ordered the transcripts and had been billed for the transcripts but did not physically obtain them.

Matter of Freedom Foundation v. Jefferson County, 229 A.D.3d 1203, 215 N.Y.S.3d 782 (4th Dep't 2024): The Fourth Department held that "solicitation" as used in § 89(2)(b) is an ordinary word without statutory definition for FOIL purposes, to be interpreted using its plain meaning. As such, there is no requirement that "solicitation" be for financial gain when considering if a list of names and addresses may be withheld per § 87(2)(b).

Matter of Freedom Foundation v. New York City Dep't of Citywide Administrative Services, 230 A.D.3d 999, 219 N.Y.S.3d 246 (1st Dep't 2024): Held that agency articulated a legitimate concern that disclosure of list of email addresses could "breach or compromise [the agency's] information technology infrastructure" or enable attackers to "gain access to or manipulate information maintained by" the agency and thus had met its burden of proving that disclosure would "jeopardize the capacity of an [agency] to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures." POL § 87(2)(i). Held that the term "solicit," for purposes of interpreting POL § 89(2)(b)(iii), should be given its plain meaning that broadly includes "the act or an instance of requesting or seeking to obtain something; a request or petition."

Matter of Gannett Co., Inc. v Town of Greenburgh Police Department, 229 A.D.3d 789, 216 N.Y.S.3d 620 (2d Dep't 2024): The personal privacy exemption does not allow for a blanket withholding of unsubstantiated allegations of misconduct for police officers. Rather, agencies must articulate a particularized and specific justification for why the privacy exemption applies and establish that identifying details could not be withheld via redaction. The Second Department also rejected the Town's contention that in amending FOIL to provide for the disclosure of records relating to law enforcement disciplinary proceedings, the Legislature intended to exclude from disclosure any law enforcement disciplinary records that were created prior to the repeal of Civil Rights Law § 50-a.

Matter of Hoffman v New York City Police Department, 228 A.D.3d 504, 213 N.Y.S.3d 310 (1st Dep't 2024): The First Department held that the agency's post CPLR Article 78 petition disclosure of requested records mooted petitioner's challenge of his FOIL request. However, the First Department also held that

the petitioner substantially prevailed for the purpose of being awarded attorney's fees as the agency only conducted a diligent search for records after petitioner commenced the Article 78 proceeding and the agency failed to provide any determination on the original request after twice providing a "statement of the approximate date" that would respond and contacted petitioner again only after he sought to challenge the constructive denial.

Matter of Jewish Press, Inc. v New York City Dep't of Finance, 228 A.D.3d 533, 213 N.Y.S.3d 316 (1st Dep't 2024): The First Department held that the agency failed to show that the personal privacy exemption allowed the agency to withhold information contained in tax exemption applications other than that relating to applicants' marital status, primary residence, and military service. Court held that agency had not demonstrated that the personal privacy exemption applies to any other categories of information contained in the application documents and determination letters, such as proof of clergy status and breakdown of hours worked in secular and religious employment.

Jewish Press Inc. v. New York City Department of Finance, 215 N.Y.S.3d 887, 2024 N.Y. Slip Op. 24195 (Supr. Ct., Kings Co. 2024): Supreme Court held that petitioner's request for e-mails between Mayor's office and City Finance Department regarding enforcement of orders relating to COVID-19 pandemic was reasonably described; description of desired records was sufficient for Finance Department to retrieve requested e-mails and other communications from virtual files through electronic search or other reasonable technological effort.

Matter of Jewish Press, Inc. v New York City Police Department, 225 A.D.3d 493, 208 N.Y.S.3d 560 (1st Dep't 2024): The First Department held that due to agency's failure to adequately comply with previous First Department order, granting petitioner's Article 78 petition, the trial court properly held agency in civil contempt and granted petitioner's motion for statutory attorney fees and costs incurred in enforcing First Department's order.

Lane v. County of Nassau, 221 A.D.3d 1008, 201 N.Y.S.3d 129 (2d Dep't 2023): Second Department held that agency failed to demonstrate the applicability of an exemption to disclosure warranting redaction of the police department telephone directory, which did not contain any personal telephone or cell phone numbers.

Matter of Lepper v Village of Babylon, 230 A.D.3d 584, 217 N.Y.S.3d 171 (2d Dep't 2024): Denied petition to hold the Village's attorney in civil contempt for failing to provide records. Court held that petitioner failed to show that any actions by village or counsel were calculated to or actually did defeat, impair, impede, or prejudice any of his rights or remedies, including any delay in producing the unredacted documents.

Matter of Lepper v. Village of Babylon, 230 A.D.3d 582, 216 N.Y.S.3d 660 (2d Dep't 2024): A requestor does not substantially prevail for the purposes of an award of attorney's fees and litigation costs pursuant to POL § 89(4)(c)(ii) where an agency discloses records prior to commencement of a CPLR Article 78 proceedings, or a court finds that other records were properly denied after in camera inspection.

Matter of Levy v. Suffolk County District Attorney's Office, 223 A.D.3d 904, 204 N.Y.S.3d 529 (2d Dep't 2024): Petitioner and District Attorney's Office previously entered into a non-prosecution agreement relating to alleged activities of the petitioner. Nonparty Newsday submitted a FOIL request for a copy of

the agreement. The Second Department rejected the petition to enjoin the District Attorney's Office from disclosing the agreement, reiterating the principle that promises of confidentiality have no effect on an agency's duty to disclose records pursuant to FOIL.

Matter of McCrory v. Village of Mamaroneck Board of Trustees, 230 A.D.3d 786, 219 N.Y.S.3d 87 (2d Dep't 2024): Held petitioner's speculative and conclusory allegation was flatly contradicted by the meeting minutes and that she has no cause of action alleging a violation of the Open Meetings Law and upheld supreme court award of attorney's fees to the respondent Village.

Matter of Munson v New York State Division of Criminal Justice Services, 228 A.D.3d 1119, 213 N.Y.S.3d 503 (3d Dep't 2024): The Third Department held that the § 87(2)(f) exemption from disclosure for records that, if disclosed, could endanger the life or safety of any person only requires an agency to demonstrate a possibility of endangerment to invoke. To fulfill this requirement, however, the court held that the agency must still articulate an explanation as to how disclosure could create a possibility of endangerment. An affidavit lacking said explanation, which simply asserted that the information could be used to endanger undercover police officers, was rejected as conclusory and speculative.

Matter of New York Civil Liberties Union v. Nassau County, 228 A.D.3d 864, 214 N.Y.S.3d 105 (2d Dep't 2024): Held that when a FOIL request is made subsequent to the repeal of Civil Rights Law § 50-a, agencies are required to disclose police disciplinary records, regardless of whether they were created prior to the repeal.

Matter of New York Civil Liberties Union v. New York State Office of Court Administration, 224 A.D.3d 458, 205 N.Y.S.3d 17 (1st Dep't 2024): Held that the agency properly denied petitioner's FOIL request for records created over a period of more than ten years that "summarized, interpreted, explained, analyzed, or applied any state or federal court decisions, statutes, or regulations" as overbroad. The First Department found that the respondent agency met its burden of proof that information was not stored in any centralized manner, and responding to request would have involved manually reviewing employees' files and making individual determinations as to each file, such that attempting to comply with request was impracticable, and no language of request supported a more limited interpretation. Held that respondent agency's denial of petitioner's request for records directed to judges and their staff interpreting federal and state law was appropriate as records were exempt under attorney-client privilege and attorney work product privilege.

Matter of New York Civil Liberties Union v. New York State Police, 228 A.D.3d 1162, 213 N.Y.S.3d 554 (3d Dep't 2024): Held that respondent agency failed to establish that it would be an undue burden on agency to produce subset of police disciplinary records that trial court had ordered department to produce.

Matter of New York Civil Liberties Union v. Village of Freeport, 229 A.D.3d 629, 214 N.Y.S.3d 471 (2d Dep't 2024): Held that there was no blanket exemption under § 87(2)(b) or (f) for unsubstantiated allegations or complaints of police misconduct. To withhold those records, or portions thereof, the agency would have had to present specific, persuasive evidence that the material falls within the exemption.

Matter of New York State Correctional Officers and Police Benevolent Association, Inc. v. New York State Department of Corrections and Community Supervision, 224 A.D.3d 974, 204 N.Y.S.3d 612 (3d Dep't

2024): Held that incarcerated individuals' disciplinary hearing records and misbehavior reports connected with charges that had been determined to be unsubstantiated and expunged from incarcerated individuals' institutional files were subject to disclosure, even though incarcerated individuals had reasonable expectation that their expunged records would be kept private, absent showing by respondent agency that records could not be redacted in such manner as to protect personal privacy of each incarcerated individual.

Newsday, LLC v. Suffolk County Police Department, 219 N.Y.S.3d 384, 2024 WL 4364300 (2d Dep't 2024): Second Department held that agency failed to demonstrate that the withheld records of unsubstantiated, unfounded, or exonerated allegations of misconduct fell squarely within the personal privacy exemption or the life and safety exemption.

Matter of Pak v. NYS Dep't of Motor Vehicles, 226 A.D.3d 1193, 210 N.Y.S.3d 302 (3d Dep't 2024): The Third Department held that where petitioner failed to articulate a demonstrable factual basis that the requested documents did exist, instead relying on speculation and conjecture a hearing was not warranted. Third Department also held that a request for "documents" related to the notification to requester about a hearing could not be reasonably read to include a request for metadata, and thus disclosure of metadata was not required.

Matter of Portfolio Media, Inc. v. New York State Office of Court Administration, 225 A.D.3d 505, 208 N.Y.S.3d 558 (1st Dep't 2024): Held that a requestor is justified in pursuing administrative appeals that an agency appears to offer in lieu of commencing a CPLR Article 78 proceeding, and that doing so extends the statute of limitations to commence said proceeding.

Procacci v. Town of Hempstead, 222 A.D.3d 978, 203 N.Y.S.3d 144 (2d Dep't 2023), *leave to appeal denied*, 41 N.Y.3d 910, 236 N.E.3d 1273 (2024): Second Department held that petitioner lacked standing to seek judicial review of the Town's determination not to submit the petitioner's appeals to the Committee on Open Government.

Matter of Puig v. City of Middletown, 217 N.Y.S.3d 204, 230 A.D.3d 794 (2d Dep't 2024): Upheld trial court's denial of an award of attorney's fees and costs and found that, since it had only been three months since the repeal of Civil Rights Law former § 50–a at the time of the request and since no New York court had yet determined whether the repeal of that provision was retroactive or prospective, the respondents asserted a reasonable basis for denying access at that time.

Queensrail Corporation v. Metropolitan Transportation Authority, 222 A.D.3d 501, 202 N.Y.S.3d 53 (1st Dep't 2023): First Department held that petitioner is not entitled to other information in the contract proposals with redactions to the cost information, because redactions to records requested under FOIL are available only under the personal privacy exemption. *See Section II.J of this report.*

Matter of Reclaim the Records v. New York State Dep't of Health, 227 A.D.3d 1303, 212 N.Y.S.3d 730 (3d Dep't 2024): Held that respondent agency properly denied request for disclosure of death record information that included health information, dates of birth, and other detailed personal information, as specifically exempt from disclosure under Public Health Law § 4174(1)(a), which limits disclosure of certified transcripts of death records to seven categories of applicants. Court held that because the import of the statute was to limit disclosure to applicants in defined categories who need certified records, regulatory preclusion of release of uncertified copy for genealogical research purposes for at

least 50 years supported statutory purpose of limiting access. Court further held that respondent agency properly denied, as unwarranted invasion of privacy, access to death record information that included social security numbers, dates of birth, and other detailed personal information. The Court noted that request did not further FOIL policies to assist public in making informed choices about governmental activities and the agency had an interest in protecting decedent's survivors against identify theft and fraud where requested information could impact surviving family member's privacy interests.

Matter of Russell v. Town of Mount Pleasant, 227 A.D.3d 1083, 212 N.Y.S.3d 677 (2d Dep't 2024): Held that respondent agency may not withhold a requested list of resident names and email addresses used by the agency to distribute its newsletter on the grounds that disclosure could expose subscribers to unnecessary cybersecurity risks. The Court held that agency's concerns were merely speculative, and agency did not show that disclosure of records to requester under conditions imposed by trial court, which included that requester not reproduce, redistribute, or circulate information for solicitation, fund raising, or any commercial purpose, could make subscribers or town more susceptible to risks than they ordinarily would be.

Matter of Sarkodie v. Kings County District Attorney, 226 A.D.3d 12, 206 N.Y.S.3d 140 (2d Dep't 2024): Held that disclosure of records in possession of respondent agency related to petitioner's criminal prosecution would not interfere with petitioner's federal habeas proceeding, and thus FOIL exemption for records that would interfere with judicial proceedings (§ 87(2)(e)(i)) did not apply to request.

Spence v. New York State Department of Civil Service, 223 A.D.3d 1019, 203 N.Y.S.3d 433 (3d Dep't 2024): Held respondent agency met its burden of proving that the gender and ethnicity information of candidates who failed certain civil service examinations was exempt from disclosure pursuant to § 87(2)(b) with respect to request for such information by public employees' union. The court held that the disclosure of each failing candidate's gender and ethnicity, when combined with other readily available information that public employees' union had access to through resources both publicly and privately available, could identify or lead to the identification of such candidates.

Wagner v. New York City Department of Education, 222 A.D.3d 420, 201 N.Y.S.3d 20 (1st Dep't 2023), *leave to appeal granted*, 41 N.Y.3d 908, 234 N.E.3d 1056 (2024): First Department held that requester's descriptions provided to Department of Education (DOE) were insufficient to extract or retrieve requested documents through electronic word search, and thus DOE's denial of request on ground that the request was not reasonably described was appropriate. Requester had sought all emails during 17–month period between any DOE email address and any email address from neutral arbitrator's firm, DOE maintained over one million email mailboxes, DOE's searches for relevant emails never appeared to end before timing out when using description requester provided, and requester refused DOE's request to provide narrower timeframe, names or titles of employees who might be custodians of emails sought, or key terms to be searched.

B. Open Meetings Law

Alexander v. Sutton, --- F.Supp.3d ----, 2024 WL 4050277 (E.D.N.Y. 2024): Granted a preliminary injunction against Community Education Council (CEC) 14's enforcement of its "Community Guidelines," "Community Commitments," and the portion of CEC 14's Bylaws that sets forth that "[d]iscussion and charges relating to the competence or personal conduct of individuals will be ruled out of order," or otherwise discriminating against speakers at CEC 14's public meetings on the basis of viewpoint and/or political association.

Matter of Warren v. Planning Board of Town of West Seneca, 225 A.D.3d 1248, 1251, 208 N.Y.S.3d 412 (4th Dep't 2024): Court noted that while it agreed that respondent public body had violated the OML when it failed to place certain records "on [its] website to the extent practicable at least [24] hours prior to the [public meeting adopting the negative declaration]" (OML § 103 (e)), it held that petitioner had failed to meet his "burden to show good cause warranting judicial relief."

APPENDIX III

Advisory Opinion:
Chapter 302 of the Laws of 2024
Employee Notification Policy

The Committee on Open Government is authorized to issue advisory opinions. The ensuing advisory opinion is based solely upon the information presented in your correspondence.

Dear:

As you know, as of September 4, 2024, article six of the Freedom of Information Law ("FOIL") was amended by Chapter 302 of the Laws of 2024 to include a mandate that "[a]ll agencies subject to the requirements of this article shall develop a policy regarding providing a notification to public employees in the event that the agency is responding to a request for such employee's disciplinary records." Public Officers Law ("POL") § 87(6).

We are writing in response to your request for an advisory opinion concerning the implementation of the mandate and the notification it contemplates. In order to provide such advice we must look to the text of the amendment and the legislative intent included with the memorandum accompanying the amendment. In the following advisory, we seek to address your inquiries.

Does POL § 87(6) require notification to current *and* former public employees, or just currently employed public employees?

The text of the amendment does not define the term "public employee" for purposes of notification. We suggest that FOIL responsible entities look to holdings of courts finding that the 2020 amendment to FOIL, which required that law enforcement disciplinary records be subject to review and disclosure, applies equally to former law enforcement employees and current law enforcement employees.

Is there a penalty if an agency does not provide the notification? If there is a penalty, what is the penalty?

The text of the amendment does not include language imposing a penalty for non-compliance with the notification requirement nor does it include a remedy for public employees if notification is not provided to them in accordance with the statute. The memo accompanying the amendment is also silent on this matter.

What must be included in the notification and when must it be sent?

Although the text of the amendment does not make it clear when the required notification must be made – stating only that it is required "in the event that an agency *is responding* to a request" (emphasis added) – the memo accompanying the amendment contains some language that may explain the intention of the legislature on this question. The memo provides: "[t]his legislation simply recognizes that these impacted public employees should have *minimum* notice when their personal information *has been released* to the public" (emphasis added), suggesting that it is the legislature's intention that

the required notification be "minimal" and be made to the employee *after* the records have been released. The intention regarding the timing of the minimal notification (*i.e*., after the release of the requested records) is strengthened by the following language from the memo: "[this amendment] would simply ensure that if a public employee's personal information *has been released to the public*, then such affected employee would have notice of such release" (emphasis added).

Where must the notification to the public employee be sent? E.g., work address? Email address? Home address? If notification must be sent to a home address or email address, what if the agency does not have those addresses? If notification must be sent to a former public employee, what is an agency to do if it does not possess a current address for that former public employee?

The amendment requires that agencies develop a policy regarding the required notification but does not establish specific procedures for issuing the notification. We recommend that agency heads use their best judgement as to the most appropriate form of notification. While the text is silent on this matter, it is our opinion that the notification should be in writing so that the agency has evidence of compliance and that notice by either regular mail or email is sufficient. Agencies should make reasonable efforts to notify former employees and document their efforts to do so.

Does the legislation require that the affected public employee be provided with a copy of the FOIL request that is the subject of the POL § 87(6) notification and/or copies of the records that are provided to the requestor in response to the request?

As noted above, the amendment requires that agencies develop a policy regarding the required notification, but it does not establish specific procedures for issuing the notification. The memo accompanying the bill indicates that it is the intention of the legislature that the required policy and notification requirement "have no effect on the release of information that is now permissible" pursuant to FOIL. We understand this to mean that the legislature intends that whatever policy a FOIL responsible entity adopts to effectuate the new notice requirement, such policy may not serve as an impediment to hinder or delay the required production of affected records in response to a FOIL request.

While the text of the amendment does not reflect a proactive requirement on the part of the agency to provide the public employee a copy of the FOIL request or the responsive records, it is important to note that the request and responsive records are, themselves, "records" subject to rights of access under FOIL. *See* previously prepared advisory opinions on this topic linked below.

Request for Request

10059, 11260, 13471, 14068, 16507, 16558, 17692, 19168

What records are considered "disciplinary records"?

Although not specifically raised as one of your questions, we have also been asked what constitutes a "disciplinary record" and, specifically, whether "counseling memos" are considered disciplinary records. We suggest that in the absence of a statutory definition of the term "disciplinary record" as it applies to non-law enforcement employees, FOIL-responsible agencies look to POL § 86(6), which defines "law enforcement disciplinary records," for guidance.

APPENDIX IV
SERVICES RENDERED BY COMMITTEE
1622 TELEPHONE INQUIRIES
2141 INFORMAL ADVISORY OPINIONS
28 FORMAL ADVISORY OPINIONS
40 PRESENTATIONS
THOUSANDS OF CORRESPONDENTS ADDRESSED
THOUSANDS OF WEBINAR LISTENERS AND VIEWERS

Online Access

Since its creation in 1974, the Director's staff have prepared more than 25,000 written advisory opinions in response to inquiries regarding New York's open government laws. The opinions prepared since early 1993 that have educational or precedential value are available online through searchable indices. In May 2021, the Committee website was modernized and assigned its own independent web address: https://opengovernment.ny.gov/.

In addition to the text of open government statutes and the advisory opinions, the Committee website also includes:

Model forms for email requests and responses: https://opengovernment.ny.gov/system/files/documents/2020/09/freedom-information-law-sample-letters.pdf and https://opengovernment.ny.gov/agency-response-email-request-records-sample

Regulations promulgated by the Committee (21 NYCRR Part 1401) and "Your Right to Know," a guide to FOIL and OML that includes sample letters of request and appeal, as well as links to a variety of additional material. https://opengovernment.ny.gov/freedom-information-law

"What You Should Know," which describes the Personal Privacy Protection Law: https://opengovernment.ny.gov/what-you-should-know-nys-personal-privacy-protection-law-pppl

Responses to "FAQs" (frequently asked questions) https://opengovernment.ny.gov/frequently-asked-questions-0; and https://opengovernment.ny.gov/system/files/documents/2021/01/open-meetings-law-faqs.pdf

"News" that describes matters of broad public interest and significant developments in legislation or judicial decisions https://opengovernment.ny.gov/committee-news

View recordings of meetings of the Committee on Open Government: https://www.youtube.com/playlist?list=PLijoYdAmWIjZApq7uZkCJZ_irF0MSJgqk

View virtual training recordings and material: https://opengovernment.ny.gov/training-materialsrecordings

Telephone Assistance

This year, the Director's staff answered over 1600 telephone inquiries.

Informal Advisory Opinions

This past year, the Committee through the Director's staff issued over 2100 informal advisory opinions and written inquiry responses by email and postal mail regarding FOIL, OML and the PPPL.

Formal Advisory Opinions

The Director's staff are conscientious about providing guidance as efficiently as possible, including links to online advisory opinions when appropriate. When a written response from staff contained a substantive opinion with legal analysis, it was recorded as an advisory opinion as before.

In the reporting period, the Director's staff prepared 28 formal advisory opinions in response to requests from across New York.

Presentations

An important aspect of the Committee's work involves efforts to educate by means of seminars, workshops, and various public presentations. During the reporting year, staff gave 40 presentations to organizations and entities identified below. Over 1900 individuals received contemporaneous training and education through those events, and countless additional individuals benefitted from recordings of these programs posted on entity websites and materials posted on the Committee website. This number compares favorably with pre-pandemic numbers. As mentioned above, the Director's staff began offering its own virtual open government educational programs throughout the year. In addition, recordings of the programs have been posted to the Committee website for additional individuals or groups to review.

If your organization would like to request training, you may contact us by telephone at (518) 474-2518 or by e-mail at training@opengovernment.ny.gov.

Organizations:

Association of School Business Officials of New York
City of Kingston
Community Board 11
Erie County Water Authority
Four County Library System
Livingston County
New York Association of Local Government Records Management Officers
New York Community College Trustees

New York State Conference of Mayors Fall Training
New York State Association of Clerks of County Legislative Boards
New York State Conservation District Employees Association
New York State Excelsior Fellows
New York State Housing Authority
New York State Town Clerks Association (Two Programs)
NYSAC Fall Committee Meetings
New York State Bar Association Local & State Government Law Section
North Country Local Government Conference
Office of Renewable Energy Siting FOIL Training
Orange Ulster BOCES FOIL Training
Ramapo Library System (Two Programs)
Salamanca Public Library
Southern Tier Central Regional Planning & Development Board
Spectrum News (Two Programs)
State Liquor Authority
SUNY Plattsburgh Journalism Class
Syracuse City School District
Town of Amherst
Town of Southampton Police Department
Town of Veteran
Tug Hill Local Government Conference
Ukrainian Journalists
Village of Mamaroneck