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BEFORE THE NEW YORK CITY COUNCIL  
COMMITTEE ON TECHNOLOGY IN GOVERNMENT

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Good afternoon, Chair Brewer and members of the Council. My name is Anthony Crowell, Counselor to Mayor Bloomberg, and on behalf of the Administration, I would like to thank you for the opportunity to discuss the bill before you today, which amends and expands the provisions of City Charter Section 1134.

This bill as drafted changes the very nature of City government. It undermines the City's ongoing efforts toward insuring efficient, transparent and productive government operations, and must be opposed in the strongest terms. I would like to outline for you the four most significant objections to this bill:

First, the bill greatly expands the universe of documents which City agencies are required to transmit to the City Council. Rather than "all final reports or studies," Int. 531 requires "all reports, papers, studies or publications" which any law – City, State or Federal – requires a city agency to prepare. By expanding the list to include papers and publications, the bill is ambiguous regarding the intended scope of Charter Section 1134. One question presented is whether the bill covers every investigation of a building violation, or every response to an OSHA complaint, or every motor vehicle accident report prepared by a police officer? Because the

language is being amended to match the language of City Charter Section 1133, regarding transmission of reports to the Municipal Reference and Research Center and the Department of Records and Information Services, we assume that that is not the intent of the bill. However, it is possible that the bill would require millions of additional pieces of paper to be regularly forwarded to the Council from every City agency, unless its intent is clarified.

Additionally, the bill requires that all reports to be prepared must be forwarded to the Council, unlike Charter Section 1133, which specifically applies to reports only after they have been "published or issued." By removing the word "final," from the bill language, drafts of such reports would be required to be forwarded as well. This is antithetical to the goal of efficient and competent agency performance. Agency employees must be free to engage in wide-ranging internal discussion of policy matters. They must be able to make observations and suggest alternatives without the fear that their ideas will be publicly available for analysis and criticism before they are thought through. The need to preserve agency discretion and confidentiality so that policy matters may be energetically debated is recognized by the New York State Freedom of Information Law, and should also be recognized and supported by the New York City Council. A few examples will illustrate the breadth of this proposed mandate.

The Police Department's quarterly reports to the Council contain summary information about all criminal complaints filed and arrests made in New York City. The bill would require the Police Department's entire database recording those complaints and arrests to be copied and provided to the Council, including not only detailed personal information regarding complainants, witnesses, defendants, but also highly confidential information regarding open criminal cases. The report contains summary response time information drawn from the 9-1-1 system. Thus, the bill as it is currently drafted would require the transmission of every 9-1-1 call, including names, addresses, phone numbers maintained in the Department's SPRINT database.

Another example is the City's 3-1-1 system, maintained by the Department of Information Technology and Telecommunications. 3-1-1 logs in over 1 million calls per month, and is required under Local Law 47 of 2005 to make call data available to the public on a monthly basis, including types of calls, numbers of calls, and resolution status by agency, broken out by community board, City Council district, zip code and borough. Int. 531 would require DOITT to make a copy of 3-1-1's entire Siebel system – the database which call takers utilize when they answer calls, complete with the names, addresses and telephone numbers of every caller who files a service request with the City. This alone would require hundreds of thousands of pages of data every year.

Lastly, the Mayor's Office of Operations is required to produce the Mayor's Management Report and Preliminary Mayor's Management Report, again, working with every City agency to compile the most relevant and complete statistical summary of agency activity possible. Virtually every agency database is involved in the compilation of this report, and dozens of unique and sometimes proprietary databases would have to be copied and forwarded to the Council were the bill to be enacted.

Second, the bill's requirement that that the documents be forwarded as print copies and computer files presents a huge logistical dilemma. There are so many documents that are subject to this bill that cataloguing which have and which have not been forwarded to the Council at any time will be particularly burdensome on agency personnel. Further, many documents subject to this bill may not exist in electronic form, and transferring them to electronic media will only add to the complexity of complying with this bill.

Third, there is a risk that large quantities of raw data will be used in ways other than what it was originally intended for. Raw data of any sort can be extremely misleading without the context to explain it, and we do not believe that the Council should place itself in the position of explaining or interpreting agency performance based solely on this data. City agencies employ trained personnel who are highly experienced with such quantities of data, and know how to use it to produce meaningful results accurately and reliably.

Even more significant are the consequences of electronic submission of a host of documents that may contain personal or sensitive information. There is no provision in the bill for withholding or redacting such information. The possibility that an electronic version of a document may be manipulated or edited in a manner that misrepresents either its content or its intent is a very grave concern. Once transmitted in electronic form, the document may be easily posted on websites or distributed in ways that are not anticipated and not in the public interest. The bill is alarming in its potential for exposing the privacy of City residents who call an agency for help, and unacceptable in its potential demand on City resources to protect that privacy.

We previously faced this issue when Local Law 11 of 2003 was enacted, providing for electronic transmission of reports and publications pursuant to Charter Section 1133. When the consequences of unlimited electronic submission were fully understood, the Council amended Administrative Code Sections 14-149 and 14-150, to provide that the Police Department's quarterly reports to the Council would not be electronically transmitted or posted on the City's website, acknowledging the inherent sensitivity of the information contained in those reports. We submit that were this bill to be enacted, an agency-by-agency and document-by-document analysis would be necessary to ensure that the public interest is truly served by electronic transmission of agency documents. We would also need to devote an unknown amount of resources to determining how any necessary redactions could be made.

Finally, and most critically important, the bill destroys the balance between the executive and legislative branches of New York City government. It places the Council in the position of managing the operations of every City agency. Although the Council and the Mayor may at times disagree, we are in partnership to serve the people of the City together, and are motivated by the same sense of purpose. This bill undermines the relationship between our two branches of government and places the Council in the position of managing the operations of City agencies, rather than acting in its proper role of oversight.

One particularly significant example is the Office of Management and Budget's preparation of the Executive Budget. OMB is required to produce the January Plan and Executive Budget for the Council, which are prepared in consultation with the agencies themselves. The bill would mandate OMB to provide to the Council all of the backup documentation, databases, estimates, and so forth, used to create these documents. An apt analogy would be allowing OMB to sit in on internal Council meetings, including all of the leadership teams, borough delegations, strategy sessions, etc., as the budget is being developed.

The proper venue for such explorations of agency operations is in this chamber, during the Council's oversight hearings, which we know the Council is not reticent to schedule. The Administration is extremely responsive to the Council's routine requests for sometimes extensive information. We are justly proud of our record in making government more transparent and in assisting the public in obtaining the information it needs from the agencies responsible. We do not believe that the bill would add to that effort. In fact, it would tie up agency personnel attempting to comply with its provisions, rather than allowing them to respond to direct inquiries with the necessary information at hand.

In conclusion, we must ask that the Council reject Intro. 531 as damaging to the fabric of local government: The financial and personnel hardship to agencies seeking to comply with such a law would be extreme, constituting an unacceptable waste of scarce City resources. Rather, we look forward to an open discussion on how to better facilitate the Council's access to the informative and high quality reports and studies that City agencies regularly produce. Thank you for your consideration, and I welcome any questions that you may have.