



Statement of
Thomas M. Susman
On behalf of the
D.C. Open Government Coalition
October 14, 2009
Before the Council of the District of Columbia
Committee on Government Operations

Improving Transparency: Open Government in the District

Good morning Madame Chair and members of the Committee. I am Thomas M. Susman, president of the D.C. Open Government Coalition. I am a long-time advocate of freedom of information, government transparency, and open meetings in the U.S. and in a number of foreign countries. The Coalition commends Councilmember Cheh for convening this public roundtable on transparency in the District of Columbia government.

The Coalition's board of directors includes former D.C. Councilmember Kathy Patterson, journalists, open government advocates and representatives of civic associations and non-profit organizations. In addition, we count the D.C. Federation of Civic Associations, the D.C. Federation of Citizens Associations, the D.C. Fiscal Policy Institute, DCWatch and other citizen-focused groups among our active members. A wide variety of individuals and organizations in the District have communicated their concern to us – they are frustrated, and they want to participate in the Coalition to ensure that the city's residents have access to public information and open meetings.

Formed in March 2009, the D.C. Open Government Coalition seeks to enhance public access to government information and transparency of government operations of the District. We believe transparency promotes civic engagement and is critical to a responsive and accountable government. We strive to improve the processes by which the public gains access to government records and proceedings, and to educate the public and government officials about the principles and benefits of open government.

In recent years, the District has made great economic strides and improved its self-governance. Unfortunately, like all governments, D.C. is not immune from occasional incidents of scandal or corruption. And agencies still appear sometimes to be struggling to provide adequate services to those who live and work in the city. Residents need better access to government information to effectively hold the government accountable, to ensure that elected and appointed officials are working in their best interests, and to exercise their democratic rights in an enlightened manner.

According to a wide variety of stakeholders, many District residents lack awareness of the laws and processes that grant them access to government records and meetings. Moreover, residents who seek access are easily confused by laws and processes that are flawed and imperfectly implemented. The Coalition is new, but the problems we address are not.

The Coalition believes there is a pressing need for open meetings reform. We would be glad to work closely with the Committee as it reviews the District's open meetings law, and we hope to participate in a process that will ultimately strengthen the public's right of access.

Presently, the Coalition is in the early stages of surveying the landscape to determine what impedes the full and prompt disclosure of information where disclosure is appropriate and required under the law. Thus far, anecdotal evidence has developed that the open records law is not being implemented according to the Council's intent. The D.C. Freedom of Information Act of 2000 strengthened the law's stance in favor of disclosure, but it appears that through misinterpretation, misunderstanding and even noncompliance, there are still roadblocks preventing the full and timely release of public records.

The D.C. FOIA has great potential, but there needs to be a culture change to ensure that it works as the Council intended. Some of the problems could be addressed by enhancing the training the law requires for agency Freedom of Information Officers. In addition, the training requirement should be broadened to cover all employees who, through contact with the public, may receive requests for information. The Coalition would like to work with the Council to facilitate such training, to ensure that government employees implement the FOIA on a daily basis in a manner consistent with the Council's intent. The Council could further improve the Freedom of Information Act by incorporating into its preamble an even clearer and firmer statement of the public's right to government information, making clear that disclosure of public information is the rule, the norm, the default policy in D.C.

In this electronic age, the Internet can help to facilitate the law's purposes in a more efficient and accessible manner. The D.C. FOIA includes a provision specifying certain government records that must be posted on the Internet. As the Coalition surveys the District's compliance with these posting requirements, we see that while some of the required information may technically be available on the web, it often is not presented in a way that is accessible to users. For example, a person seeking information on an agency's budget on the agency's website, where the typical citizen would expect to find that data, would have little or no luck. The District government meets the letter, but not the spirit, of this portion of the law by posting a voluminous document encompassing all city agencies on a central website. District residents must search through hundreds of pages to find the desired information. The Internet should not be just one more place where the bureaucratic tangle of government prevents ordinary citizens from uncovering the data, files, decisions, and policies that affect their lives. Just as important, agencies should be encouraged to use the Internet proactively to provide citizens with other information that will help us understand our government and our community.

Other jurisdictions enhance and protect public access to government information through an independent office or agency that oversees the disclosure of public records. The Coalition would

be pleased to serve as a resource to the Council in exploring these various models and their impact on the transparency regimes in those jurisdictions. We know the people who established and run those agencies, and can bring your committee together with them to discuss best practices, benefits and pitfalls on the path to creating such an agency.

Whether through an independent entity, or by developing alternative dispute resolution procedures for D.C. FOIA disputes, the Coalition recommends improved mechanisms to encourage compliance with the law. Residents should not need to bring an expensive, time-consuming lawsuit to secure access to public information in the District where disclosure is clearly required by law.

The right of the people of the District of Columbia to readily obtain public – not government, but public – information, and to attend meetings at which our government makes decisions that affect our lives – is central to the functioning of our democratic system of governance. This issue affects every government function.

The Coalition believes the discussion of open government protections must be ongoing, and we encourage the Council to hold regular oversight hearings on the status of government transparency in the District. In the interest of focusing the spotlight on these issues, the Coalition is hosting its own first public event to discuss open government in the District, next Wednesday evening, October 21st, at the Sumner School. We invite the Council to join residents of the District who will be identifying problem areas and suggesting solutions relating to transparency in D.C.

I appreciate the opportunity to provide testimony on behalf of the D.C. Open Government Coalition.

ORGANIZATIONAL MEMBERS

21st Century School Fund
Bread for the City
Collaboration on Government Secrecy
D.C. Federation of Citizens Associations
D.C. Federation of Civic Associations
D.C. Fiscal Policy Institute
DCWatch
Fraternal Order of Police
Government Accountability Project
Greater Greater Washington
James Madison Project
Levine Sullivan Koch & Schulz, LLP
Maryland - Delaware - DC Press Association
Medical Society of D.C.
Public Citizen
Reporters Committee for Freedom of the Press
Society for Professional Journalists - D.C.
Professional Chapter
University Legal Services
Washington Lawyers' Committee for Civil
Rights and Urban Affairs
Washington Legal Clinic for the Homeless

INDIVIDUAL MEMBERS

Robert Becker
Robert Vinson Brannum
Dorothy Brizill
Shelley Broderick
Susie Cambria
Rebecca Daugherty
Matt Fraidin
Kevin Goldberg
Jeffrey Gutman
Debra Gersh Hernandez
Scott Hodes
George Jones
Mary Levy
Alice Lucan
Erich Martel
James A. McLaughlin
Carol Melamed
Fritz Mulhauser
Kathy Patterson
Barbara Somson
Thomas Susman
Tisha Thompson
Mitch Wander
Pete Weitzel
Liz Williams
Corinna Zarek
Chris Zervas