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COMMISSION ON OPEN GOVERNMENT

NOVEMBER 27, 2007
2:19 P.M. - 6:39 P.M.

CLARION RESORT AND CONFERENCE CENTER
MEETING ROOM 3
KISSIMMEE, FLORIDA

Reported By:

Cynthia R. Green, Court Reporter
Notary Public - State of Florida

American Court Reporting
407.896.1813

1 COMMISSION MEMBERS:
2 Barbara Petersen, Chairperson
3 Honorable John Carassas, Vice-Chair
4 JoAnn Carrin
5 Bob Butterworth
6 Renee Lee
7 Will Weatherford
8 Senator Paula Dockery
9 Gerald Bailey
10 Sandy D'Alemberte (telephonic)

11
12 ALSO PRESENT:
13 Jessica Dodson, Executive Assistant
14 Cynthia R. Green, Court Reporter

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1 task and we want to thank them right off the bat
2 on behalf of all the members.
3 First is JoAnn Carrin to my right. Thanks,
4 JoAnn. (Applause.)
5 Jessica Bassy (ph) is the young lady out
6 front that is signing up, correct, that is
7 signing up folks.
8 We're going to go ahead and begin. First
9 of all, I want to thank the Governor again,
10 Charlie Crist, for putting together this
11 distinguished group of members, I'm going to
12 have them introduce themselves to you in just a
13 moment, and giving us an important task and
14 responsibility in reviewing our important
15 Sunshine laws and open government laws here in
16 the state of Florida.
17 Everybody on this committee is an advocate
18 of open government in one form or another. We
19 come from diverse backgrounds and have done
20 different things in government and outside
21 government to go ahead and -- to go ahead and
22 continue forward with the long history that
23 Florida has in open government.
24 Two important things that happened since
25 our last meeting. I'd like to bring those up

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1 because I think they're significant and shows
2 that we've already made positive progress for
3 the citizens of the state of Florida.
4 First of all, the executive office of the
5 governor has issued an open government bill of
6 rights. I have the -- I believe we have a copy
7 of this available for everybody.
8 MS. CARRIN: Uh-huh.
9 VICE-CHAIR CARASSAS: This is an important
10 step in the process and was discussed in our
11 first meeting here in this group. It says as
12 follows:
13 "Members of the public are entitled to be
14 treated with respect, courtesy, and
15 professionalism when interacting with the
16 executive office of the governor.
17 Public record requests do not have to be
18 made in writing unless a specific statute
19 requires otherwise. In that case, a statute
20 imposing such a requirement shall be cited. All
21 public record requests shall be acknowledged
22 promptly and in good faith as required by
23 Section 119.071 of the Florida Statutes.
24 Fees and production of public records
25 documents shall not be exceed the statutorily

1 authorized fees and the statutory authority of
2 such fees shall be cited in every case.

3 The public has the right to receive an
4 itemized invoice of proposed fees or fees
5 charged, and access to public records and
6 meetings are rights secured under Sections
7 119.071 and 286.011 Florida Statutes, and of
8 course, Article I, Section 24 of our Florida
9 Constitution."

10 And that's signed by the governor.

11 JoAnn, when did that go into effect?

12 MS. CARRIN: That was issued, I believe,
13 there is a date of --

14 VICE-CHAIR CARASSAS: Should be 15th day of
15 November.

16 MS. CARRIN: Yes.

17 VICE-CHAIR CARASSAS: So just earlier this
18 month.

19 MS. CARRIN: And in that he also issued an
20 executive order asking all of the agencies under
21 his purview to adopt similar bill of rights with
22 the same kinds of provisions, so he's made a
23 step of leading in the right direction with the
24 agencies that he has authority over, and he's
25 encouraging other agencies to do the same.

1 And I'm pleased to report that we've had
2 two local governments contact us about doing a
3 bill of rights. So it's an idea that's catching
4 on, and I think by the governor taking this
5 step, we'll see more movement in that direction.

6 VICE-CHAIR CARASSAS: Thank you very much.
7 The other item that is a -- a broad open
8 government initiative that we certainly support
9 on this commission, the second one is a little
10 more detailed and specific. It has to do with
11 the -- the other one is -- took place last
12 month, the end of October, October 31.

13 And that is that again, Governor Charlie
14 Crist announced today on October 31 that
15 Florida's clemency applicants appearing before
16 the Board of Executive Clemency will now receive
17 their case analysis reports prepared by the
18 Parole Commission prior to the scheduled
19 hearing. Previously, the reports remained
20 confidential and were provided only to members
21 of the Board of Executive Clemency.

22 The Governor's announcement comes as a
23 result of public testimony during public
24 hearings on the Commission of Open Government.
25 That is another step if you want to elaborate a

1 little bit on that. That is another step that
2 is a change in the way we -- that part of
3 government functions and it is to be more open
4 in the process.

5 JoAnn, if you could sum up.
6 MS. CARRIN: Thank you. After the last
7 meeting, this was another issue that it was very
8 clear the Governor could act on his own
9 authority, that he did not need to wait for a
10 recommendation from the Commission or for
11 legislative recommendation. And so based on the
12 public testimony that was received by some very
13 brave folks at our last meeting, I think we got
14 one of them back with us today, he decided to
15 make this change in the clemency process.

16 So I guess this -- both of these steps show
17 that this Commission is going to make a report
18 in January of '08 that there are a lot of things
19 that can happen in the meantime, and that the
20 Governor is committed to as issues are raised if
21 there are things that he can do or move forward,
22 he intends to do that.

23 VICE-CHAIR CARASSAS: Thank you, JoAnn.
24 And having served, and I know other members here
25 have served on various committees in the past,

1 oftentimes you go through a long process,
2 sometimes there's a report, either a short or a
3 long report, that you expect to have implemented
4 and go into effect. It's truly a pleasure to be
5 on a committee or a commission where you see
6 your actions or your meetings taking positive
7 steps as the meetings are progressing from the
8 very first meeting.

9 So I think I've said enough at this time.
10 I'm going to ask now that we have all of the
11 members present that will be here today to go
12 ahead and give you a short introduction before
13 we get into public hearings. Let's begin
14 with -- to my left.

15 MR. BAILEY: Good afternoon. I'm Gerry
16 Bailey. I'm commissioner of the Florida
17 Department of Law Enforcement, FDLE, and very
18 much appreciate your interest in this process.

19 SENATOR DOCKERY: Good afternoon. My name
20 is Paula Dockery. I have the honor of serving
21 as the senator from District 15, which includes
22 Polk, Osceola, Lake, Sumter, and Hernando
23 counties.

24 VICE-CHAIR CARASSAS: My name is John
25 Carassas. I'm a Pinellas County court judge.

1 My prior experience in government has been to
2 work as the Deputy Attorney General for our
3 state, and also I was a -- I had the privilege
4 of representing the good citizens of Pinellas
5 County in District 54 in the state House of
6 Representatives. I also have some local
7 experience in local government including the
8 City of Clearwater. We even have somebody that
9 I used to work with here from the City of
10 Clearwater. Thank you for being here today,
11 Cindy.

12 GENERAL BUTTERWORTH: I'm Bob Butterworth,
13 Department of Children & Families. I worked at
14 open government for about 16 years.

15 MS. LEE: I'm Renee Lee. Hillsborough
16 County attorney. I served as county attorney
17 throughout the state of Florida for the last 20
18 years.

19 REPRESENTATIVE WEATHERFORD: Hello, my name
20 is Bill Weatherford. I'm a state representative
21 from District 61. I'm very excited to be in
22 Senator Dockery's district today.

23 SENATOR DOCKERY: We're happy to have you.

24 VICE-CHAIR CARASSAS: So with that, we'll
25 get started. Just a couple of reminders.

1 Please turn off your cellphones so you don't
2 interrupt any of the speakers that are here
3 today. So if you have them on, please turn them
4 off or put them on vibrate.

5 And for the members here in the Commission,
6 microphones are on at all times. I remind you
7 of that so if you say anything, we don't want
8 you to interrupt the speakers that are speaking.

9 We're going to begin with public testimony.
10 We have a list of the speakers that have already
11 signed up. I'm going to at this point turn it
12 over to JoAnn Carrin who will call the speakers
13 one at a time. If you could approach the podium
14 and begin your speaking. We're also going to
15 keep track of the time, right, JoAnn?

16 MS. CARRIN: We will. We will have cards
17 that we can hold up when there's 30 seconds left
18 to let you know you need to wrap up your remarks
19 and then we'll hold up another one when the time
20 is out.

21 VICE-CHAIR CARASSAS: Total of five minutes
22 per speaker.

23 MS. CARRIN: Total of five minutes per
24 speaker. We have a total of 15 speakers who
25 have registered for the two o'clock to four

1 o'clock time. So we do need to keep things
2 moving along, but I'm sure the members will have
3 questions as the speakers speak and we have
4 Dr. Cameron Berry at the podium now.

5 DR. BERRY: Thank you. I'm --
6 Commissioners, I'm appearing before you and
7 testifying to make you aware of the illegal
8 destruction of records by the staff from the
9 Department of Bureau of Professional Regulation.

10 I also ask you to change a law. The law
11 that I think you should be aware of is
12 455.325(2), which states that all complaints to
13 the DBPR are confidential unless action is taken
14 or the person votes for confidentiality rights.

15 I think this law should be changed to say
16 that these are open records after they have been
17 looked at by the DBPR. What preempted my entry
18 into this foray was that I had a (inaudible) and
19 what happened, I found out that he did not have
20 Workman's Compensation. I did a complaint to
21 the people at DBPR. They found that no action
22 should be taken. And so in looking at it, the
23 records became confidential.

24 What happened is that we -- I asked for
25 them multiple times under (inaudible). Then we

1 subpoenaed them. (Inaudible) a little
2 bias (inaudible) who said the subpoena was not
3 sufficient. (Inaudible) a fairly well written
4 judge and respected judge in the (inaudible)
5 circuit said it was sufficient. And the Florida
6 Supreme Court has said that it is sufficient.
7 The DBPR waited until we have subpoenaed
8 them and then they said you need a court order.
9 We got a court order. And need authorizations.
10 We got authorizations. And then after getting a
11 court order, they said the records were
12 destroyed six months prior.
13 So what it appears to me is that they did
14 not want the information that they have messed
15 up and (inaudible) contractor for the Workman's
16 Compensation in the Department of Financial
17 Services Workman's Compensation or from the
18 contractor (inaudible) 2000.
19 I appeared at another complaint and it's
20 been since April '07 and they have done nothing
21 about it. We issued a (inaudible) complaint
22 about Mr. Joe Wilson, a chief inspector from
23 (inaudible) Tallahassee, and they said that I
24 had not cited an individual or evidence of
25 malfeasance.

1 And I see just in looking at the
2 documentation here that Mr. Wilson's report is
3 here. There are several that I consider to be
4 lies in there and unless you (inaudible)
5 documentation, point that out.
6 But really what I want to do is get that
7 law of confidentiality changed. I do not ask
8 you to do anything for me because I have legal
9 counsel and perhaps it is incumbent on me as a
10 citizen to see that some action is taken forward
11 if I genuinely believe in it (inaudible) with an
12 old man with a computer and plenty of tenacity.
13 So what I will do is I'll answer any
14 questions and (inaudible) will give you some
15 documentation to back up (inaudible.) Anyway,
16 just she's worked very hard at this. And one of
17 her relatives is (inaudible) Jefferson person
18 down here for helping (inaudible) John Wilkes
19 Booth. I'll answer any questions.
20 VICE-CHAIR CARASSAS: Are you done?
21 DR. BERRY: Yes, I am. Thanks.
22 VICE-CHAIR CARASSAS: Would you like to
23 respond to some questions?
24 DR. BERRY: I will take any questions.
25 GENERAL BUTTERWORTH: Thank you, Mr. Chair.

1 Dr. Berry, thank you for coming forward on this
2 issue. About 15 years ago during Hurricane
3 Andrew, we had thousands of people that were
4 involved in the same situation you were and were
5 attempting to get around the confidentiality,
6 different ways.

7 As we attempted to change the law and open
8 the records, such as like the Florida Bar has
9 done, it's been -- the Florida Medical
10 Association has been our chief opponent to it.
11 So what you're saying is you'd like to open up
12 not just billing but all of the complaints that
13 are in the record of the Department of Business
14 and Professional Regulations.

15 DR. BERRY: Having been chair for quality
16 control (inaudible) conferences (inaudible) what
17 I if you've got the (inaudible) Society to
18 adjudicate all cases of (inaudible) there would
19 be none.

20 VICE-CHAIR CARASSAS: Thank you, sir.

21 DR. BERRY: The construction industry sort
22 of is in favor of confidentiality and in a way
23 everything goes to the Board of Construction and
24 they either say action or no action. In this
25 case, they obviously (inaudible).

1 VICE-CHAIR CARASSAS: Thank you. Any other
2 questions for the speaker? Senator.
3 SENATOR DOCKERY: Just to clarify and it
4 can be of the speaker or you or staff, is the
5 current process then that if there are
6 complaints against a company that's regulated by
7 DBPR and there's been a complaint filed to the
8 Department of Business and Professional
9 Regulation that right now those records are
10 confidential and irregardless of the outcome of
11 the investigation or -- or look into that
12 complaint, that they then get destroyed?
13 DR. BERRY: What happens is that if the
14 action is taken (inaudible). Otherwise, if you
15 look at Mr. Ruso's material (inaudible) they say
16 three years, but we were constantly asking for
17 them in every way we knew. And what, they were
18 destroyed. Even after they were destroyed in
19 February, in August we were asking for them and
20 they said, well, you have to get a court order,
21 you have to do this, and they'd already been
22 destroyed. One wonders why.
23 SENATOR DOCKERY: If I could follow up,
24 then your recommendation would then be that even
25 if there was a finding of that -- that there

1 wasn't any bad activity that those records
2 should be opened up?

3 DR. BERRY: I would think so. I know
4 that's a difficult thing. They will say you're
5 smearing us. But in a way, a police report or
6 any other report, there's information that the
7 public should have. I realize that's a very
8 difficult thing and fight (inaudible) to see
9 that that doesn't happen. But some of the data
10 and material will show that they close cases.
11 You don't have to investigate anything if you
12 just close it, do you?

13 SENATOR DOCKERY: And I'm not passing
14 judgement. I'm just trying to get -- understand
15 the situation. So at some point would you then
16 say that those records should be destroyed or no
17 longer need to be held, would you put a time
18 limit on it, five years, ten years, or --

19 DR. BERRY: Something like that. When I
20 called over and I talked to one of the people
21 over in the DBPR clerk's office, said how long
22 do you keep them, she said forever. I talked to
23 former employees of the DBPR, they say we keep
24 them for a long time. When I tried to get ahold
25 of them they went down to Ft. Myers and

1 formatted the disk.
2 SENATOR DOCKERY: And I was going to say my
3 guess is that they no longer keep them in paper
4 form, but somehow put them on electronically for
5 storage, is that your understanding?
6 MS. CARRIN: No, Senator. It's my
7 understanding that when there's no probable
8 cause, then those records are destroyed after --
9 I believe it's a year period of time, but never
10 made public. So only the findings of the
11 probable cause are ever made public. And I
12 think that's true in many of the professions
13 regulated by DBPR.
14 Teachers who are licensed through the
15 Department of Education when there's a
16 determination of probable cause or no probable
17 cause, their cases become public. And so, you
18 know, there's a difference across the board with
19 the various professions. And Department of
20 Health, that is another one where theirs are
21 confidential.
22 But that's an issue that Chairman Petersen
23 asked me to raise also since she thought she
24 might not be here, performance of various
25 presentation because that's something that she

1 would like for the Commission to look at and
2 we're prepared to invite DBPR to attend the
3 February meeting and testify about which
4 professions are handled in which way and why.

5 DR. BERRY: I think it's something that
6 needs to be done, and really -- after having
7 been (inaudible) I say that Florida has probably
8 the best public records law, of course. But
9 everything needs to be tweaked. And this is
10 probably just a clinical pathologic conference
11 where we're looking at the body and saying what
12 could we have done better. As far as my own
13 personal (inaudible) or whatever it is, that's
14 not (inaudible) sense of things. I'll take care
15 of that.

16 REPRESENTATIVE WEATHERFORD: Thanks,
17 Chairman. Dr. Berry, you bring up a very good
18 point today and one that I was not aware of. I
19 guess I would just suggest to the Commission, I
20 think that JoAnn already mentioned it, maybe we
21 just have DBPR come to our next meeting and see
22 if we can't get their side of the story and
23 maybe we can ask some tough questions.

24 MS. CARRIN: I'll be glad to issue the --

25 DR. BERRY: At that meeting (inaudible).

1 VICE-CHAIR CARASSAS: Any other questions?
2 Thank you, sir.
3 DR. BERRY: Thank you.
4 VICE-CHAIR CARASSAS: Next.
5 MS. CARRIN: Yes. From the Center of
6 Advancement of Human Rights, we have Dr. Mark
7 Schlakman. I hope I'm saying that correctly.
8 Dr. Mark Schlakman.
9 VICE-CHAIR CARASSAS: Is he present?
10 MS. CARRIN: Okay. Next we have Michael
11 Hargrett.
12 MR. HARGRETT: Good afternoon, everyone.
13 My name is Michael Hargrett. I'm pleased to
14 identify myself as a person who's recently had
15 his civil rights restored through the Florida
16 Clemency process. I'm here to address you on
17 behalf of myself and also as a member of
18 Florida's Rights Restoration Coalition, a
19 coalition of over 40 local, state, and national
20 organizations and individuals dedicated to
21 reform Florida's felony disenfranchisement
22 policies.
23 Thank you for this opportunity to speak to
24 you in support of three proposals; ending the
25 secrecy of clemency process by informing

1 applicants why we were denied restoration of
2 their rights, holding the clemency board
3 hearings in various cities around the state, and
4 adding information about civil rights
5 restoration to criminal background reports that
6 employees receive from the Florida Department of
7 Law Enforcement.

8 First, I'd like to tell you a little bit
9 about myself. I'm a resident of Tampa, a prime
10 supportive loving father and grandfather. I'm a
11 member of a family deeply rooted in the civil
12 rights movement. So you can imagine the impact
13 that the loss of my rights to vote had on my
14 family when I received a felony conviction in
15 1990 for a drug trafficking offense.

16 The former restoration of my civil rights
17 in March of this year is the State's recognition
18 that -- State's recognition of what I knew all
19 along, one mistake does not define a man. The
20 way I've lived my life during the years since my
21 conviction bears the strongest testimony to that
22 fact.

23 I firmly believe that imposing a life long
24 punishment for a mistake in the form of
25 depriving an individual the fundamental right to

1 vote and a sense of belonging to that
2 (inaudible) that comes from participating in the
3 Democratic process not only punishes the man but
4 also undermines the very principal of which with
5 this country is built. This is why I have
6 become a viable Florida Rights Restoration
7 coalition and use every opportunity I can to
8 speak out against Florida's felony
9 disenfranchisement policies.

10 My story is similar to the stories of other
11 people in Florida with felony convictions.
12 After I completed my sentence, I got back
13 involved in my community, found employment,
14 began supporting my family, became involved in
15 my church. I also began a long but sometimes
16 discouraging process of applying for restoration
17 of my civil rights.

18 After nearly six years before my case was
19 scheduled for a hearing, I was confirmed with a
20 final and seemingly insurmountable obstacle, I
21 was informed that the Parole Commission had
22 given me an unfavorable recommendation and
23 recommended that the Board of Executive Clemency
24 not restore my civil rights.

25 If I had at least known the reason of the

1 unfavorable recommendation, this hurdle would
2 not have been -- seemed so daunting. I would
3 have felt prepared to refute any negative
4 statement that stood between me and the
5 restoration of my rights.

6 However, when I called the Office of
7 Executive Clemency and asked why I received an
8 unfavorable recommendation, I was told that they
9 could not tell me the reason for this
10 recommendation and could not even tell me what
11 information was in my file that might have led
12 the Parole Commission to reach this negative
13 conclusion.

14 I was one of the fortunate few. I received
15 help and guidance from the staff at the ACLU of
16 Florida, a member of the FFRC. They reviewed my
17 history with me and together we speculated and
18 tried to make an educated guess about the
19 reasons for the negative recommendation.

20 I eventually decided on how to address
21 these unknowns during the five minutes given to
22 me to speak to the Board of Executive Clemency.
23 At my hearing, I tried to address each of the
24 issues that I felt could be used to deny my
25 request.

1 My mother was there to support me and spoke
2 on my behalf. At the hearing, I even asked the
3 Board to tell me why I had received an
4 unfavorable recommendation because I wanted to
5 respond to any questions or concerns that the
6 Board of Executive Clemency may have had.

7 I was told in no uncertain terms that they
8 would not give me that information. I can't
9 describe the feeling of futility I had at that
10 moment.

11 So much was at stake and the power to
12 restore my very right rested in the hands of
13 four members of the clemency board. Those
14 elected officials were about to make a decision
15 that would have tremendous impact on my future,
16 but I didn't even know the basis for their
17 decision. I also did not feel that they had a
18 full, complete, and adequate description of my
19 circumstances.

20 My story has a positive ending. My civil
21 rights were restored and an initiative of
22 Commissioner Bassel (ph), a \$100,000 fine that I
23 had no means of satisfying was cancelled. So I
24 stand here before you on behalf of thousands of
25 other individuals who will find themselves in

1 similar situations. Yet most of these people
2 will likely not have a good outcome as mine
3 because they would not have the benefit of
4 getting assistance from people and organizations
5 familiar with the rights restoration process.

6 The secrecy surrounding the clemency
7 investigation makes it impossible for applicants
8 to feel they have received a full and fair
9 hearing. Some of the secrecy that I confronted
10 has been remediated by Governor Crist's decision
11 to make clemency investigation files available
12 to applicants. I thank this commission for
13 prompting Governor Crist's actions.

14 However, when an applicant's request for
15 restoration of rights is denied by the clemency
16 board, there is no current requirement that the
17 clemency board give the applicant the reason for
18 the denial.

19 How could an applicant feel the clemency
20 board has made a fair and fully informed
21 decision when they have no idea what the
22 decision was based on. Each applicant who was
23 denied restoration of his or her civil rights
24 should be told the reason for the denial.

25 Concrete and detailed information of reason

1 for denial by the clemency board I especially
2 applaud because the decision making process is
3 highly discretionary and consequences are so
4 great.

5 I also need to speak on the issue of
6 location of clemency board meetings, as I have
7 mentioned to you. I feel my time is about to
8 end, but basically the rest of my statement I
9 could provide to you, but also I feel assured
10 that you should have the clemency board hearings
11 at different locations in the state because it's
12 a hardship to travel from Tampa to Tallahassee
13 or Miami to Tallahassee to meet this.

14 If I hadn't had the support of family and
15 friends to provide financial support for me to
16 get there, I would have never been there for the
17 hearing. And if I wasn't there personally for
18 the hearing, nobody would have took up my cause,
19 so I recommend that they amend that. Thank you
20 very much.

21 VICE-CHAIR CARASSAS: Thank you very much.
22 Just stay right there. I think we might have
23 some questions. I think you did say that the
24 governor's recent actions would have helped you
25 along the way a little bit more; is that

1 correct?

2 MR. HARGRETT: Yes, it would have. It
3 would have helped me tremendously if I had that
4 ability access to me. And another point, while
5 I've got my rights restored, there's no
6 reference in a criminal background
7 investigation.

8 So when I submit my resume to you and you
9 look at it, and you see that I was an ex-felon
10 and you do a background investigation and see I
11 was an ex-felon, you decide you don't want to
12 even interview me. Why waste the time?

13 Well, if it was put in my criminal
14 background that rights were restored, then you
15 might give me an opportunity to come interview
16 with you because you said the State believed in
17 him, they gave him his rights back, he did his
18 sentence, let's interview him, but they don't
19 show that. As far as anybody is concerned, I'm
20 still an ex-felon.

21 And then when do I come to an employer and
22 try to show proof that I've got my rights
23 restored, all I've got is this piece of paper,
24 something I could have made up on the computer.
25 So you have to take my word that this is an

1 official document, and this is all I got. This
2 is my actual certificate of my rights restored.
3 It's three pieces of paper that I could have
4 made on a computer. I could have printed out.
5 So you already look at me as a criminal.
6 Now you say, what's -- and you can print this
7 off this his self to say that he got his rights
8 restored. So I think there should be something
9 in the record where an employer or a potential
10 employer can identify that I had my rights
11 restored to actually know I am back in society
12 once again. I think it would behoove the
13 government for me to be employed. I think you
14 guys rather tax me than me tax you because if I
15 don't find a job, you guys are going to have to
16 take care of me.

17 VICE-CHAIR CARASSAS: Good point.
18 Questions, I'm sure we have questions for this
19 gentleman.

20 MS. LEE: Well, I think Mr. Hargrett makes
21 a very good point about tying those records
22 together. It's really critical that that
23 happens. I think you've made some excellent
24 points here, and too bad that the action of the
25 governor's wasn't in place at the time you were

1 going through that clemency process. But I
2 think there has been a significant improvement
3 which you've certainly given this Board and this
4 Commission some ideas of how to better improve
5 it, and I thank you for that.
6 MR. HARGRETT: Thank you.
7 VICE-CHAIR CARASSAS: Any questions for
8 this gentlemen? Anything to add on this issue?
9 MS. CARRIN: I will add that we have a
10 presentation tomorrow from the full commission
11 on the clemency process that will I think be
12 helpful in educating all of us on necessary
13 process and how it has worked in the past and
14 what it will be in the future.
15 MR. HARGRETT: Thank you.
16 VICE-CHAIR CARASSAS: Thank you for your
17 time. Next.
18 SENATOR DOCKERY: Can we make a couple of
19 comments?
20 VICE-CHAIR CARASSAS: Yes, of course. Let
21 me, before you do that, let me just say that we
22 have a Commissioner D'Alemberte on the phone.
23 That was the beeping sound that you heard. I
24 think we've got him here. Can he respond or is
25 it just listening?

1 MS. CARRIN: He should be able to respond.
2 VICE-CHAIR CARASSAS: Commissioner, can you
3 hear me? This is Chairman Carassas.
4 COMMISSIONER D'ALEMBERTE: I can hear you
5 quite well, thanks.
6 VICE-CHAIR CARASSAS: Okay. Thank you.
7 SENATOR DOCKERY: Okay. Just a few
8 comments. I think the gentleman brought up
9 several issues. First I'd like to say that as a
10 sitting senator, I'm presently working on an
11 issue right now on an individual who is
12 currently in prison who is looking for some
13 help, not necessarily getting out, but getting
14 access to some records.
15 And so the issue you bring up about secrecy
16 is very well taken by this member of the
17 commission anyway, and I will tell you that
18 we've been -- my office has been trying to get
19 some information for about three weeks and we
20 still don't have that information. So I am very
21 concerned. I think individuals should have the
22 right to obtain information about what's going
23 to happen, what could potentially, you know,
24 happen to them in the future.
25 You mentioned opening up all of the

1 records. I would -- I would voice one caution
2 on that. As chairman of the Criminal Justice
3 Committee, a lot of times we have to balance the
4 rights of the individuals who were in prison
5 with the rights of the victims. And if you open
6 up a lot of the clemency hearings on violent
7 crimes, which yours was not, but in violent
8 crimes a lot of times those individuals who were
9 the victims don't want to come back up and
10 relive what happened to them and also don't want
11 to be the victims of intimidation by coming
12 forward and saying things on the record.

13 So I think that there are improvements to
14 be made to the process, but that we have to also
15 keep in mind the rights of the victims in
16 anything we do.

17 And your -- what were some of your other
18 issues? The issue of moving the clemency
19 meetings around is very well taken. If -- if
20 your outcome of that hearing is dependent on
21 character witnesses or whatever, your chances
22 are greatly diminished if it's impossible for
23 those individuals to make it a long distance.

24 So I don't know if that takes any kind of
25 official action or just maybe some -- some

1 conversations with people to see if that can be
2 done. Certainly we have state buildings in
3 every county in the state, so a meeting location
4 should not be the issue. It's just a matter of
5 paying for the travel expenses I would guess of
6 the clemency board members.

7 So I appreciate you coming forward. We
8 appreciated hearing your personal story. Thank
9 you for sharing that with us. And I think that
10 you have some -- some good recommendations in
11 terms of opening some of the process up, but I
12 do want that one caveat that we do have to weigh
13 the victim's rights in the equation as well.

14 VICE-CHAIR CARASSAS: Any other comments on
15 this issue? If not, we'll go to the next
16 speaker.

17 MS. CARRIN: We have Mr. Matt Reed.

18 MR. REED: Hi. Thanks for hosting this
19 today. My name is Matt Reed. I'm the assistant
20 managing editor of Florida Today and
21 FloridaToday.com. That is the daily newspaper
22 and website in Brevard County. And I -- my
23 specialty is that I oversee the public service
24 and investigative reporting for our news
25 organization.

1 You're going to hear from some other
2 members of the media tomorrow, I believe, on
3 some other issues that we encounter. And I've
4 been asked today to emphasize the issue of cost
5 and whether or not that has been impacting the
6 openness of government as we encounter it in
7 serving the public.

8 In my experience, too many cities, school
9 districts, universities, and state agencies are
10 creating their own de facto public records laws
11 by exploiting a clause in Statute 119. And
12 therefore making up their own rules controlling
13 which information will be accessible easily to
14 the public and which would really remain
15 privileged.

16 They do that by setting their own widely
17 divergent costs, often arbitrary and
18 prohibitive, for gathering, reviewing,
19 downloading, and copying records. It happens
20 even in situations where computers are doing
21 most of the work for free.

22 In some cases we found separate offices
23 within the same government agencies are charging
24 different amounts and citing different
25 circumstances for the same record, raising

1 doubts about which cost is reasonable and fair.
2 And too often the price alone prevents the
3 sharing of vital watch dog information.

4 We're talking about policy here, so here's
5 the rug as I see it. The government under 119
6 is required to keep and store records it
7 produces on behalf of taxpayers and is required
8 to share that information somehow. It is not
9 required to be organized and prepared enough to
10 produce that information for taxpayers in a fast
11 and consistent way.

12 In my experience, just about any
13 significant public records request can be
14 considered extensive under 119 and deserving of
15 what they call a special service charge.
16 Consequently, citizens and the press must pay to
17 set up temporary staffs of \$25 an hour clerks
18 and \$75 an hour computer programmers just to
19 process our own requests for public information.

20 That's the general. I want to give you
21 three quick examples. If you don't cut me off,
22 I'll cut myself off. This past summer, Florida
23 Today's Melbourne city hall reporter, Rick Neil
24 asked to review the city managers e-mails for
25 the first half of 2007.

1 Now, a handful of other cities in Brevard
2 County anticipate these kinds of requests and
3 really had no problems in complying with that.
4 Rick didn't want to harass the city manager. He
5 wanted to document how it was that the city
6 manager had coordinated a public relations
7 campaign with other local government officials
8 in opposition of tax reform proposals that had
9 been put forth by the legislature.

10 We were told that the copies of the e-mails
11 would cost us more than a thousand dollars to
12 produce. That was because we were going to have
13 to pay for two clerks to read through every
14 single e-mail and determine which ones of those
15 were going to be exempt from the Sunshine Laws.

16 We were told that the cities IT department
17 doesn't sort their e-mails in any way that would
18 enable the breaking out of those things for us
19 to get, even though we know other cities have
20 done that.

21 A thousand dollars. Now, to the Ganette
22 company, that's not a fortune. But how many
23 Melbourne mechanics and school teachers and
24 retirees and nurses can afford more than a
25 week's pay to obtain records and just see

1 information that they presumably have a right
2 to?

3 It's not just the provincial cities and
4 disorganized towns that do this, big
5 sophisticated agencies do it, too. And
6 sometimes they will to beride the arbitrariness
7 of these fees.

8 Last year, my team produced a special
9 report on university professors influence on
10 public policy. Important policies as diverse as
11 beach restoration, school impact fees, gun
12 control laws, billboards, and health of U.S.
13 space programs.

14 Our report relied on simple documents that
15 every state university faculty member is
16 required to file. It's a one-page form any time
17 they have any kind of outside consulting work or
18 need to disclose a conflict of interest.

19 We knew it was a big request. But it's the
20 same form at every university, and state policy
21 requires that these forms be kept in HR files at
22 the universities.

23 Yet obtaining these records took more than
24 two years, dozens of public records requests,
25 and thousand of dollars. I just want to give

1 you an example of how different the responses
2 were.

3 Commissioner Downbert will be happy to hear
4 that Florida State University was eager to
5 comply. And within about six weeks provided a
6 box about this big full of every professor's
7 records and charged us about \$675 for that.
8 That seemed fair. We sort of calculated ahead
9 of time that's about how much it would cost.

10 University of Central Florida was
11 immediately concerned, they told us, about the
12 size of the request and wanted to charge more
13 than \$6,000. It dropped the price when we
14 narrowed our request to half of UCF's schools
15 and colleges. Remarkably, each UCF department,
16 whether it was business, education, health, and
17 public policy when we looked at the breakdown
18 had its own price for the same record in the
19 same school. Sometimes it ranged from .25 per
20 page to nearly \$2 per page with some charging
21 for staff time, some not.

22 After weeks of negotiations between our
23 attorneys, we managed settle on the cost and we
24 were able to get the packet of records for
25 \$3,700, which were fewer documents, but for many

1 times the cost we had received them at Florida
2 State University.
3 Finally, the University of Florida, whose
4 HR department had just told us flat out this is
5 too big of a request. We don't want it do it.
6 Failed for almost two years to respond to
7 several requests under 119 for the same records.
8 We eventually coming up on deadline just did an
9 end around. I wrote to the deans of individual
10 colleges and ultimately got half the records I
11 was seeking for pretty much the cost of postage.
12 All of this raises two questions, which of
13 those costs were fair and reasonable, and how
14 open was our state university system under the
15 circumstances? Now, considering my team
16 specializes in working with documents and data
17 and has about 15 years each of experience in
18 public affairs reporting, imagine an ordinary
19 taxpayer having, your a low budget blogger or
20 somebody, trying to negotiate each one of these
21 universities various moods and cost structures.
22 It would be pretty tough.
23 In June one of our education reporters,
24 Kate Brennan (ph), contacted the Florida
25 Department of Management Services seeking what

1 we would consider basic beat reporting
2 information about a controversial state program
3 that allows retired teachers, police officers,
4 and other public employees to return to work for
5 short-staffed agencies for much bigger pay than
6 they had received before. Essentially the way
7 it works is they collect retirement benefits
8 twice.

9 VICE-CHAIR CARASSAS: Let me interrupt you
10 for a moment. I'm sorry.

11 MR. REED: Sure.

12 VICE-CHAIR CARASSAS: You're out of time,
13 but I think all of the commissioners want to
14 hear the rest of this story. It's important to
15 see how the laws impact the ability to get that
16 information, so we'll give you some more time
17 ting ahead and finish up.

18 MR. REED: Okay. Thank you. This will
19 just take one minute probably. She wanted to
20 know how many people statewide were enrolled in
21 the program. She wanted to know how many people
22 in Brevard County were enrolled in the program.
23 She wanted to know the number of people who were
24 enrolled in the program, but were scheduled to
25 quit by June of this year, and a little trickier

1 question but still relevant, she wanted to know
2 how many local participants had quit the program
3 but were now on record as working for another
4 local government agency, so we could see how
5 they fit in to the context of public retirement.

6 This is the kind of information that we
7 would have at one time expected to get a phone
8 call back or e-mail saying here's your
9 information. Instead, we got a cost estimate
10 back that it would cost \$2,500 for the state
11 agency to answer our questions.

12 At the communication director's suggestion,
13 Kate narrowed her request just to the Brevard
14 County questions. The cost estimate went up by
15 \$500 to \$3,047.68. Management services, we
16 figured out, was planning to charge us between
17 \$25.82 and \$78.92 per hour to process this
18 public information request.

19 We dropped the request due to the high cost
20 and to this day nobody knows the impact of this
21 public retirement program on local government or
22 the state's budget.

23 Finally, a Tampa reporter, just quick to
24 me, if I just leave and miss words, that Florida
25 is one of the most over documented under curious

1 states we have. In other words, our government
2 demands vast amounts of data and documentation
3 from its taxpayers, but it's information that
4 they don't seem to ever be prepared to analyze
5 and release in an affordable and quick way.

6 I would like to suggest in addition to
7 keeping that information, Florida government
8 should be required to anticipate requests and be
9 prepared to share it quickly and cheaply. And
10 at the same time I recommend tightening up and
11 refining the language in that section of Statute
12 119.07, subsection 4, section D that allows for
13 that special charge and defines -- or doesn't
14 define extensive circumstances. Thank you.

15 VICE-CHAIR CARASSAS: Thank you. Questions
16 for this speaker. I did want to hear the rest
17 of that story because I think most of -- most
18 citizens get their information on what you're
19 talking about through the newspaper in one form
20 or another. It's always interesting to know how
21 you arrive at that information.

22 So if you have a hard time getting it,
23 you're right, I think it would be even more
24 difficult for a citizen to get it who doesn't
25 have the financial ability to pay for all that

1 time and effort. That's why I think we all
2 wanted to hear the rest of that story. I think
3 they're very informative to the Commission.

4 MR. REED: I think some local governments
5 look at us as being, you know, deep pocketed
6 news organizations, but the reality is that
7 people who are on the front lines doing this
8 reporting operate on a very tight budget and
9 don't have the authority to go ahead and spend
10 thousands of dollars on records to get their
11 jobs done.

12 VICE-CHAIR CARASSAS: I'd like to ask you
13 one question. How much would you estimate you
14 spend a year on public records requests?

15 MR. REED: That would be hard to say. I
16 would say from my group alone, I probably budget
17 upwards of \$10,000 for everything and that would
18 include some smaller requests that we don't
19 anticipate as well as some of the big ones that
20 we do, like I mentioned the university
21 professors project and that's about what we
22 spend.

23 VICE-CHAIR CARASSAS: For all levels of
24 government, \$10,000 for all your public records
25 requests for one newspaper, is that a fair

1 statement?

2 MR. REED: I would say it's probably more
3 than that in that there are many that come up
4 that we don't anticipate and there are some
5 that -- well, shoot, a police beat reporter may
6 wind up expensing something on their credit
7 card. It's just hard to track that. I'm not
8 sure that it's a major budget line, that comes
9 into different departments, but I would say that
10 it's in the tens of thousands of dollars.

11 SENATOR DOCKERY: Do you have a specific
12 recommendation on how to deal with that? You
13 basically said have the -- have the agencies be
14 prepared ahead of time to anticipate what those
15 requests were and to have information in a form
16 that could be given out, but logistically how do
17 you do that? Do you create some kind of an
18 office within each government entity that does
19 nothing but programs for this kind of thing? I
20 mean, just can you give us some solutions?

21 MR. REED: Yeah. You know, I think
22 training is a big one. I think certification is
23 something that could go a long way. When I look
24 at the statute, I really zero in on that one
25 section that leaves it wide open to them saying

1 this is an extraordinary request and they can
2 charge pretty much what they want.
3 And usually what's at the root of that are
4 staffs that are not familiar with their own
5 computer systems. Much of the information that
6 is kept there in computer number systems that,
7 I'll be honest, we get out of paying a lot of
8 bills because we put our computer database
9 expert in touch with their computer database
10 expert and low and behold it really takes five
11 minutes, not five days, to do.
12 I think that they just have too much
13 latitude to say up front that sounds like a
14 tremendous amount of information, we're going to
15 have to charge you, you know, four days worth of
16 staff time for that.
17 I think that if we could narrow the statute
18 to define what's reasonable, and I think that it
19 if -- it's hard, I'm not -- I don't write well
20 so it's hard for me to say any kind of specific
21 language, but I believe that if there was more
22 clarity for local government on the form in
23 which they should keep their electronic data,
24 e-mails, coded to in terms of who it belongs to
25 and whether or not it should be exempt and what

1 kind of information should be easily
2 downloadable.

3 One of the things we run into very often is
4 we ask for information in a database and someone
5 will say you can't have it because the database
6 includes Social Security numbers. Well, I don't
7 want your Social Security numbers, and I know
8 from having worked with databases that all you
9 have to do is select that column and hit delete
10 in the copy and that takes about five minutes.
11 So that database should be available to the
12 public.

13 VICE-CHAIR CARASSAS: Anything else?

14 REPRESENTATIVE WEATHERFORD: Thank you,
15 Mr. Chairman. I think you bring up some great
16 points today. I think that the way the statute
17 is written now, it's assuming that everyone is
18 going to use common sense and rationale. I
19 think sometimes in life that doesn't always
20 happen. And maybe we need to look at the
21 statute at the legislative level and see if it
22 does need to be tightened down.

23 It just seems to me that if someone is
24 charging you in the tens of thousands of dollars
25 or \$8,000, they are trying to create a

1 cumbersome way for you to obtain that
2 information. And commonsense you just talked
3 about, if the excuse is that Social Security
4 numbers are attached to them, well, let's take
5 them off, or if it's in a complicated format,
6 well, let's get the IT people together to figure
7 out how we can do this.

8 I think that most of the issues you have on
9 here are issues that can be dealt with right now
10 the way statute is written, it's just that it's
11 not being implemented right. So maybe there is
12 a way we can look at the statute and tighten it
13 and give them a little bit more direction. I'm
14 always hesitant to be too specific in a statute,
15 but at the same time, you know, it's obvious
16 just from hearing your testimony today that some
17 people are not being good players.

18 MR. BAILEY: Mr. Chairman?

19 VICE-CHAIR CARASSAS: Yes, sir.

20 MR. BAILEY: I think you made a key point
21 as you were summing up is that we need to be
22 able to anticipate some these requests that the
23 press or the public may be making. It can be
24 difficult. I can give you a very contemporary
25 example. If you have seen today's Orlando

1 Sentinel, there's an article in there about
2 sexual offenders and sexual predators that may
3 be in your house for service jobs. Well,
4 sometime back the legislature made the decision
5 that in FDLE's sexual offender database you
6 would have place of employment.

7 But a few days ago this reporter had asked
8 for not just that, but he or she wanted it
9 broken down to particular geographic areas and
10 subgeographic areas and also just certain
11 industries, if they were swimming pool
12 maintenance people, if they were carpet
13 cleaners, pest control, things that would bring
14 these people into your house.

15 And although the information was there
16 sitting, if you will, free on a computer, it
17 took us 72 hours of programming time to be able
18 to slice and dice that information to get her
19 what she wanted.

20 So there was no way when that information
21 was first gathered to anticipate that that
22 request would come in. People in your industry
23 are very creative on the kinds of things they
24 want. It does take some program time. I don't
25 know -- I know we charge reasonable amounts for

1 that kind of information. But we didn't
2 anticipate that kind of request coming in when
3 we started gathering the working addresses of
4 sexual predators.
5 MR. REED: I would have to concede that one
6 of the source -- one point of confusion among a
7 lot of news reporters is that when you do ask
8 for something in a form that it doesn't exist
9 that you are setting yourself up to pay for the
10 labor that goes into it.
11 One of the things that my group typically
12 does is just says I'll take the whole database,
13 we'll sort it ourselves, which usually saves us
14 quite a lot of money. But you're right, that is
15 something that does occur and usually that
16 confusion or that issue is resolved just by
17 simply saying this is the form the information
18 is in, if you want me to change it or break
19 something out, it's going to cost more.
20 MR. BAILEY: And in this case it would have
21 been much easier on us to have just turned over
22 some disks with the whole database on it and
23 we're able to do that. But it was, I think,
24 easier for the press for us to go ahead and
25 slice and dice it.

1 VICE-CHAIR CARASSAS: Yes.
2 MS. LEE: Yes, thank you. As a long time
3 government attorney, I feel like offering
4 explanations for some of the things that you've
5 experienced. But, you know, one of the things
6 that I want to tell you and you probably know
7 this is that there are laws regarding the fees
8 that you can charge for public records. There
9 are laws regarding the records that should be
10 open to the public. There are, you know, there
11 are opinions as to what's a reasonable time
12 within which the record should be produced, all
13 of that stuff is covered by the law.

14 But what is not covered is the training.
15 And I think you hit upon that, is that the
16 employees really -- that needs to get down to
17 the employees somehow. The employee needs to
18 understand and that needs to be a foundation in
19 every public entity to train their employees on
20 the Sunshine Law in public records because I
21 think that's the Bible that we work from to
22 deliver our services to the public. I think
23 it's really important to that.

24 I think that's where most governments have
25 failed is really making sure that every employee

1 whether it's the manager or the line employee at
2 the front desk in the building department is
3 experienced and has a working knowledge of what
4 they can produce when the public walks up to the
5 counter.

6 Regarding the fees and the differences, and
7 let me cite an example for you. I use the
8 building department because as you probably
9 know, they format many different kinds of
10 information for sale to the building public, to
11 the construction workers or the builders or
12 developers.

13 So, you know, for \$200 you can come in and
14 get a list of everybody who does something or
15 has a type of back flow device or something like
16 that, and they will sell you that list for \$200.
17 But then you have another builder who will come
18 in and do a public records request for that
19 information and want to get it for \$10.

20 So the organization is really put in to
21 quite a tizzy when that kind of stuff happens,
22 but whenever a public records request is made, I
23 think you have to look at it under 119 and just
24 not have any question about it.

25 But I think it's all a matter of training

1 the employee from top to bottom in an
2 organization. And welcome, Madam Chair.
3 VICE-CHAIR CARASSAS: I gladly turn over
4 the gavel to you, Madam Chair.
5 CHAIRPERSON PETERSEN: Thank you very much
6 since I have no clue what we're doing right this
7 minute.
8 VICE-CHAIR CARASSAS: We're just finishing
9 up with Mr. Reed. One last thing, I think JoAnn
10 wanted to say something about the point of
11 contact for state agencies, which was also
12 established recently under Governor Crist.
13 JoAnn?
14 MS. CARRIN: Yes. Governor Crist created
15 the Office of Open Government, which is a
16 central point for requesting public records from
17 the executive office of the Governor, and also
18 gave that office the authority or the
19 responsibility to work with the individual state
20 agencies on having a point of contact for each
21 of those agencies under the Governor's purview.
22 We reached out to other agencies, and we
23 have a total of 36 agencies now with
24 individuals, two individuals each, that are
25 named on our internet site as points of contact.

1 We have then added the state university system.
2 And then just very recently each of the agencies
3 posted their own government, open government
4 websites.
5 Now, saying that, I've also heard many
6 callers over the last eight, nine months who
7 tell similar stories to what you have told us
8 about the implementation of the fees and the
9 costs and as it's worded in 119.
10 I've had a local government that it's
11 considered 30 minutes as extensive use of time.
12 And so, you know, I think that's something the
13 Commission has talked about in the past as to
14 looking at this issue to see, you know, how it
15 can be more standardized. And I appreciate what
16 the Senator asked as far as solutions that you
17 have to that, and I agree with Commissioner Lee
18 that training is good, also. Thank you.
19 CHAIRPERSON PETERSEN: I will say that the
20 First Amendment Foundation has been researching
21 this issue to see how other states are -- how
22 they deal with the fees for access to public
23 records. We'll have -- we've compiled some
24 information but we will get all of that
25 information pulled together for the

1 commissioners hopefully by February. We've got
2 a lot of things we're working on right now for
3 the commission, and that's one of them. Any
4 other questions? Thank you very much?

5 VICE-CHAIR CARASSAS: Thank you.

6 CHAIRPERSON PETERSEN: I do apologize for
7 being late. I flew in from New Mexico where it
8 was eight degrees and there was a foot of snow
9 on the ground. So next?

10 MS. CARRIN: Next we have Jewel Parham.

11 MS. PARHAM: Good afternoon. My name is
12 Jewel Parham. I'm a member of Brothers of the
13 Same Mind. It's a nonprofit organization. It
14 helps ex-felons find jobs. We create jobs for
15 them. We have started like 20 businesses over
16 the life span of the organization.

17 And I'm here to really talk about the
18 clemency and us dealing with how they are
19 perceived when they're trying to get information
20 on why they was not been able to get their
21 rights restored.

22 And I just feel that -- well, we feel that
23 there needs to be a process available to them to
24 find out the reasons why their rights are not
25 being restored so they can find ways of

1 rectifying the problem, and also any fees that
2 had occurred, maybe doing the act of whatever
3 and they was able to, you know, like -- was able
4 to -- excuse me -- they was able to -- I'm
5 getting lost here. Just give me one minute,
6 please.

7 I would say that they feel that if they
8 have that -- that waiver, the amount waived,
9 that they would be able to get their rights
10 restored.

11 Now, it's another issue where as when they
12 go to look for a job and they did get their
13 rights restored, like the gentleman prior, he
14 said that he gave them this information, but it
15 doesn't state when they do the background check
16 that this person had their rights restored. So
17 guess what, they don't get the job.

18 And we have a hard time trying to place
19 people who do have a record, a job because they
20 not able to show that they have their clemency
21 restored. So that's all I have to say. Any
22 questions?

23 CHAIRPERSON PETERSEN: Senator?

24 SENATOR DOCKERY: Thank you. You kind of
25 lost me on the waiver. What waiver are you

1 talking about?
2 MS. PARHAM: Like when they have
3 restitution -- thank you -- the restitution
4 part, now when they have that part adjoined with
5 their sentencing and they did their time and
6 everything and they still have this restitution
7 placed on them, then they're not able to pay
8 that restitution, they not able to get their
9 rights restored. Some of that is part of, you
10 know, so that's what I was getting at.
11 SENATOR DOCKERY: Okay. So what you're
12 saying is if they are in prison for some period
13 of time, they're not earning the money to pay
14 the restitution, and so then they get out, it's
15 hard to get a job to earn the money to pay the
16 restitution, so they may have done everything
17 other than pay the restitution and they're not
18 eligible to have their rights restored?
19 MS. PARHAM: Yes. That as well. But they
20 also need to know why they're not being, you
21 know, the information given to them, why they
22 not being -- if they was denied or they -- they
23 need to state that.
24 SENATOR DOCKERY: So when you go for a
25 clemency hearing and you're -- it's denied, all

1 they tell you is denied?
2 MS. PARHAM: Denied, yes.
3 SENATOR DOCKERY: Nothing -- they don't
4 even say because of restitution or --
5 MS. PARHAM: No.
6 AUDIENCE MEMBER: Right.
7 CHAIRPERSON PETERSEN: And how has that
8 changed since the Governor's letter has come
9 out, the order allowing access by the person
10 going before the clemency board allowing access
11 to the clemency board report it has to change?
12 MS. PARHAM: No.
13 CHAIRPERSON PETERSEN: Am I confusing the
14 process?
15 MS. CARRIN: The final decision that the
16 board makes at the hearing is a -- just either a
17 denial or granted. And this will be explained
18 in more detail tomorrow when we have the full
19 commission do their presentation.
20 What the Governor did was allow the
21 applicants to have a copy of the recommendation
22 that has been compiled and the investigation has
23 been compiled prior to the hearing. And I
24 believe what we're talking about here is the
25 actual decision, that when they make the actual

1 decision there are not reasons stated.
2 CHAIRPERSON PETERSEN: So it's a decision
3 versus the recommendation?
4 MS. CARRIN: Correct. Now, it's my
5 understanding if there is restitution that is
6 something that does have to be paid prior to
7 clemency, but again, I would defer to our
8 experts who are here that will be giving us a
9 full presentation tomorrow on how the process
10 works.
11 CHAIRPERSON PETERSEN: And as I understand
12 it, you're talking about two problems. One is
13 the cost of restitution and the problem with
14 paying restitution.
15 MS. PARHAM: Right.
16 CHAIRPERSON PETERSEN: And then second is
17 when they go and apply for a job and they get a
18 criminal background check that the fact that
19 their rights have been restored or that they've
20 gotten clemency is not reflected?
21 MS. PARHAM: Right.
22 CHAIRPERSON PETERSEN: Two different
23 problems, am I correct?
24 MS. PARHAM: Yes. Yes.
25 CHAIRPERSON PETERSEN: Okay.

1 MS. PARHAM: Thank you.

2 MS. CARRIN: Next, we have Mr. Elton
3 Edwards.

4 MR. EDWARDS: Good afternoon, Madam Chair
5 and members, commission members. I have to find
6 my eyes here. My name is Elton Edwards. I'm
7 here to address the Commission on behalf of the
8 American Civil Liberties Union, the ACLU of
9 Florida. The ACU of Florida has diligently
10 worked for several years to remove the state
11 constitution ban on the civil rights imposed on
12 persons who have been convicted of felonies.

13 And for at least the last two elections, we
14 have been diligently trying to assist people in
15 having their rights restored and to implement a
16 process of automatic restoration to make
17 restoration throughout the state automatic.

18 And until this constitution amendment
19 happens, we will continue to diligently promote
20 some form of automatic restoration and reform in
21 the constitution to where when a person finishes
22 their prison sentence, they'll have some form of
23 automatic restoration.

24 And we, you know, we applaud this
25 commission on prompting the Governor in his

1 recent actions to open up the records from which
2 regards to allowing an applicant to have those
3 informations, to have some information with
4 regards to a denial from the parole commission
5 or the other agencies.

6 However, that in itself is not the end
7 because there are still some informations that
8 the person may not have as one of the members
9 said with regards to victims. And we agree that
10 indeed, certain information should be protected,
11 but overall, the individuals should know -- have
12 some knowledge as to what was the basis of
13 denial other than just the two words denied or
14 granted.

15 With regards to the aspect of the clemency
16 hearings before that, the clemency hearings will
17 better serve the people if the people are able
18 to attend those hearings because as of now
19 Tallahassee is the only place that the hearings
20 occur in.

21 We have applicants as far as Miami, Tampa,
22 Jacksonville, and all of these different
23 locations. And a lot of people don't have the
24 financial means to frequent the various
25 hearings. And by the hearings being held in one

1 designated area, it makes it difficult because
2 as Mr. Hargrett alluded to, had he not had the
3 support of family and friends who had a
4 financial means, he would not have been able to
5 make it to the hearing.

6 And then we have, you know, four -- if we
7 can pick four or five cities in satellite and
8 have those hearings that it would be better
9 serve the public in that people will have access
10 to the people who make these decisions, and they
11 will be able to come forward and tell their
12 stories to make the necessary impact and put a
13 face to the situation.

14 Because a lot of times at the hearing, by
15 the person not being able to be there, you know,
16 some documents may be rubber stamped because
17 somebody has to go or whatever, something may
18 not be carried out all of the way but if that --
19 if you're in a decision making situation and the
20 person is there and you can see, you can see the
21 remorse, you can see the regret, and you can see
22 that this person has moved forward and is trying
23 do something positive, that may make a
24 difference as to whether or not you just rubber
25 stamp it or just say, well, no one is here,

1 next.

2 But that it is imperative that this be
3 considered and that as a part of the open
4 government movement in the state of Florida that
5 people be allowed to, you know, attend some form
6 of the meetings and the meetings be localized to
7 where they wouldn't have to incur that added
8 financial expense and expose themselves to the
9 harm and danger of traveling because you know
10 our expressways are not, you know, as safe as we
11 would like them to be, but to travel and then
12 especially if you're flying. There's only one
13 way to fly in, you know, one airport into
14 Tallahassee and it costs a lot.

15 But our thing is to make it more available
16 for the people to attend these meetings and for
17 them to have active participation rather than
18 just their applications just being heard in
19 their absence.

20 And we would like to, as I said, we will
21 continue this struggle and continue the fight to
22 help all of Florida citizens who have had felony
23 convictions to, you know, reach a level to where
24 we as Floridians will have some form of
25 automatic restoration so at the end of that

1 sentence, that person can achieve the finality
2 of justice and actually be the productive person
3 that he or she is capable of being. And I see
4 my you time has run out. Are there any
5 questions?

6 CHAIRPERSON PETERSEN: Any questions for
7 Mr. Edwards? Senator?

8 SENATOR DOCKERY: I guess my question since
9 we've now heard two or three, three or four
10 speakers on this issue is in the sharing of
11 information on the clemency hearing itself,
12 optimally what information is it that you were
13 seeking? Is it everything that goes into the
14 hearing including the recommendation, the
15 testimony, and the outcome or is the most
16 important piece of that the sharing of the
17 decision itself?

18 MR. EDWARDS: Well, okay. It's all of
19 those. Because firstly, when the Parole Board
20 makes a recommendation, the applicant may not be
21 privy to that investigation because a document
22 is sent to a localized regional office and a
23 interview is taken place.

24 That person leaves that office with that
25 parole field examiner, he or she doesn't know

1 specifically the exact contents of that report.
2 Okay. Because he could have been -- some
3 information could have been missed with regards
4 to how the person is really doing.
5 And then that document is forwarded back to
6 Tallahassee. Then another group of people
7 decide on the final recommendation. Then it is
8 forwarded to the Governor.
9 But at the same time, the person who
10 actually the documentation is actually about has
11 no knowledge of what the contents of it. So it
12 is a possibility of they could shine a better
13 light on their situation to bring forth a better
14 understanding, they don't have it because they
15 are lacking the information to say, well, hey,
16 this is not true, this is not correct, and if
17 you check it against these facts or these
18 situations you will see that it's not everything
19 that you see there.
20 And so absent their ability to know what's
21 the basis of these recommendations, the person
22 is unable to go before the Governor or go before
23 the body and says, you know, here I am, okay.
24 You have these questions, okay. I can answer
25 these questions because I had -- before I got

1 here, you know, I had some understanding of it
2 and this is what you were concerned about with
3 regards to my being a risk to this community or
4 not being rehabilitated or not being a
5 productive person.

6 CHAIRPERSON PETERSEN: If I could
7 interject. I think that that has changed since
8 the Governor's action, according to the letter
9 that is in your -- it's under Tab 12, each
10 applicant scheduled to appear before the
11 clemency board will get their case analysis
12 report prepared by the Parole Commission. And
13 that comes, JoAnn tells me, when the date is set
14 for the hearing. So there has been some
15 change --

16 MR. EDWARDS: We acknowledge that through
17 the prompting and the review of this commission
18 that those actions are being implemented and
19 they're still to be seen the final results,
20 because, you know, it's only been since April
21 and there are still people. But we still
22 have -- you know, the process in and of itself
23 still has to be addressed by the Governor and
24 the citizens of the state.

25 CHAIRPERSON PETERSEN: Does anybody else

1 have any questions for Mr. Edwards? Thank you
2 very -- Sandy, did you have a question?
3 COMMISSIONER D'ALEMBERTE: No. I just only
4 wanted to say that we ought to express our
5 appreciation to the Governor for taking that
6 step. I think that's a pretty large step.
7 CHAIRPERSON PETERSEN: I agree
8 wholeheartedly. I think it was a huge step
9 forward. And we are -- sometimes progress is
10 slow, but with this Governor, it seems to come
11 pretty swiftly.
12 MR. EDWARDS: We applaud all of the steps
13 that the Governor and the citizens of this state
14 have taken in recent months with regards to
15 adjusting the felony disenfranchisement issue.
16 I mean, we are being progressive about the issue
17 and some changes are, you know, have taken
18 place. But that's not the finality of it
19 because you still have as price -- because I've
20 said, you still have people who have made
21 mistakes who are trying to reintegrate and are
22 trying to become whole in the communities. And
23 without a full opportunity to redeem themselves,
24 they cannot do it.
25 Then as the gentleman alluded to, it's

1 better to invest in raising the person
2 productivity up than having to pay the taxes to
3 incarcerate them.
4 CHAIRPERSON PETERSEN: Any other questions,
5 Senator? Thank you very much.
6 MR. EDWARDS: Thank you.
7 MS. CARRIN: We have a change on the agenda
8 because of some rescheduling and it's
9 Ms. LaRhonda Odom (ph) will testify now.
10 MS. ODOM: Thank you Chairperson Peters and
11 members of the Florida Commission on Open
12 Government. My name is LaRhonda Odom and I'm
13 the racial justice project associate for the
14 ACLU of Florida.
15 I'm here today to speak on behalf of the
16 Florida Rights Restoration Coalition. The
17 coalition is a nonpartisan coalition of
18 organization and individuals joined by one
19 guiding commitment, removing from Florida's
20 constitution the lifetime civil rights ban
21 imposed on persons with past felony convictions.
22 Until that provision is removed from the
23 Florida constitution, the FRRC is committed to
24 comprehensive clemency reform so civil rights
25 restoration is virtually automatic and paperwork

1 free for all individuals who complete the
2 nonmonetary terms of their citizen -- of their
3 sentences.

4 I would also like to take the opportunity
5 to thank the Commission for being the catalyst
6 for Governor Crist's recent decision to make
7 case analysis reports available to individuals
8 seeking clemency. This change will make the
9 clemency process fairer and less burdensome on
10 people seeking restoration of civil rights.

11 The Governor's actions acknowledges that
12 the clemency process can be fair only if the
13 applicant has access to information contained in
14 his or her clemency file and an opportunity to
15 respond to or correct that information.

16 However, we feel that additional changes
17 need to be made and additional issues need to be
18 addressed. First, the FFRC -- the FRRC, excuse
19 me, recommends that the Board of Executive
20 Clemency provide applicants with the reason for
21 the Board's denial of civil rights restoration.

22 Individuals who have completed their
23 sentences and attempted to become fully engaged
24 and productive members of their community face a
25 number of barriers to reentry. One major

1 barrier is the long cumbersome and often
2 discouraging process of applying for civil
3 rights.
4 We understand that rules were changed in
5 April that were designed to streamline the
6 process for certain individuals, but people
7 seeking to restore their civil rights must first
8 try to understand the complicated rules and then
9 navigate through a bureaucratic and time
10 consuming rights restoration process.
11 Individuals who eventually apply for civil
12 rights restoration and finally get a hearing
13 before the Board of Executive Clemency face a
14 final and insurmountable obstacle. If their
15 request for civil rights restoration is denied,
16 they are not given a reason for denial.
17 The secrecy shrouding the decision making
18 process significantly undermines the confidence
19 that individuals can have in the fairness of the
20 process and in a process that is highly
21 discretionary, and when the consequences are so
22 great, applicants whose requests are denied
23 deserve to know why.
24 Second, we recommend that the clemency
25 board meet at various locations throughout the

1 state as previous speakers have already
2 addressed. We are in support of this because as
3 we mentioned Tallahassee is very far for most
4 people in the state to travel. The time and
5 expense of travel to Tallahassee makes it
6 impossible for many applicants to attend the
7 hearing at which their cases would be heard.

8 And we at the FRRRC often hear from
9 applicants who recognize the importance of
10 attending the hearings and would like to attend,
11 but they simply cannot do so because of
12 employment, financial, and family restrictions.

13 The fact that there are too few employment
14 opportunities in Florida for people with past
15 felony convictions makes people especially wary
16 of taking off time and potentially jeopardizing
17 their employment.

18 Finally, we want to recommend a more
19 improved third party access -- more improved
20 process of third party access to public records.
21 One of the FRRRC's priorities since the new
22 clemency rules were adopted in April of 2007 is
23 to evaluate how well these rules are
24 implemented.

25 In addition, the FRRRC organizations

1 regularly seek public records to enhance the
2 assistance we give to people seeking restoration
3 of civil rights. Many of our similar
4 organizations have been unable to receive prompt
5 and complete responses to records requests
6 regarding the clemency process.

7 Records can more easily and officially be
8 obtained by the public if the Department of
9 Corrections, the Parole Commission, and the
10 Office of Executive Clemency would regularly
11 release its periodic reports related to
12 clemency.

13 Of particular interest are reports that
14 contain that on the number of RCR grants during
15 the reporting period, the number of cases
16 processed by each agency broken down by level of
17 offense, the number of investigations completed
18 by the Parole Commission, and the number of
19 cases found ineligible for RCR due to unpaid
20 restitution.

21 Making this information available on a
22 regular, ongoing basis would obviate the need
23 for multiple and duplicative public records
24 request that the agencies now appear unable to
25 keep up with. This concludes our statement.

1 Thank you for your attention.
2 CHAIRPERSON PETERSEN: Questions for
3 Ms. Odom?
4 SENATOR DOCKERY: Madam Chair, are we going
5 to have a presentation on clemency?
6 MS. CARRIN: Tomorrow.
7 SENATOR DOCKERY: Would you like me to hold
8 the questions until then?
9 CHAIRPERSON PETERSEN: Unless you -- I
10 mean, if you're wanting more information from
11 the advocates.
12 SENATOR DOCKERY: Well, let me ask this one
13 thing to see if you know. We're hearing a lot
14 today about this particular issue. How often
15 does the clemency board meet and how many cases
16 do they take up each time? I mean, how
17 widespread an issue is this?
18 MS. ODOM: It's my understanding that the
19 board meets four times a year.
20 AUDIENCE MEMBER: Right.
21 MS. ODOM: I'm not sure, however, how many
22 cases they actually hear when they --
23 MR. HARGRETT: 149 cases heard the day I
24 went.
25 SENATOR DOCKERY: 149 cases in one day?

1 MR. HARGRETT: I was number 80. If you
2 weren't there you got a rubber stamp. When you
3 up there -- Joe Smith wanted to get his rights
4 restored, he's not here, denied, put you to the
5 side.

6 CHAIRPERSON PETERSEN: We'll make a note to
7 ask those questions of representatives from the
8 clemency board tomorrow.

9 VICE-CHAIR CARASSAS: I have one question.
10 Can you submit a written statement if you cannot
11 attend the hearing?

12 MR. HARGRETT: Yes. The first one I did --

13 SENATOR DOCKERY: Come to the microphone.

14 MR. HARGRETT: I went through the process.
15 The first one was in January, and I was unable
16 to get there. I found legal employment, and I
17 had only been working the job for three days so
18 I couldn't take off to go to Tallahassee, nor
19 did I have the money, so I wrote them a letter
20 and asked them could I get to the next one.
21 I got a letter back saying they would look
22 into it and maybe two weeks before March 1st I
23 got a letter saying, yes, they would hear me
24 again and I could come in. But the process, a
25 lot of people can't get up there, but you still

1 want to get your rights restored. You still
2 apply. And they have two lists, favorable and
3 unfavorable. I saw quite a few favorable
4 recommendations get denied because there was
5 nobody there. When they called their name, they
6 said Mr. Joe Smith, Mr. Joe Smith, Mr. Joe
7 Smith, say he's not here. Well, then the
8 Governor said, well, do you recommend it, nobody
9 else said yes, so they said denied and they just
10 shipped it off.

11 Then you had other people that had an
12 attorney there that weren't there. And an
13 attorney spoke up for them and they weren't
14 there at all and they got their rights restored.
15 And they weren't there, but somebody was there
16 to represent them.

17 So if you -- if my face wasn't there in
18 front of the Governor at the time because points
19 of law really didn't get my rights back. It was
20 emotion, it was clarity, it was looking somebody
21 in the eye and telling them how I felt that got
22 my rights back. If you went solely on paper, I
23 would not have my rights back.

24 And when I asked the Governor, I said
25 Governor, this is probably out of contents of

1 what we're up here for, could you tell me why
2 they didn't recommend me to get my rights back.
3 He went to looking through papers, he said I
4 can't tell you that because they didn't tell
5 him. They just told him don't give me my rights
6 back, so they didn't give any reason why they
7 gave me unfavorable recommendation. Thank you.

8 CHAIRPERSON PETERSEN: We'll make a point
9 of asking a representative from the clemency
10 board tomorrow and see if we can get answers to
11 those questions.

12 MS. CARRIN: Next we have Ms. Sara Grimes.

13 MS. GRIMES: Good afternoon. You, the
14 Commission of Open Government, were selected on
15 your merits by our Governor to make sure the
16 great state of Florida is working for the
17 people. I'm here to say to each of you that it
18 is not.

19 The great and just concept of open
20 government has failed. Failed not only me, but
21 many others merely seeking our own records in a
22 system that seems to be destined to tiring the
23 weak, starving the hungry, and turning hope in
24 into hopelessness.

25 My name is Sara Grimes. I'm one of those

1 who loses hope every day due to the tremendous
2 problems with open government that I have
3 experienced. For four years I was a clerk for
4 the Office of Disability Determinations in
5 Orlando. An office under the supervision of the
6 Department of Health.

7 I was let go, proven improperly for a
8 public records requests that I made. Not long
9 after, my Cobra health insurance was wrongly
10 terminated. Neglected, but determined, I was
11 denied my request for my public records through
12 People First. Denied records that I desperately
13 need to continue my health insurance. Health
14 insurance that at this very moment could
15 determine my ability to live, sleep, or eat
16 without pain.

17 I was a victim of a high speed collision
18 causing severe injuries to my cervical spine in
19 August of 2004 while I was still employed at the
20 Office of Disability. Prior to being let go, I
21 had given Mrs. Grover, my supervisor, my new
22 mailing address as of September 2005. September
23 9th of 2005 is the deadline that People First
24 had set for address corrections for that year.

25 My new mailing address was not changed at

1 either People First or the Office of Disability.
2 I had directly contacted People First to change
3 my address numerous times since leaving state
4 employment in November of 2005.
5 I also made requests to People First
6 numerous times to send me my Cobra health
7 insurance package so I could sign up for the
8 Cobra and send my payments in. But I never
9 received that package.
10 My relationship with People First to
11 receive my Cobra insurance has been a battle
12 ever since. My physical condition worsens each
13 day I'm denied benefits. I have tried for swift
14 arbitration hearings so that I could get my
15 insurance.
16 I have tried to work with Humana to receive
17 the paperwork needed to start a new health
18 coverage. I was even denied this freedom. I
19 was notified that I have to go through People
20 First. People First instructed me with very
21 little help to contact Department of Management
22 Services.
23 I contacted Belle Jefferson (ph), the
24 benefits manager for the Florida Department of
25 Health in the Bureau of Human Resource

1 Management building. Ms. Jefferson could not
2 help me, and once again, I was told to go to
3 People First. Ms. Jefferson even mailed me the
4 address and told me that an appeal through that
5 office normally would be completed within one
6 month. That appeal was faxed to their office on
7 July 5th of 2007 and I'm still waiting for an
8 answer.

9 My request for the Cobra appeal was
10 received by K.C. Ellis in July of 2007. I spoke
11 to her on October 9th of 2007. She told me that
12 she's a supervisor for that office of appeals at
13 People First. She told me that she inexplicably
14 held that appeal that was very time sensitive
15 and very important on her desk for at least
16 three months because she was not sure how to
17 process it.

18 She told me that she would approve my
19 request, but that I would have to go through the
20 Office of Insurance to get the start date
21 changed. She also told me that she would mail
22 the decision the very next day, though I never
23 received it.

24 Because of the problem receiving appeal
25 paperwork from People First I had to take these

1 matters into my own hands and then I started
2 making public requests of my own file. I have
3 made many attempts to get my file. I have
4 spoken to many individuals in various positions,
5 offices, and reigns in Tallahassee,
6 Jacksonville, and even People First converges
7 corporate office in Cincinnati, Ohio.

8 I've been directed from one person to the
9 next. I've gone to the First Amendment
10 Foundation office in Tallahassee numerous times
11 for their help. I've gone to the state
12 attorney's office for their help. I've been
13 following the guidance and laws of the state
14 attorney's office, but I'm still fighting for
15 those records.

16 I'm not the first person to speak to you
17 about trying to get records from People First.
18 Amy Caldero (ph) has spoken to this Commission
19 in Tallahassee during the August public hearing
20 about her problem getting records from People
21 First.

22 I have since spoken to two other women,
23 Candace Odom, Department of State Archives and
24 Records, and Ms. Renee Olsobrook (ph), an
25 attorney for the Department of Health. All of

1 us women have all requested our own records.
2 Each one of us has tried different methods of
3 getting those records but all of us have failed.
4 I need my records to get my insurance. I'm
5 asking this wise commission to make strong
6 reinforcement of our open government laws as
7 their top priority so that what has happened to
8 me does not happen to anyone else. I'm just
9 asking that the laws of Florida and United
10 States be followed so that I can get my
11 insurance and restore hope to the hopeless.
12 Also I want to agree with Mr. Reed here.
13 I've had arbitrary fees requested of me. One
14 was just for a couple e-mails. They told me it
15 would cost me \$50 for a couple of e-mails. And
16 they told me -- I was trying to figure out how
17 much it would cost and it was going to be on \$25
18 an hour. How did that happen?
19 And also I had Mr. Memo (ph) from
20 Department of Management Services contact me the
21 last couple of days. He said, oh, no, the
22 People First records are all electronic. So you
23 can't expect to get them right away. It's going
24 to take us a while to get to it. If they are
25 electronic, how long does it take to download,

1 and it's my own file.

2 So I agree with these people that, you
3 know, you shouldn't be denied requests and not
4 given reasons for it. All I'm asking is to just
5 access my People First records. How else can
6 you verify the People First records if you can't
7 even look at them.

8 Also, First Amendment Foundation has been
9 very helpful. They told me that when an
10 agent -- when a private corporation like People
11 First has a contract with the state and they're
12 doing work that a state agency would normally
13 do, then that private corporation becomes an
14 agency in itself and so they are subject to the
15 public records request.

16 I shouldn't have to be going to the First
17 Amendment Foundation. I shouldn't have to go to
18 the state attorney's office. I don't understand
19 why they don't have something set up there.

20 Also, I went -- you mentioned about
21 training. When I first went to get some records
22 at the Department of Health in Tallahassee, I
23 hit a stone wall there, very difficult time. I
24 worked with Pat Gleason and a couple of
25 attorneys. Since then I have gone back and it's

1 changed. I have spoke to someone there in the
2 office and I said I'll give your office a gold
3 star because now your -- I can go in there and I
4 can ask for records. They have an actual clerk
5 there that you can go speak to.

6 So that's all -- People First, I don't
7 understand. What -- you know, what is the road
8 block here? I can sympathize with their trying
9 to get records and reviewing their own
10 information because I'm having a difficult time
11 with that myself.

12 CHAIRPERSON PETERSEN: I think JoAnn might
13 have some additional information about the
14 People First.

15 MS. CARRIN: Well about Amy Santilaria (ph)
16 who had testified at our first hearing. I saw
17 her last week right before Thanksgiving and she
18 told me that she had been successful in getting
19 the information that she was trying to get. I
20 would be glad to help you work through the
21 system and try to help you get your records,
22 too. That's an agency that is under the
23 Governor's jurisdiction. I'll be glad to work
24 with you on that.

25 MS. GRIMES: That's great. This shouldn't

1 be this way. I'm just appalled that -- like I
2 said, in my own little small world, I've met
3 three other women who have had problems there.
4 This is just in my small little world here. So
5 there is a lot of state employees here. It
6 should not be that difficult.

7 CHAIRPERSON PETERSEN: I think that the
8 Governor has recognized that just from our first
9 public hearing in August and the result was of
10 the bill of rights that he issued last week,
11 which sets out very clearly a citizen's rights
12 under the public records law and the open
13 meetings law. And hopefully again, progress is
14 sometimes -- to see change is slow to happen,
15 but it is happening in Tallahassee. I can tell
16 you that. Just the fact that this Commission,
17 the bill of rights, the clemency action that he
18 has taken. Things are changing. Does anybody
19 have questions for Ms. Grimes?

20 MS. GRIMES: I've gotten public records
21 requests around this area, city/county offices
22 have no problems. Clerks come up and say, hi,
23 how are you today, what would you like. I tell
24 them what file. They bring me the file. They
25 don't ask me where's your driver's license, who

1 are you, why do you want the file. They don't
2 ask me any of that. They just give me the file.
3 I look at it, then bring it back to them. They
4 say would you like a copy of something, I say
5 yes.

6 But since the last year or so I've been
7 going back and forth to Tallahassee for records,
8 I've never encountered this till eventually the
9 change in Department of Health. But it's -- I
10 don't understand why Tallahassee is so much
11 behind what I've seen in other areas of the
12 state.

13 CHAIRPERSON PETERSEN: Thank you.

14 MS. CARRIN: If I can remind the speakers
15 to speak into the microphone, I think there's
16 some -- been a little bit of trouble with the
17 sound. Our next speaker is Mr. Tim Wilcutt.

18 MR. WILCUTT: Hi, my name is Tim Wilcutt.
19 What I would like to address to this board today
20 is about the school board and the superintendent
21 of Volusia County and having the checks and
22 balances in the school system.

23 I give you the guys the general audit
24 2004-208, I would like for you to read finding
25 two and finding three. And when I address the

1 issue of the taxpayers names and for the school
2 board, I never got -- there is no checks and
3 balances. You've got superintendent of schools,
4 you've got an elected official of the school
5 board, the question is what happens when the
6 school board doesn't address the issue.
7 And used to have commission (inaudible) and
8 those people bring it down. I've talked to all
9 my senators, Senator Lane, Senator King (ph),
10 went to their budget meetings. And I show them
11 where they are missing the taxpayers money, and
12 they just say the want more money, more money,
13 more money and we're not a steward of the
14 people. What happened to the taxpayers money?
15 And they're supposed to address this issue
16 with the guy that worked at -- you know, the
17 CPA, and I've asked for the follow-up
18 investigations. I've asked for the police
19 reports.
20 As you see there, they only audited four
21 schools. Volusia County has 65 schools. So if
22 they are missing \$400,000 in four schools,
23 what's the real total in 65. Probable cause.
24 And I would like to play -- this is the
25 response from my elected school board.

1 (An audio tape was played.)
2 MR. WILCUTT: I've still never ever gotten
3 a response where the police reports is, where
4 was the follow-up investigation, what happened
5 to \$400,000? I mean, now, you guys are looking
6 for money. What about being a good steward for
7 the people's money. I mean I lost my job over
8 this corruption. It was addressed to the issue
9 and you guys all know the history that I lost my
10 job over accountability.
11 And when Mr. Heek (ph) was running for the
12 job, he was talking about the good old boys club
13 in Volusia County. I got the tapes. You know,
14 you know, it was addressed, some of the issues
15 you guys were talking about that Volusia County
16 was known to have a good old boys club.
17 One of the things that he said, and I'll
18 provide the tapes upon request, you guys want
19 them, he said that he was going to hold the
20 local officials responsible, the state senators,
21 and when he was done there with that he would
22 even try to get the governor down here. Well,
23 believe me, I tried to get governor down here.
24 But he says the chain of command is to our local
25 officials.

1 My question is what happened when the local
2 officials don't address the issue. It's pretty
3 much it in a nutshell. I'm looking for a
4 response.

5 UNIDENTIFIED SPEAKER: Well, I'll give you
6 a response. We are the caretaker of the school
7 system. And we have the utmost confidence in
8 ourselves and the people who work for us. And I
9 can tell you, I've been on the board before, I
10 I'm on the board now. We care about the
11 taxpayers dollars, and we diligently use them
12 wisely.

13 About this audit, we get audited by
14 everybody in this world. And we pass every one
15 of them with flying colors. So I don't
16 understand what you're talking about us not
17 watching what we do as far as our audits. I
18 have the utmost confidence in the
19 superintendent. I have the utmost confidence in
20 the school board members and I definitely have
21 the utmost confidence if our staff.

22 UNIDENTIFIED SPEAKER: So you know, we got
23 an officer right over here. Ben Johnson here a
24 while back, there was an officer that was
25 cheating on the time cards. And Ben Johnson had

1 him thrown in jail, arrested, you know, they
2 proved it. I know of an administrator cheating
3 on their time cards. I had a friend of mine
4 that was an IRS agent. He said one of the
5 things is is the Federal government don't take
6 lightly to people cheating time cards.
7 You know, the Board didn't address it.
8 Anybody else they'd fire.
9 UNIDENTIFIED SPEAKER: Well, we do have a
10 section within our school system here that if a
11 problem is brought to us, we have investigators
12 who check it out. And I know this process works
13 because we've checked out some other people. I
14 don't know your situation, but I do know that we
15 check out individuals. When we get a complaint,
16 we check it out.
17 Now, if you have a complaint about
18 something and someone is doing something
19 incorrectly, then you write it up and you send
20 it to our people. We look into these things.
21 We do not take these things lightly. I come
22 from the business world. One thing we never do
23 in the business world, we never mess up with
24 finances. You foul up with finances, you get
25 fired immediately.

1 Your four minutes are up. I'm not going to
2 sit here and discuss this with you. Now, you
3 brought a point here. If you have an issue that
4 you want to bring up, write it up and we'll
5 check into it. I'm not going to sit here and
6 discuss this with you. I just broke the rule
7 that I gave my opinion. We usually just let you
8 say something. We sit here and do nothing.
9 So --

10 (Audio tape was concluded.)

11 MR. WILCUTT: So is that the Board? They
12 sit here, they do nothing. The following month,
13 I brought it back up after they got the maximum
14 taxpayers money, and again, I heard nothing.
15 Why do we have a board if it's going to do
16 nothing.

17 And as far as the cheating on the time
18 cards, and you know, the cheating on the time
19 cards and the people, the administrators that
20 are not honest and don't have no ethical morals
21 and the Board can't get rid of them, this madam
22 here says she was an attorney on the legal side,
23 why don't the Board fire these people? Why are
24 they promoting corruption with the
25 administrators of the school?

1 CHAIRPERSON PETERSEN: Can I ask you a
2 question?
3 MR. WILCUTT: Sure.
4 CHAIRPERSON PETERSEN: Have you made a
5 public records review? Do you know if an
6 investigation into the discrepancies in the
7 audit has been started or --
8 MR. WILCUTT: No. I have repeatedly asked.
9 You know, I talked to the guy that wrote that
10 audit. He said that was his job and the way it
11 goes is then they present it to the Board. It's
12 the Board's responsibility to find out. I asked
13 where is the follow-up investigation, where is
14 the police reports? They just simply threw it
15 in the garbage. They don't want to talk about
16 it, needless to say.
17 But you know, when I addressed the other
18 issues about the cheating on the time cards and
19 we went through the chain of command. Well, as
20 a taxpayer we are paying the superintendents
21 about \$92,000 a year. And for \$92,000 a year,
22 you would think that you wouldn't have your
23 seemingly employees down here and getting a cup
24 of coffee for you, oh, don't sign out, the
25 Federal government will pay for that.

1 So I called up to Captain Hatchwick (ph).
2 I says how does these people go to this place
3 all these places without never leaving the
4 school? I'd like to give one cute example. A
5 guy accumulated like 600 hours comp time for
6 painting the school. School still ain't painted
7 and the school has many professional painters.

8 And you keep people like that and that's
9 why the school system basically at the bottom of
10 the barrel in the state of Florida. It's not
11 the teachers. It's these corrupt
12 administrators. I have wore out my senators and
13 house of representatives. And you know, we've
14 got an election year coming up. Republicans and
15 Democrats, you're never going to hear them say I
16 can't do this, I can't do that, I can't do this.
17 Right now, they can do anything. Let them get
18 in government, they can't do nothing, but they
19 forget their sworn oath, you know.

20 CHAIRPERSON PETERSEN: Does anybody have
21 any questions? Yes, Senator.

22 SENATOR DOCKERY: It's not really a
23 question. I'm not quite sure the issue is
24 really a public records request or open
25 government, but I think you have a legitimate

1 issue. I apologize because I don't know enough
2 about what I'm about to tell you. But there is
3 a joint committee in the legislature called a
4 legislative joint auditing committee. Do you
5 serve on that, Representative?
6 REPRESENTATIVE WEATHERFORD: Uh-uh.
7 SENATOR DOCKERY: I don't serve on it
8 either. But it's job is to monitor the audits
9 that are done by Mr. Monroe if he is still there
10 or whoever the auditor general is.
11 MS. KENNEY: Hello. My name is Kara
12 Kenney. I'm an investigative reporter with NBC2
13 in the Ft. Myers area. We cover Ft. Myers,
14 Naples, Bonita Springs, Marco Island, all of
15 southwest Florida. It's my understanding I'm
16 the first in broadcast media to speak before the
17 Commission, so it's an honor.
18 We are here today because of
19 inconsistencies that we uncovered in a recent
20 investigation that lasted two months we did on
21 bridge safety in southwest Florida.
22 After the Minnesota bridge collapse, we
23 wanted to know just how safe our 800 bridges are
24 in southwest Florida. What we thought would be
25 a very simple investigation turned out to be a

1 nightmare, really.

2 To start off, we have done a number of
3 bridge safety stories in the past, one of which
4 resulted in the entire rebuilding of the Sanibel
5 Causeway. As the new causeway was set to open
6 up this summer, we did a follow-up investigation
7 on the safety of our bridges. And at that time,
8 which was this summer, all reports were given to
9 us freely in their entirety. Never once was a
10 law mentioned that exempted them from public
11 record.

12 Now, fast forward to the Minnesota bridge
13 collapse in August of 2007. We decided to do an
14 investigation into county and city maintained
15 bridges. So in early September, we requested
16 all of the county bridge inspection reports for
17 Lee, Collier, Charlotte Counties, as well as the
18 city of Cape Coral since they are the largest
19 city in our viewing area.

20 Lee, Charlotte, and Cape Coral allowed us
21 to view the entire inspection reports. These
22 are just some of them. They invited us in with
23 open arms, said we'll give you copies of
24 whatever you want. They made CDs, DVDs,
25 whatever.

1 Collier County, on the other hand, denied
2 our request, citing a law created after 9/11
3 which they say exempted the records due to
4 security and terrorism reasons.

5 The Florida Department of Transportation,
6 we went to them. They told us the same thing,
7 saying, well, you can have this report, but
8 we're basically going to black everything out
9 though. The only information that you're going
10 to get is what is on the website that we have
11 created after the Minnesota bridge collapse.

12 So our first question is why were these
13 reports given to us before the Minnesota bridge
14 collapse, but suddenly after the Minnesota
15 bridge collapse, suddenly they're just exempt
16 from public record.

17 Our second question is if there is this big
18 mandate from the state that these records are
19 exempt from public record, why are some counties
20 giving them to us and other counties are saying
21 well, they're exempt, you can't have them.

22 For example, I mean if you Google the
23 Michael Kosinski Bridge in Charlotte County, you
24 will get full bridge inspection reports right
25 there on the web. You can read everything about

1 this bridge and find out what kind of condition
2 it's in. It's actually being repaired right
3 now.
4 So like I said, why are these reports being
5 freely given out by some agencies, but other
6 agencies are saying that they're not public
7 record? What does that say to the public if
8 some counties are giving them to us and other
9 counties are saying, no, you can't have them.
10 Our third question deals with the
11 inconsistencies that we uncovered in our
12 investigation on the state's website that was
13 created after the Minnesota bridge collapse.
14 What we did was we compared the physical reports
15 to what was on the state's website and we found
16 dozens of inconsistencies.
17 For example, the San Domingo Boulevard
18 Bridge in Charlotte County, the actual physical
19 report like this one, it listed as having a 75.5
20 sufficiency rating, which is basically a measure
21 of the bridge's condition, a hundred being the
22 best and you get the idea.
23 The website listed as 95.6. So if you go
24 on to the website you think this bridge is in
25 great condition, when in reality the physical

1 report says it's not as in good condition.
2 We also found dozens of other examples like
3 that. We found missing information, inspection
4 dates that didn't match up, bridges that were
5 listed as functionally obsolete on one but not
6 the other.
7 And when we asked the DOT, we sat down and
8 did an on camera interview with them, and they
9 told us, well, the website is only meant as a
10 snapshot. In fact, at the time they only
11 planned to update the website once a year.
12 Well, since our investigation got under way
13 the state has fixed some of the discrepancies
14 and will now include a date showing when the
15 website was last updated so that people know,
16 okay, well, the website that I'm looking at was
17 created in August and it hasn't been updated
18 since or it was updated in November. You get
19 the picture.
20 But it is our feeling that it's still not
21 good enough. The DOT -- I find it hard to
22 believe that the DOT cannot come up with some
23 way that once these inspections are finished,
24 they're done by a computer anyway, why can't the
25 inspection information be automatically updated

1 to the website. To me, four times a year is
2 what they're saying they're going to update this
3 website, I just don't think it's good enough.
4 Keep in mind for people that live in the
5 counties like Collier County that aren't going
6 to give you these physical reports, the website
7 is the only way to get the information. I think
8 it needs to be updated more frequently.
9 Now, as a reporter and a watch dog of the
10 government, it is our feeling that these bridge
11 inspection reports should be open to the public.
12 These are not bridge blueprints. These are not
13 bridge plans. These are inspection reports
14 detailing what's wrong with the bridge, the
15 bridge's condition, and showing pictures of it,
16 you know, the inspector's name, things like
17 that.
18 And I'm not alone. The First Amendment
19 Foundation, who we interviewed for this story,
20 as well as Senator Don Gates believed that the
21 DOT is misinterpreting the law passed after
22 9/11. During our investigation, we had the man
23 in charge of Cape Coral bridges tell us there is
24 no sensitive information in these bridge
25 reports.

1 And our own state senator, Burt Saunders,
2 told us Collier County and other jurisdictions
3 are hiding behind something that is supposed to
4 protect our infrastructure. To argue these
5 inspection reports would be used to help
6 terrorist is absurd. You can't hide behind
7 terrorism.

8 Now, we've seen in Minnesota, just to wrap
9 up, that when a bridge isn't safe, it can be
10 absolutely catastrophic. Lives are at stake
11 here. The only way, and here's my
12 recommendation, to make sure that this doesn't
13 happen in Florida is to make bridge inspection
14 reports available to the public in their
15 entirety. Come up with a uniform policy that
16 all of the counties and the state are all going
17 to follow so you don't have some doing one thing
18 and one doing another, and then also update the
19 state's website more frequently. I've got to
20 believe that there is some sort of software out
21 there that can update it more than four times a
22 year. That's even an upgrade from what they
23 were going to do which is a year.

24 So bottom line is people need to know that
25 their bridges are safe, and thank you for your

1 time. If you want to see our story, I can send
2 it to JoAnn. It aired just about a week ago.
3 I'll send you the link and you can watch it for
4 yourself what we found during our investigation.
5 CHAIRPERSON PETERSEN: I can give a little
6 follow up here. DOT did call me, set up a
7 meeting with me to discuss access to the bridge
8 inspection reports, and I had a family emergency
9 and had to cancel it and I haven't been back to
10 Tallahassee since then.
11 So and I know in terms to answer your
12 question about the inconsistency, the exemption
13 that the counties are relying on makes schematic
14 drawings and that sort of information exempt
15 from public disclosure which gives the custodial
16 agency the discretion to release it if they want
17 to. They're not required to. If a record
18 contains both exempt and nonexempt, they're
19 supposed to redact that which is exempt and
20 provide access to the remainder.
21 MS. KENNEY: They're not drawings though.
22 I mean, that's my argument is that they're not
23 drawings. They're -- here's a concrete slab
24 with a crack in it.
25 CHAIRPERSON PETERSEN: That's the

1 discussion. Commissioner?

2 MS. KENNEY: Right.

3 MR. BAILEY: The FDOT was involved in
4 discussion with the DOT and the senator you
5 referenced on this particular issue. As you
6 pointed out, the benchmark there was 9/11 about
7 whether -- that got this started.

8 Our advice to DOT was there's nothing wrong
9 with giving you a safety report, but as part of
10 our mandate on Florida's infrastructure, whether
11 it's bridges or airports or nuclear facilities,
12 was not to give out any information that would
13 point directly to a vulnerability.

14 Again, we met with the Governor's office on
15 that. We met with DOT, and that's what they
16 decided to do. There is information available
17 that registers the safety of the bridges. I
18 think you will agree with me on that, but as far
19 as pointing to particular weak spots on a
20 particular bridge, whether it be your bridge or
21 the Skyway or whatever, we advised them not to
22 do that.

23 MS. KENNEY: Right. That's my whole point.
24 If you're going to say, well, use this website,
25 then they need to update the website more. If

1 the only thing you're going to give the public
2 to see how safe their bridges are is a website,
3 then it needs to be more up-to-date. Because
4 people -- we uncovered all these
5 inconsistencies, so how can people trust the
6 website.

7 MR. BAILEY: I don't know how contemporary
8 their website is, but I think they did comply
9 with what we requested them to do on what not to
10 release.

11 MS. KENNEY: Well, and then also, I mean,
12 if it's such sensitive information that
13 terrorists are going to use it, then why are all
14 these other counties giving it out? And the
15 people that actually are charged with looking
16 after bridges are saying there's nothing
17 sensitive in here.

18 MR. BAILEY: Well, I don't know what
19 they're saying is sensitive and not sensitive.
20 There is information out there that's still in
21 the hands of cities and counties that we had
22 rather not see given out. I don't think it was
23 being given out illegally, but our
24 recommendation was not to release it. We can't
25 control the release of some of the information.

1 There's -- there's two different kinds of
2 exempt information out there, if you will.
3 There's that that you can't release, and there's
4 that that you have the option not to release
5 should you see fit. I think that information
6 that you have does at this point any way fall in
7 the latter.

8 MS. KENNEY: So it's up to the individual
9 county if they want to give up the bridge
10 reports.

11 CHAIRPERSON PETERSEN: That's correct.

12 MS. KENNEY: You could see how that could
13 create some confusion among the public if
14 there's not consistency among the counties.

15 MR. BAILEY: But if those counties were to
16 ask our advice, it would be the same that we
17 gave DOT.

18 CHAIRPERSON PETERSEN: Any other questions
19 or comments? Thank you very much. I think this
20 issue has a lot of legs, lots of, is that what
21 they say. There's going to be a lot more
22 discussion about this I'm sure.

23 MS. KENNEY: Okay.

24 CHAIRPERSON PETERSEN: And we will be
25 talking to DOT also.

1 MS. KENNEY: Okay. Thank you.
2 MS. CARRIN: Thank you. We have two more
3 speakers on the CSX issue. I would ask that
4 y'all go very quickly or quickly because we're
5 way past time to adjourn. And Mr. John Guest.
6 MR. GUEST: Good afternoon. I appreciate
7 the time to speak a little bit. I'm a Polk
8 County boy, born and raised there, been there 64
9 years, be 65 in January. I plan on retiring
10 Friday from Polk County School Board after 35
11 years. That was a lot of kids. Been a school
12 teacher for 11 years, administrator for 24
13 years.
14 I would like to talk to you about CSX and
15 FDOT. I got informed that they were going to
16 put this distribution center in close to my
17 house, actually about a mile and a half, two
18 miles from my house.
19 How would that effect me? If you look at
20 your map that's she gave you -- and I didn't
21 know we were going to be here. I found out with
22 it about this yesterday, and I called this
23 morning so I could speak. If you look at the
24 map, there's a little white circle on the bottom
25 and there's a blue line. You see the blue line

1 there. There's also to the right another blue
2 line. These are the approved roads at this time
3 for the new four-lane highway to be put in.
4 If you look at the one on the left side of
5 the white circle, that piece of property that it
6 runs right along is my property. My house,
7 which I built seven years ago for my retirement,
8 it was also I bought 60 acres of land and made a
9 family community with my daughter and my
10 brother. We all -- I bought the piece of
11 property and then I made a subdivision out of it
12 called Our Neck of the Woods. Excuse me.
13 That road that DOT has approved and we
14 talked about money or CSX has got, they got \$12
15 million dollars in federal building to build
16 this road, not costing them a dime. They're not
17 spending anything on this road. It would be a
18 four-lane highway.
19 When I first found out about this going on
20 was back in April. And this been going on for
21 about four or five years. There was no
22 information sent out to anybody. None to me
23 about where this road was going to be.
24 When I first heard about it, the road was
25 going to be over on the right, the blue line

1 going in. I have no problem with that because
2 there's no homes or anything in that area.
3 But when they got on up there, they're
4 going to have to go through -- when I talked to
5 CSX why they decided to put it over right in
6 front of my house, they said because they would
7 only deal with one property owner, which I
8 understand that. But that property owners owns
9 2,000 acres there. He owns from the right blue
10 line to the left blue line. Could have put it
11 anywhere, but they decided to put it there. And
12 the gentleman made a good -- they give him a
13 hundred thousand dollars an acre for that
14 property, 25 acres.
15 I built a Florida cracker home. Some of
16 you may know what that is, okay. It's a home
17 with porches all the way around it. It's my
18 retirement home. And I would be retiring
19 Friday.
20 And DOT had not put any information out and
21 the City of Winter Haven did not put any
22 information out that this was going to happen.
23 It's going to have a major impact on me.
24 When I first started talking to CSX when
25 they started having meetings, my question was

1 how many trucks are going down that highway
2 daily. Started at 1,400. That's a truck every
3 30 seconds or less.
4 They're going -- when they're coming onto
5 Highway 60 they have to stop or slow down, and
6 if all of you know about trucking, they got jake
7 brakes and all you hear is a loud noise. I'm
8 going to hear that 24 hours a day, six and a
9 half days a week. On Sundays they're going to
10 close it down from nine o'clock to five o'clock.
11 But the rest of the time I will be listening to
12 that trying to sleep at night or whatever.
13 That's my retirement home.
14 But if I had known ahead of time that this
15 was going forward, I would have my attorney talk
16 to CSX, City of Winter Haven, Mr. Stokes, to
17 determine -- make sure that road did not go
18 right in front of my house. It's going to have
19 a major impact on me.
20 When we have the DRI I will go and speak to
21 that, too. Okay. I worked hard for the State
22 of Florida and Polk County School Board for the
23 last 35 years. I got a retirement coming up,
24 like I said, Friday, and I got this to look
25 forward to.

1 My last report, the DRI will take nine
2 months to three and a half years depending on
3 how long it takes. So at least I'm going to
4 have some time in retirement where I won't be
5 disrupted.

6 I want to thank Paula, for you brought a
7 lot of things out since you've found out and I
8 really appreciate that. And I think the
9 Governor's done a pretty decent job of open
10 government. It needs to be open. School Board
11 in Winter Haven is not real open there because
12 they ain't going to let anyone know what was
13 going on and it's going to effect.

14 If you look at a map, you will see the city
15 of Winter Haven runs a long way through Winter
16 Haven, and Bobby Stokes is going to annex the
17 property right in front of my house into a city
18 of Winter Haven warehouses. And it will be all
19 the way around my property.

20 You can see that line, there's a little
21 square there. That is basically my property.
22 And my daughter lives about 300 yards behind me
23 and my brother lives about a half mile in the
24 other corner from me. He won't be effected as
25 bad as me and my daughter will be. But he lives

1 here. Major warehouses they're going to put in
2 there because the City of Winter Haven and
3 County have no say so what's put there.

4 Our county commissioner did not get
5 involved until I started raising and saying or
6 ranting and raving in Mr. English. And we need
7 to have more open government with the City of
8 Winter Haven, with the Polk County Commission,
9 and there's other people around there that's
10 really not concerned what is going to happen.

11 But from the information I got, Manatee has
12 proposed that the state build a four-lane
13 highway from there to 75 so they can transport
14 things, bring in boats that will be transported
15 all across the southeast by railroad. And city
16 of Lakeland will be impacted by it. There is
17 going to be a lot of trains going through there.

18 I asked my question, how long will that
19 train be. And they can be up to 10,000 feet.
20 If you realize how far that is, that is about
21 1.8 miles, going through the city of Lakeland.
22 People will be the sitting at a railroad track
23 for an hour. So thank you for your time.

24 CHAIRPERSON PETERSEN: Thank you. Senator,
25 do you know if -- have the County Commissions

1 been holdings meeting for this or did they just
2 kind of --
3 MR. GUEST: They held one.
4 SENATOR DOCKERY: They held one, and it's
5 such a long, complicated story. I don't want to
6 bog you all down. But really the reason Polk is
7 going to be impacted is because of putting in a
8 commuter rail in Orlando.
9 So the four counties that are benefitting
10 by the commuter rail have known about this for
11 years, but we didn't know what -- that they were
12 going to move all of the train tracks, the
13 freight track, from that line to the line that
14 is going to come through Polk County.
15 It just seems that it's almost ironic that
16 if the money got snuck in through a growth
17 management bill, the whole point of the growth
18 management bill is to stress the importance of
19 regional planning and impacts, and the one area
20 that is going to get negatively impacted was
21 never included in any of the discussions. And
22 that's why we had the Secretary of DCA come, and
23 that's when they decided to do a DRI on the
24 project.
25 But when you're dealing with industry that

1 understands and can manipulate the process,
2 they've cut the project into two different
3 phases. They won't be including the impacts of
4 the second phase in the DRI process, but as soon
5 as the first phase goes in, it will be
6 impossible to stop the second phase.

7 And the people in Lakeland, the people in
8 Ocala, the people in Plant City, the people in
9 Wildwood are very upset about it, but there's
10 not much they can do. The City of Winter Haven
11 knew, but these residents of Winter Haven who
12 are not my constituents, I've just gotten to
13 know them in the last month or two, they're
14 upset because this ILC is going right next to a
15 residential neighborhood, which makes no sense.
16 And 1,400 trucks a day is not an exaggeration on
17 things that are not highways.

18 So we're just trying to get some attention
19 to the fact that this should have been
20 considered on a regional basis before allowing
21 it to happen. That's one issue, but the bigger
22 issue is the expenditure of \$491 million of
23 taxpayer money to a for-profit company, who as
24 far as I know is not putting in one dollar.

25 MR. GUEST: And also another thing was she

1 saying is that the impact on just Polk County
2 alone infrastructure to get the roads ready to
3 go, get everything done, is going to be very
4 high cost. I live on Highway 60. I know it's
5 not in the best of shape. You start putting
6 1,400 trucks on there, it's going to cost a lot
7 of money to do it.

8 One other thing, Paula, they did away with
9 the intermodal of Tampa for the new cars there,
10 all that's coming to Winter Haven. That's going
11 to add that much more train traffic in. If they
12 do the -- put Manatee -- just everything
13 through, which is going to cost taxpayers, you
14 need to get a highway built to Interstate 5 to
15 transport all of that stuff that's been brought
16 in by boats to Winter Haven to be transported
17 all over the southeast United States, you're
18 just looking at major, major impact on our
19 communities.

20 My biggest concern is the open government
21 of FDOT. They did not let anybody know what was
22 going on. Polk County should have known. They
23 should have been notified three years ago what
24 was going on. And I've been in the school
25 system. I'm busy. I don't have time to deal

1 with these things, but come Friday, I will have
2 a lot of time, and I don't mind doing it. Thank
3 you.

4 CHAIRPERSON PETERSEN: Thank you very much.
5 We have two more speakers on the CSX issue, and
6 then I promise that's it. They promise that
7 they will be very brief. Wally Krouson and
8 David Fuller, and if I could ask you to share
9 five minutes because we're completely out of
10 time. And for somebody who's been traveling all
11 day, I need to eat something. Thank you.

12 MR. KROUSON: I'm Wally Krouson from Lake
13 Ashton. We're in Polk County over in Lake
14 Wales. Dave, come on up. They want us to
15 share.

16 CHAIRPERSON PETERSEN: If you could both
17 stand up there, that would be great.

18 MR. KROUSON: Why don't you go ahead first,
19 and I can just summarize. I have given you a
20 paper of what I want to talk about so.

21 MR. FULLER: I had a whole lot to say about
22 the openness of government, but I have a
23 document dated January 9th from the Community
24 and Economic Development Director of Winter
25 Haven through the city manager to the commission

1 and the mayor. There's a paragraph that says
2 both parties, CSX and Winter Haven, agreed that
3 all information concerning this transaction
4 remain confidential to the extent permitted by
5 Florida law.

6 And they did a great job because we didn't
7 know about it until the spring of this year.
8 There are a couple of things. The land that's
9 being sold to CSX, the first part they paid
10 \$22,000 an acre. The second part, it's been
11 sold for \$16,000 an acre. And they paid
12 \$100,000 an acre for the land to put the road
13 on. So Winter Haven is getting shortchanged for
14 industrial property.

15 The other thing, the real thing that has
16 concerned me is that the DRI process that we all
17 fought so hard to get done is really
18 disappointing. The consultants who are doing
19 the DRI are selected and paid for by CSX. The
20 process itself is only encompassing the first
21 318 acres. They're not going to do the second
22 part until it's developed, and because they're
23 not doing that, the City of Lake Wales is being
24 left out of the process, Lakeland is being left
25 out of it, and Haines City is being left out of

1 it.
2 I'm retired. I live three quarters of a
3 mile from it, and I'm real disappointed that
4 this is happening, but it's not good for Polk
5 County and it's really a black eye for the state
6 of Florida.
7 MR. KROUSON: I'm going to talk about first
8 page really relates to the viability of this
9 entire project. What they've done is they've
10 just arbitrarily taken the Taft facility and
11 just thrown it up in the air and happen to land
12 on what they landed on because they don't want
13 to accept it.
14 What you really need is ILCs that are
15 dedicated to their point of use, in other words,
16 Tampa, Jacksonville, Miami, Ft. Lauderdale, and
17 Orlando so that you take trains that come from
18 the north, you put them into a facility and then
19 you have minimal truck traffic, and that's the
20 gist of what I'm trying to get at.
21 They are taking just the reverse of it.
22 They're taking trains from all over the United
23 States, running them down to Orlando, Florida,
24 and then spending millions of dollars in diesel
25 fuel, pollution, extra roads to distribute this

1 stuff.

2 And now we're finding out that they're
3 building facilities down in Lake Okeechobee or
4 they're planning to and they're going to build
5 more in Port Manatee, and they're going to do
6 the reverse. They're going to run trains to
7 Lakeland or trucks over the roads that don't
8 exist. And that's the gist of what -- I'm
9 turning on the second page.

10 There aren't enough roads to support this
11 thing. It needs to be put near an interstate
12 highway, which is what they did in Orlando,
13 which is their favorite comparison project. The
14 thing was planned so that you would have a
15 facility near an airport and an interstate
16 highway, so there would be minimal truck traffic
17 going through neighborhoods.

18 This thing's going to be running through
19 all kinds of neighborhoods. They have roads
20 that can't support them. They are at capacity
21 and they're almost failed now. If they go east
22 they go into Lake Wales; if they go west, they
23 go into Bartow.

24 Now, Polk County has tried to (inaudible)
25 this thing by having these various road

1 improvements. You can't improve a basic
2 two-lane road into an interstate highway.
3 That's what they're claiming they're trying to
4 do.

5 If you take all of this anticipated traffic
6 from Port Manatee and the Everglades facility,
7 you just cannot just (inaudible) these roads and
8 make them work. Okay. The DRI does not appear
9 to include any of this concept. They're talking
10 about a few roads right around the facility and
11 that's not going to do it because those aren't
12 the roads that be going to have a major impact
13 as it was pointed out. Port Manatee, they're
14 talking about 600,000 containers coming through
15 that facility at some point in the future.
16 Those containers have to be transported north or
17 east. What else did I have?

18 CHAIRPERSON PETERSEN: You said you had
19 written comments. Had you distributed those
20 yet?

21 MS. CARRIN: I think so.

22 MR. KROUSON: The young lady, I believe,
23 distributed them. In conclusion, what Florida
24 needs is a comprehensive study for rail service
25 is what they need. This project is also blocked

1 commuter service through central Florida, which
2 hasn't been brought up, but I want everybody to
3 understand.
4 They're going to provide commuter service
5 for Orlando down to probably near Kissimmee, and
6 that's as far as it's going to go. It can't go
7 through Lakeland because it's going to be
8 blocked by the freight service.
9 And as Representative Ross pointed out at
10 one of his meetings, he said we really need a
11 comprehensive rail study for Florida, not just
12 plunk this thing down in Winter Haven and hope
13 you can fool the public into not worrying about
14 it until it's too late, which is exactly what's
15 going on. There aren't the roads to support it.
16 There never will be until we put -- you get the
17 concept of this thing being near an interstate
18 or supporting facilities. That's all I had.
19 Thank you.
20 CHAIRPERSON PETERSEN: Thank you very much.
21 To answer Commissioner Lee, I think you had a
22 point earlier about the economic development
23 agency exception, under Section 288.075, an
24 economic development agency, and that would be
25 including the county's or the city's EDA, is

1 required to withhold information from a company
2 wishing to locate or relocate to the state of
3 Florida for up to 12 months upon request of the
4 company. And that can then be extended for an
5 additional 12 months.

6 And it is a constant source of irritation
7 to communities whether it's the CSX or whether
8 it's the box, you know, the big box store, it's
9 a constant irritation to people in communities
10 all around Florida because sometimes, as
11 happened here, it's almost too late by the time
12 you get the information.

13 We are actually going to take a break.
14 We'll come back at six. JoAnn has got -- we
15 have how many speakers this evening?

16 MS. CARRIN: We have five speakers that
17 have registered for this evening. There are
18 sandwiches available at the hotel if when you
19 leave the room you go to the left. They made
20 sandwiches. So those are available for
21 everybody to eat, and then we reconvene at six.

22 CHAIRPERSON PETERSEN: I think I need a
23 motion to adjourn.

24 VICE-CHAIR CARASSAS: So moved.
25 (A recess was taken.)

1 CHAIRPERSON PETERSEN: Okay. It's time to
2 reconvene. Do we have -- can we turn that down
3 just a little bit? It needs to go down. It's
4 really loud up here.
5 If I could have the members of the
6 commission come up please.
7 And we're not getting Sandy for the
8 evening, correct?
9 MS. CARRIN: Unless he happens to call,
10 it's up to him.
11 CHAIRPERSON PETERSEN: Okay.
12 MS. CARRIN: I just check everybody.
13 CHAIRPERSON PETERSEN: The vice-chairman
14 pointed out that I did not introduce myself when
15 I came in and sat down. I'm Barbara Petersen,
16 the Chairman of the Commission and President of
17 the First Amendment Foundation in Tallahassee
18 Florida.
19 And I would like to thank you all for
20 coming and spending so much time on this very
21 important issue. We have a few speakers this
22 evening, and then we will recess until tomorrow
23 morning. These terms are a little foreign to
24 me, not being a legislator. We will recess
25 until tomorrow morning at nine a.m. So on the

1 agenda, do you want to take the --
2 MS. CARRIN: I'd be happy to. We have
3 Michael Caney. Is Michael here? Then we'll
4 move on to Shawna Doran (ph). This is going
5 quicker than I thought. Then we have Julie
6 Townsend.
7 MS. TOWNSEND: I'm here. Sorry.
8 MS. CARRIN: Great.
9 MS. TOWNSEND: Tell me what to do.
10 CHAIRPERSON PETERSEN: Just introduce
11 yourself and start speaking.
12 MS. TOWNSEND: My name is Julie Townsend.
13 I'm the executive director of the Downtown
14 Lakeland Partnership in Lakeland, Florida. I
15 don't think my mic is on, is it? Can you hear
16 me? I can talk loud. Sorry.
17 I'm here to talk to you about the state
18 deal with CSX. My understanding is you've heard
19 about that a few times already so hopefully
20 you've been refreshed during the break and
21 you're ready to hear about it some more.
22 None of them that were here earlier were
23 from Lakeland. Just to give you a small
24 version, and I know we have limited time. In
25 effect, in short, the ILC that is proposed for

1 Winter Haven will create a freight superhighway
2 through Lakeland.
3 Right now, we have roughly 16 trains a day.
4 When the ILC is built according to the rail
5 relocation study, it will have up to 56 trains.
6 That's just to start. That's before they
7 actually get their business plan in place and
8 have some new customers, and all of a sudden,
9 we've gone from having I-75 in the freight world
10 to combining I-75 and I-95 into one.
11 So just think about driving on those two
12 interstates and having to combine them into one
13 and then have that run through your downtown.
14 That's basically what's going to happen to us.
15 Unless of course we stop it, which is what our
16 goal is.
17 So how this is related to you guys is my
18 point. It all comes down to this. Without
19 consultation of Lakeland, which is a city
20 obviously majorly effected by this project, the
21 state has decided to spend \$500 million to harm
22 us. So we're spending half a billion, half of
23 what was requested to be cut from the budget to
24 basically destroy our city to benefit a private
25 for-profit company and another city to our east,

1 namely Orlando, who's looking to get commuter
2 rail out of the deal.
3 So ironically, thanks to that, we feel like
4 it's been sort of a violation of the open
5 government laws because this deal was done
6 primarily in secret in the sense that it was at
7 the executive branch, prior Governor Jeb Bush
8 orchestrated this deal, and the legislators who
9 sit today as they're being contacted and the
10 Congress have no knowledge of this. They're not
11 privy to this deal. There's no master plan on
12 how this deal is going to relate to future rail
13 commuter rail or freight rail movement in
14 central Florida.
15 We've requested on numerous occasions
16 meetings with the Governor that have gone
17 ignored. We did meet with Secretary Pelham
18 (ph). He was gracious enough to come down and
19 meet with us, but our people's governor has not
20 met with the people.
21 So we feel it's a violation of open
22 government laws. Ironically, the open
23 government laws are the reason that we know as
24 much as we know. Without them, we would never
25 have been able to request all of the e-mails,

1 dating back as far as 2003. E-mails between
2 Governor Bush and Michael Ward, the CEO of CSX
3 and all of their golf talk and all of that kind
4 of good stuff. Have it all. But to try to go
5 through that and decipher and figure out what's
6 relevant and what's not is mind boggling.
7 So I just wanted to express to you guys the
8 -- the issue. As I said, I know you've heard
9 about it before. This deal between the state
10 and CSX has not been scrutinized in any way,
11 shape, or form by our legislature and we would
12 like for that to happen.
13 We're calling -- the Downtown Lakeland
14 Partnership and Lakeland is calling for
15 legislative hearings about the issue so that we
16 can step back before we spend \$500 million on a
17 deal that's potentially going to not just
18 destroy a small town in central Florida, but
19 also have real problems with future commuter
20 rail and freight movement in the entire central
21 Florida area because it really is a statewide
22 issue. It's not about Lakeland. It's not about
23 Polk. It's about central Florida and the future
24 of its transportation. Thank you.
25 CHAIRPERSON PETERSEN: Any questions?

1 Thank you very much.

2 MS. CARRIN: Dana Peck.

3 MS. PECK: I know you're tired and weary,
4 so I'll try to cut to the chase, but when you
5 have the podium, it's hard to cut. Anyway, on
6 behalf of citizens of Wakulla County, we want to
7 thank on behalf of a group of citizens in
8 Wakulla County. We want to thank you for
9 holding these hearings.

10 We'd especially like to thank Governor
11 Crist for bringing the issue of open government
12 to the forefront. And regardless of political
13 affiliation or philosophy in Wakulla County,
14 some us are now viewing Governor Crist as the
15 leader of the calvary coming across the mountain
16 to save the day. And in Wakulla County, we
17 could use a little saving of the day.

18 There is a failure in Wakulla County to
19 adhere to open records laws. And some of these
20 failures we can attribute to ignorance, but some
21 of them we can clearly attribute to intent. And
22 we have examples and testimony here tonight from
23 four other Wakulla County citizens listing
24 horror stories about failure to provide public
25 notice for commission meetings, failure to

1 deliver public records, failure to deliver
2 records without intimidating tactics, without
3 financially burdensome demands, without
4 discriminatory behaviors. So I'm not going to
5 go into all of those details since I know that
6 my time is limited and those are spelled out in
7 the testimony.

8 But we are also here tonight to ask you to
9 consider a proposal that we have in mind. We
10 are seeking, given that Florida is committed to
11 open records, and my research showed that the
12 first open record was adopted in 1909. So we
13 are nearing the 100th year of having open
14 records in Florida, certainly a milestone.

15 We are asking you to consider that you beef
16 up the enforcement of public records open
17 government laws. You have wonderful laws. We
18 have wonderful laws in Florida on the books. I
19 don't know that they need to be worked with.

20 We have disgraceful perhaps some would say,
21 certainly those of us in Wakulla County,
22 enforcement. I'm submitting to you today a
23 reconstructed conversation I had with an
24 assistant state attorney because when we have
25 experienced violations of these laws in Wakulla

1 County, we have turned to the people we've been
2 told to turn to.
3 The assistant state attorney said it was
4 the policy of the state attorney's office never
5 to take complaints from citizens, so we've ruled
6 that out. The attorney general's office has
7 told one citizen that they would mediate as long
8 as the parties were agreeable. In Wakulla
9 County, the parties are never going to be
10 agreeable it appears to be.
11 So we are asking that you establish a
12 position statewide much replicating the model as
13 established by Attorney General Bob Shevin and
14 executed by Berry Richard and Sharon Smith that
15 would be a person who could manage and mediate
16 and litigate violations of open government laws.
17 We all know state attorneys are loathe to
18 prosecute these laws and perhaps more so in
19 rural counties where the forces of power are
20 incestuously intertwined all too often. If you
21 had this person above politics, above those
22 local affiliations whose one sole duty it was to
23 see that the public records open records laws of
24 Florida's were strongly enforced, we feel that
25 Florida would be the better for it.

1 In addition to that, we're hoping that --
2 well, let me preface this by telling you at
3 least twice a year I talk to young people about
4 public records in Florida. And never without
5 fail are these young people amazed that they can
6 go into a government office by themselves and
7 ask to see a document in a government office
8 that is important to them.

9 They will say without fail, you mean I can
10 go in and ask to see a record. Yes, you can go
11 in and ask to see a record, I tell them. In
12 fact, as a good citizen, I believe you're
13 obligated to go in and see what your government
14 is doing. I believe that state employees and
15 county employees and city employees and all
16 other government employees are equally amazed
17 when they're told about the open government laws
18 and the public record laws.

19 So we're asking you today if you would
20 consider some provision that when a state or
21 local government employee is hired, that this
22 person would be first of all informed of the
23 letter of the law. And then secondly, somehow
24 introduced to the spirit of the law.

25 Many people believe that soldiers who have

1 been killed on the battlefields in war have done
2 so to protect our freedoms. We agree with that.
3 I believe, though, it goes further, that
4 government employees, especially in Florida
5 where our open record laws are so precious and
6 so unique, I believe that government employees
7 have a stake in those freedoms.

8 And if a government employee through
9 ignorance or through intent denies access to
10 open government to just one person, they deny it
11 to all of us. So we ask you to consider these
12 proposals. Thank you.

13 CHAIRPERSON PETERSEN: Thank you.
14 Questions? I have a couple of comments and a
15 question actually for JoAnn. I remember at the
16 August meeting Sandy D'Alemberte suggested we
17 look into the economic impact of denying access
18 to public records. Have we made any progress
19 there?

20 MS. CARRIN: We have not. We've run into
21 several road blocks, but we've --

22 CHAIRPERSON PETERSEN: Found somebody that
23 can do it.

24 MS. CARRIN: Exactly. We've contacted the
25 University of Florida and they actually read

1 Mr. D'Alemberte's testimony and we've reached
2 out to a Federal organization, national
3 organization, and we have been unsuccessful at
4 finding anything, but we will continue to look.
5 CHAIRPERSON PETERSEN: We will keep trying.
6 Somewhere in here I know -- maybe it's in the
7 supplemental materials, is the results of the
8 statewide audit that the First Amendment
9 Foundation did. Yes. It's in the supplemental
10 materials tab three that will show you we had I
11 think one year 43 percent compliance around the
12 state with very simple public records requests,
13 and another year we had 42 percent compliance.
14 In terms of the proposal about creating a
15 position in law, if -- in your materials handed
16 out today, I believe, the project at -- interim
17 project done by the senate governmental
18 operations committee recommends exactly that.
19 It's on the last page, the discussion is
20 obviously in the text. But what the
21 governmental operations committee is
22 recommending is codifying basically the office
23 of open government.
24 I have talked with staff about extending
25 the authority of that office to reach in to

1 local governments as a direct result of
2 testimony received from residents of Taylor
3 County at our Tallahassee meeting, Governor
4 Crist issued the bill of rights. Unfortunately,
5 that applies only to agencies under the
6 authority of the Governor.

7 We are hoping for some trickle down, but I
8 would like this, and at the appropriate time
9 we'll discuss whether we need to put that in
10 legislation and whether that should be something
11 that goes with this recommendation.

12 A legislation to that effect was first
13 introduced in 1994. And other states have
14 adopted that model where there are specific
15 offices that act as a -- governmental offices
16 that act as an ombudsman for the public's right
17 to oversee government. So there are models in
18 other states and that is certainly one of the
19 issues we will be considering.

20 MS. PECK: Good. For the people in Wakulla
21 County to lobby for a bill of rights or
22 something comparable to that to extend to, all
23 government employees, everyone who is a
24 custodian of these records, everyone who's
25 responsible for notification of open meetings,

1 is it better to write to you all or is it --
2 CHAIRPERSON PETERSEN: I think more letters
3 the better so I would write to legislators, the
4 governor, the commission.
5 MS. PECK: Okay.
6 CHAIRPERSON PETERSEN: I mean, we have
7 talked some about the need for more training and
8 we are -- the foundation is researching that
9 issue to see what states have enacted
10 legislation requiring open government training.
11 I know Virginia has done something recently.
12 The Texas attorney general has done something
13 recently. So we are collecting that information
14 as well, which we will present to the Commission
15 at the appropriate time.
16 MS. PECK: We were thinking of a mandate
17 because how can you say you are a custodian of
18 these records and no one knows what that means,
19 what that represents?
20 CHAIRPERSON PETERSEN: And there are some
21 states that have recently required Sunshine
22 training of all government employees. So we're
23 researching that issue as well.
24 MS. PECK: Great. Thank you very much.
25 CHAIRPERSON PETERSEN: Thank you.

1 MS. CARRIN: Mr. Timothy Williams.

2 MR. WILLIAMS: Members, I have provided I
3 think 27 pages, maybe 29, because I didn't have
4 the cover sheet when I was copying it, of
5 documentation. Recently -- oh, my name is Tim
6 Williams. I won't mention that old Florida
7 joke. You know, about not needing an
8 introduction. You have to remember that. Oh,
9 okay. Thanks.

10 Anyway, left you about 27 pages, 29 with
11 the cover sheet, on a situation involving open
12 meetings and public documents. Surprise.

13 And Mr. Reed is gone now, but there is also
14 a little issue about money here as well. My
15 credibility and reputation has been impuned here
16 lately so I felt like I needed to make sure I
17 could document everything that I might say in a
18 written form or verbally.

19 And I'm going to start by pointing out I've
20 been in dispute with Valencia Community College
21 for about a little over two years now. At a
22 scheduled meeting, June 20, 2006, I was an
23 agenda item. They were the voting on my
24 termination. Somehow, I was denied an
25 opportunity to speak.

1 Now, I provided you with all of the
2 background information including, and I'll get
3 to this in more detail later, billing statements
4 from the attorneys, and Valencia had a pile of
5 them, that discussed my request to address the
6 board.

7 And my attorney gave me instructions. He
8 was going to be out of town. He gave me
9 instructions. Two things, he said, you know the
10 routine. He said don't stutter.

11 Well, when I got to the board meeting, I
12 was told by the chairman then, Ms. Buchanan that
13 I would have to talk to the hired attorney about
14 whether I got to address the board or not. They
15 used one of the sitting board members, Lewis
16 Oliver, III, as the administrative law judge and
17 then they hired another attorney to actually do
18 all of the work. I could document that as well.
19 Cost them a little over \$45,000. So there was
20 no savings there, you know, by not using
21 somebody out of the pool.

22 But anyway, I talked to Mr. Madamore (ph)
23 and he explained to me. He said, well, you're
24 not going to be able to address the board today.
25 I'm thinking, you know, what business is it of

1 yours, you're not part of the board. You're
2 hired to do a particular job.

3 Well, he said, he said, you know, you're
4 not going to be able to address the board. You
5 have to put your request in writing. I said,
6 oh, no problem. I said, I provided writing two
7 weeks prior, which is based on the board
8 requirement, and I have a certified mail receipt
9 to show that it was received on June 6, two
10 weeks prior to the board meeting. Well, they
11 wouldn't let me speak anyway.

12 Now, guys, when you have a situation like
13 this, a unique situation that can't really be
14 replicated in any degree, I wonder how the open
15 meetings law remedies this if there is a remedy
16 or if there's anything at all that you might be
17 able to do.

18 I reported what I considered to be a
19 violation to the state attorney, and the young
20 lady that just spoke I wanted to say amen. The
21 state attorney determined that they were
22 possibly in the right because my speaking to the
23 board could be irrelevant, I'm an agenda item,
24 and disruptive.

25 And I'm thinking the only thing disruptive

1 about it would be notifying the board members
2 that didn't take an active role in this
3 administrative process that the college had
4 provided independent counsel for a two-time drug
5 dealer, who happened to be my accuser.

6 All of this is documented, gang, every word
7 I speak.

8 And so, you know, I didn't know, but I
9 found out that most of your state attorneys work
10 pretty much independently. I had indicated I
11 was going to appeal that to Mr. McCullom, but
12 that didn't work.

13 The second issue was that of public
14 records. Now, in order for me to get a
15 chronology of all that has transpired during
16 this whole process, I requested the billing
17 statements from the attorneys they used. A lot
18 of billing statements. The college spent over
19 \$107,000 seeing that I violated college policy.
20 It's documented. They wouldn't give me
21 unredacted billing statements.

22 I finally acquired an attorney -- and I
23 might interrupt myself and I'm bad about that.
24 Now, you can't count this against me, JoAnn.
25 Guys, Ms. Carrin, JoAnn, and Ms. Petersen,

1 Barbara, have both been a great deal of help,
2 more than they ever realized, in helping me
3 resolve some of these issues about the
4 documents.

5 Ms. Carrin was extremely swift in
6 responding to every e-mail to her office.
7 Ms. Petersen, who must spend a lot of time in
8 New Mexico because about a year ago she
9 responded while she was on vacation. I was
10 extremely impressed with that, and gave me a
11 recommended attorney so that I could pursue this
12 a little further, Jake Caney (ph) over in
13 Daytona, said he knew you well and I'm sure he'd
14 say hello.

15 So anyway, it's cost me about \$4,000 out of
16 pocket to force the college to provide documents
17 that I think are clearly public documents or
18 they would have never provided them. I don't
19 know that there's any kind of allowance in
20 your -- in your legislative process, in the law,
21 legal, open government, that allows me to try to
22 reclaim that.

23 And I was thinking based on what Mr. Reed
24 said and some others, a lot of times these
25 government agencies, and the ones that I guess

1 are well heeled, can just out spend you. In my
2 particular administrative action, I couldn't
3 spend \$107,000 defending myself, but the college
4 had \$107,000 they could spend to find me guilty.
5 And then about a month later they were up
6 at your -- at the legislative meetings, you
7 know, the special session asking for money. Go
8 figure.
9 But anyway, the two issues, again, are the
10 what kind of resolution or what kind of recourse
11 do you have if you miss a one time opportunity
12 like the board meeting where they're going to
13 vote on my termination? Most of the board
14 members, all of them except the one who had
15 acted as the administrative law judge, had no
16 idea what was going on other than what they had
17 been told, what had been provided to them in
18 documents. Certainly not my side. Yet, I was
19 not allowed to address them.
20 I don't know what you, you know, what you
21 can do. You certainly can't turn back the
22 clock. You can't change yesterday.
23 The second issue is, like I said, the
24 public records, I'm still having some
25 difficulty. The attorney that the college hired

1 to represent my accuser, twice a drug dealer,
2 documented, I'm trying to get the billing
3 statements for him now. I don't know how much
4 they spent specifically out of pocket, but I was
5 wondering how much of that \$107,000 went to
6 representing her and her lying under oath at her
7 deposition.

8 It's a bizarre story and I've just
9 scratched the surface, and I'm going to
10 apologize to Ms. Dockery because she's heard
11 part of the story before. This is just a
12 different chapter.

13 I've got -- I've got more details than
14 Carter has liver pills. And again, is there --
15 is there any allowance in the future at the
16 present that would allow me to go back and try
17 to reclaim the \$4,000, and that's an approximate
18 figure, I'm out of pocket to get the college to
19 produce those public documents? And I don't
20 know of any.

21 Mr. Caney has told me that if we -- if we
22 threaten a suit, which we had to, and they
23 relent and go ahead and provide the documents,
24 that there is no real recourse. I just have to
25 eat that expense. I think that's as bad almost

1 as going to court and being reimbursed for the
2 legal expenses if you prevail.
3 But again, like one of the speakers said
4 today, I don't write law, I served on the school
5 board here in the county. I know that you guys
6 have been in a situation, I know the kind of
7 situation you find yourself in.
8 I told Mr. Weatherford that I think y'all
9 have certainly been Spartans tonight, today.
10 I've been extremely impressed with your degree
11 of commitment to listen and ask questions and
12 what have you.
13 But I guess I'm reporting, I'm telling on
14 the college, and I'm asking some questions or
15 trying to raise some issues at the same time.
16 CHAIRPERSON PETERSEN: Anybody have any
17 questions for Mr. Williams?
18 MS. LEE: I had some questions.
19 CHAIRPERSON PETERSEN: Okay.
20 MS. LEE: Mr. Williams, what kind of
21 documents were you trying to obtain from the
22 college?
23 MR. WILLIAMS: Well, it started -- I'm
24 still investigating some of the land purchases
25 where I believe one of the board members is

1 involved, but again, that's something I've got
2 ongoing. It's then --
3 MS. LEE: Is that a private land purchase?
4 MR. WILLIAMS: Well, the college has just
5 bought from three limited partnerships over in
6 the Disney area, and again, I don't know -- I'll
7 knock around in my own way and try to discover
8 what I can with that, but the thing that started
9 it, the first time they really threw up the wall
10 was when I asked for the billing statements from
11 the attorneys, Baker and Hostettler were the
12 attorneys that represented the college. Norton,
13 Alan Norton, and Blue were the attorneys that
14 represented the administrative law judge, 60,000
15 plus in one pool, 40,000 plus in another. And
16 they wouldn't provide unredacted copies. I
17 started requesting those back in May the 23rd,
18 and I kept getting this, you know, one excuse
19 after another.
20 Finally, Mr. Caney wrote an exquisite
21 letter that was a bit threatening and they
22 provided the documents. But I still have
23 trouble getting certain things, things that are
24 unredacted, and like I said, I've asked
25 specifically for a few things. We're still

1 e-mailing back and forth at this point in time.
2 That's probably more of an answer than you
3 wanted. I've got a problem with that.
4 MS. LEE: Well, you know, probably with
5 respect to the attorneys' bills, it appears that
6 you did get some, and I don't see any redaction
7 here.
8 MR. WILLIAMS: Ones I listed there for you
9 were specifically to show you, there are about
10 six references in those five pages of where they
11 discussed my request to speak to the board.
12 I've provided those to show you that certainly
13 the notice was not a problem. And I met all of
14 their requirements. I put that in that little
15 package as well, what is taken from their policy
16 as a requirement to speak to the board. You
17 know, it's pretty much boiler plate type of
18 thing.
19 I met those requirements, but I was still
20 denied, even though my attorney, he's mentioned
21 in one of those little -- I'm going to apologize
22 Ms. Lee, I started to highlight those things,
23 you know, with a marker, the old educational
24 thing, but if anybody wanted to copy them, those
25 won't copy, you see. And I thought, well,

1 dad-gum-it, you're darned if you do and darned
2 if you don't.

3 So but that was -- those five have about
4 six references about my contacting the college
5 to speak at the board meeting.

6 MS. LEE: And the other question I had of
7 you was you asked how could you get back some
8 time or how --

9 MR. WILLIAMS: Well -- oh, no, listen.
10 I've got loads of time now. I either have a lot
11 of time or a lot of money. Right now, it's a
12 lot of time. Well, never a lot of money, but
13 you know, better.

14 The idea that I've had to expend in a
15 neighborhood of \$4,000 to get them to do what
16 they should do anyway just doesn't sit well with
17 me. And I don't, you know, Jake Caney is, I
18 think is knowledgeable, and I'm just thankful
19 for the reference, or the referral, but he says,
20 you know, Tim, if they -- if they go ahead and
21 relent, give you what you asked for, then you
22 just have to eat the legal expense.

23 So we've kind of gone back and forth on
24 different things. That was probably half of it.
25 We've continued to negotiate in a way since

1 then.
2 MS. LEE: Thank you.
3 CHAIRPERSON PETERSEN: To clarify, under
4 the public records law, if you sue an agency for
5 failure to comply and you win, the agency is
6 required to pay your attorney's fees. If you
7 push them up to the point of lawsuit, you don't
8 get anything. So that's I think what
9 Mr. Williams is referring to.
10 MR. WILLIAMS: Exactly.
11 CHAIRPERSON PETERSEN: That he's had to
12 force the agency to comply, but they've never
13 had to go to court.
14 MR. WILLIAMS: I wish I had your
15 articulation.
16 CHAIRPERSON PETERSEN: And so he's had to
17 pay the out-of-pocket attorney's fees.
18 MS. LEE: I know it's a short time to try
19 to explain a very complicated --
20 MR. WILLIAMS: Well, listen, you guys have
21 been great --
22 MS. LEE: -- but thank you for that.
23 MR. WILLIAMS: -- about that. I spoke to
24 the delegation about two weeks ago and they give
25 me the hook. My neck is still sore.

1 CHAIRPERSON PETERSEN: Well, we thank you
2 very much.
3 MR. WILLIAMS: Okay. Listen, thanks for
4 helping and good luck with everything, and I
5 guess you don't have any kind of idea or
6 resolution about getting -- remedying a wrong,
7 it's --
8 CHAIRPERSON PETERSEN: Well, I think that
9 that will be part of one of the -- certainly
10 because a lot of people have brought up -- Dana
11 brought it up. A lot of people have brought up
12 the issue of enforcement. Commissioner
13 D'Alemberte has brought up that issue, so yes,
14 we will be -- at this point in time, a lot of
15 people have asked me that this evening, at this
16 point we're collecting information.
17 MR. WILLIAMS: Listen, I felt that way.
18 CHAIRPERSON PETERSEN: And where we can
19 come to some immediate resolution on an issue
20 with the Governor's change in the clemency,
21 access to clemency records, the issuing of the
22 bill of rights, tomorrow we're going to talk
23 about changes, potential changes, to provisions
24 protecting Department of Children & Families
25 records, where we can come to those immediate

1 issues, but when you're talking about rewriting
2 the public records law, that's going to take a
3 while.
4 MR. WILLIAMS: That's what I understand.
5 CHAIRPERSON PETERSEN: And so that -- right
6 now we're in the process of collecting
7 information, and then we'll start processing it
8 once we've got an understanding of what people
9 around the state have to say, and I'm hearing
10 this lament. It's a --
11 MR. WILLIAMS: I'm on board. I'm on board.
12 CHAIRPERSON PETERSEN: So we will be
13 addressing the issue.
14 MR. WILLIAMS: And I'm going to close --
15 CHAIRPERSON PETERSEN: But at this point --
16 MR. WILLIAMS: -- by thanking Ms. Carrin
17 again. You were -- you were so responsive. And
18 Ms. Petersen, you're referral, and the work that
19 you guys do with the First Amendment Foundation
20 I think is great. Thanks again.
21 CHAIRPERSON PETERSEN: Thank you.
22 MS. CARRIN: Thank you. I'd like to see if
23 Michael Caney has arrived or Shawna Doran. That
24 concludes the testimony.
25 CHAIRPERSON PETERSEN: Anybody have any

1 comments or questions? We can --
2 MS. LEE: I wanted to just thank the Tampa
3 Tribune for providing this kind of coverage on
4 the Commission on Open Government, as well as
5 the Sunshine Law and public records. It's
6 exceptional coverage. I think it's an
7 educational piece and it serves us well. Thank
8 you.
9 CHAIRPERSON PETERSEN: Thank you. Do we
10 have someone else who would like to speak?
11 Okay. I need you to fill out a card.
12 MS. NELSON: It was Sue Nelson. I don't
13 know if you called me earlier. She told me to
14 be here around 6:30.
15 CHAIRPERSON PETERSEN: Sue Nelson.
16 MS. NELSON: Uh-huh.
17 CHAIRPERSON PETERSEN: We didn't receive
18 anything but that's okay. We've got some time.
19 We just need you -- I mean, you don't have to
20 fill that out before you speak, but if you would
21 identify yourself and limit yourself to five
22 minutes.
23 MS. NELSON: Okay. I'll be quick because I
24 know everybody is ready to go. Good evening.
25 My name is Sue Nelson. I live in Polk County.

1 I'm here to discuss the economic development
2 exemption to Florida's public records law and
3 how it relates to the central Florida commuter
4 rail project.

5 The commuter rail project has two
6 components, the passenger component and the
7 freight component. Polk County is the freight
8 component. The commuter rail project would not
9 be viable without relocating the majority of
10 freight trains and a freight terminal from
11 Orlando to Polk County. The citizens of Polk
12 County were never informed or publicly noticed,
13 and thus never participated, despite several
14 years of commuter rail planning.

15 On August 2nd of 2006, the former governor
16 announced an agreement in principal between the
17 Florida Department of Transportation and CSX
18 Railroad for \$491 million. The majority of
19 newspapers all ran stories, including a local
20 Polk County paper, the Winter Haven News Chief.

21 August 4, 2006, two days later, the Florida
22 Department of Transportation District I
23 secretary, Stan Cann (ph), sent an e-mail to his
24 staff asking if they knew anything about the
25 newspaper article in the News Chief.

1 One of his staff members, Arlene Barnes,
2 who is the District I rail administrator, in
3 turn e-mailed Tallahassee to the Florida
4 Department of Transportation Rail
5 Administration.

6 Arlene writes, "I'm constantly being asked
7 what is going on. Are we District I to presume
8 that this is a central office project? Our
9 district secretary, among others, are asking
10 questions on this. A \$491 million project and
11 the Florida Department of Transportation's
12 District I secretary read about it in the Winter
13 Haven News Chief.

14 The state of Florida has one of the most
15 progressive public record laws in the United
16 States, and we're proud of it. How does this
17 happen? Florida statute 288.075(2), economic
18 development. Upon written request from a
19 private corporation, partnership, or person
20 information held by an economic development
21 agency concerning plans and intentions or
22 interests of such private corporation,
23 partnership, or person to locate, relocate or
24 expand any of its business activities in this
25 state is confidential and exempt from Chapter

1 119.
2 CSX is a private company, and they are
3 planning to relocate to Polk County, but it
4 stops there. There shouldn't be an expectation
5 of privacy or confidentiality when dealing with
6 the state." Thank you.
7 CHAIRPERSON PETERSEN: Questions? JoAnn's
8 got -- thank you very much, Ms. Nelson.
9 MS. CARRIN: I just want to make sure
10 everybody knows there's going to be breakfast in
11 the morning at seven and there will be a buffet
12 lunch at noon time when we break and a \$9 charge
13 for anybody that wants to take advantage of
14 that. We're only going to have an hour for
15 lunch so we wanted to make sure that there was
16 some food available.
17 CHAIRPERSON PETERSEN: Seven o'clock
18 breakfast?
19 MS. CARRIN: Well, any time from seven to
20 nine. Thank you.
21 CHAIRPERSON PETERSEN: Thank you. Can we
22 leave our materials here?
23 MS. CARRIN: Yes.
24 CHAIRPERSON PETERSEN: Okay. With that
25 we'll recess until nine o'clock tomorrow

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morning. Thank you very much.
(The Commission on Open Government Meeting
concluded at 6:39 p.m. and reconvened on
November 28, 2007 at 9:04 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA

ss:

COUNTY OF ORANGE

I, CYNTHIA R. GREEN, court reporter, hereby certify that I was authorized to and did report the Commission on Open Government Meeting, and the foregoing proceeding, and that the transcript is a true and accurate transcription of my notes and recordings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel, nor am I financially interested in the outcome of the foregoing action.

DATED this 31st day of December, 2007.

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CYNTHIA R. GREEN, Court Reporter
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