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**Testimony of  
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Regarding the New York City Pro-Voter Law  
and  
Int. Nos. 356 and 493**

**Before the New York City Council Government Operations Committee**

**October 23, 2014**

The Brennan Center for Justice at NYU School of Law<sup>1</sup> thanks City Council Member Kallos, Chair of the Government Operations Committee, and the members of the Council present today for the opportunity to testify at today's oversight hearing on Agency-Based Registration and Int. Nos. 356 and 493.

I am DeNora Getachew, Campaign Manager & Legislative Counsel at the Brennan Center. The Brennan Center is a nonpartisan law and policy institute that focuses on issues of democracy and justice. Among other things, we work to ensure fair and accurate voting procedures and systems, and that every eligible American can participate in elections. The Brennan Center works nationally, including in New York, to advance these goals.

My testimony today will focus on efforts to expand voter registration opportunities at city agencies, including most notably the Brennan Center's voter registration modernization proposal to establish electronic registration of all consenting citizens when they interact with a wide range of government agencies.<sup>2</sup> We request that this council expands voter registration opportunities at

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<sup>1</sup> This testimony has been prepared by a Center affiliated with New York University School of Law, but does not purport to present the school's institutional views, if any.

<sup>2</sup> CHRISTOPHER PONOROFF, BRENNAN CTR. FOR JUSTICE, VOTER REGISTRATION IN A DIGITAL AGE 1 (Wendy Weiser ed., 2010), available at

[http://www.brennancenter.org/sites/default/files/legacy/Democracy/Paperless\\_Registration\\_FINAL.pdf](http://www.brennancenter.org/sites/default/files/legacy/Democracy/Paperless_Registration_FINAL.pdf). This proposal calls for states to harness proven technology to update their voter registration systems in four key ways: implement online voter registration; establish electronic registration of consenting adults at a broad range of agencies; make registration portable, keeping voters on the rolls even when they move; and It provides fail-safe

city agencies by electronically transferring registration information from consenting clients to the Board of Elections in the City of New York. We call this electronic transfer of registration material “electronic registration.” We also ask the council legislate for a private right of action, comparable to that contained in the National Voter Registration Act of 1993,<sup>3</sup> so that aggrieved individuals have standing to challenge an agency’s failure to comply with the Pro-Voter Law.

Our research shows that implementing electronic registration will reduce long lines and Election Day chaos, as well as increase registration rates, reduce costs and curb the potential for fraud.<sup>4</sup> While our voter registration modernization (VRM) work is relevant to states bound by the National Voter Registration Act (“NVRA”)<sup>5</sup> to conduct voter registration at motor vehicle authorities and public assistance agencies, this work is also relevant in New York City where certain city agencies are governed by the Pro-Voter Law’s agency-based registration requirements.<sup>6</sup>

### **Background: The Failings of the City’s Pro-Voter Law**

The City Council exhibited leadership by enacting the Pro-Voter Law in 2000. The law requires that 18 city agencies, and associated subcontractors, as well as each of the city’s 59 community boards, offer voter registration forms to all persons submitting applications, renewals, or recertification for agency services, or notifying the agency of a change of address.<sup>7</sup> Although the Pro-Voter Law’s mandate is not as sweeping as the NVRA’s requirements, it was definitely a positive step in improving voter registration in the city.

In 2003, the City Council studied the city’s compliance with the law, and found that the city was neglecting the voter registration mandate and, as a result, many citizens were left unregistered.<sup>8</sup> It is within this framework that the Center for Popular Democracy, the Brennan Center, Citizens Union of the City of New York, and the New York Public Interest Research Group (“Pro-Voter Law Coalition”), initiated a research project earlier this year to gain a better sense of whether the city’s agency-based voter registration efforts had since improved. During this project, the Pro-Voter Law coalition submitted freedom of information requests to the agencies, with the exception of the community boards, covered by the law.<sup>9</sup> As summarized in greater detail in the Pro-Voter Coalition’s report titled “A Broken Promise: Agency-Based Voter Registration in

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procedures to ensure that eligible voters whose information is not on the rolls or not up to date can correct the information online or at the polls.

<sup>3</sup> National Voter Registration Act, 52 U.S.C.A. §§ 20501 – 20511 (1993).

<sup>4</sup> CHRISTOPHER PONOROFF, BRENNAN CTR. FOR JUSTICE, VOTER REGISTRATION IN A DIGITAL AGE 1 (Wendy Weiser ed., 2010), available at

[http://www.brennancenter.org/sites/default/files/legacy/Democracy/Paperless\\_Registration\\_FINAL.pdf](http://www.brennancenter.org/sites/default/files/legacy/Democracy/Paperless_Registration_FINAL.pdf).

<sup>5</sup> National Voter Registration Act, *supra* note 3.

<sup>6</sup> New York City Charter §1057-a (West 2013).

<sup>7</sup> *Id.*

<sup>8</sup> See VILMA C. PERUSINA, VOTER REGISTRATION FORMS NOT AVAILABLE HERE: COMMUNITY BOARDS & CITY AGENCIES (2003), available at <http://www.nyc.gov/html/records/pdf/govpub/657voterforms.pdf>

<sup>9</sup> CENTER FOR POPULAR DEMOCRACY ET AL., A BROKEN PROMISE: AGENCY-BASED VOTER REGISTRATION IN NEW YORK CITY 4 (2014), available at:

<http://populardemocracy.org/sites/default/files/Voter%20Registration%20NYC%20-%20Report.pdf>

New York City” (“A Broken Promise”), only 12 of the 18 agencies covered by the law submitted “substantive responses to the FOIL requests.”<sup>10</sup>

The Pro-Voter Reform coalition subsequently conducted field interviews, along with Make the Road New York and Asian American Legal Defense and Education Fund, to gain more perspective on agencies’ compliance with the law.<sup>11</sup> The most salient finding of such efforts is that voter registration applications were unavailable at more than half of the agency offices.<sup>12</sup> Worse, 10 out of the 12 agency staff interviewed (85 percent) admitted that voter registration forms “were not being provided to each applicant or service recipient.”<sup>13</sup> These dismal results clearly show that New York City agencies continue to squander opportunities to ensure greater registration and, consequentially, participation in the electoral process.

During the time that the Pro-Voter Reform Coalition was conducting the field interviews, Mayor de Blasio issued Mayoral Directive #1, which required that each covered agency submit a Pro-Voter Law compliance plan within 60 days, and thereafter issue semi-annual reports detailing their implementation of the directive.<sup>14</sup> To date, the Pro-Voter Law Coalition has met with the administration and the City Council on several occasions to discuss *A Broken Promise* and the recommendations contained therein. The coalition has been dissatisfied with the lack of detail provided to date regarding the administration’s plan to secure agency compliance with Directive #1 and the Pro-Voter Law. The coalition will be judging the administration’s accountability on this issue going forward, as well as the council’s legislative next steps to assess the body’s commitment to improving the Pro-Voter Law.

### **Opportunities to Improve the City’s Pro-Voter Law**

After completing the field interviews and relevant government stakeholders, the Pro-Voter Reform Coalition issued *A Broken Promise*, which includes comprehensive recommendations in three key categories for how the City could right the course with respect to agency-based voter registration:

- (i) establish procedures to improve agency-based voter registration;
- (ii) ensure effective and accurate tracking of data on voter registration efforts; and
- (iii) expand voter registration opportunities at City agencies.<sup>15</sup>

The Brennan Center and its allies in the Pro-Voter Reform Coalition strongly believe that the proposed bills being considered by the committee at this hearing or any subsequent council legislation amending the Pro-Voter Law should include the components consistent with the coalition’s recommendations in “A Broken Promise,” attached to this testimony.

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 5

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> OFFICE OF THE N.Y.C. MAYOR, MAYORAL DIRECTIVE NO. 1 (2014), *available at* <http://www1.nyc.gov/assets/home/downloads/pdf/directives/directive-1.pdf>.

<sup>15</sup> *See* CENTER FOR POPULAR DEMOCRACY, *supra* note 9, at 7-8.

Consistent with the Brennan Center’s work nationwide to encourage states to modernize voter registration, the Brennan Center urges Councilmember Kallos to amend Int. No. 493 to require that agencies implement a system to electronically transmit new voter registrations and updates to voter registration information directly from the 18 agencies subject to the law’s mandate electronically to the Board of Elections in the City of New York (“Board”). Similarly, any future Council legislation should include a mandate to develop an electronic registration system at covered agencies. We also encourage Councilmember Kallos to amend his bill to provide for a private right of action, comparable to that contained in the NVRA,<sup>16</sup> so that aggrieved individuals have standing to challenge an agency’s failure to comply with the Pro-Voter Law.

### **Expanding Access by Implementing Electronic Voter Registration at City Agencies**

Electronic voter registration would ease the voter registration process for New Yorkers while they are doing business with one of the 18 agencies covered by the Pro-Voter Law’s mandate. Practically speaking, the way that this would work is that once agency officials receive the requisite voter information, they would transfer voter registration data electronically to the Board. This would create a seamless experience for the voter, the public agency, and the Board.<sup>17</sup> It would have the added benefit of boosting registration rates and saving the city time and money.<sup>18</sup> Using technology to facilitate voter registration at City agencies subject to the Pro-Voter Law would relieve the burden on public employees who may view this as a separate, burdensome component of their job.

Twenty-eight states have implemented, or will soon implement, electronic voter registration at state DMV offices and/or other public assistance agencies with great success.<sup>19</sup> Moreover, there is precedent for electronic registration in New York State and City. New York State Governor Andrew Cuomo in 2012 implemented a system to allow for the electronic transmission of voter registration forms from State DMV offices’ directly to Boards of Elections statewide.<sup>20</sup> The applications transferred from the DMV to the Board include “a digital copy of a voter’s ‘wet’ signature that drivers provide to the DMV when they are issued a license or non-driver ID. The signature transmitted to the county Board is the same signature that appears on their DMV-issued license.”<sup>21</sup>

According to Michael Ryan, Executive Director of the Board of Elections in the City of New York, the Board has been receiving all DMV registration information electronically.<sup>22</sup> He also recommended that the Board take a position to expand electronic registration at the city level to all of the covered agencies.<sup>23</sup> At the very least, Executive Director Ryan said the Board should

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<sup>16</sup> National Voter Registration Act, *supra* note 3.

<sup>17</sup> PONOROFF, *supra* note 4, at 1.

<sup>18</sup> *Id.*

<sup>19</sup> *Voter Registration Modernization in the States*, BRENNAN CTR. FOR JUSTICE,

<http://www.brennancenter.org/issues/voter-registration-modernization> (last updated Oct. 10, 2014).

<sup>20</sup> Press Release, Governor Cuomo Announces Reforms to Expand Access to Voter Registration, (Aug. 16, 2012) available at <https://www.governor.ny.gov/press/08162012-voter-registration-reform>.

<sup>21</sup> *Id.*

<sup>22</sup> Board of Elections of New York City, *10-14-14 Commissioner’s Meeting*, BOARD OF ELECTIONS OF THE CITY OF NEW YORK: MEETINGS AND HEARINGS (Oct. 14, 2014) available at <http://vote.nyc.ny.us/html/about/meetings.shtml>.

<sup>23</sup> *Id.*

weigh-in on operational issues, which the Board empowered the Mr. Ryan to do at today's hearing.<sup>24</sup>

The city has the authority to implement this reform. The key consideration for how to implement electronic registration at the covered agencies is how to capture voters' signatures. Based on experience in other states, voters' signatures can be captured in one of the following ways: (i) share existing electronic signatures on file with agencies with the Board; (ii) use an electronic signature device to capture the signature and transfer such signature to the Board; or (iii) collect a voter's signature using an ink-and-paper form, which can be later scanned and shared with the Board to ensure it is permanently linked to the voters' files.<sup>25</sup> Based on our research, "[s]tates have typically taken approximately one year to develop and implement [electronic] voter registration systems."<sup>26</sup>

The Brennan Center is poised to share best practices and contacts with the City Council and the administration to aid consideration of how to smartly design an electronic transmission system at city agencies.

Thank you again for the opportunity to testify today. I would welcome the opportunity to answer any questions you may have.

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<sup>24</sup> *Id.*

<sup>25</sup> See generally, PONOROFF *supra* note 4.

<sup>26</sup> PONOROFF *supra* note 4, at 10.

## **Appendix A**

### **Recommendations of the Pro-Voter Reform Coalition**

1. Train all agency employees who interact with clients about the Pro-Voter Law's voter registration procedures, and administer annual employee refresher trainings;
2. Establish comprehensive protocols by December 31, 2014 to ensure that all agencies provide voter registration applications to clients when they apply for services, renewal or recertification for services and change of address relating to such services. Collect and transmit all completed voter registration applications to the Board of Elections in the City of New York ("Board") on timely basis depending on the timing in the electoral season;
3. Ensure that agency subcontractors provide voter registration opportunities as required under the Pro-Voter Law during the contracting process;
4. Physically integrate voter registration applications into agency intake forms;
5. Ensure an adequate supply of translated voter registration forms in languages covered by the federal Voting Rights Act of 1965—Spanish, Chinese, Korean, and Bengali—and adequate staffing of bilingual employees at city agencies. Agency websites should also link to voter registration forms translated into these languages. New York City should also expand voter registration opportunities to additional limited-English-proficient agency clients pursuant to New York City Executive Order 120;
6. Establish mayoral appointments to facilitate voter registration, designating a citywide Pro-Voter Law coordinator and local coordinators at each covered city agency office;
7. Define clearly the role and authority of the non-partisan Voter Assistance Advisory Committee for all facets of Pro-Voter Law implementation and compliance;
8. Adopt a comprehensive monitoring program to track compliance with the Pro-Voter Law;
9. Require agencies to use coded voter registration forms specific to each agency. Solicit quarterly reports by the Board on the numbers of forms submitted by city agencies;
10. Mandate that agency staff provide the same level of assistance in completing voter registration forms as is given to other agency transactions, which shall include verbal assistance;
11. Provide for the electronic transmission of completed voter registration applications to the Board;
12. Amend the law to mandate that the New York City Housing Authority and the New York City Department of Education comply with the Pro-Voter Law to further extend its reach.