# Testimony before the Maryland General Assembly’s Joint Committee on Transparency and Open Government

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Good afternoon. My name is J.H. (“Jim”) Snider. I am the President of iSolon.org and a Fellow at the Edmond J. Safra Center for Ethics at Harvard University.

During 2000, I worked as an American Political Science Association Congressional Fellow in Communications and Public Policy on the U.S. Senate Judiciary Committee under Senator Patrick Leahy. Senator Leahy was the champion of eFOIA legislation in the late 1990s, and we tried to develop a vision for next generation open government. The basic idea behind eFOIA is that government should make important public documents available online.

Now if there is any such thing as an important public document in a representative democracy, it’s an open meeting document. And yet, to a remarkable extent, open meeting records in Maryland are neither online nor, if they are online, available in an accessible format.

Amazingly, open meeting records have in some respects become worse as a result of new information technology.

Consider that the trustworthiness of online open meeting documents is less than that for traditional print documents, as documents may be posted months late and changed without any public acknowledgment. Of course, such Orwellian manipulation of the public record should not only be disallowed but punished rigorously when found.

Similarly, the existence of relatively inaccessible video records may be used as an excuse to allow the quality of written meeting minutes to deteriorate to be almost useless as a record for anything but votes, and even those may be selectively recorded.

Too often those having to formally request access to open meeting records are intimidated, especially if they seek controversial or otherwise politically sensitive information. Of course, if records are posted online and accessible anonymously, such intimidation becomes impossible.

Given today’s technology, if you want open and democratically accountable meetings, the following needs to be done:

1. Meeting minutes should be posted online within 24 hours of when they are approved, and made available online in perpetuity or until the public body no longer exists.
2. Video of public meetings should be webcast live and video records of old open meetings made available online for at least two decades. With today’s hard drive technology, such online storage can be provided for less than $200, which averages out to a hardware cost of approximately $10/year.
3. Video records of public meetings should be integrated with meeting agendas to facilitate easy search of meeting records. If Takoma Park, Maryland, with a population under 20,000 can do this, and if many towns with a population under 10,000 can do this, then surely Maryland’s giant and wealthy counties can do so, too.
4. All documents voted on at a public meeting should be included in the meeting record and linked to the relevant agenda item.
5. All documents should be time stamped as to when they were posted online. If a different version of a document is submitted, each version should be available online and date stamped.
6. Public officials should not be allowed to place personally identifiable tracking information on the remote computers of those seeking to access open meeting documents.
7. Public officials should not be allowed to monitor the Internet usage of members of the public accessing public WiFi during public meetings.
8. The current $100 limit on winning an open meeting court case should be eliminated because it can be used to pretend that the Open Meetings Act is legally enforceable when in fact it has not been.

Current open meeting institutions also need to change:

1. Open meeting notice and records should be stored in what has come to be called “the cloud” rather than locally. It is grossly inefficient to store such records locally and also invites many political abuses of public records. Current Open Meetings Act compliance controls are akin to having a business allow the cashier to simultaneously serve as in-house accountant and external auditor. It is a recipe for abuse.
2. The cloud administrator should be the state archivist, not local officials, who have a blatant conflict of interest in making such information publicly accessible.
3. The resulting records should be instantaneously deposited in the state archive. It is a breathtaking observation, one that I originally found unbelievable, that today many open meeting archives are stored neither in the State archive nor locally.
4. The Open Meetings Compliance Board should be renamed to something like the “Open Meetings Counsel for Local Public Bodies” so the public is not misled about the nature of its powers and actual mission. Given the current leadership of the Open Meetings Compliance Board, I do not believe it could become an effective champion of the public, regardless of what laws the General Assembly might pass.

Please recognize that the proposals above to modernize the Open Meetings Act are actually quite conservative and technologically primitive compared to what needs to be done and is already being done in more than a dozen countries scattered across the globe, some in countries with far less wealth and technological sophistication than Maryland. Unfortunately, discussion of standardized open meetings ontologies, which represent the future of meaningfully open government, cannot be done within the time I have been granted to speak to you. If you are interested in this subject, I’d recommend you go to the [Akoma Ntoso](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&sqi=2&ved=0CB0QFjAA&url=http%3A%2F%2Fwww.akomantoso.org%2F&ei=qtB-UMbICoeC8ASvmYCQDg&usg=AFQjCNGUBNu5JTp-HzLegQrD6ng8PG9ZFQ&sig2=9BTmYaXrt0vpilPiRhcgxg) website.

In conclusion, I believe the key political question facing this committee is whether Maryland public bodies should be able to continue to seek the political benefits of appearing to be open without actually bearing the corresponding costs of genuine openness. Small towns in Vermont, or even Takoma Park in Maryland, have been willing to bear such costs, but not the much wealthier and politically sensitive jurisdictions in Maryland. Needless to say, lobbyists for those interests will fiercely oppose the recommendations I have made here. That should not be an excuse to continue the current disgraceful condition of local open meeting government in Maryland.