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2018 NYC CHARTER REVISION COMMISSION  
PUBLIC HEARING

125 Worth Street  
2nd Floor Auditorium  
New York, New York 10013

June 12, 2018  
1:14 P.M.

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A P P E A R A N C E S:

COMMISSIONERS:

- |                      |                    |
|----------------------|--------------------|
| CESAR PERALES, Chair | LIRAN ANGELO       |
| DEB ARCHER           | KYLE BRAGG         |
| MARCO CARRION        | UNA CLARKE         |
| ANGELA FERNANDEZ     | MATT GEWOLB        |
| RACHEL GODSIL        | SHARON GREENBERGER |
| MENDY MIROCZNIK      | DALE HO            |
| CESAR PERALES        | CARLO SCISSURA     |
| ANNETTA SEECHARRAN   | JOHN SIEGAL        |
| WENDY WEISER         |                    |

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1                   MR. PERALES: Good afternoon. My name is  
2                   Cesar Perales and I have the honor of serving as  
3                   Chair of the New York City Charter Revision  
4                   Commission. And I welcome all of you to this  
5                   June 12th meeting of the Revision Commission.

6                   Let me begin, as I usually do, by asking the  
7                   members of the Commission who are here to  
8                   introduce themselves. And I'll start on my left  
9                   with John.

10                  MR. SIEGAL: Thank You, Mr. Chair. My name  
11                  is John Siegal. I'm a practicing lawyer here in  
12                  Manhattan. And I guess for purposes of this  
13                  panel on elections, I've previously been a  
14                  campaign aide and assistant to the mayor. As  
15                  well as served as counsel to citywide campaigns  
16                  from 1993 through 2009.

17                  MS. FERNANDEZ: Thank you. My name is  
18                  Angela Fernandez and I'm the executive director  
19                  and supervising attorney of the northern  
20                  Manhattan Coalition for immigrant rights. And  
21                  for the purposes of this meeting, I have worked  
22                  as the district chief of staff for Congressman  
23                  Jose Serrano and as a staff aide to U.S. Senator  
24                  Bill Bradley.

25                  MR. HO: Good afternoon. My name is Dale Ho

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           and I am the director at the ACLU's voting rights  
2           project here at the New York ACLU's national  
3           office.

4           MS. WEISER: Hello. I am Wendy Weiser and I  
5           direct the democracy program at the Brennan  
6           Center for Justice at NYU School of Law. Thanks  
7           for coming.

8           MR. PERALES: My own background is that I'm  
9           a former secretary of State of New York, former  
10          deputy mayor of the City of New York. But  
11          perhaps most importantly and most relevant to  
12          this afternoon's discussion is that I am the  
13          founder of the Puerto Rican Legal Defense Fund,  
14          now known as the Latino Justice. An organization  
15          that's been very much engaged in voting rights.

16          MS. CLARKE: Good afternoon. My name is Una  
17          Clarke. I'm a former member of the New York City  
18          Council. I'm the first ever immigrant from  
19          anywhere as a woman to be elected to the City  
20          council. I am the product of the 89 Charter  
21          Revision, when the council was expanded from 32  
22          to 51. I became lucky to be the first from the  
23          Korean-American community to be elected to public  
24          office. Since that time, my daughter is now a  
25          member of the House of Representatives and I have

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 great interest in making sure that the doors of  
2 democracy is open for those who come and want to  
3 participate in our democracy. So I'm very much  
4 interested in this. I'm an educator by  
5 profession.

6 MS. ANGELO: Good afternoon. I'm Liran  
7 Angelo. I'm a senior research fellow at the  
8 Institute in local governance security. And I am  
9 a former budget person. Spent many decades, too  
10 many decades, of my life doing it on both the  
11 council and the mayor side.

12 MR. PERALES: Before we hear from Matt  
13 Gewolb, I just want to say a few other things.

14 For those of you who are not familiar with  
15 our work, today we will be focusing on the  
16 administration of elections and trying to make  
17 elections more meaningful and with greater  
18 participation by the citizens. I just want to  
19 say that when the mayor first asked me to serve  
20 as chair of this commission, he made a point of  
21 telling me how important he thought our election  
22 system was. And he thought that there was a real  
23 opportunity for us to improve it. So that  
24 today's discussion with experts and amongst the  
25 Commission members is very, very important and

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 goes to the crux of what our Commission was  
2 established for.

3 Having said that, the mayor also made a  
4 point of telling me that we are to look at the  
5 entire City Charter to see what changes we think  
6 ought to be made. In that context, we've heard  
7 from lots of people since we start -- first met  
8 as a group in April. We held forums throughout  
9 the City, in each of the boroughs. And we've  
10 heard some really creative and insightful ideas  
11 about improving our Charter.

12 As I indicated, today's topic is going to be  
13 meaningful participation in elections. And what  
14 we're doing today is that we've called together  
15 some experts who will give us their views on some  
16 of the more important issues cited by the people  
17 from whom we heard during our community forums.  
18 There will be no taking of public testimony  
19 today. We will continue to do that in other  
20 forms. But today it's really for the Commission  
21 members to engage this panel before us and the  
22 panel will follow on some of these topics that  
23 are not just interesting, but very complex. This  
24 meeting is being live-streamed and we've got  
25 language interpreters. And we also have a sign

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 language interpreter.

2 Before I get us started, I'm going to ask  
3 Matt Gewolb, our executive director, to explain  
4 the ground rules.

5 MR. GEWOLB: Thanks very much, Mr. Chairman.  
6 And thanks to you and the Commission members for  
7 all of your works so far, obviously.

8 The Commission has received over 60  
9 recommendations relating to election  
10 administration. So this is a topic that was of  
11 tremendous interest to the public as we made our  
12 way around the City in the borough forums. We've  
13 heard comments election administration voter  
14 participation ranging from early registration to  
15 changing the deadline for our changing party  
16 affiliation. So a range of proposals. I'm  
17 looking forward to hearing from the panel. I  
18 know we're all eager to hear from the esteemed  
19 panel, so we'll turn to that now.

20 As you mentioned, Mr. Chair, a couple of the  
21 ground rules, so to speak. We're going to allow  
22 five minutes for prepared remarks from each of  
23 the panelists.

24 Thank you all very much for being here.

25 I'll give you a two-minute warning here so

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           you have a sense of the time. And with that, I  
2           think we're ready to get going. So we thought  
3           that we would begin with Harry Grossman.

4           Mr. Grossman is the voting rights attorney at the  
5           New York Civil Liberties Union. Thanks very much  
6           for being here and for your testimony today.

7           MR. PERALES: Matt, if I might.

8           MR. GEWOLB: Yes.

9           MR. PERALES: I presume that after each one  
10          of the experts has spoken, we can ask questions  
11          immediately. And then perhaps at the end, having  
12          heard from all four, we can continue our  
13          questions.

14          Does that make sense?

15          MR. GEWOLB: Yes. Absolutely.

16          MR. PERALES: All right. Well, let me first  
17          introduce each of the panel members.

18          Perry Grossman, as you just heard, is the  
19          voting rights attorney from the New York Civil  
20          Liberties Union.

21          We've got Susan Lerner, the executive  
22          director of Common Cause New York.

23          Katherine Gray, co-president League of Women  
24          Voters of New York City.

25          We're waiting for Jerry Vattamala, who is

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 the director of the democracy program at AALDEF,  
2 the Asian-American Legal Defense Fund.

3 And Andrew Wilkes, Director of Policy and  
4 Advocacy, Generation Citizen.

5 With that, let's begin with Mr. Grossman.  
6 And just before Mr. Grossman starts, just to  
7 clarify the record, because I work at the  
8 American Civil Liberties Union. And because  
9 Mr. Brisbane works at the New York Civil  
10 Liberties Union, I'm going to excuse myself  
11 during his prepared remarks.

12 MR. PERALES: All right. So noted.

13 MR. GROSSMAN: Thank You, Mr. Chair and  
14 members of the Commission for this opportunity.  
15 Good afternoon.

16 I was asked to discuss the state of  
17 elections in New York. What is a state issue,  
18 and what is a City issue, and what is the proper  
19 focus of the Charter Revision Commission, and how  
20 we can improve the state of elections and  
21 political participation in New York City.

22 So I wanted to start with the New York State  
23 Constitution itself. And Article 1, Section 1 of  
24 the New York State Constitution begins, "No  
25 member of this state shall be disfranchised."



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           And Article 2, Section 1 begins, "Every citizen  
2           shall be entitled to vote."

3           But archaic election practices regularly  
4           abridge the voting rights of thousands of New  
5           Yorkers. We lack common sense modernizations  
6           widely adopted elsewhere.

7           According to the National Conference of  
8           State Legislators, early voting is available in  
9           37 states and D.C., but not New York. No-excuse  
10          absentee ballots are available in 27 states and  
11          D.C., but not New York. Automatic voter  
12          registration is available in 12 states, including  
13          Jersey and D.C., but not New York. Same-day  
14          registration is available in 17 states and D.C.,  
15          but New York requires voters to register 24 -- 25  
16          days before an election. Electronic voter  
17          registration is available in 37 states and D.C.,  
18          but not New York. Last week I spoke with Kristen  
19          Rouse, of the New York City Veterans Alliance,  
20          who worked with election officials while serving  
21          in Afghanistan with the US Army. She told me  
22          that electronic voter registration was available  
23          in Afghanistan, but not New York. The results  
24          are embarrassing.

25          In November 2016, New York ranked 47th out

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 of 50 states and D.C. in registration and 44th in  
2 voter turnout. Obsolete election practices make  
3 voting a more costly and time-consuming exercise  
4 that places the heaviest burden on our most  
5 vulnerable voters; low-income, minority, and  
6 immigrant citizens. We bear high cost to  
7 maintain an old broken-down system at a time when  
8 increasing civic engagement is a moral  
9 imperative. Some reforms require state-level  
10 action. No-excuse absentee balloting and  
11 same-day voter registration will require  
12 amendments to the State Constitution, as will  
13 ending the partisan duopoly over state and county  
14 boards of elections that continues to stifle  
15 valuable reforms. Automatic voter registration,  
16 the deadline for party registration changes,  
17 primary consolidation, and early voting outside  
18 of local elections will require statutory fixes.  
19 But the City can and should ensure that its  
20 citizens' constitutional voting rights are  
21 protected by improving the quality of election  
22 administration provided to New York City voters.

23 The City appropriates the Board of  
24 Elections' entire 115 million dollar budget. The  
25 City's unique diversity, economy, infrastructure

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           and geography raise unique challenge that require  
2           local solutions. The City and its constituents  
3           are entitled to election administration that  
4           meets these challenges with modern and cost  
5           effective systems consistent with the Board of  
6           Elections' statutory mandate, quote, to encourage  
7           the broadest possible participation -- voter  
8           participation in elections. Some solutions are  
9           already in maturity.

10                   For example, Section 1057 C already requires  
11           the Board of Elections to place notices on former  
12           poll sites that give voters the means to find out  
13           where their new poll site is. The City should  
14           exercise its authority to make further reforms to  
15           local laws and be prepared to enforce them.

16                   To that end, there are five proposals for  
17           the Charter that will increase participation and  
18           also save taxpayers money. Electronic poll  
19           books, E-poll books permit more efficient,  
20           accurate and cost effective management of voter  
21           data and polling places than paper poll books.  
22           They will shorten lines at the polls, help poll  
23           workers direct voters to their correct polling  
24           places, and save printing costs.

25                   Most importantly, E-poll books can store the

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 full set of registered voters in New York City,  
2 while paper poll books omit inactive voters.  
3 Voters left off the rolls are forced to cast  
4 affidavit ballots that are less likely to be  
5 counted later. E-poll books will result in more  
6 voters casting ballots that get counted.

7 Finally, E-poll books can get New York ready  
8 to implement early voting and election day  
9 registration. For counties in New York State,  
10 Onondaga, Cayuga, Orange and Cortland, have  
11 already successfully piloted the use of  
12 electronic poll books.

13 The electronic transmission of registration  
14 forms. Right now the DMV assists New Yorkers in  
15 registering to vote and electronically transmits  
16 those forms, photostatic signatures and all,  
17 directly to the Board of Elections. Which  
18 receives them instantaneously and securely.  
19 Motor voter accounts for approximately 28 percent  
20 of all registration statewide. In New York City,  
21 many residents have no business with the DMV.  
22 The City Board of Elections only receives about  
23 10 percent of registrations through motor voter.  
24 But plenty of other City agencies come intact --  
25 come in contact with unregistered but eligible

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 voters and currently have or could adopt the same  
2 technological capabilities as the DMV. New York  
3 City agencies should adopt these technologies and  
4 transmit registrations electronically to the  
5 Board of Elections. Registrations in New York  
6 City should not be subject to a more costly  
7 time-consuming and less secure process than  
8 elsewhere in the state.

9 Early voting. Absentee ballots are not  
10 easily available. Working family obligations,  
11 health and transportation issues, and unexpected  
12 obstacles can make it difficult to vote in person  
13 near home on a Tuesday. Early voting in local  
14 elections can make sure that all voters have a  
15 convenient time to vote and allow New York City  
16 to serve as a model for the rest of the state.

17 Language assistance. The Federal Voting  
18 Rights Act is a floor, not a ceiling, for the  
19 extent of the language assistance that the City  
20 can provide voters. Others here will testify  
21 more competently on this point. But we echo  
22 their call to ensure that the language assistance  
23 provided to New York City voters better reflects  
24 the diversity of the City.

25 And finally, the right to vote. The Charter

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 is a place to affirm the City's fundamental  
2 commitment to democracy, the rule of law, and the  
3 essential role of political participation in  
4 protecting both. To that end, the City Charter  
5 should offer express protection for the right to  
6 vote in local elections. An express right to  
7 vote sends an unambiguous message that the health  
8 of our democracy depends on clinical  
9 participation and that New York City thrives when  
10 more of its residents are engaged. It also sets  
11 the stage for New York to consider joining other  
12 cities that have expanded access to the franchise  
13 in a number of ways I think other members of the  
14 panel can discuss more thoroughly.

15 I thank the Commission for the opportunity  
16 to share these views with you today and I look  
17 forward to answering your questions.

18 MR. PERALES: I'll exercise the prerogative  
19 of the Chair and ask the first question.

20 I am still not clear as to what it is that  
21 the City can do without violating state laws.  
22 For example, you mentioned absentee ballots,  
23 their importance. I have to believe that if we  
24 had a more flexible way of letting people vote or  
25 an absentee ballot would make a big difference.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 But as I understand it, state law, which draws to  
2 authority from our constitution, State  
3 Constitution, seems to limit the grant of an  
4 absentee ballot to people who are seriously ill  
5 or disabled. Could -- is it your opinion,  
6 Mr. Grossman, that we could expand that? Could  
7 we, for example, in New York on its own, decide  
8 that people with childcare responsibilities that  
9 they can't avoid, could they, for example, ask  
10 for an absentee ballot and receive an absentee  
11 ballot? That's just an example. But it's one  
12 that obviously comes to mind.

13 MR. GROSSMAN: It's an excellent question,  
14 Mr. Chair.

15 I would say it's sort of a facial matter,  
16 right. The no-excuse absentee issue comes  
17 directly from the New York State Constitution.  
18 Which is, frankly unfortunately, obnoxious. So  
19 it does limit who can have access to an absentee  
20 ballot to people expressing good cause. Your  
21 question is, can the City of New York help define  
22 what -- what could cause its right. So the --  
23 the constitution, as I recall off the top of my  
24 head, talks about, in addition to the  
25 disabilities you've described, people who will be

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 absent from the jurisdiction on Election Day,  
2 right. I am not aware of anything that  
3 necessarily cabins the City's authority to  
4 describe what good cause is. And to push it in  
5 directions that potentially expand the  
6 definition, I would suggest that the City is  
7 better off begging for forgiveness than asking  
8 for permission on this score. The fact is a lot  
9 of this has not been litigated, so we don't know  
10 what the courts have said on it. We don't have a  
11 lot of statutory guidance. And so, to the extent  
12 that there is an inkling that there are causes  
13 that the City thinks that are especially worthy  
14 of further consideration, I would urge the  
15 Commission to put it on the record. And, at a  
16 minimum, you know, it's setting the groundwork  
17 for important state reforms later. But as I sit  
18 here, I can't give an authoritative opinion on  
19 whether the City could unilaterally do that. But  
20 I would say that where the law is ambiguous, it  
21 is always better to push in the direction of  
22 expanding access to democracy, rather than  
23 contract it.

24 MS. CLARKE: I'd like -- I'd like to just  
25 follow up with a question on absentee ballots and



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 the way they get counted.

2 We all know that on election night everybody  
3 get excited and they call a winner. Which means  
4 if the winner gets X amount of votes, nobody  
5 knows when the absentee ballots are counted. Or  
6 if those absentee ballot can -- would overturn  
7 somebody's victory.

8 What is your thought on that?

9 MR. GROSSMAN: With great respect, Chairman  
10 Clarke, Commissioner Clarke, I don't have a view  
11 on that. But perhaps one of my co-panelists  
12 does.

13 MS. GRAY: My understanding -- Catherine  
14 Gray, from the League of Women Voters. My  
15 understanding from the Board of Elections, they  
16 count the ballots -- open the absentee ballots on  
17 Friday after the election. And they do count  
18 them all. But -- and they don't certify the  
19 election results until that is done. That's the  
20 reason why the election results are not  
21 permanent -- what's the word?

22 MR. GROSSMAN: Certified.

23 MS. GRAY: Certified. Thank you.

24 Early -- I mean, they don't certify them  
25 election right.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 MR. PERALES: Wendy will go next.

2 MS. WEISER: Okay. Thank you.

3 So one is a clarifying question to what you  
4 just were asked.

5 Is your proposal that the City define good  
6 cause for no excused absentee -- for every  
7 absentee ballots for all races or only for  
8 municipal races? The same question about early  
9 voting. I'm assuming that you are recommending  
10 only for municipal races, not for all races; is  
11 that correct?

12 MR. GROSSMAN: That is correct.

13 MS. WEISER: And so a follow-up question,  
14 then on the -- so but -- but for the absentee  
15 ballots, you're -- is the proposal similarly  
16 limited to municipal?

17 MR. GROSSMAN: That -- that's correct. But  
18 only because I haven't done the research to  
19 suggest it could go further. I'm not saying that  
20 it could not. And again, my position is the  
21 extent the law is ambiguous, state law's  
22 ambiguous, the constitution is ambiguous. Push  
23 it.

24 MS. WEISER: And the follow-up question  
25 there is, is your suggestion that the Home Rule

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 Law then allows New York City to make changes as  
2 it applies to municipal elections? So it's not  
3 really an interpretation of the state races, it's  
4 actually just governing its own races; is that  
5 correct?

6 MR. GROSSMAN: That's correct.

7 MS. WEISER: And then -- so now on the early  
8 voting, I just had then a practical question.

9 The -- since this will apply only to  
10 municipal elections, have you given any thought  
11 as to whether or not that might induce people to  
12 not vote in the non-municipal elections that are  
13 on the race by voting early for a municipal race,  
14 and then not voting in the others? And how do  
15 you -- how have you weighed that or -- I'm just  
16 questioning --

17 MR. GROSSMAN: Sure. Let me just make sure  
18 I understand it for answer.

19 So would expanding early voting for  
20 municipal elections decrease participation in  
21 non-municipal elections?

22 MS. WEISER: Yes. That are -- that are on  
23 the same --

24 MS. GRAY: That are on the same ballot. DA,  
25 judges, etc.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 MS. WEISER: Yes. The ones that are -- that  
2 we're voting for in the same election. And if  
3 so -- so have you considered that question? Or  
4 if not, is that something that is worth  
5 considering? And if it is, I'm just wondering if  
6 that proposal could be made for municipal  
7 elections where that happened when there aren't  
8 also other races at the same time.

9 MR. GROSSMAN: So let me answer that in --

10 MS. WEISER: Yes.

11 MR. GROSSMAN: -- a couple of different  
12 parts.

13 The first is, I don't -- I don't have any  
14 statistical studies to suggest what the impact  
15 would be. So I haven't done that analysis. You  
16 know, again, I think expanding -- part of what I  
17 would like to encourage the City to do is to  
18 lead, right. And to the extent we can expand  
19 early voting in one area, I think it's likely to  
20 lead to early voting in other areas shortly  
21 thereafter. So my hope is that, should we come  
22 across the conundrum where we have municipal,  
23 where we saw we have early voting for some local  
24 offices but not others, that that's not something  
25 we have to live with for a very long time. But,

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 right, obviously for at least one election, that  
2 would be a possibility. So my suggestion would  
3 be the -- the gains made by expanding early  
4 voting and by allowing more people to participate  
5 are much more likely to outweigh any loss that  
6 might occur from people voting early and not  
7 voting for certain offices. Because the people  
8 you're going to capture voting early are people  
9 who might not have voted on election day at all.  
10 And so by bringing new voters into the system,  
11 and this is maybe a much more normative argument,  
12 but voting is a habit. And the more we can get  
13 people into the habit of voting, the more they're  
14 going to do it.

15 MR. PERALES: Let me just -- point of  
16 clarification because this is getting my own mind  
17 a little bit confused.

18 We talked a moment ago about the  
19 restrictions on absentee ballots that exist in  
20 state law. Are you suggesting that we could go  
21 beyond the current ability or opportunities to  
22 get an absentee ballot if we had, quote, a  
23 municipal election? Or are you suggesting that  
24 we assume that we can push it for all elections?

25 MR. GROSSMAN: So I can -- I can sit here

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 and speak confidentially about municipal  
2 elections --

3 MR. PERALES: You're confident that the  
4 state restrictions do not apply to City  
5 elections?

6 MR. GROSSMAN: That's -- that is my  
7 understanding. Is that state -- the Home Rule  
8 Law gives New York City and -- and other  
9 municipalities in the state, extensive control  
10 over their own elections and government. And New  
11 York City has allowed a lot of leeway to -- to do  
12 things to its own elections. To the extent that  
13 they don't interfere with state elections. You  
14 know, there are more ambiguous areas that we can  
15 discuss. But the City has extensive control over  
16 its own elections.

17 MS. ANGELO: Hi. I wanted to ask a couple  
18 of questions on electronic registration and  
19 electronic, I guess, registration books. The  
20 things you go to see when you go to vote. Do you  
21 have -- can you have one without the other?

22 MR. GROSSMAN: Can you have -- just to make  
23 sure. Can you have electronic poll books without  
24 electronic registration?

25 MS. ANGELO: Correct.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 MR. GROSSMAN: Yes.

2 MS. ANGELO: Do you have a sense of the cost  
3 of implementing each of those, electronic poll  
4 books and electronic registration.

5 MR. GROSSMAN: I don't -- I don't have cost  
6 estimates as I sit here today. But we are  
7 talking about cost savings, not cost to the City,  
8 right. We are replacing printed paper poll books  
9 which contain only, you know, a fraction of the  
10 City's voters. And those -- those costs are  
11 instead replaced with reusable electronic poll  
12 books that can be updated regularly without  
13 having to reprint and be used year after year  
14 after year. With respect to electronic  
15 registration -- and when I say electronic  
16 registration, I don't want to confuse the notion  
17 of people registering fully online with Social  
18 Security numbers and whatnot. I am simply  
19 talking about the very limited reform of  
20 replicating what the DMV does. Where you are  
21 there, you sign your name, they basically take a  
22 picture of it, and they send it to the Board of  
23 Elections, and the Board of Elections receives it  
24 electronically. Right now other forms have to  
25 pass in paper over the desk and there's a

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           tremendous drop-off. So if we have a system  
2           whereby New York City agencies were able to  
3           replicate what the DMV does, which is not a  
4           technological marvel by any stretch of the  
5           imagination, I think you would see a substantial  
6           reduction in cost because you are going to see,  
7           one, for your forms printed. Two, less --  
8           because there's -- they're sort of instantaneous  
9           transmission and greater security, forms are  
10          going to be received with a greater accuracy that  
11          require less human correction on the back end.  
12          But we can certainly look into what those cost  
13          savings would be. But I do think they are cost  
14          savings and not cost generation.

15                 MS. ANGELO: And there's no state  
16          prohibition on this?

17                 MR. GROSSMAN: None.

18                 MS. ANGELO: Thank you.

19                 MR. PERALES: I'm told we're spending too  
20          much time on one panelist. But I'm going to let  
21          them -- Wendy follow up with one clarification  
22          question.

23                 MS. WEISER: Do you have a -- you recommend  
24          electronic voter registration at City agencies  
25          automatic voter registration, as well, or just



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 electronic at this point?

2 MR. GROSSMAN: So sitting here talking about  
3 the City Charter, what I'm recommending is end to  
4 end electronic transmission of voter  
5 registration. I think automatic voter  
6 registration is great public policy and it should  
7 absolutely be enacted. Don't sit here today with  
8 a view as to what the City's authority to enact  
9 automatic voter registration is. I'm certainly  
10 not saying they can't do it. But I don't want to  
11 sit here and tell you that you can.

12 MR. PERALES: Thank you, Mr. Grossman.

13 Let's move on as quickly as we can to Susan  
14 Lerner.

15 MS. LERNER: Thank you very much to the  
16 Commission for this opportunity to talk about  
17 this fascinating and complex question of  
18 improving election administration and voter  
19 turnout. There is no easy answer and no magic  
20 silver bullet, unfortunately. And, as I think  
21 Perry Grossman has indicated, the State of New  
22 York state law doesn't help us in this endeavor  
23 at all. And, in fact, there is an ongoing  
24 controversy between the New York City Board of  
25 Elections and the New York City Council and the

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           mayor's office as to what the responsibilities of  
2           the New York City Board is in following City law.  
3           So you're talking about a difficult and gray  
4           area. Let me give you two quick examples.

5                    On when we're talking about expanding  
6           language access, which is something which Common  
7           Cause strongly supports, we have a vivid example  
8           of how the New York City Board of Elections  
9           refused to follow New York City law last  
10          November, when the city council appropriated  
11          additional monies to provide Russian language and  
12          Haitian Creole translators and the mayor's Office  
13          of Immigrant Affairs recruited and trained  
14          nonpartisan translators to go out to voting  
15          locations, polling places, where you have a need  
16          for those translators. I personally witnessed  
17          the fact that the New York City Board of  
18          Elections threw the translators out of the  
19          polling places and required them to stand 100  
20          feet away from the entrance to the polling place,  
21          significantly interfering with their ability to  
22          offer their services to people who might need it.

23                   Secondly, we have another example. The City  
24          Charter, as it currently stands, has a provision  
25          which requires the New York City Board of

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           Elections to provide a voter information portal  
2           that was added to the Charter in 2016, effective  
3           January 1, 2017. And as part of that  
4           requirement, the New York City Board of Elections  
5           is directed to include information which will  
6           allow a voter to track the progress of their --  
7           the receipt and mailing of their absentee ballot  
8           application and absentee ballot through a barcode  
9           system that conforms with the requirements of the  
10          U.S. Postal system. The Board, to my knowledge,  
11          has never discussed that requirement and it  
12          certainly has not implemented it.

13                 This past month -- actually, at the end of  
14          April, it turns out that the Brooklyn Postal  
15          Service, U.S. Postal Service, delivered over a  
16          hundred thousand absentee ballots on April 24 and  
17          25 to the New York City Board and said, "oops, we  
18          lost them." These were ballots -- absentee  
19          ballots which should have been delivered of -- in  
20          relation to the New York City November 2017  
21          general election. And over a hundred thousand  
22          New York City residents were disenfranchised  
23          because their absentee ballots were untraceable  
24          because of the Board's failure to follow City  
25          law. So I think you have an interesting

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 proposition in front of you. Which is, you can  
2 consider a lot of reforms. But if the Board is  
3 going to ignore the requirements and the City is  
4 not going to enforce the requirements, then we're  
5 going to have a very interesting theoretical  
6 discussion. So I have some very specific  
7 suggestions as to what can be done to strengthen  
8 the City's argument. Which frankly, I think is  
9 going to have to be resolved through litigation.

10 First, we believe that the Charter should be  
11 amended to very specifically amplify the state  
12 constitutional right to vote. There is a public  
13 policy interest in New York City in expanding and  
14 protecting the franchise of its residents for New  
15 York City elections and I think that should be  
16 expressed. And I think that the City voters  
17 should have an opportunity to adopt that for the  
18 Charter because, frankly, I think it will  
19 strengthen the argument that the City Board must  
20 follow City law.

21 Secondly, I believe that we should be using  
22 the budget process to ensure greater  
23 accountability of the Board of Elections.  
24 Currently the State of -- New York State law by  
25 statute, and as explained and interpreted by case

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 law, indicates that the Board has absolute  
2 discretion without any oversight to hire and fire  
3 its staff up to the maximum budget allocation for  
4 staff provided by the local legislature. It is  
5 absolutely silent on oversight for other issues.  
6 And so I know, for instance, that there was some  
7 discussion at the Council level about instituting  
8 electronic poll books and being willing to pay  
9 for it. Apparently, that went nowhere because  
10 you can't get cooperation from the Commission.  
11 So I believe that the terms and conditions  
12 process and the reporting process in the budget  
13 could be used to provide more accountability and  
14 more reporting. And I recommend some areas for  
15 that in my very summary written testimony.

16 Additionally, we believe that the Charter  
17 could clarify that the City Conflicts Of Interest  
18 Law applies to the Board of Elections. There is  
19 a 1996 Corporation Counsel decision which says  
20 that the Board is exempt from those requirements.  
21 We believe that is outdated and incorrect. And  
22 we believe that a simple addition to Charter  
23 Section 2604(b)15 to include commissioners of the  
24 Board of Elections among the offices subject to  
25 the Conflicts Of Interest Law would be a worthy

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           addition to our City law. We believe that VAAC,  
2           the Voter Administration Assistance Commission,  
3           can be strengthened and expanded. We believe it  
4           should be an independent agency, with its own  
5           guaranteed budget. And we believe that there is  
6           a continuum of City programs that encourage  
7           participation in the broadest sense that include  
8           volunteerism and the continuum all the way  
9           through civic engagement to voting, which should  
10          be housed under one agency so that the message is  
11          clear to the public that our City endorses the  
12          broadest type of participation and that one type  
13          of participation interlocks with the other. So  
14          the people who are receiving information about  
15          volunteerism should be encouraged to become  
16          civically engaged in other forms and in voting.  
17          And people who are receiving information about  
18          voting should be receiving information about  
19          other forms of engagement. I think having this  
20          under one body will mean the City's efforts and  
21          expenditures in this regard will be much more  
22          effective, with a unified message, and we don't  
23          have unnecessary duplication or contradiction.

24                    Finally, we believe that the Commission  
25                    should resist the temptation to load the Charter

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 Revision with a lot of election reform proposals.  
2 We have no election modernization and reform in  
3 our state and it would be inviting to add every  
4 single reform that we can think of. But I think  
5 that there are two reasons that would argue  
6 against that.

7 First, I think administratively you can't go  
8 from zero to 60 instantaneously. Every election  
9 administrator I have talked to in states that  
10 have significant modernization has emphasized how  
11 it has been a gradual incremental process that  
12 allows the administrators to actually handle the  
13 changes.

14 Secondly, I think we should be picking an  
15 area where the argument is strongest, that the  
16 City can effect the change. And I would suggest  
17 to you that that is in the rank-choice voting  
18 area. You have to worry about contradictions in  
19 the Constitution of the state that may or may not  
20 apply. And I believe that rank-choice voting not  
21 limited to run-offs, which we'll talk about  
22 later, would be a very effective and  
23 transformative reform for the City to start with.

24 Thank you.

25 MR. PERALES: Yeah. I sort of dominated the

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           questioning before. I'd like -- oh. I'd like to  
2           recognize the fact that Rachel Godsil, our Vice  
3           Chair, has joined the Commission panel.

4           Questions?

5           Well then I have one. I always have one.

6           Ms. Lerner, I am intrigued by the fact that  
7           you talk about this one agency that you think  
8           will make a big difference in getting people  
9           involved in elections, as well as volunteerism.  
10          I'm going to play the devil's advocate.

11          We already have an agency that is supposed  
12          to encourage voting.

13          Do you know?

14          MS. LERNER: Yes.

15          MR. PERALES: So why bother trying to  
16          revitalize a dead horse?

17          MS. LERNER: So, you know, I think what we  
18          have seen with the last Charter Revision, which  
19          placed the VAAC in the Campaign Finance Board and  
20          transformed -- it now refers to itself as NYC  
21          Votes, providing more staffing and more funding  
22          has actually revitalized the City's messaging  
23          around elections and participation in a way that  
24          I think is positive and I think will have some  
25          long-term impacts. As we know, it's very



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           difficult to move the needle on voter turnout.  
2           There's no one silver bullet. But the fact that  
3           the City has made a commitment and is starting to  
4           speak more effectively and in a more unified  
5           voice, I think helps the prospects for improving  
6           voter turnout for the City. What I'm suggesting  
7           is not eliminating VAAC. I'm suggesting  
8           combining it and expanding it.

9           The -- my sense is that the agency that  
10          deals with volunteerism -- and I'm forgetting the  
11          name. I just looked at it on the internet and  
12          it's out of my mind -- is doing a pretty  
13          effective job of getting the word out. And we're  
14          seeing more advertising regarding voting. And  
15          there seem to be a separation in the public's  
16          mind about these different types of engagement.  
17          What I'm suggesting is pooling the resources,  
18          pooling the expertise, and making it clearer to  
19          the public that there are a lot of ways to be  
20          engaged. You engage in one, you should also  
21          engage in the others, as well. And I think  
22          that's more efficient economically and from a  
23          messaging point of view. So that's why I'm  
24          suggesting combining those efforts, expanding  
25          them, and giving them staff and budgetary

1 independence.

2 MR. PERALES: Rachel.

3 MS. GODSIL: So I just wanted to try to  
4 understand the argument that you're making as to  
5 the concerns you have about the New York City  
6 Board of Elections.

7 Am I correct in understanding that because  
8 of those concerns and because of the degree to  
9 which you described the Board not following  
10 previous Charter Revision Commission adoptions,  
11 that there's -- that's the reason you think that  
12 this Board should be mindful? Or are you  
13 suggesting there's something that could be done  
14 in this -- by us in this process that could  
15 actually help implement and make alive that which  
16 has already occurred?

17 MS. LERNER: Well, that's -- that's why I  
18 make specific recommendations about including a  
19 very specific right to vote in City elections in  
20 the Charter. And also using the budget process,  
21 which I understand is being used --

22 MS. GODSIL: Is that how -- okay. I just  
23 want to understand.

24 If -- so your point appears to be that if  
25 there's a specific right to vote, which obviously

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           already exists at the constitutional level, it  
2           simply makes more robust a litigation effort?  
3           Because I'm not sure that I'm understanding  
4           precisely the direct link, causal link --

5           MS. LERNER: I think -- I think it does make  
6           more -- more robust a litigation position. And  
7           it might actually embolden the city council to  
8           try and enforce the law. Or the Corporation  
9           Counsel. There is nothing which stops our  
10          elected officials or appointed officials from  
11          enforcing the law, except that they don't have  
12          the courage to do so. If they had a direction  
13          from the voter, perhaps they would feel it's  
14          important to be sure that our election law is not  
15          being flaunted by what is actually a City agency.

16          MS. GODSIL: But as -- in terms of the  
17          number of -- in terms of the prioritization of  
18          choices that this Board makes, obviously it has  
19          to be thoughtful about the number that we put on  
20          the ballot. That would be high up on your list,  
21          as opposed to some of the other suggestions that  
22          have been made?

23          MS. LERNER: Yes. It is high up on my list.

24          MR. PERALES: John.

25          MR. SIEGAL: So we're going to have a panel

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 later.

2 But if I understand your testimony, you're  
3 saying there are problems with the Board of  
4 Elections, that it hasn't implemented relatively  
5 ministerial mandate to prepare a Charter  
6 Revision. And if so, go slow on election reform.  
7 But the principle thing we should do is  
8 completely overhaul the ballot and the way that  
9 votes are counted and hand that to this agency  
10 that you're complaining about. And I really -- I  
11 wonder about that. Like can we put the merits of  
12 rank-voting aside --

13 MS. LERNER: Right.

14 MR. SIEGAL: Can it be implemented by this  
15 agency that Perry has indicated is the last  
16 bastion of partisanship and that you've indicated  
17 doesn't carry out small mandates, can we really  
18 trust that that will be implemented properly?

19 MS. LERNER: I think that there have been  
20 instances where the Board has been forced to  
21 comply, for instance, with federal law. And when  
22 a system has been set in place, where the  
23 requirements are clearly spelled out, they  
24 actually managed to do it. It's more a question  
25 of the clarity of direction and setting up a

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 clear management system. We, at Common Cause,  
2 were forced to sue the Board for compliance with  
3 the National Voting Registry Act. And the  
4 settlement based setting up a procedure for the  
5 Board to comply. And it appears that they are  
6 following that procedure. So I think it  
7 definitely can be done. And I think it has to be  
8 done. I think the voters of New York require an  
9 improved election administration. And the first  
10 step to that is bringing the New York City Board  
11 up to the requisite accountability and  
12 transparency.

13 MR. SIEGAL: Thank you.

14 MS. WEISER: Thank you for your testimony.  
15 A few questions.

16 So one is on the New York City Board of  
17 Elections.

18 Do you -- what -- have you thought about  
19 other mechanisms to ensure that they comply with  
20 the law? Things like actually a private right of  
21 action for some of the -- and have you thought  
22 about the limitations that it's also a creature  
23 of state election law and how does that affect  
24 your recommendations?

25 MS. LERNER: Yeah. I would actually be very

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           supportive of a private right of action that is  
2           specified in the Charter, in addition to just an  
3           Article 78, which is something act -- no --  
4           proceeding. Which is something that we look at  
5           on a regular basis.

6           And, I'm sorry, the second part?

7           MS. WEISER: And then I'm just wondering if  
8           there are other robust ways that you've thought  
9           through to ensure the Board actually complies or  
10          put in place through the (inaudible) of  
11          mechanisms. Because it sounds like the budget  
12          recommendations you were making are not actually  
13          Charter reforms that you're requesting. Or are  
14          they?

15          MS. LERNER: They are. Yes, they are. And  
16          I think the impetus behind conflict of interest  
17          requirement is specifically influenced directly  
18          through the appointment process to be sure with  
19          people who appointed to the Board. Also  
20          prioritize the interest of the political parties,  
21          as required by the State Constitution, but also  
22          hopefully required by the City Charter, the  
23          interests of the voters of New York City.

24          MS. WEISER: And then the last question  
25          relates to the VAAC recommendations.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           Are you recommending that the VAAC be  
2           removed from the Campaign Finance Board, be made  
3           independent and merged with the Office Of Civic  
4           Engagement? Or are you -- or do -- are you  
5           recommending that the Campaign Finance Board be  
6           part of that, as well?

7           MS. LERNER: I would separate it from the  
8           Campaign Finance Board. And I think the entity  
9           that I'm thinking of is Service NYC. And what I  
10          really hope we do not see at the end of the  
11          process is that the mayor sends out some  
12          independent civic engagement officer that the  
13          VAAC exists in the Campaign Finance Board and now  
14          we create some new office of civic engagement and  
15          they're all basically trying to do versions of  
16          the same thing without coordination and in  
17          duplication of costs and staff. That's why what  
18          I'd like to see is one unified body that really  
19          thinks about this process. This is a continuum  
20          that all City agencies should be involved in and  
21          that there should be a vigorous public education  
22          and agency education process to hold all of the  
23          City activities accountable for encouraging more  
24          public participation.

25          MR. PERALES: We're going to need to move

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 on.

2 Catherine Gray.

3 MS. GRAY: Thank you very much for inviting  
4 the League of Women Voters. We're a multi-issue  
5 nonpartisan volunteer organization.

6 Assuring fair and transparent elections and  
7 encouraging active and informed voters has always  
8 been the mission of the League. For many years  
9 members have regularly attended weekly meetings  
10 of the commissioners of the Board of Elections.  
11 Every Tuesday we have somebody there taking  
12 notes. We've had small successes by raising our  
13 hands and asking questions there. Such as  
14 convincing the Board to get rid of those little  
15 voter cards that was recommended in the Justice  
16 report and the Commission -- the independent  
17 commission that they hired. We got the Board to  
18 put the voting instructions on the privacy  
19 sleeves and tabs on poll books. A lot of people  
20 think that's kind of small, but it speeds up  
21 finding the button -- voters name in the book.  
22 Because it seemed to be that a lot of co-workers  
23 didn't know the alphabet. They didn't know R  
24 came -- didn't come after B.

25 The other qualification I have is I am a



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 coordinator. I had a poll site in Brooklyn.  
2 I've been working in the polls since 1998.  
3 Coordinators from 2-06, I think. When we  
4 proposed and created a poll site, specific street  
5 addresses instead of the big fat book for Kings  
6 County. And we work with college and with other  
7 good government grant groups to get sample  
8 ballots on the Board's website. We've also made  
9 suggestions and election night reporting that has  
10 reduced the waste of paper, time and accuracy.  
11 We have been frustrated by the Board's insistence  
12 that they are administrative agency created by  
13 New York state Election Law and not compelled to  
14 comply with New York City laws or directions.

15 So here's my recommendations that might  
16 improve the functioning. Because my direction  
17 was how to make the Board function better. All  
18 full-time jobs should be covered by the New York  
19 City Civil Service Law. Some suggestions are --  
20 in the same suggestions are in this report and by  
21 the outside contractor. Right now it's partisan  
22 and nepotism is the way you get your job there.  
23 You do not post. Better poll worker training,  
24 which used mock poll sites and emphasize hands-on  
25 training instead of lectures. Making -- giving

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 the poll worker and the coordinator real-life  
2 situations to practice so that when they are  
3 confronted with the situations, they'd handle it  
4 better. Establish same-day registration for  
5 municipal workers. Increase the poll worker pay.  
6 Section 3420 of the New York State Election Law  
7 allows the mayor of the City of New York to raise  
8 the poll worker pay by an executive order. The  
9 rate of the pay should be reviewed every five  
10 years. People complained that for an 18-hour  
11 day, the pay is not good enough. I know that you  
12 get paid -- you pay -- what you pay is what you  
13 get in workers. So if you're not paying for high  
14 quality workers, you don't get high quality  
15 workers.

16 The second is in the state law. If split  
17 shifts are now not only written in the law, but  
18 there now don't have to be half days. They could  
19 be four hours. The New York City Board does not  
20 want to consider the administration of this task,  
21 but it should be fairly easy for them. Because  
22 every poll worker gets a single bar code. And  
23 that would -- it would be all electronic. In my  
24 poll site, we did split shifts twice to -- the  
25 Board allowed our poll site to have split shifts

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           and we had no problems. Improve voter  
2           communications. Currently the state law requires  
3           the Board only to send out one notice. And it  
4           looks like a CBS flyer. And it gets lost in the  
5           shuffles. We would like to see something sent  
6           out right before the Board -- the general  
7           election saying, "please vote." A form should be  
8           created to allow family members to sign an  
9           affidavit notifying the Board of Election of a  
10          death in the family. This form should be at the  
11          poll site. When you're working in the polls, I  
12          can't tell you how many people tell us that their  
13          person is -- their family member's dead. And it  
14          sometimes 20 years and it's still in the books.  
15          This would help, you know, lots of ways to cut --  
16          create the books to be clean. Early voting for  
17          citywide elections, electronic poll books,  
18          improve Wi-Fi connectivity in all poll sites,  
19          increase the oversight of the control by the  
20          controller of city agencies in compliance with  
21          Local Law 29, which requires anybody that is  
22          working -- that has contact with the City agency  
23          should be able to get their signature or the wet  
24          signature sent to the Board of Elections and be  
25          able to do more. We also believe highly in civic

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 education should be more mandatory in all ages of  
2 schools. And the League supports instant run-off  
3 voting.

4 Thank you for this chance to talk about --

5 MR. PERALES: Thank you.

6 Any questions from the commissioners?

7 Liran.

8 MS. ANGELO: My question is this, if we've  
9 been hearing nothing but problems in the Board of  
10 Elections. Why do we think any of these reforms  
11 could ever actually happen? Particularly the  
12 E-poll books. Because if the poll workers  
13 couldn't do the alphabet, how can we expect they  
14 could deal with E-poll books?

15 MS. GRAY: I do believe the E-poll books are  
16 things that they are looking forward to doing.  
17 And they can see the value of -- that would  
18 reduce on their work by having a -- every E book  
19 has a whole voter registration and it could be  
20 updated hourly. I don't think there's any  
21 problem there. They've implemented iPads at the  
22 poll sites. That is for the instruction of  
23 helping poll worker direct the voter to the right  
24 ED table. So they're not that far off.

25 MR. PERALES: I'm going to ask a follow-up

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 question. I think you can answer it.

2 It has to do with the fact that -- do you  
3 think that the City Charter should include a  
4 description of E-poll books or any other  
5 ministerial part of the election process?

6 MR. GROSSMAN: I think clarity and legal  
7 drafting is a good idea. I think that, to the  
8 extent the Charter can give more direction, the  
9 better. At the same time, the challenge is not  
10 to go so far that you end up limiting yourself,  
11 to where you define E-poll books into a way that  
12 cabins innovation later. But do I think that any  
13 definition of E-poll books? Yes. And I would  
14 actually define E-poll books in the Charter  
15 consistent with state law. If you look at -- off  
16 the top of my head, I want to say it's 5 --  
17 Election Law 5-106, which provides specifications  
18 for poll books. You can describe E-poll books  
19 that should be used by the Board of Elections to  
20 conform to the levels of resolution and clarity,  
21 efficiency, speed. All those things. To make  
22 sure that the City is on -- is on all fours with  
23 the technological solutions it's suggesting at  
24 the Board events.

25 And if I may just go back to your question

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           about the Board of Elections, or something  
2           Mr. Siegal raised earlier, is the Charter needs  
3           to be a vital document, right. And so Susan's  
4           caution that we don't want to throw too many  
5           proposals out there because, you know, we don't  
6           want to make things too difficult for  
7           administrators and whatnot. You know, those  
8           are -- those are good prudential cautionary  
9           things. But at the same time, the City should  
10          make good public policy. And the City should be  
11          willing to stand by that public policy. The  
12          Charter should be the best statement of the  
13          City's public policy. And if the Board of  
14          Elections is going to be recalcitrant, then the  
15          City should enforce it and make the Board of  
16          Elections adhere to the best statements of the  
17          City's public policy. So I would say, let's not  
18          back down from the challenge just because we're  
19          facing resistance. I would say let's -- let's go  
20          stronger and -- and have a charter that reflects  
21          our -- our best ideas and brings as much force as  
22          we can to ensuring that New Yorkers have access  
23          to their state constitutional rights to vote.

24                 MS. CLARKE: I just want to find out from  
25                 either of you who have already testified, but

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 more particularly the Board of Elections.

2 When 10, 15, 20 percent of registered voters  
3 can decide who the elected official is, is there  
4 something that we're not doing right? We'll go  
5 out, we register people. How do we get them to  
6 the polls and for them to believe that in the  
7 democracy, that is the way it work and,  
8 therefore, as a person they have an obligation?

9 Is there any thought on that?

10 MS. GRAY: It's something the League is  
11 challenged with on a daily basis, how to get the  
12 vote out. We're starting to use e-mail. I do  
13 believe the Board of Elections should have e-mail  
14 to keep telling the voters an election is coming.  
15 Especially for those special opens, when a  
16 thousand votes or 300 votes -- where actually one  
17 vote made a difference on a special election. I  
18 think education is needed in the high school so  
19 people understand why it is and what their jobs  
20 are supposed to be a good citizen.

21 MR. PERALES: Thank you.

22 Oh. You were going to say something before  
23 we move along?

24 MS. GRAY: Yeah. This is a question.

25 Technically -- right now there are different

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 tools that can be used. Last November we had a  
2 pilot project where we're using text banking to  
3 occasional (inaudible) voters. And we increased  
4 their turnout rate for the New York -- from the  
5 2016 presidential election to the City election  
6 by a considerable amount. From about 20 percent  
7 to about 32 percent turnout. It's the only group  
8 of voters I'm aware of that are large enough for  
9 the City election than turned out for the  
10 presidential election in New York State. There  
11 are techniques, but I think it requires, again, a  
12 willingness to use creative solutions.

13 MR. PERALES: The next name on my list is  
14 Jerry Vattamala.

15 MR. VATTAMALA: Good afternoon. Thank you  
16 for having me. It's a -- we're always pleased  
17 when the Asian-American perspective can be heard.  
18 I am the director of the democracy program at the  
19 Asian-American Legal Defense and Education Fund.  
20 AALDEF was founded in 1974. We're headquartered  
21 right here in New York. Some of you may be aware  
22 that we conduct a national Asian-American exit  
23 poll and poll monitoring program every major  
24 election. Including the presidentials, the  
25 midterms, but even elections like last year for



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           the New York City -- for New York City mayor and  
2           city council elections. We have several hundred  
3           volunteers that are stationed outside of poll  
4           sites that conduct interviews with voters after  
5           they have voted or been denied the right to vote.  
6           We also have teams of attorneys that conduct poll  
7           monitoring that are inside the poll site. So my  
8           comments are really going to focus more on  
9           language access. Particularly for Asian-American  
10          voters.

11                   In 1990, after Chinese was covered for  
12          Manhattan, Brooklyn and Queens, there were many  
13          problems with -- the New York City Board of  
14          Elections had. They had dispatched  
15          Mandarin-speaking interpreters to Chinatown,  
16          where everybody spoke Cantonese. The  
17          Cantonese-speaking interpreters in Flushing,  
18          where everybody spoke Mandarin. And they came  
19          back to us and said, "Well, isn't it the same  
20          thing," right? And so we -- we had some big  
21          problems there.

22                   In 2000, after Korean was covered in Queens  
23          County, we had Korean interpreters in Chinatown.  
24          We had Chinese interpreters in Bayside, Queens,  
25          in Korean-speaking neighborhoods. So there were

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 a lot of problems. The -- one of the worst  
2 problems that we actually observed was in the  
3 2000 primary election. The Chinese ballot in  
4 Brooklyn was mistranslated. And Democrat was  
5 mistranslated as Republican. And Republican as  
6 Democrat. We eventually had to sue the Board of  
7 Elections in 2006 for their failure to comply  
8 with Section 203 for Chinese and Korean language  
9 assistance.

10 We still had a view with the City that  
11 requires them to have meetings with language  
12 advisory groups and to comply with their  
13 obligations. They still, unfortunately,  
14 consistently do not have the minimum number of  
15 Korean interpreters at the poll sites that are  
16 covered for language assistance. It's a  
17 consistent problem that we've seen over the years  
18 and it's still not being addressed.

19 We also had to sue the Board of Elections in  
20 2013 for failing to comply with Section 203 for  
21 Asian-Indian language assistance in Queens  
22 County. The designated Indian language there is  
23 Bengali. The Board failed to provide Bengali  
24 ballots for five consecutive elections after that  
25 language was designated. The only way we were

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           able to get Bengali ballots in Queens was through  
2           litigation. We had to sue the Board in 2013.

3           In settling the case with us, the Board  
4           refused to establish a Bengali language advisory  
5           group. We have the same equivalent groups for  
6           Chinese and Korean. They refused to acknowledge  
7           or establish that advisory group, which we think  
8           is very problematic.

9           We have also apprised the Board of a  
10          demonstrated need for Bengali language assistance  
11          at targeted poll sites in the Bronx and Brooklyn.  
12          Now, the Board is not covered under Section 203  
13          for Bengali language assistance in those  
14          boroughs. But if there was a way that, through  
15          some type of language in the Charter that could  
16          require the Board to provide language assistance  
17          when a certain magic number is reached, that  
18          would be extremely helpful. There are such  
19          provisions, for example, in the D.C. --  
20          Washington, D.C. Language Access Act in 2003.  
21          The magic number there is 300. If you have 300  
22          residents that need a city service that also  
23          require language assistance, or they don't speak  
24          English at all, the D.C. Language Access Act  
25          requires that agency to provide language

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 assistance in those -- in those languages that  
2 show a demonstrated need.

3 Under that provision, we were able to send a  
4 demand letter before the 2014 midterm elections  
5 demanding that Chinese language assistance be  
6 provided at certain targeted poll sites. And the  
7 D.C. Board of Elections provided Chinese language  
8 assistance. We similarly did the same thing  
9 before the 2016 presidential election, requesting  
10 Vietnamese language assistance at a targeted poll  
11 site in Washington D.C. And the -- the Board  
12 there again complied.

13 So those are, you know, some of the issues  
14 that we're seeing is the lack of interpreters.  
15 Sometimes it's the wrong interpreters. Having  
16 the advisory groups established and having them  
17 meet with us twice a year, or having the Board  
18 meet with the advisory groups twice a years is  
19 very helpful. Because of the MOU for Chinese and  
20 Korean, we have these meetings twice a year. Our  
21 next meeting is on Monday, June 18th. And it's  
22 very helpful. If the Board had such meetings  
23 with the Bengali advisory group, having it  
24 establishing it and meeting with them, that also,  
25 I think, would like likewise be -- be very

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 helpful.

2 We have comments that we'd like to submit  
3 regarding redistricting and rank-choice voting.  
4 But I understand there's other hearings on those.  
5 So we will reserve our comments for that.

6 MR. PERALES: Thank you very much.

7 Rachel.

8 MS. GODSIL: Of the concerns that you  
9 described, is there language specifically for the  
10 Charter that you would recommend that would  
11 address as holistically as possible to set up  
12 concerns that you described?

13 MR. VATTAMALA: Yeah. So we -- we would  
14 have to conduct some more research on our end  
15 before, you know, submitting something. Because  
16 we're not -- we're actually not sure what -- if  
17 it could be enforced, what we're seeking. I  
18 mean, I'm laying out the problems to you and  
19 leaving it to you to figure out and see if it's  
20 something that could be enforced. We're happy to  
21 work with you on that. We just haven't done the  
22 research to see if there were something in there  
23 that would require something beyond what the  
24 federal law provides if that could be enforced.

25 MS. GODSIL: So basically you're inviting --

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           you're inviting various solutions to the set of  
2           concerns you addressed?

3           MR. VATTAMALA: Right. Right. Regarding  
4           specifically Asian language assistance. And we  
5           know where the need is and where it's not being  
6           met.

7           MR. PERALES: Marco.

8           MR. CARRION: You mentioned the D.C.  
9           Language Act. Two questions with that.

10          The first is, is this -- you said there was  
11          a threshold. Now, is that when services -- is  
12          this any City agency?

13          MR. VATTAMALA: Right. It's very broad. It  
14          says City services.

15          MR. CARRION: Okay. Could this also be  
16          pegged to students in a school? I know we look  
17          at that and we look at language needs, as well.

18          MR. VATTAMALA: Right. So it could  
19          absolutely be included for City services,  
20          including for students and schools and the  
21          families that are limited (inaudible) borrowing  
22          services from the school.

23          MR. CARRION: And when you say "broad," is  
24          it open to any language -- any language need? Or  
25          is there a subset of languages that are --

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 MR. VATTAMALA: There's no restriction.

2 MR. CARRION: So it could be any language?

3 MR. VATTAMALA: Right.

4 MR. HO: Thank you very much for your  
5 testimony, Mr. Vattamala. I understand you're  
6 not prepared today to suggest, you know, a  
7 particular language that could go into the  
8 Charter. And that's fine. But I think something  
9 that might be helpful in a subsequent submission  
10 would be if were to adopt something along the  
11 lines of the D.C. law that you mentioned at a  
12 particular numerical threshold -- it wouldn't  
13 have to necessarily by D.C.'s, it could be  
14 something else. It could be pegged to a  
15 particular geographic unit. Some understanding  
16 of, you know, how that would change New York  
17 City's existing language assistance obligations,  
18 which languages might then be covered in which  
19 places, you know. And some sense of what that  
20 might mean practically and cost-wise I think  
21 would help this body make an assessment as to  
22 whether or not that -- it's something that we  
23 should put on the ballot for November.

24 One question about something that you didn't  
25 address. Which is some suggestions that we heard

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 at some of our public hearings in the boroughs  
2 for changing eligibility requirements for voting  
3 in local elections.

4 Do you have any thoughts or views on  
5 proposals, say, for noncitizen voting in local  
6 elections?

7 MR. VATTAMALA: Right. You know, we're part  
8 of the coalition that's working on that effort to  
9 make that happen here in New York City.

10 We do believe New York City has the  
11 authority to implement noncitizen voting. And I  
12 should say restore noncitizen voting. We've had  
13 noncitizen voting in the City for several decades  
14 in the school board level. It was a bit  
15 different because that was enacted through state  
16 legislation. But the process has been done  
17 before and we didn't have any problems. And for  
18 Asian-Americans, actually, that was the one place  
19 before a certain time period -- and, for example,  
20 the 1990's -- the only place where there was  
21 Asian-American electoral success. Where  
22 Asian-Americans were being elected to the school  
23 board at very high numbers. But we are in  
24 support of noncitizen voting, restoring those  
25 rights. But we are still trying to work out --



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           there are several issues there. Some possible  
2           unintended consequences of noncitizens mistakenly  
3           voting in state or federal elections. And we're  
4           still trying to work within our group to have the  
5           best possible resolution to prevent that from  
6           happening.

7           MR. HO: Do you have any sense for how  
8           citizenship rates vary in the City among  
9           different race and ethnic groups?

10          MR. VATTAMALA: Actually, I do not know the  
11          differences between the different racial groups.  
12          I do know that the turnout rates are low for all  
13          racial groups, unfortunately, but for  
14          Asian-Americans. So we tend to have one of the  
15          lowest turnout rates.

16          In terms of citizenship, that's something  
17          that -- part of our whole package that we do in  
18          the democracy program of encouraging  
19          naturalization and registration, coming out to  
20          vote. In certain neighborhoods there's actually  
21          a majority of residents that are noncitizens.  
22          For example, the city council level. And  
23          restoring voting rights to noncitizens would have  
24          a drastic and we think positive effect at city  
25          council, state assembly, and especially some of

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           these smaller legislative levels.

2           MR. PERALES: I'd like to move on now to  
3           Andrew Wilkes.

4           MR. WILKES: Good afternoon. Thank you to  
5           the Commission for allowing us the opportunity to  
6           share in the theme of meaningful participation in  
7           elections. I serve as Generation Citizen's  
8           director of policy and advocacy. And for  
9           context, Generation Citizen is an eight-year-old  
10          civics education organization, whose mission is  
11          to ensure that every child receives an action  
12          civics education. I lay out that mission because  
13          it's in response to what one of the members  
14          mentioned in terms of as part of the solution to  
15          making sure that we can have folks prepared to  
16          exercise their right to vote in a turnout. And I  
17          think civics education is a part of the answer  
18          there.

19          Generation Citizen in New York is our  
20          largest of six sites. And we remain honored to  
21          provide an experiential civics education to  
22          students in each of the five boroughs. Since  
23          2011 our democracy coach and teacher-led models  
24          have equipped over 18,000 young New Yorkers with  
25          the civic knowledge and skills and dispositions

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 needed to be engaged civically over the long-term  
2 for our democracy.

3 And to strengthen the democracy, there are  
4 three specific positions that I want to put  
5 before the Commission for consideration.

6 The first is we propose that New York City  
7 should consider lowering the voting age in  
8 municipal elections from 18 to 16. This voting  
9 reform is being successfully implemented in a  
10 number of cities in Maryland, including Tacoma  
11 Park, Hyattsville, and most recently Greenville,  
12 Maryland. It's also being implemented within the  
13 student elections of Berkeley, California. And  
14 is currently being considered by the city council  
15 in Washington D.C.

16 Lowering the voting age would enfranchise  
17 tens of thousands of New Yorkers. We believe it  
18 would instill the lifelong habit of voting within  
19 the context of support a family in wider  
20 community network, as opposed to apparently less  
21 simple context of college or some other post  
22 secondary environment.

23 Secondly, we encourage the Commission to  
24 implement and consider preregistration,  
25 authorizing individuals to register once they

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 reach the age of 16. Allowing prospective voters  
2 to preregister before they reach the age of 18.  
3 We feel it's a commonsense policy that can  
4 improve the likelihood of young New Yorkers  
5 casting a ballot once they're eligible to do so.

6 Then finally, I'm going on the remarks of my  
7 colleague. We recommend that New York City adopt  
8 the policy of noncitizen voting. This is a  
9 policy that affects our students and their  
10 families and is something that we want to put  
11 forward for consideration. Implementing this  
12 provision is projected to impact potentially over  
13 one million New Yorkers and would ensure that  
14 their ability to contribute to our local  
15 political system would mirror the contribution  
16 that's already being made to our local economy.  
17 Notwithstanding our support for this provision,  
18 we are concerned that -- in the administration of  
19 this policy, as an inadvertent outcome, that a  
20 substantial population of New Yorkers could  
21 potentially be exposed to risks concerning  
22 citizenship status and things surrounding their  
23 country of origin. So given this concern, we  
24 would urge the Commission, should it move forward  
25 with this proposal, to exercise discretion and

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 maximum precaution on persuing this policy  
2 recommendation.

3 Thank you for your time and consideration of  
4 our testimony.

5 MR. PERALES: Una.

6 MS. CLARKE: Because New York City is a city  
7 of immigrants, I'd like to say not all  
8 communities are sophisticated about voting,  
9 registering, and the fact that there are so many  
10 communities that are now on -- in the nervous  
11 breakdown around issues with ICE, have you  
12 thought of any of those kind of sweeps that may  
13 take place once we give an okay that certain  
14 communities should participate civically and they  
15 start it? Have you thought of it?

16 MR. WILKES: I think that's an important  
17 consideration that -- I think that a number of  
18 groups are giving some -- some thought to. We're  
19 speaking specifically from the vantage point of  
20 students and their families wanting to  
21 participate in the process. Some of whom are  
22 already participating in the City's municipal ID  
23 program and would like to expand the range of  
24 their political participation. But you certainly  
25 note a consideration, I think, requires further

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 investigation in order to implement with the  
2 sense of safety for those who are taking part.

3 MS. CLARKE: So then, would you do both  
4 civic education with caution that communities  
5 would really understand what some of the impact  
6 would be, inasmuch as there's an upside, that  
7 there may be a downside? How do you conduct the  
8 civic education during that?

9 MR. WILKES: Well, again, at our level,  
10 we're speaking most directly on behalf of our  
11 students that said -- I think what you proposed  
12 in terms of risk management is important. To  
13 make sure that the benefits are clearly  
14 understood, as well as what some of the potential  
15 risks assumed and incurred could be from  
16 expanding the franchise in this way.

17 MR. PERALES: Angela.

18 MS. FERNANDEZ: You mentioned that there's  
19 pre or early registration voting in Maryland.  
20 And -- do you have any information about what the  
21 impact that actually has been in increasing the  
22 participation of voters when they turn 18? I  
23 want to so -- I would like to see the connection  
24 between registering to vote at 16 and that it  
25 actually does deliver more voters at 18.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 MR. WILKES: So just a quick clarification.

2 In Maryland, I spoke about lowering the  
3 voting age, and so -- as opposed to  
4 preregistration. What we've seen in Tacoma Park,  
5 for instance, is that voters between the ages of  
6 16 and 18 tend to vote at higher rates thus far,  
7 than what younger voters do in the category of 18  
8 to 24. And so the results are preliminary.  
9 Tacoma Park is obviously a smaller city than New  
10 York City is. But we do see that as a promising  
11 case study of the fact that once 16-year-olds are  
12 enfranchised, they show at least, in this  
13 instance, enthusiasm for exercising that right.

14 MS. FERNANDEZ: Thank you.

15 MR. HO: Thank you very much for your  
16 testimony, Mr. Wilkes.

17 Have you given thought to how to administer  
18 a system in which we have different  
19 qualifications for voting for local elections, as  
20 opposed to state and federal elections? And, you  
21 know, I wonder what the experience of cities that  
22 have, you know, 17 -- 16- and 17-year-old voting  
23 or noncitizen voting, what it looks like there,  
24 just sort of a practical matter.

25 Does the City maintain a separate voter

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 registration list for these voters? Are there  
2 separate ballots that these voters in particular  
3 get?

4 MR. WILKES: Sure. So in all of the cases  
5 that I've mentioned, it's specifically voting in  
6 a municipal and/or school board context. What  
7 happens in the case of Maryland cities is that  
8 there is a discrete and, I believe, separate  
9 voter database for those who participate solely  
10 at the City level. Not participating at the  
11 state level.

12 MR. HO: And then what happens if someone --  
13 when someone turns 18? Do they then have to  
14 reregister in order to be eligible to vote for  
15 state and federal elections? Or does the City  
16 somehow transfer that information over to the  
17 state so that that person no longer has to  
18 register again? I'm just wondering. And also  
19 with respect to noncitizens who, say, naturalize.

20 MR. WILKES: Sure. I'm not certain of the  
21 particulars of that specific point that you  
22 raised. In terms of what it could mean in the  
23 context of New York, I think what you intimate  
24 sounds like a reasonable path. Which would be  
25 having the local Board of Election make sure that



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           that information is fully captured for  
2           participating once you're 18.

3           MR. HO: Thank you.

4           MR. PERALES: With that, I want to thank the  
5           panel. We've -- we could go on forever with the  
6           five of you. But we've got another panel  
7           waiting. And again, my heartfelt thanks.

8           MR. GEWOLB: Well, Mr. Chair, as the next  
9           panel gets settled, do -- just a quick bit of  
10          introduction. We expect our -- some of our  
11          panelists to cover some of this material. But  
12          just a couple of brief notes for the  
13          commissioners.

14          Rank-choice voting, which is the topic of  
15          this next panel. The state election law now  
16          provides for a run-off where no candidate for  
17          mayor, comptroller or public advocate receives  
18          40 percent of the vote in a party primary. That  
19          run-off is held two weeks after the primary.  
20          Under current law, there are no run-offs at the  
21          primaries for city council or borough president,  
22          just for the information for our commissioners.

23          Mr. Chair, I would now hand it back to you  
24          for the introduction and the beginning of the  
25          second panel.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 MR. PERALES: Thank you, Matt. Let me  
2 quickly introduce the panelists.

3 Rob Richie, president and CEO of Fair Vote.

4 Jerry Vattamala, who was with us just a few  
5 moments ago.

6 The same goes for Susan Lerner, from Common  
7 Cause.

8 Grace Wachlarowicz, Assistant City Clerk,  
9 Director Of Elections And Voter Services from  
10 Minneapolis.

11 David Kallick, the Deputy Director and  
12 director of immigration research at the Fiscal  
13 Policy Institute.

14 And Professor Craig Burnett, associate  
15 professor at Hofstra.

16 With that, let me immediately call on  
17 Mr. Richie.

18 MR. RICHIE: Thank you. And good afternoon  
19 to you all. And I'm -- I'm excited that you're  
20 doing this. This is terrific. And I wish every  
21 city in the United States would regularly do  
22 this. But I think the -- the kind of discussion  
23 about encouraging participation dealing with our  
24 rights as citizens in our democracy is  
25 exceptional and important. So thank you so much.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           So I'm Rob Richie. I work nationally with  
2           the organization Fair Vote. But we do plunge our  
3           work directly into a lot of cities. And we are  
4           particularly focused on rank-choice voting,  
5           instant run-off voting and -- so it's great to  
6           have an opportunity to discuss it.

7           So there's a handout that I assumed you've  
8           seen. I won't try to go through every one of  
9           these, what essentially are slides. But I'll  
10          just try to go through it quickly and be here  
11          with the panel to answer questions.

12          So first, this is not a new idea. This  
13          actually has been -- been out there for more than  
14          a century. We have, in fact, a century of use of  
15          it at a national level at Australia. It's in  
16          Roberts Rules of Order. So you see lots and lots  
17          of nongovernmental organizations using this  
18          system of rank-choice voting. The Oscars use it  
19          for best picture. It sort of has a lot of  
20          interesting uses. And there's a growing number  
21          of cities that are using it in the United States.  
22          And we're interested particularly because today  
23          the State of Maine is actually voting with  
24          rank-choice voting for their statewide primaries  
25          with crowded primary fields that really speak to

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 the discussion about how it could work here in  
2 New York City.

3 And there's one thing I wanted to mention.  
4 There is a handout that you'll see at one point,  
5 but I think not today, which is the ballot that  
6 they're using in Maine. Which is different than  
7 they use in Minneapolis. And it's tied to the  
8 advances in voting equipment that we're seeing  
9 which are helping with the election  
10 administration, the rank-choice voting. That's  
11 where you list the candidates once -- we have the  
12 handout shows a kind of a little example of it.  
13 Where you would have the candidates listed once  
14 and then relatively narrow columns, where people  
15 have numbers and they can rank. And that seems  
16 to work quite well. The City of Santa Fe used  
17 rank-choice voting for the first time this year.  
18 And 99.9 percent of voters in a five-candidate  
19 race for mayor cast a valid ballot and about two  
20 in three ranked all five candidates. And that's  
21 what we're seeing is, you know, voters are kind  
22 of embracing the rank-choice ballot. There's  
23 some different handouts here I wanted to  
24 highlight one because of your focus on voter  
25 participation is that there's some -- in some

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 questions about whether rank-choice voting has an  
2 impact, pro or con, on -- on voter participation.  
3 Where it's clear is when it's allowing the  
4 replacement of an election that typically has low  
5 turnout. It, of course, increases turnout over  
6 that election. So you'll hear from Minneapolis.  
7 And they used to have winnowing primaries. And  
8 that had a very low turnout. And where you have  
9 post -- post election run-offs, you typically get  
10 a decline of a participation of about 35, 40  
11 percent. And you'll see, though, that you were  
12 also starting to see is, I think, candidates  
13 learn how to run rank-choice voting elections and  
14 it's kind of the playbooks getting out there into  
15 American political culture. You're seeing that  
16 the incentives it creates, which is, you know,  
17 reaching out to people, seems to be having this  
18 positive impact on turnout. So there's one  
19 handout just showing for recent city elections  
20 and their sort of patterns of participation I  
21 think it's quite promising.

22 San Francisco just voted with rank-choice  
23 voting last week. And in an interesting factoid,  
24 more people voted for mayor in a rank-choice  
25 voting ballot which was down ballot, than voted

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           for governor at the top of the ballot or voted  
2           for senator. So that, you know, that was the  
3           race that seemingly was driving participation.  
4           So I won't go through how it works, but there's a  
5           series of slides that does that. But it's -- so  
6           some key principles is the voter has one vote.  
7           They don't have a vote that counts for more than  
8           one candidate at a time. But through their  
9           ranking candidates, one, two, three, those  
10          rankings provide direction on how they vote --  
11          they would want their vote to be counted if their  
12          first choice loses or their first choice finishes  
13          last. To just jump to the final two candidates,  
14          so the two candidates who get the most first  
15          choices, would advance to a second round of  
16          counting. Everyone else's ballot would count for  
17          one of those two, based on -- on whether which  
18          one is ranked higher. Or you can do it  
19          sequentially, which is how most places do it.  
20          Where you knock the last person out. So there's  
21          sort of two clear ways we've seen it being  
22          considered and adopted in the United States. One  
23          is to replace run-off elections. And so New York  
24          City has your citywide run-off election, and  
25          that's been the focus of debate. One handout I

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           have I just wanted to flag is the analysis we did  
2           about the 2013 citywide run-off for public  
3           advocate. And the composition of the electorate.  
4           One, it dropped precipitously in just overall  
5           participation. But also the electorate changed.  
6           And was -- sort of one example by age, turnout in  
7           the primary -- in the primary over 70 voters were  
8           31.5 percent of those who voted in the run-off  
9           there were over 40 percent of those who voted.  
10          So you get kind of older, whiter, wealthier  
11          electorates that participate in these typically  
12          lower turnout run-offs. And run-offs have a lot  
13          of other, you know, issues that -- you get a  
14          second look at the candidates, but there's a lot  
15          of downsides that often mean people want to  
16          replace them with an instant run-off. You also  
17          can have these crowded primary fields. And  
18          that's what we're seeing a lot this year across  
19          the country. More than two people running. And  
20          when you have more than two people running, you  
21          often, as a voter, may want to say there's  
22          something than just one. You might as well -- I  
23          actually do have a second choice or a third  
24          choice and just allows the voter the freedom to  
25          do that. And to use the freedom and it allows

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           you to basically have winners win with more votes  
2           over a traditional plurality system. And New  
3           Yorkers may address that more.

4           So there are, of course, pros and cons.  
5           There's no perfect system. And that will be  
6           absolutely clear, that that's true. I do think  
7           the evidence is -- is strong that rank-choice  
8           voting is an improvement of plurality, an  
9           improvement over run-off elections. But you do  
10          have to do things, like deal with the voting  
11          equipment issues and deal with your vendor. And  
12          the good news from our perspective is that's all  
13          getting better. There's a group called the  
14          Rank-Choice Voting and Resource Center. Which  
15          provides lots of good information about how  
16          that's happening. You need to address legal  
17          issues and look closely at state and city law.  
18          But, you know, those are ones that obviously can  
19          be surmounted. And I know one of the discussion  
20          points is going to be how voters handle the  
21          ballot. Are there any differences by income,  
22          race and so on. I think there is some really  
23          encouraging evidence on that perspective. We're  
24          going to hear, I think, something about --  
25          talking about the history of rank ballots in New



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 York City. Which are actually quite promising  
2 from a voting rights perspective. But I'll give  
3 one example that I'll end with from San  
4 Francisco. Which is in this mayoral election  
5 that just took place, the -- the candidate who  
6 did quite well but ultimately didn't make the  
7 final two was a Korean-American woman named Jane  
8 Kim. And she was particularly sort of strong  
9 among younger voters and among Asian-American  
10 voters. And she went out. And when she went  
11 out, almost all her ballots stayed in play. 95  
12 percent of her voters ranked someone second or  
13 third. And so that meant that they sort of  
14 stayed part of that conversation in San Francisco  
15 stayed -- part of the most of the great majority  
16 of them stayed part of the final decision. I  
17 think in a run-off election, if she had not been  
18 there, those voters might not have been there.  
19 At least not in the same in numbers. Because  
20 that was true and the candidates knew it, there  
21 is a dynamic where they start trying to reach out  
22 to more people. And San Francisco, the top two  
23 candidates were both ranked by more than 60  
24 percent of voters. So both the final two, where  
25 they were limited to three rankings there, had

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 done an effective enough work in an  
2 eight-candidate bill to be ranked in the top  
3 three. Which was filled with the incentive of  
4 the system to reach out to people.

5 So thank you.

6 MR. PERALES: Do we have any questions?

7 Angela, and then John.

8 MS. FERNANDEZ: Thank you for your  
9 presentation.

10 I was looking at the graphs that you shared  
11 and I had a question. I noticed that Oakland, in  
12 rank-choice voting, the participation went down.  
13 And then I also noticed that in Santa Fe, I don't  
14 see a graph or line graph connected with  
15 rank-choice voting. But with pre-rank-choice  
16 voting, there seemed to be a slight up-tic. And  
17 those two look very different from Minneapolis  
18 and St. Paul. And so I was wondering if you  
19 could walk us through why that is.

20 MR. RICHIE: Yeah. Thank you.

21 So in Santa Fe, there's little -- little  
22 different color of numbers for the -- our city  
23 election. So Santa Fe first used rank-choice  
24 voting this year. So the only rank-choice voting  
25 election was in 2018.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 MS. FERNANDEZ: Oh. I see.

2 MR. RICHIE: So in fact, turnout was -- was  
3 up and the highest it had been in a long time.  
4 I'm going back to, I think, '98 or something like  
5 that. Or some pre-2006.

6 Oakland had a particularly, I think,  
7 exciting election for voters maybe in 2010. And  
8 it was like a very strong front-runner who was a  
9 senate majority leader who spent a whole lot of  
10 money. And -- and he ultimately was defeated by  
11 an Asian-American woman, who kind of pulled  
12 together an electoral coalition. And I think  
13 that election kind of just happened to kind of  
14 catch -- catch a wave. It also was part -- this  
15 happens at the same time as general elections.  
16 So what's going on nationally -- this happened --  
17 these are November of even-year elections. And  
18 so that does affect who was voting. So it's not  
19 just the City election driving turnout.

20 Santa Fe was the -- the top of the ballot  
21 was rank-choice voting. In Minneapolis, the top  
22 of the ballot was rank-choice voting. And  
23 St. Paul, top of the ballot was rank-choice -- or  
24 was the mayoral race. So that is kind of, in  
25 some ways, a clear indicator of -- of where the

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 system or the dynamics of the campaigns are  
2 having an effect.

3 MS. FERNANDEZ: This incumbent that won,  
4 that you said was in 2010, this exciting  
5 candidate one in 2014, the participation, the  
6 turnout, went down. But was she incumbent?

7 MR. RICHIE: She was the incumbent and she  
8 was a disappointment to some people. And she  
9 actually lost that -- that race. And -- but I  
10 would say, to be fair about participation in  
11 that -- those is that the top of the ticket  
12 races, governor -- which 2010 was when Jerry  
13 Brown was first winning. And back when he was  
14 running against Meg Whitman. It was a pretty big  
15 race. He was kind of coasting in 2014, the  
16 reelection. And that kind of affected the  
17 overall turnout. So that's why I think these  
18 other ones, where it's at the top of the ticket.

19 It is, I think, indicative, though  
20 because -- because you have to make these  
21 decisions. Every system has these trade-offs.  
22 Oakland used to have a system where you would  
23 vote in June. You could win in June if you got  
24 over 50 percent. So when Rob Delanos won in  
25 2006, he got just over 50 percent in June. So he

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           didn't go to a November election. So that  
2           obviously meant the participation was lower. And  
3           you always have to sort of make these tradeoffs  
4           when you're having two rounds of election. Which  
5           one's going to be the lower turnout one. And  
6           that's one value of rank-choice voting, as you  
7           just said. This is the one to vote in and voters  
8           have that. The candidates know that and you just  
9           focus all your energy on it.

10           MS. FERNANDEZ: Okay. Great. Thank you.

11           MR. PERALES: John.

12           MR. SIEGAL: Thank you, Mr. Chair.

13           I have an open mind about this proposal,  
14           which I'm just learning about. And I must say  
15           that the -- the advocacy that we've seen from  
16           this proposal through this process and the local  
17           New York advocates, clearly there's an organized  
18           effort. And they're doing a very effective job.  
19           I want to ask three questions.

20           First, is there any system you know of where  
21           rank-choice voting is used, but the threshold is  
22           not 50 percent, but something more like the  
23           40 percent, which is the New York Election Law  
24           for city-wide offices?

25           MR. RICHIE: There -- where it's used today

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           it's all 50 percent and, because you can do  
2           that -- in one election I think the tendency is  
3           to do that, right. But you could establish the  
4           threshold what you will. If you establish it as  
5           lower than 50 percent, there is one feature that  
6           you really need to do. Which is to make it a top  
7           two form of instant run-off. Meaning that you  
8           would only advance the top two candidates. Not  
9           doing the sequential elimination. And you can  
10          realize why. Because if you have a 50 percent  
11          threshold, only one candidate can get over 50  
12          percent. You have a 40 percent threshold, two  
13          candidates could get over 40 percent. And the  
14          order of elimination in over 40 kind of  
15          arbitrarily, right. So we would strongly suggest  
16          if a 40 percent threshold were maintained,  
17          essentially, in New York, although we would argue  
18          that's really not worth maintaining. But if you  
19          did maintain it, to only advance the top two  
20          finishers to the second round of counting.

21                 MR. SIEGAL: Second question. The charge of  
22                 this commission is to enhance democracy. And  
23                 we've had two national elections in the last  
24                 20 years in which the candidate who got more  
25                 votes was not elected. We had one election in

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           which there was a prolonged election count,  
2           ending in what many of us considered to be a real  
3           tragedy for the electoral and legal system in the  
4           country.  And I look at the San Francisco  
5           situation, where a week after the election,  
6           they've been counting votes.  It's totally  
7           unclear what's going on.  And so it's sort of two  
8           subparts to this.  One is, wouldn't it be a  
9           more -- which enhances democracy more; if in San  
10          Francisco Breed and Leno had been campaigning  
11          this week on their competing philosophies on  
12          vision of government, or the citizens sit there  
13          and watch some algorithmic count that's not  
14          really transparent?  And I -- I guess the  
15          provocative way to ask the question is, would  
16          this create some sort of algorithmic local  
17          electoral college, where we're going to end up  
18          with a lot of elections, where the number one  
19          vote-getter doesn't get elected?

20                 MR. RICHIE:  Good question.  I think one  
21          part I want to be clear about.  Which is the  
22          count in San Francisco, the time it takes to do  
23          has nothing to do with rank-choice voting.  If  
24          you follow California elections, all their races  
25          take days and days to count.  Hilary Clinton's

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 margin grew by millions -- literally millions  
2 between election day and like three weeks later  
3 in California because it just takes them a long  
4 time to process ballots. Once they process  
5 ballots, it's -- they're actually in the first  
6 (inaudible) 45 minutes after the polls closed  
7 with the processed ballots, they have -- they  
8 just haven't processed the rest of the ballots.  
9 It has actually nothing to do with rank-choice  
10 voting. I do agree there's like a perception  
11 to -- that as the count comes in and its really  
12 close and it changes, I think part of it is that  
13 that perception issue would happen anyway if it  
14 were really close and the margin was changing,  
15 right. If this was a run-off and it took one day  
16 one person moved ahead and one person moved the  
17 other, it's like, oh, my gosh, it changes. And  
18 it's a close election, right. It's -- it's  
19 within .3 percent.

20 MR. SIEGAL: Well, in a close election. You  
21 would agree it was ten percent ahead after the  
22 votes.

23 MR. RICHIE: Well, she was with 36 percent  
24 of the vote, right. So 64 percent didn't vote  
25 for her and they have never elected anyone in San



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           Francisco without a majority. They actually have  
2           a majority system. It's just whether you do  
3           run-offs or whether you do an instant run-off.  
4           And if they had ballots processed instantly, they  
5           would have instant results.

6           Santa Fe, as sort of one example, and  
7           actually using technology that's more like what  
8           New York has, you don't have nearly as many  
9           ballots to take as long to count, basically, as  
10          California. I guess you have some. But anyway,  
11          it takes a long time to get there. But Santa Fe  
12          doesn't have many ballots like that. They --  
13          they have the results the night of the elections,  
14          you know. And -- and I think Minneapolis --  
15          we'll hear from the Minneapolis clerk. But they  
16          had multiple races that did change hands. So the  
17          City council president was defeated after leading  
18          in first choices. She was defeated by an  
19          African-American transgender man in a really  
20          interesting election. But they've used it three  
21          times. The media reports elections and people  
22          accept it. And actually, there was a survey done  
23          in Minneapolis that we may hear more about. But  
24          what's really interesting to me was the  
25          percentage of people that don't want to keep

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 rank-choice voting keeps declining. So it's  
2 actually down to only 16 percent don't want to  
3 keep the system. The system has really kind of  
4 become accepted, essentially, in three -- through  
5 uses of it. But it is -- there's a transition to  
6 it and it's accepting the fact that, you know, a  
7 candidate with 36 percent may not win. I think  
8 London Breed actually will win, by the way, in  
9 San Francisco and -- you know, at the end of the  
10 count. And I will say, also, that's an  
11 interesting finding is that since they've used  
12 rank-choice voting in the Bay area, there's 53  
13 offices elected by the system. In the four  
14 previous elections for those 53 offices, people  
15 of color, one -- two of those out of five of  
16 those races, a little less than 40 percent. With  
17 rank-choice voting, they've won about 60 percent  
18 of those races. So people of color are actually  
19 winning more offices. London Breed's likely  
20 success is kind of that pattern. And I think it  
21 comes with a -- having maximum turnout and those  
22 voters having sort of real choices. And I think  
23 the candidates having incentives to try to run  
24 affirmative campaigns rather than negative  
25 campaigns. And I think that's been good for

1 democracy.

2 MR. SIEGAL: If I might, just one more thing  
3 that's a New York specific thing that I think we  
4 need to correct the record on here.

5 The 2013 public advocate run-off, which  
6 you've been citing, is a total aberration. It  
7 was a race in which there were two candidates in  
8 a run-off. Each of whom were elected officials  
9 in Brooklyn only. No city-wide recognition. No  
10 city-wide base. After a mayoral primary, where  
11 the two leading candidates were also from  
12 Brooklyn. And there was extraordinarily low  
13 turnout in the run-off. But when we've had  
14 mayoral run-offs in New York, the participation  
15 and the turnout is huge. And I have the numbers.  
16 I would like to read them in the record.

17 We've had three mayoral run-offs. In 1973,  
18 we had 783,133 voters in the primary. The  
19 run-off had 900,538. So significantly increase.  
20 In '77, it went the other way. 900,217 voters in  
21 the primary. With 787,835 voters in the run-off.  
22 Probably the disaffection of many Sutton and  
23 Badillo voters. I don't know. People argue  
24 about saving money. I think most New Yorkers  
25 would pay 10 million dollars to watch Ed Koch and

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 Mayor Cuomo campaign. That's in hindsight. In  
2 the most recent run-off, 2001, the participation  
3 went up by 5,000 votes in the run-offs. So it  
4 was 785,365 in the primary. 790,019 in the  
5 run-off. We can argue about what would have  
6 happened in those elections and who would have  
7 won with instant run-off versus run-offs. But I  
8 just think that we need to think long and hard  
9 about adopting a system on a premise that voter  
10 turnout is so low that we need to change the  
11 voting. Because when we have mayoral run-offs,  
12 they are a huge participatory and democratic in  
13 the small lead sense events.

14 MR. RICHIE: Well, I will let New Yorkers  
15 comment more on that. But I will say this. I  
16 think of the numbers you gave, one had a very  
17 sharp up-tic, that 73 one. I think the next one  
18 is indicative. You have the people of colored  
19 candidates didn't make the run-off and turnout  
20 went down into presumably disproportionate among  
21 people of color. I think if you think about,  
22 say, the 2013 race that did not got to a run-off.  
23 But you think about John Liu. You think about  
24 his candidacy and how the other candidates  
25 treated his base. Which he did very well among

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 Asian-American and Chinese-American voters. And  
2 they didn't seek his voter second choice, right?  
3 Because he was going to be their chose. With  
4 rank-choice voting, it would have been plausible.  
5 People would have thought he was not going to  
6 make it. They would have been aggressively  
7 pursued, right. So -- so it's not only who is at  
8 the polls, but how they're treated when they're  
9 there and the incentives that it creates among  
10 the candidates to reach out to more people. And  
11 I will say again, you know, we will hear that  
12 like, oh, you know, Mark Leno, or London Breed,  
13 whoever wins, will not get, you know, 50 percent  
14 in the final round or the first round. However,  
15 they were ranked by more than 60 percent of the  
16 voters. They made connections that were  
17 affirmative and important connections that they  
18 thought could help them win. And that's, I  
19 think, the politics that rank-choice voting  
20 creates.

21 MR. SIEGAL: Thank you.

22 MR. PERALES: Any other member of the  
23 Commission with a question?

24 Dale.

25 MR. HO: Just a short one.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 Thank you for your testimony today.

2 Mr. Richie, you know, we have -- I'll just  
3 make this really simply.

4 Are there different considerations for  
5 city-wide as opposed to district-based elections  
6 with respect to rank-choice voting? Because we  
7 have, you know, a different run-off system for  
8 city-wide elections here. And just -- if you're  
9 looking at our current status quo, are there  
10 different things that we need to take -- we need  
11 to think about when we're thinking about shifting  
12 to rank-choice voting for some or all offices?

13 MR. RICHIE: That's a good question. I  
14 mean, it's -- it's interesting. Over the  
15 years -- and we've been responsive to people in  
16 New York, right, who have said, hey, this makes a  
17 lot of sense to do instant run-off. Like  
18 replacing that run-off, which is expensive,  
19 creates campaign finance changes and often  
20 creates lower turnout, but not always, that it  
21 would makes sense to -- to go to an instant  
22 run-off. What I'm hearing now, and in some ways  
23 what we're, perhaps learning from the more  
24 greater use of rank-choice voting is that it  
25 could make sense for the non-run-off elections,

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 right, the -- the City council and borough  
2 presidents. And I touched based in my slides  
3 about the fact there are actually quite a number  
4 of races that are running pretty low. I think it  
5 was eight City council district races in the  
6 primaries in 2013, where one was less than  
7 37 percent. So now, those winners could very  
8 likely be very credible, you know, accurate  
9 winners. But they didn't win as many votes as  
10 they would with the rank-choice voting system,  
11 right. And -- and essentially the system would  
12 have created incentives for them to try to make  
13 connections with -- with more voters. I think  
14 the voters can handle a mix of balance. That's  
15 one factor, you know. A rank-choice contest and  
16 a non-rank-choice contest, we've seen a mix of --  
17 of ballots and handled that fine. In fact, the  
18 San Francisco ballot was like that, right. They  
19 used rank-choice voting for mayor, but not for  
20 the state and federal offices. But I think there  
21 is a certain voter education opportunity to say,  
22 hey, that's how we vote in these primaries and  
23 let's rank them for mayor and let's rank them for  
24 the city-wide offices. And let's go ahead and do  
25 that for borough president and City council.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           And, you know, it's up, in a sense, to the  
2           candidates to step into that space and organize  
3           with it and try to reach out to more voters. So  
4           at this point I would suggest, or at least it's  
5           a -- it's a different consideration than in some  
6           ways we had, over the years talked about in New  
7           York, which is to consider it for all the  
8           primaries just as a way to -- to encourage  
9           candidates to -- to try to get more votes.

10           MR. PERALES: Let's move along.

11           Thank you very much.

12           MR. RICHIE: Thank you.

13           MR. PERALES: Jerry, let's move along,  
14           please.

15           MR. VATTAMALA: Thank you to the Commission  
16           again for letting us testify here.

17           Our comments will be very brief. AALDEF has  
18           supported rank-choice voting or instant run-off  
19           voting in the past. We're very supportive of the  
20           system that we had in place for school board  
21           elections. And we also submitted a letter of  
22           support, I think when San Francisco was  
23           considering rank-choice voting. So we've been  
24           supportive in the past and we've seen that it's  
25           worked very well when there's a large pool of



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 voters. So when looking at the school board  
2 elections, as I mentioned in the last panel, that  
3 was open to noncitizens, including undocumented  
4 parents. The only requirement was that they had  
5 a child in the New York City school system. So  
6 when you had that large pool of voters, including  
7 noncitizens and undocumented folks, in addition  
8 to citizens, there are -- it produced very good  
9 results for the Asian-American community. The  
10 school boards were the only place where there was  
11 Asian-American electoral success and it was  
12 because of rank-choice voting in large part.

13 We did resist and object to the Board of  
14 Elections' move to reduce the rank-choice voting  
15 from picking the top nine candidates to going to  
16 the top four. That was back when we had  
17 preclearance. The Department of Justice agreed  
18 with us and prevented that change, which we  
19 believe would have resulted in fewer  
20 Asian-Americans being elected to the school  
21 board. So basically, we do support it. There --  
22 it's not a perfect system. But we've seen it  
23 work well. And to the extent that we could  
24 recreate the type of environment, the situation  
25 that we had for the school boards, we could see

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           it working very well again in New York City.

2           Thank you.

3           MR. PERALES: If there are no pressing  
4           questions, I'd like to move right on to Susan  
5           Lerner. And then we can ask both the last two  
6           speakers questions.

7           MS. LERNER: Great. Thank you. And thank  
8           you for the opportunity to address this topic, as  
9           well.

10           We believe that it is time in New York City  
11           conceptually to move beyond the idea of instant  
12           run-off voting to rank-choice for all of the  
13           races because I think we need to recognize one of  
14           the strengths and benefits of our campaign  
15           finance system. Which is that we are the  
16           beneficiaries of very competitive races.  
17           Particularly at the City council primary level,  
18           where the campaign finance board allows community  
19           members to be able to run. And it is not at all  
20           unusual in an open seat to see anywhere from four  
21           to eight candidates supported by the campaign  
22           finance system running. We believe that  
23           rank-choice voting is a way in which to ensure  
24           that the ultimate elected official has aggregated  
25           enough support within the district to be

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           representative and to -- that using rank-choice  
2           voting ensures a healthier democracy, where more  
3           of the council constituents have an investment  
4           and have chosen -- have ranked the particular  
5           winner of the election. And that's why we're  
6           arguing that we should be talking about  
7           rank-choice voting and moving beyond a limited  
8           concept of instant run-off. Which most voters  
9           don't expect to see on a regular basis. But that  
10          the primary actually is something that everybody  
11          engages in. I'd like to also point out there's a  
12          reason why rankings are clickbait. People do  
13          instinctively understand ranking system. So  
14          our experience in other states and other cities  
15          indicates that the voter education is very  
16          doable.

17                 And I'd also like to caution the panel.  
18          From our point of view as voting rights and  
19          election administration modernization advocates,  
20          that there can sometimes be a turnout trap. That  
21          if we focus only on the question of, well, will  
22          this guarantee five percent or ten percent more  
23          turnout on an election, that we limit our  
24          purview. Because, frankly, our experience is  
25          there were virtually no silver bullets for turn

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 out. And the things that do seem to reliably  
2 increase turnout, increase them at relatively  
3 small percentages. But there are a lot of  
4 factors that influence whether people feel  
5 connected to their elected officials and have  
6 confidence in their elections that have nothing  
7 to do with turnout.

8 So I believe that a healthy democracy  
9 requires that we look at a plethora of factors in  
10 determining what election reforms we should be  
11 engaging within. I was very encouraged by the  
12 mayor's instruction that the panel should look  
13 towards a healthy democracy and not just focus on  
14 turnouts. So I know that is often very  
15 compelling, for people to just focus on that.  
16 But I urge you to look beyond it.

17 MR. PERALES: Thank you.

18 MR. SIEGAL: Questions?

19 MR. PERALES: I'm looking for questions.

20 And I know that John Siegal is really into this  
21 subject, but he doesn't have a question.

22 With that, we will move on to the City of  
23 Minneapolis.

24 MS. WACHLAROWICZ: Thank you, Mr. Chair and  
25 commissioners. My name is Grace Wachlarowicz and

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 I am the Assistant City Clerk, Director Of  
2 Elections and Voter Services for the City of  
3 Minneapolis.

4 On behalf of the City, the City Clerk, Casey  
5 and Carl and I, it is an honor to be here before  
6 you today to provide you with information on  
7 administering that rank-choice voting from the  
8 Minneapolis Method or the Minneapolis model.

9 Before you, I provided several materials, as  
10 well as a flash drive. We have extensively  
11 documented every aspect of the process. The  
12 journey from when it began in 20 -- 2006 through  
13 last year's election. It would be impossible to  
14 go through all the details in two to  
15 three minutes. So I provided that information so  
16 at your leisure you can review it.

17 Today I'd just like to touch real high on  
18 the administration of rank-choice voting and  
19 voting outreach and education.

20 First off, the City of Minneapolis has the  
21 municipal elections once every four years. We  
22 have all municipal offices up, 22 of them. Which  
23 includes the mayor, 13 council members,  
24 represented of the wards, and various park board  
25 and board of estimation. So it's a

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 combination of all.

2 In 2006, the voters in Minneapolis chose to  
3 use rank-choice voting as the method to vote for  
4 their municipal office. Previous to that, it was  
5 the traditional balloting of a primary and then  
6 subsequently a general election with the two top  
7 candidates.

8 So the next thing I want to talk about is  
9 the process in which we do the tabulation. And I  
10 want to bring this up specifically because, even  
11 if you have an automated system or not, the  
12 process that we call the Minneapolis Method is  
13 an -- is an easy way to understand the process of  
14 tabulation.

15 So briefly I'll just kind of go through that  
16 on a high level. First and foremost, you need to  
17 understand that in Minnesota, The Election Law  
18 requires that voting equipment, both the hardware  
19 and software, must be certified by the standards  
20 of the U.S. Election Assistance Commission.  
21 Currently there are no standards to certify a  
22 rank-choice voting system. So we are forced to  
23 use creative ways in which to tabulate our  
24 ballots.

25 We came up with what we call the Minneapolis

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 Method. Which is the process of sorting ballots  
2 and counting the unique three-choice combination  
3 for each ballot -- excuse me -- each office.  
4 Then we have data entry and analysis that is  
5 performed in a Microsoft Excel spreadsheet.  
6 Using -- it's basically a large calculator using  
7 only cut and paste and basic math functions, we  
8 are able to do -- replicate the concept of  
9 actually manually touching those ballots.  
10 Specifically piling, distributing it by voter  
11 intent, which in rank-choice voting we call  
12 normalization, and by just actually counting the  
13 ballots. So that process expedited it. The City  
14 of Minneapolis has 240,000 registered voters. So  
15 we're tinier than you, but a lot of ballots that  
16 we cannot manually count them, as the City of St.  
17 Paul does.

18 With that, the key best practice is to  
19 really focus on process improvements and lessons  
20 learned. It's really critical after each process  
21 that you look at the system honestly,  
22 objectively, and identify the components and  
23 steps that should be eliminated, enhanced or  
24 replaced. By doing so, we were able to  
25 significantly expedite the tabulation process

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 from 2009 to '13, from 2-13 to 2017 without  
2 compromising the integrity or accuracy of the  
3 election.

4 Most significantly is the purchase for new  
5 equipment in 2013. The same equipment that the  
6 City of New York has. Which is the DS200 Optical  
7 Scan Tabulator, with its operating system  
8 ElectionWare from the company Election Systems  
9 and Software. Through this system, there is a  
10 software that can generate a record or a report  
11 data analysis that can combine those three unique  
12 choices for each office. And from that, we were  
13 able to export it into that Microsoft Excel  
14 spreadsheet to continue with the tabulation.  
15 That in itself reduced a lot of time for us. So  
16 I'd like to -- you can consider it just from an  
17 educational standpoint, as also as an election  
18 administrator, it's very helpful to understand  
19 how to implement that.

20 Quickly with voter outreach and education, I  
21 want to just point out that we were very focused  
22 on consistent messaging. That we provided  
23 materials, videos and informational forums in  
24 order to keep that message constant. We provided  
25 this information on our website, so it was



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           downloadable so that all outreach organizations,  
2           campaigns and the media has the same information  
3           and the same materials.

4           Regarding in the informational forums, that  
5           was open to the public, campaigns, and also the  
6           media. This also reinforced the consistent  
7           messaging and it promoted that transparency. The  
8           key is one week before the election to have that  
9           public forum to explain what to expect on  
10          election day. It was there that we demonstrated  
11          the actual tabulation process so everyone  
12          understood it. We also explained how the results  
13          would come in, how it would look, when it would  
14          be posted, when the winners would be declared in  
15          a realistic timeframe in which this whole process  
16          will be completed.

17          With that, I thank you for your time and I'm  
18          welcome to any of your questions.

19          MR. PERALES: Yes, Liran?

20          MS. ANGELO: I'm somewhat worried about the  
21          complexity of the internal calculations. I mean,  
22          I'm a Ph.D in economics and I could not follow  
23          you. And I -- and I think that there's just --  
24          it may just be something really good about  
25          saying, you know, she got 500,000 votes and I got

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           500,010 and I win. Because we kind of all  
2           understand that. So I just wanted to share that  
3           with you.

4           MS. WACHLAROWICZ: I appreciate that. I'll  
5           be honest with you, I started with the City of  
6           Minneapolis in 2012. My boss, City Clerk Casey  
7           Carl, started in 2010. We did not develop the  
8           process. We were not there in 2006, when it was  
9           passed, or in 2009. We implemented the 2013  
10          election. We learned it, we processed it, and  
11          provided significant process improvements. It's  
12          very simple and basic. And I strongly encourage  
13          you to look at the videos and the information --  
14          information on your flash drive. Because it is  
15          simple, but it takes time to explain it and  
16          keeping the consistent messaging.

17          But I do appreciate your concern.

18          MR. PERALES: Does anyone else have a  
19          question?

20          Go ahead, Annetta.

21          MS. SEECHARRAN: I apologize if I -- if I  
22          missed -- if this was covered in the previous  
23          testimony that I missed.

24          But I wonder what was the cost implications  
25          for the City in implementing rank-choice voting?

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 MS. WACHLAROWICZ: I have limited  
2 information on the preparation and implementation  
3 in 2009. But I can say anecdotally that it  
4 was -- there was an outlay of expenses to prepare  
5 for it and to process it. We were the first ones  
6 that did it in this particular manner, so we had  
7 to go through a lot of -- we did a lien process,  
8 in fact, to get down to the effective processes.  
9 I can tell you in 2013, in 2017, there really was  
10 no different than the cost of doing our  
11 traditional primary to now just our single  
12 election. The cost, quote unquote, savings where  
13 the money we would have expended for a primary,  
14 we focused on voter outreach and education. So  
15 that's -- so it really was no change in cost.

16 MS. SEECHARRAN: So I understand that you  
17 have the same voting equipment that New York City  
18 does. And apparently one of the concerns that's  
19 been raised for New York City about rank-choice  
20 voting despite, obviously, a lot of strong  
21 arguments for it, is that the equipment  
22 malfunctions will potentially kind of imperil the  
23 whole enterprise with computer malfunctions, if  
24 there have been any.

25 MS. WACHLAROWICZ: Fortunately, that is one

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           that I can say that I have not had to worry  
2           about. We have not had any malfunctions with the  
3           tabulators. It had nothing to do with  
4           rank-choice voting, per se, if it did. No, that  
5           was not an issue whatsoever.

6           MS. SEECHARRAN: And just to reiterate my  
7           colleagues question.

8           If you were to explain the process and why  
9           you think rank-choice voting creates a healthy  
10          democracy, and several other panelists have  
11          argued to a voter in sort of a few sentences,  
12          what would you say?

13          MS. WACHLAROWICZ: First and foremost, this  
14          is a nonpartisan position. I am at the pleasure  
15          of our policymakers. It was the choice of the  
16          voters. I have no opinion, so I cannot promote  
17          or not, as far as --

18          MS. SEECHARRAN: I'm not -- I'm not asking  
19          you to promote. Simply to explain.

20          MS. WACHLAROWICZ: I just wanted to make  
21          that on the record.

22          The simplest one we state is, go to the  
23          restaurant. You have turkey, ham and chicken.  
24          You have three choices. You want to have turkey,  
25          geez, they're out of it. What is the second

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           thing you want? Ham. I'm fine, I'll take ham.  
2           They're out of ham, we'll go with the chicken.  
3           So you're ranking your choices based on your  
4           preferences.

5                     Another example that I use is the primary  
6           scenario, where it's whittled down to two. You  
7           vote for somebody in the primary. They didn't  
8           make it. Don't you make a second choice in the  
9           general, with the two candidates that are left?  
10          That would be your second choice. So there's a  
11          lot of comparisons. And our voters have not had  
12          an issue with understanding it in that respect.

13                    MR. HO: Thank you so much for coming up all  
14          the way from Minneapolis.

15                    MS. WACHLAROWICZ: Thank you.

16                    MR. HO: It's nice to hear the perspective  
17          of an election administrator.

18                    Just one quick question.

19                    Other than the public education piece, are  
20          there other election administration challenges  
21          that were issues that have arisen in the move to  
22          rank-choice voting? Or is that really the  
23          principle issue?

24                    MS. WACHLAROWICZ: I hope that the City of  
25          Minneapolis has developed enough of a foundation

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 from our lessons learned that my fellow  
2 colleagues around the country who are considering  
3 rank-choice voting can use our experiences and  
4 it's not that difficult. It's a different  
5 method -- methodology. But I administer this  
6 election no different than a traditional  
7 election. It's just slightly different, but not  
8 something you cannot overcome.

9 MR. PERALES: Thank you very, very much. We  
10 do appreciate your travelling to New York City.

11 MS. WACHLAROWICZ: It was a pleasure and an  
12 honor. Thank you.

13 MR. PERALES: David Kallick.

14 MR. KALLICK: Thank you. Thank you for  
15 inviting me.

16 I -- so I'm the deputy director of the  
17 Fiscal Policy Institute. And I'm going to say a  
18 little bit about why I care about this issue and  
19 also why I think, of all the people you've heard  
20 from, why you should pay the least attention to  
21 me.

22 So I think the -- it's -- to me, what's  
23 really important about rank-choice voting is it  
24 allows people to have a candidate in the election  
25 that they really care about and really excites

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           them. And I think that is what -- I mean, in  
2           terms of voter turnout, I think that is what  
3           makes for people voting. I think there's long  
4           evidence of that. And I think if you compare the  
5           idea of an instant run-off or -- instant run-off  
6           or a rank-choice voting system to the idea of  
7           what we do today, you kind of have to combine  
8           what would be the impact of both of those  
9           elections. And I think that there's good reason  
10          to think that you would have not the higher  
11          turnout in a single rank-choice voting system, or  
12          maybe even higher than that because you have  
13          everybody in. If you imagine, for example, you  
14          know -- what would happen within the Puerto Rican  
15          community if there's a Puerto Rican candidate or  
16          within the Chinese community if there's a Chinese  
17          candidate, or from Staten Island, if there's a  
18          Staten Island candidate in a -- in, for example,  
19          a mayoral race. A big turnout for that. If you  
20          have that -- even from that constituency. If in  
21          the -- if then in the run-off, the person who is  
22          from that base isn't there, you have -- you have  
23          a lot of drop-off in exactly that same  
24          constituency. And I think you actually -- I  
25          haven't looked at this before, but Rob -- Rob's

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 numbers I think show that, right. In this -- so  
2 the run-off election, as I pointed out, is the  
3 run-off just for public advocate. And even  
4 though run-off elections generally skew more  
5 towards whiter, wealthier -- what you see  
6 actually is an increase in the black turnout from  
7 the -- compared to the primary. But a  
8 decrease -- significant decrease in the Latino  
9 turnout because you have a black candidate but  
10 not a Latino candidate, I would surmise. So I  
11 think it's -- I think it's important to have a  
12 candidate in the race who you're excited about.  
13 And then I think it's also important what the  
14 dynamics are within the election itself. So Rob  
15 touched on this, but it seems to me that, you  
16 know, when you have a candidate who is clearly  
17 going to dominate -- because Staten Island -- I'm  
18 making this up, right, to take it away from  
19 personal. If you have a Staten Island candidate  
20 who is running for mayor or for comptroller, very  
21 likely you would have other candidates saying,  
22 I'm going find my base because I'm going to run  
23 with -- and, you know, not much point in spending  
24 time in Staten Island because how am I ever going  
25 to get those votes. Whereas if you have a



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 rank-choice system, you do the opposite, right.  
2 You're going to say, oh, that person I like. I  
3 kind of think they're not going to win anyway.  
4 Of if they do, then I guess I don't win. But so  
5 I'm going to go after not only my base, but also  
6 the people who I think might be most likely among  
7 the other candidates to put me as their second  
8 choice. I think that makes for a healthier  
9 election and more engagement -- not just turnout,  
10 but more engagement from the voters all around.

11 All right. So I think, in fact, I just -- I  
12 think you can say you get to vote for someone you  
13 love and you're more likely to get someone you  
14 like, or at least somebody you don't hate.

15 So why pay least attention to me? I was  
16 asked to talk primarily about the fiscal impacts,  
17 since we spent some time looking at this. In  
18 fact, I'll say we're going to put together a  
19 report, a short report, that we'll publish within  
20 the next couple of days. I'm sorry I don't have  
21 it published already. But so this -- I -- I  
22 would say don't cite these numbers yet. But if  
23 you could wait a few days, I'll send you final  
24 ones. But I'm pretty confident these are pretty  
25 close to right, at least.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           So my main takeaway would be -- on why I  
2           would say don't pay too much attention to me is I  
3           don't think there's a big fiscal impact one way  
4           or the other. I think that it's never a big  
5           impact around the country and New York City. In  
6           fact, I think there would be a savings by going  
7           into the system. But I don't think that's why  
8           you should do it or not do it. I think,  
9           obviously, it's about democracy.

10           All right. So let's talk about the numbers.  
11           Where's my second page? So in terms of the best  
12           analysis that we've seen so far of the fiscal  
13           impact has been in Maine, where I spent some time  
14           talking with the Secretary of State. And there  
15           was a letter from the Secretary of State about  
16           this. I'm sorry. The Secretary of State's  
17           office. Okay. Telluride, (inaudible), as well,  
18           but it's a very small city. So in Maine, I would  
19           say in terms of the cost relevant to New York  
20           City, what they saw was -- was, leaving aside the  
21           question of voter education and voter -- and  
22           voter outreach, which I would say we should think  
23           about separately and I would say just spend more  
24           time thinking about. But leaving aside the  
25           question about outreach and education, the cost

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 relevant to New York City were about \$50,000 this  
2 year. So a tiny fraction of what they spend in  
3 Maine. And about 20,000 next year. So this  
4 would be the first year of implementation,  
5 \$50,000. In a kind of bare bones version of it.  
6 Maine is smaller than New York City, but -- in  
7 terms of population. Although bigger in terms of  
8 geography and different kind of (inaudible),  
9 which might be a factor. Most of the costs would  
10 be about the same, though, because it's primarily  
11 about the program and the software.

12 In any case, we're talking about an order of  
13 magnitude that it really, in my opinion,  
14 negligible in the service of -- of democracy. So  
15 those costs are primarily about -- so in -- in  
16 Maine, the costs were primarily about poll  
17 workers -- I'm sorry. This was -- this is the  
18 problem with not having a finished report.

19 Thank you.

20 In Maine the -- that was primarily about --  
21 that's not the right thing. Well, maybe I'll  
22 come back to that.

23 All right. Okay. In terms of the cost  
24 relevance in Maine -- that's what I have here --  
25 it -- it was just about the programming costs.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           And then they had some other issues about how do  
2           they transport the ballots things that aren't  
3           really relevant in New York. And they also --  
4           they had an initial estimate that was much higher  
5           than some of you may have heard. That  
6           essentially was an error on their part. They  
7           have included outreaching costs, which are there  
8           anyway. And they also changed how they transport  
9           their ballot system.

10           MR. PERALES: Is there a bottom line, David?  
11           Is it -- did they -- didn't save much money? Is  
12           that what you're saying?

13           MR. KALLICK: It didn't cost much money.

14           MR. PERALES: It didn't cost much money.

15           MR. KALLICK: So in Maine what I have is --  
16           maybe I can shift gears to what I can see in  
17           front of me clearly. But so -- but in Maine it  
18           cost -- it cost them about -- about \$110,000  
19           total this year. 384,000 in total for next year.  
20           And of the cost that would be relevant for New  
21           York City, those costs in Maine were more like  
22           15,000 this year and 20,000 next year. What I  
23           want to say is I think that you can save a good  
24           deal of money doing it in New York because we  
25           have this run-off system. So every time you run

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 an election -- a run-off election, it costs  
2 money. There's been some -- so 2013 is the last  
3 time we -- you know, we have some good numbers on  
4 that. It cost about 11 million dollars for us to  
5 run that election. Now again, I would say,  
6 11 million dollars would be well spent on an  
7 election if it makes it a better -- a more  
8 democratic process. But I think that if you can  
9 save 11 million dollars and have a more  
10 democratic process, as I think you do, all the  
11 better. In fact, what I would do is turn that  
12 money back into voter outreach and voter  
13 education.

14 MR. PERALES: Thank you.

15 Wendy, you have a question.

16 MS. WEISER: This is one question which I  
17 don't know which panelist would be best equipped  
18 to answer it. But it was occasioned by your  
19 testimony.

20 In the places that have already used  
21 rank-choice voting, are there people who don't  
22 rank or just rank their first choice? And if so,  
23 what percentage of people, so that it doesn't  
24 actually function as a ranking system?

25 MR. PERALES: Maybe Minneapolis can tell us.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 Is there a lot of bullet voting, as they said?

2 MS. WACHLAROWICZ: It will vary based on  
3 your office and the candidates. The majority of  
4 our -- we have a survey which will be provided on  
5 your -- we have a detailed report. We've  
6 actually done a rank-choice voting survey both in  
7 2009, 2013 and 2017. And that does address that,  
8 as well.

9 We've seen an increase of more individuals  
10 ranking one or two, but occasion for the third  
11 choice. So as it progressed, it increases. But  
12 again, it sometimes determines on who the  
13 candidates are. If it's -- and the choices. It  
14 always comes down to who's on the ballot. But  
15 traditionally, it does increase.

16 MR. RICHIE: I know Craig's going to get  
17 into this, so let -- we'll let him share his  
18 important numbers. But I'll say that one of the  
19 New York City school board elections were some  
20 data you can look at, right, because those -- the  
21 one reason why the Department of Justice didn't  
22 preclear a change away from the system is that,  
23 in fact, voters were -- were really ranking  
24 candidates. And that was for nine seats, right.  
25 So it was a pretty long ballot. But people, more

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           than one very, very are commonly. When you're  
2           only electing one person, there's almost a  
3           different psychology. But we're seeing that when  
4           the race is like mayor, it's typically 85 to  
5           90 percent of people will rank more than one.  
6           But that does mean not everyone's doing it.  
7           There is a pattern that the people most likely  
8           not to rank are supporting the frontrunner. And  
9           there's a real logic to that -- to that decision  
10          because their ballot will almost never -- you  
11          know, super unlikely to not go to their first  
12          choice only. I think your ballot only goes to  
13          your second choice if your first choice loses,  
14          right. So -- but you know, that's -- that's kind  
15          of seemingly the pattern about one out of ten,  
16          you know, big race will choose to only vote for  
17          one person in a one winner race.

18                   MR. PERALES: Now we can pass to Burnett and  
19                   maybe he can move right into his comments.

20                   MR. BURNETT: Thank you to the Commission  
21                   for having me. And thanks to -- for the  
22                   promotion. I'm still assistant professor, for  
23                   the record.

24                   I'll -- I'll give you the numbers you asked  
25                   for. I think you guys got this as -- as part of

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 the pre-packet. I included my publication on  
2 this -- this question. In Oakland, the year  
3 under study that I was look at, it was 87 percent  
4 had one candidate only. In Pierce County,  
5 Washington, it was 26 percent. San Francisco was  
6 11.7 percent. And San Leandro County was 16.4.  
7 I don't have the current numbers in San  
8 Francisco. We'd have to do ballot scans to be  
9 able to do that, the numbers that I have in front  
10 of me. So I'll just start. What I would tell  
11 you guys, the first thing I would note is that  
12 every electoral system has a tradeoff. There's  
13 no perfect system. Rank-choice voting is not it.  
14 Primary run-off system is not it, either. There  
15 are -- you can devise elections in any way you  
16 want and there is going to be a deficiency of  
17 some kind. There's just to solution there.

18 One I -- one thing I would point out is --  
19 is, you guys, an opinion about quality democracy  
20 here is to ask yourselves what is the solution  
21 you're trying to drive here? Is there a problem  
22 you're trying to solve? In the case of Maine,  
23 what we are now actually experiencing, oh,  
24 state-wide rank-choice voting. They have a  
25 problem, All right. They have a third party.



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           And sometimes that third party -- he was a strong  
2           independent streak and a plain spoiler. And they  
3           had experienced this into something voters  
4           wanted. It's not clear to me exactly how that  
5           fits in with the New York case. But this is  
6           something that you guys, as your ears to the  
7           ground, would know better, certainly, than I  
8           would.

9           So we talk a lot about primary run-off  
10          systems and I think we can identify some ways in  
11          which they fall short. Certainly, Mr. Richie has  
12          done a good job of laying out how perhaps  
13          rank-choice voting is better than that system.  
14          But I would like to -- to spend some time talking  
15          about ways in which rank-choice voting may not be  
16          as good as -- as a primary run-off system.

17          For me, it has two important deficiencies to  
18          consider. The first is a concept we call ballot  
19          exhaustion. This is something where your ballot,  
20          no matter how it was filled out -- and it could  
21          be you had one choice ranked, two choice ranks,  
22          or perhaps even the entire allowed candidates to  
23          rank. But your ballot does not make it to the  
24          final round of tabulation. This means that,  
25          effectively, when it comes to decide the winner,

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           your ballot does not factor into that number.  
2           This is not an avoidable problem. We've seen  
3           this everywhere. This is now, I think, pretty  
4           well documented. It's not something we can  
5           simply just legislate out. It is a part of a  
6           process. That doesn't mean this always happens,  
7           but it does happen --

8           MR. PERALES: Can you explain that a little  
9           better? How does the ballot not get counted in a  
10          vote?

11          MR. BURNETT: So if you say it ranked three  
12          candidates. Your allotted systems allow you to  
13          rank three. So let's stick with that. You rank  
14          three. You have a preference. You identify your  
15          first choice, your second choice and your third  
16          choice and then send your ballot in to be  
17          tabulated. In the process of tabulation, your  
18          first choice is eliminated. Then you go to your  
19          second choice, right. That's where your vote  
20          would count. Your second choice gets eliminated.  
21          You get distributed to your third choice. Let's  
22          say third choice gets eliminated. Now you're no  
23          longer a part of the process. Your ballot has  
24          been cast and it's been cast completely and  
25          correctly. But in terms of actually weighing in

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 on the final --

2 MR. PERALES: I must be missing something.

3 What if I voted for -- there were five  
4 candidates and I voted for one of the ones that  
5 got the least votes. Are you saying my ballot  
6 was not very valuable or worthwhile?

7 MR. BURNETT: Well, it depends. It depends  
8 on who you ranked second --

9 MR. PERALES: No. If I didn't rank any --  
10 on the current system, if I just vote and it's  
11 somebody who doesn't do well, I mean, you're  
12 suggesting my ballot was worthless.

13 MR. BURNETT: Not worthless. You got to  
14 express your voice. And it's clear to us who you  
15 prefer. Then you subsequently have a chance,  
16 potentially, if there was a run-off. So going to  
17 weigh in on -- weigh in on --

18 MR. PERALES: I see. I get it now.

19 MR. BURNETT: In this case, in this example,  
20 though, you're not afforded that opportunity.  
21 This is why I them as fundamentally different.  
22 And that when your ballot is exhausted -- the  
23 winner is declared. No matter what, Right. We  
24 do arrive at a winner. Under a primary run-off  
25 system, you are afforded the opportunity to go in

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           and weigh in again. Whether you choose to do  
2           that is up to you as the voter. Or you can  
3           express yourself by actually not going to the  
4           polls. But that is an expression that we can  
5           understand what that is. Under exhaustion, it's  
6           nearly impossible to know what the intent of the  
7           voter actually was. We don't know. We can't  
8           say, well they might have voted for this person  
9           or maybe they just didn't see anybody who was  
10          worth voting for. We don't know, all right.  
11          It's a great unknown and, unfortunately, I think  
12          this is a deficiency that we should think about.  
13          Especially when we're thinking about quality of  
14          democracy and we're thinking about  
15          representation, how well people are being  
16          represented -- being represented in the process.  
17          What are the rates of exhaustion? It ranges.  
18          And it depends on the quality of the election.  
19          It could be as low as, say, a couple of percent  
20          points. It could be zero. It could be as high  
21          as almost 30 percent. And I've seen it in the  
22          work I presented to you guys. That is actually a  
23          number that's true in San Francisco. It reaches  
24          27 percent of us. So unlike these people who  
25          show up, and they show up in the run-off, who are

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           afforded a chance, those voters don't get a  
2           chance to do so.

3           The second issue that I would like for you  
4           guys to consider when you're thinking about  
5           rank-choice voting is the fact that it doesn't  
6           usually produce a majority winner. It actually  
7           produces a plurality winner. And if you do the  
8           calculations in the way that most people who  
9           study electoral systems would, which is we would  
10          consider the percentage of votes for the winner,  
11          divided by the total number of votes cast. Not  
12          just the total number of votes that are still  
13          left. That often reaches in the 40 percent. 44,  
14          45. Depends on the election you're looking at.  
15          But that means that that person, whoever is the  
16          eventual winner, did not actually receive a  
17          majority from all of the people who showed up in  
18          that election. They received a plurality of the  
19          vote.

20          For example, if you look at one of the  
21          handouts that I provided today, this recent  
22          election in San Francisco, one that we're  
23          actually still counting, one, the exhaustion rate  
24          was eight and a half percent. Meaning, we don't  
25          understand what those eight and a half percent of

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 voters would have done if they had had a chance  
2 to weigh in in some sort of run-off format. We  
3 just don't know.

4 The second is that the winner's total share  
5 as of Monday is 46 or 45.6 percent. Not a 50  
6 percent majority. And this is something we  
7 observe in many elections. In my paper we have  
8 four elections here. None of them received the  
9 majority, either. This is actually -- tends to  
10 be, I think, more common than not, actually, from  
11 what I've observed in my own observations.

12 The third thing I would say is that there  
13 are some new concerns that are emerging in the  
14 rank-choice voting formats. One is a question  
15 about how well the system does with racial and  
16 ethnic minority groups. Jason McDaniel,  
17 professor at San Francisco State, has done some  
18 work on this. And he actually finds that it  
19 doesn't necessarily do well for turnout amongst  
20 these groups.

21 And part of the packet I provided, I'm  
22 giving you hot off the press research that I've  
23 been conducting that looks at how it shakes out  
24 in terms of the precinct and its racial and  
25 ethnic minority makeup, and how it looks in terms

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 of exhaustion and completeness. And the  
2 take-home point is this. Generally speaking,  
3 racial and ethnic minorities are less likely to  
4 provide a complete ballot. Which means that  
5 they're actually at a higher risk of exhaustion,  
6 right. Because we know that if you don't  
7 complete your ballot, you're more likely to be  
8 exhausted. However, due to the nature of the  
9 elections under consideration here in San  
10 Francisco and Oakland, racial and ethnic minority  
11 groups each had a candidate that they strongly  
12 preferred. And that candidate made it to the  
13 last round of tabulation. So they actually  
14 didn't end up getting exhausted as much.  
15 However, that doesn't mean that they couldn't in  
16 future elections, right. If your candidate  
17 doesn't make it to the last round of voting,  
18 you're actually more likely to be exhausted. So  
19 this, to me, the take-home would be that it is  
20 the potential to harm. It doesn't necessarily  
21 mean it will harm. But that the capacity is  
22 there.

23 I thank you for your time.

24 MR. PERALES: Thank you very much. I'm just  
25 curious.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           Mr. Richie, do you have a comment to the  
2           contrary to what's just been said?

3           MR. RICHIE: Thank you.

4           Let me -- let me start off by agreeing with  
5           Craig that there's no system that's perfect,  
6           right. So we're talking about relativity here.  
7           I think that on the issue of exhaustion, there's  
8           sort of two points of comparison. When you  
9           compare it to the plurality of voting  
10          elections -- it's kind of the point that you were  
11          making about the current system, where you only  
12          get a single choice, and that's it, right, if you  
13          vote for someone who doesn't -- who finishes  
14          last, you know, that's it, right. And this would  
15          allow you to have a say in the final two. Or  
16          this is sort of the classic way that people think  
17          about, you know, rank-choice voting states  
18          through the context of a presidential election,  
19          let's put Ralph Nader on the ballot or some such  
20          election. Then compare it to -- so it's doing  
21          more than you can with plurality. When you are  
22          looking at a run-off election, there are times  
23          that turnout does go up. It's actually quite  
24          unusual in general. Like so we looked at all the  
25          federal run-offs. A lot of states, particularly



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 in the south, have run-off elections. Texas just  
2 had a run-off election, for instance, for  
3 governor. And, you know, some big offices. The  
4 turnout dropped more than 50 percent in Texas.  
5 The average decline in turnout in run-offs --  
6 federal primary run-offs over the past, 200 of  
7 them is more than 35 percent. So yes, there will  
8 be exhaustion in that sense of like in the San  
9 Francisco race -- San Francisco mayoral race it  
10 was 8.5 percent. So that consent was a turnout  
11 decline. One way of measuring it of 8.5 percent.  
12 But the relative changes is usually much more,  
13 when you're looking at the run-offs. We looked  
14 at the last -- well, we looked at all the  
15 rank-choice voting elections that have taken  
16 place with multiple rounds in the United States  
17 since -- in the last 20 years of usage. So there  
18 are 77 of them. The winner on average, the sort  
19 of the median, was 48 percent of the first round.  
20 So correct, the median was just under 50. The  
21 median of run-off elections in San Francisco,  
22 when they had had run-off elections was 37  
23 percent. The median in those federal primary  
24 run-offs was also 37 percent. So again, I would  
25 say rank-choice voting is standing up quite well

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 by a measure of participation versus run-offs.  
2 And, of course, versus plurality voting, it's  
3 always getting higher.

4 MR. PERALES: Thank you.

5 Rachel.

6 MS. GODSIL: So I'm curious, Professor  
7 Burnett, how you would compare the concerns that  
8 you raised about ballot exhaustion with the  
9 two points made by the previous panelist. One is  
10 this notion that with rank-choice voting, there  
11 is considerable incentives for the candidates to  
12 pay attention to a broader swath of voters, being  
13 more robust (inaudible). So that was one sort of  
14 upside to rank-choice voting. And then the  
15 second is, in thinking about ballot exhaustion  
16 and the effects that you described, isn't under  
17 our current system, where we -- one only gets one  
18 vote, isn't it the case that a significant  
19 percentage of voters will take into account who  
20 they think will win in deciding who the single  
21 person will vote for will be. Whereas a  
22 rank-choice voting system, absent a more nuanced  
23 way of conveying one's choice. And so I'm just  
24 curious in thinking about, first, the point that  
25 Mr. Richie made, as well, this idea of only

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 playing to one base and the reasonable choice  
2 made in a traditional primary or traditional  
3 method with rank-choice voting. There being  
4 different incentives and this idea of being able  
5 to reflect our preferences more honestly in a  
6 sense in a rank-choice voting system than we can  
7 if there's a primary, where we're concerned that,  
8 frankly, to the Chair's point, if we vote for  
9 someone who's not a frontrunner, what's the point  
10 anyway because he will lose.

11 MR. BURNETT: Okay. So with regard to  
12 candidates coordinating, there is going to be  
13 some idiosyncrasies to every election. So it may  
14 be on average there is incentive to coordinate.  
15 That essentially was what a partisan primary  
16 does, right. It requires the party to focus on a  
17 single candidate to put forward, So (inaudible).  
18 But that doesn't mean that if I'm a candidate who  
19 thinks that I'm going to win, maybe I don't want  
20 to coordinate. If I don't think that I need your  
21 second votes, it may actually not be in my best  
22 interest to, right. Because I don't necessarily  
23 want to expand the size of my coalition if I  
24 don't need to. This is speaking about how most  
25 politicians usually view elections, right. They

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 don't necessarily, if they don't think they need  
2 it, reach out to other voters.

3 MS. GODSIL: Just for a second.

4 Isn't the whole purpose of rank-choice  
5 voting the inconsistencies of very competitive  
6 elections in which there's not a clear  
7 frontrunner, otherwise this is all kind of  
8 resolved and moot anyway? So isn't that a  
9 slightly not particularly helpful response?

10 MR. BURNETT: Well, there are oftentimes  
11 (inaudible) don't quote me, but they don't  
12 coordinate with other candidates. In fact, most  
13 candidates will (inaudible). In those elections,  
14 the coordination will probably be near zero. So  
15 perhaps in competitive elections you could see  
16 it. I'm just saying. It is competitive. Yes.  
17 Unfortunately, I can't give you some sort of step  
18 by step playbook in every single election. It  
19 just happens to be who's running, are they an  
20 overwhelming frontrunner? If they are, then they  
21 don't need to pay attention to other candidates.  
22 They don't seek the votes, their second choice or  
23 third choice votes. If it's ten candidates  
24 running, they all got about ten percent, perhaps,  
25 right. And maybe in a city like New York, where

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           it's easier to get polling data because there's a  
2           lot of money in campaigns, that's possible.  
3           Yeah, I'd say that, you know, knowledge about  
4           where you stand is maybe a little easier to  
5           discern. But that's probably not true in a lot  
6           of places.

7           So to your second question, though, about  
8           strategic voting. That again requires the voters  
9           to know who they think is going to be a  
10          reasonable shot to win. And my experience in  
11          looking at local elections tells me that voters  
12          are not very good at figuring that out. And the  
13          data suggests that's true, too. In three of the  
14          cases I looked at in the 2015 paper, even the  
15          people who marked three candidates, the  
16          exhaustion rates were 7.8 percent in Oakland,  
17          22.5 percent in San Francisco, and 2.7 in San  
18          Leandro. (Inaudible) because there are only four  
19          people were running and they filled out three.  
20          So your chances of exhaustion are fairly low.  
21          But the analogs are closer to Oakland and San  
22          Francisco in New York, where you're going to get  
23          more candidates running. And probably even  
24          closer to San Francisco, because like San  
25          Francisco, New York has reasonably generous

2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 public financing for elections. That's San  
2 Francisco's case in a nutshell. So I think  
3 you're more likely to see the types of elections  
4 where 10, 13 people, 15 people are running. And  
5 voters are not going to necessarily going to know  
6 of those 10 or 13 who is going to be in the final  
7 two. That's actually a fairly sophisticated  
8 piece of information that most voters won't have.

9 MS. CLARKE: I just wanted to -- I wanted to  
10 just find out from who has the greatest  
11 information. The power of incumbents. When an  
12 incumbent who is already known is running, versus  
13 some young bright person who may do just as well  
14 as the incumbent, how do you factor in for the  
15 power in the incumbency, somebody who's already  
16 known, to an unknown?

17 MR. RICHIE: Like most elections, when  
18 there's an incumbent running, a lot of  
19 challengers will just not enter the race. The  
20 few cases I've looked at, though, a turnout in  
21 San Francisco in 2015 was down because it's  
22 pretty well understood that Ed Lee was going to  
23 win and he did, Right. There was no need to  
24 count. There was no need to coordinate. So that  
25 doesn't mean you'll find cases where that's true,

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 where a poll -- you could have somebody who is a  
2 challenger that could build a broad coalition.  
3 And that's probably going to be easier to do in a  
4 rank-choice environment. I'd certainly agree  
5 with that.

6 MS. CLARKE: And -- and in communities of  
7 minorities, where a -- where they now feel that  
8 my community is matured enough, we've paid our  
9 price in the democracy and we want to get up and  
10 run, how do you account for new energy in -- in  
11 the process?

12 MR. BURNETT: In terms of rank-choice  
13 voting?

14 MS. CLARKE: Yeah.

15 MR. BURNETT: I mean, I actually would defer  
16 to -- to Rob on that. I'd let him speak about  
17 that.

18 MR. RICHIE: Why don't we stop for a moment  
19 with Grace and then I'll --

20 MS. WACHLAROWICZ: Okay.

21 MR. BURNETT: Can I tell you something, too?

22 MS. WACHLAROWICZ: Thank you. I just have a  
23 few comments from the Minneapolis perspective.

24 First off, I'm not an expertise, as far as  
25 campaigning. However, I can give some anecdotal

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 information, as far as the incumbent in the  
2 campaign process.

3 In 2017 our incumbent did not win. So it  
4 does occur. Most of our campaigners have  
5 different -- it's a different way to campaign,  
6 period. It's different from what you are used to  
7 right now. When you are going out, you do have  
8 to develop a base other than your primary base.  
9 Most of our candidates, for example, say okay,  
10 you work for a candidate X. I appreciate that.  
11 I respect it. But would you choose me as your  
12 second choice? And so you're building that  
13 broader base. And, in fact, that was one  
14 strategy that occurred in 2013.

15 I'm not an expert. I can't promote it. But  
16 I know there are different strategies. It's just  
17 a different education, both for the candidates,  
18 as well as the voters.

19 As far as exhaustion rate, I think you need  
20 to understand there's a difference in how  
21 elections are being administered in general.  
22 You, from what I understand, have the primary and  
23 then the instant run-off. So then Craig's  
24 surmising uneducated voters or lack of education,  
25 they need that second run-off would be valid. If



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           you don't have a run-off system like in  
2           Minnesota, it's the majority wins. Our voters  
3           are educated on every level because they know  
4           that is the choices that are going to make it to  
5           the general or the final vote. So it really  
6           depends upon what your voters are used to and how  
7           to educate them appropriately. But I do think  
8           our voters do understand.

9           And as far as our diverse populations, it's  
10          relative to any election. It does not make a  
11          difference whether it's rank-choice or not. So I  
12          have to respectfully disagree on that point.

13          MR. BURNETT: If you don't mind, so I just  
14          wanted to follow on what Ms. Clarke was saying,  
15          and also Ms. Godsil.

16          I think we haven't talked about the longer  
17          term impacts. So I think a lot of the focus and  
18          I think it's right, it's about in a given  
19          election what is the dynamic going to be. And I  
20          think you got people -- you know, you got the  
21          people turning out for their community or their  
22          particular. But I think there's also the  
23          question of, what does that tell you, regardless  
24          the information, what's the revealed choice of  
25          voters when somebody has been actively appealing

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 to them, what does it look like then the next  
2 time, right. Then so you just have a much better  
3 sense of -- in a community that's been under  
4 represented, for example and maybe the mainstream  
5 candidates are thinking, ah, well, they don't  
6 vote very much. We're not going to -- what  
7 happens when you've got somebody they're really  
8 excited about and who do they -- what does that  
9 look like. And I think that has an impact, of  
10 course, in the election where that's happening.  
11 But it also has an impact on the political  
12 parties on the candidates that time around and  
13 the coalitions that are going to be based around  
14 it.

15 MR. RICHIE: So lots of good questions.  
16 I'll just touch base on a few things.

17 The one on incumbency, it's interesting, we  
18 run into that question, not surprisingly  
19 sometimes when we talk to city councils about  
20 this. And we did a deep dive in the Bay area  
21 where they've had the most use, 53 offices. And  
22 interestingly, it was exactly the same incumbency  
23 retention rate pre and before. I think that a --  
24 you know, a weak incumbent will have likely more  
25 competition and -- and have to, you know, stand

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1 up and earn their 50 percent. But, you know, it  
2 seems like incumbents are good at doing that,  
3 so -- but they at least have to work for it.

4 On race, there's some interesting dynamics.  
5 One is, we are seeing -- and I don't think it's  
6 coincidental -- an increase in people of color  
7 winning and the sort of diverse like Minneapolis,  
8 St. Paul. First elected black mayor in the most  
9 recent election, the Bay area. In the Bay area,  
10 we looked at the nature of the electorates from  
11 which candidates were winning to. And where the  
12 biggest increase was -- was in white plurality,  
13 non-white majority districts. That's where the  
14 biggest increase of people of color candidates  
15 winning was. Which I assume is tied to a certain  
16 kind of coalition building dynamic that  
17 rank-choice voting promotes. And it's really --  
18 the Bay area is like New York, exceptionally  
19 diverse, within its diversity. And it's  
20 interesting to think about that in relation to  
21 some of these conversations about two-step  
22 elections. Like Boston had an open seat mayoral  
23 race in 2013. The first and second finisher in  
24 the run-off were two white Irish candidates.  
25 White men. The third through sixth candidates

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           were people of color candidates. And none of  
2           them advanced, right. So it was the just two --  
3           top two finishers. In Minneapolis, if you  
4           translate their first choices in 2017 into what  
5           could have happened under their old system, where  
6           they used to have a primary, the top two  
7           finishers were two white men. And then there  
8           were several also women, people of color, behind  
9           that. One of them was a woman named Nekima Levy  
10          Pounds. Who is an interesting woman who had led  
11          the Black Lives Matter movement after some of the  
12          police shootings that had taken place in  
13          Minneapolis. And she has become a big fan of  
14          rank-choice voting. In part because she was in  
15          the debate. She was in the discussion. She was  
16          raising her issues. And felt the other  
17          candidates addressed them. And she's a good  
18          person to talk to about how -- how she feels  
19          about the system. And then, right, because she  
20          wasn't knocked off in some low turnout primary.  
21          And -- what was the last thing I was going to  
22          say?

23                 Last thing I actually will say. Which is, I  
24                 think, is just this interesting aspect of  
25                 engagement and why you might see some exhaustion.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           Like -- so one thing to keep in mind for San  
2           Francisco or all these cities that we're talking  
3           about is their nonpartisan general elections, in  
4           a sense. Not probably what you're looking at  
5           here, which used to fit in the primaries. Maybe  
6           not as stark as like a person of a different  
7           party. But just, you know, they just really  
8           don't -- don't connect with their final choices.  
9           And that's their option. However, the woman who  
10          won, London Breed, or probably has won, London  
11          Breed, African-American woman. She's a Democrat.  
12          But she did a mailing to republicans in San  
13          Francisco, making the case, actually, their  
14          opponents said, look, she's reaching out to  
15          republicans. How shocking. But, you know, she's  
16          trying to get votes in what ended up being a very  
17          close election. What I found fascinating is that  
18          if you look at the top two finishers, she -- and  
19          I kind of -- Mark Leno, who is the other top  
20          finisher, they were ranked second or third by at  
21          least 20 percent, both of them, every other  
22          candidate in an eight-candidate field. So they  
23          had done their work, or had done their homework.  
24          They had done their connections with people. And  
25          that's the kind of, I guess, consensus building

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           that you're encouraging. You never achieve it,  
2           but you're encouraging it. And that seems to be  
3           happening in these elections.

4           MS. CLARKE: Have you look at the influence  
5           of money on the elections (inaudible) because  
6           that ends up being the influence of money on --  
7           on politics.

8           MR. RICHIE: I'll talk briefly and then hand  
9           it to Susan.

10           It completely does away with it. No. No.  
11           Money is still a factor. It is interesting. I  
12           would say this. We are seeing less of a  
13           connection in some ways of a certainty of a  
14           connection. And I think that it does promote a  
15           style of campaigning earning those second and  
16           third, fourth rankings. And I'll say, by the  
17           way, just in that sense of using the word fourth  
18           ranking, Santa Fe allowed more than three  
19           rankings. And, you know, two out of three people  
20           ranked five. Some of the exhaustion that you're  
21           seeing in San Francisco, about a third of the  
22           ballots this year were people who had ranked  
23           three who weren't in the final two. So I think  
24           if you allowed, say five rankings, you're more  
25           likely to have more votes count. And in Santa Fe

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           96 percent of ballots were counting in the final  
2           round. But anyway, Santa Fe's mayor's race, the  
3           person who spent the most money won, right, with  
4           some -- that's going to happen. If London Breed  
5           wins in San Francisco, she had more money at her  
6           disposal. However, you are not seeing in some  
7           ways the -- the direct connection. Because I  
8           think earning those second and third rankings  
9           seems to be connected well with engagement that  
10          is earning respect. And so that Oakland mayor's  
11          race in 2010, the candidate who lost outspent  
12          everyone by about five times, if you count his  
13          independent expenditures. But it's -- he didn't  
14          get out much. He didn't go to the debates. He  
15          wouldn't even go the neighborhoods. And that  
16          actually sort of, at the end of the day, means  
17          you -- you don't earn that kind of respect. So I  
18          think the last thing I'll say is it seems like  
19          particularly the independent expenditures are  
20          seeing patterns where you're still going to see  
21          them, people are going to try to win. They're  
22          going to use them, of course. But it doesn't  
23          seem like they are as effective as I think they  
24          are in, say, a two-person race.

25                   MS. LERNER: So I did want to add a note

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           anecdotally from my colleague in New Mexico, who  
2           I talked about the Santa Fe mayor's race. And  
3           said what was striking to her is that at least in  
4           Santa Fe this is the first time that they used  
5           rank-choice voting.

6           In contrast to earlier mayor's race, the  
7           independent expenditures went way, way down  
8           because they couldn't figure out who to attack in  
9           a rank-choice voting system. So that's only one  
10          instance. But I think that that may be very  
11          helpful and somewhat relates to what Rob was  
12          saying. It -- it appears to diminish the impact  
13          of independent spending. Which is -- I see a  
14          huge problem and helps candidates connect more  
15          directly with voters. Which is what we in Common  
16          Cause want to see.

17          MR. PERALES: Thank you. We have -- I'm  
18          going to give John Siegal the last question  
19          because we have gone beyond our expectation in  
20          terms of when we would finish up.

21          John.

22          MR. SIEGAL: So at the risk of Commission  
23          exhaustion, is there like -- is there a threshold  
24          point of the number of candidates where this  
25          system makes sense? And do you find that it -- I



## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           get that it -- it somehow empowers the voters of  
2           candidates who would otherwise be also-rans. We  
3           have a long history of people in third and fourth  
4           place just dropping off the political map in  
5           September. Do you find that in a current -- so I  
6           get that kind of keeps their voters in the mix.  
7           But does it encourage more candidates to run? Do  
8           you see a more increase in the number of  
9           candidates in the field? And is there some  
10          number like five, six, seven, eight, that really  
11          is needed before it optimally is effective?

12                 MR. RICHIE: I'll comment briefly. It might  
13                 be interesting to hear from Minneapolis. They  
14                 had 35 candidates for mayor in 2013.

15                 MR. SIEGAL: Yeah. And I counted, there are  
16                 16 here. There were eight in San Francisco.

17                 MR. RICHIE: Right.

18                 MR. SIEGAL: We tend to have four.

19                 MR. RICHIE: Yeah.

20                 MR. SIEGAL: Three or four.

21                 MR. RICHIE: Well, I'll -- I'll give you an  
22                 example. There were -- governor of California,  
23                 there were, I don't know, 34 candidates or  
24                 something for governor in a single choice  
25                 election. I think a lot of it is really -- and

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           there were eight candidates for -- for mayor of  
2           San Francisco. I will say, by the way, this stat  
3           that jumped out to me. There were seven -- San  
4           Francisco voters, they were seven times more  
5           likely to invalidate their ballot when voting for  
6           governor in a single choice election than for  
7           mayor with a rank-choice election. And more  
8           likely to skip the race, as well. So I think,  
9           you know, people are handling the rank-choice  
10          ballot in that measure well in San Francisco.  
11          But I think that -- you know, that's more --  
12          probably more a question of ballot access rules  
13          and things than I think the system. It's really  
14          you might maybe see a little up-tic. But I would  
15          think in particularly -- and we're talking about  
16          the uses that you're talking about here, I would  
17          say probably it's not a connection. I will say  
18          you have a three-candidate race, it's a useful  
19          instrument if you have more than two candidates  
20          because you're allowing the voter to say  
21          something about two people rather than one. If  
22          you have ten candidates, it becomes even a more  
23          useful instrument. And when New York City uses  
24          the school boards and they have their -- their  
25          complexities -- but I think one aspect of it was,

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           there are nine candidates -- I mean nine seats.  
2           A lot of people ran. And, you know, voters  
3           actually handled the ballot well enough that the  
4           DOJ, you know, denied preclearance when they were  
5           trying to -- trying to change it.

6           MS. WACHLAROWICZ: Yes, we had 35 candidates  
7           for mayor in 2013. I think it has to do a lot  
8           with the culture and your community environment.

9           First and foremost, our city elections are  
10          nonpartisan. We do have political party  
11          endorsements. However, our -- each candidate has  
12          their political party or principle written. And  
13          in 2013, mayor, for \$20, you could be on the  
14          ballot and convey your political principle. So a  
15          lot of those candidates, it was an opportunity  
16          for them to have that exposure to particular  
17          causes. We subsequently increased our filing fee  
18          to 500, which reduced it to 16. Not to say that  
19          money is the only issue. Individuals who can't  
20          afford it, they do have a petition process. So  
21          it is still open to anyone interested. But it's  
22          a community culture. It's an opportunity to  
23          express. If you typically have four to five  
24          candidates that run, I wouldn't see it  
25          significantly change.

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           MR. PERALES: The assistant professor will  
2           have the last word.

3           MR. BURNETT: Great. I'm sure my students  
4           would love that.

5           So I will say, you know, a couple of things  
6           just to -- to give Rob's points, too, about the  
7           machine not allowing enough people to rank, to  
8           rank as many candidates as they want. In  
9           Portland, Maine, there were 15 candidates on the  
10          ballot. The exhaustion rate was about 18 percent  
11          and they were allowed to rank up to all of 15.  
12          So it's not entirely because they weren't allowed  
13          to rank.

14          Now, the question about what is, sort of, an  
15          optimal number of candidates. That's hard to  
16          know. I will sort of give you some general  
17          thoughts on it. Which is that the more you ask  
18          people to do cognitively at the voting booth, the  
19          harder it is for them to figure it out, right.  
20          So if you're going to ask them to think about 10,  
21          12, 15 candidates, that is a pretty difficult  
22          task. And thinking about how to rank 15 anything  
23          is actually pretty difficult. Something you  
24          might even know pretty well. You know, come up  
25          with your 15 favorite movies, for example. You

## 2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

1           would spend way more time thinking about it than  
2           you probably should. So the fewer candidates  
3           there are, the easier it becomes.

4           And so for me, once you start to leave that  
5           threshold of five or six, I think then you're  
6           reaching a part of that area where voters are  
7           just -- they're going to struggle pretty  
8           mightily.

9           MR. PERALES: Listen, we have reached  
10          Commission exhaustion. But it's been  
11          fascinating, interesting, and more importantly, I  
12          think we've learned a great deal up here.

13          So thank you very, very much.

14          MS. GODSIL: Motion to adjourn.

15          MR. PERALES: Is there a motion?

16          MS. GODSIL: Motion to adjourn.

17          MR. PERALES: Is there a second?

18          MS. WEISER: Second.

19          MS. CLARKE: Second.

20          MR. PERALES: We are adjourned.

21                 (Whereupon, at 4:08 P.M., the above matter  
22                 concluded.)

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2018 CHARTER REVISION - 6/12/2018 - MANHATTAN

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C E R T I F I C A T E

STATE OF NEW YORK        )  
  :  SS.:  
COUNTY OF NASSAU        )

I, KEVIN HAGHAZARI, a Notary Public for and within the State of New York, do hereby certify:

That the above is a correct transcription of my stenographic notes.

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of June 2018.



\_\_\_\_\_  
KEVIN HAGHAZARI

<b>\$</b>	<b>2</b>	<b>34</b> [1] - 137:23 <b>3420</b> [1] - 42:6 <b>35</b> [4] - 69:10, 121:7, 137:14, 139:6 <b>36</b> [2] - 80:23, 82:7 <b>37</b> [5] - 9:9, 9:17, 87:7, 121:22, 121:24 <b>384,000</b> [1] - 108:19	<b>8</b>
<b>\$110,000</b> [1] - 108:18 <b>\$20</b> [1] - 139:13 <b>\$50,000</b> [2] - 107:1, 107:5	<b>2</b> [1] - 9:1 <b>2-06</b> [1] - 41:3 <b>2-13</b> [1] - 96:1 <b>2.7</b> [1] - 125:17 <b>20</b> [7] - 43:14, 47:2, 48:6, 78:24, 93:12, 121:17, 133:21 <b>20,000</b> [2] - 107:3, 108:22 <b>200</b> [1] - 121:6 <b>2000</b> [2] - 49:22, 50:3 <b>2001</b> [1] - 84:2 <b>2003</b> [1] - 51:20 <b>2006</b> [5] - 50:7, 76:25, 93:12, 94:2, 98:8 <b>2009</b> [5] - 2:16, 96:1, 98:9, 99:3, 110:7 <b>2010</b> [5] - 75:7, 76:4, 76:12, 98:7, 135:11 <b>2011</b> [1] - 58:23 <b>2012</b> [1] - 98:6 <b>2013</b> [16] - 50:20, 51:2, 71:2, 83:5, 84:22, 87:6, 96:5, 98:9, 99:9, 109:2, 110:7, 128:14, 131:23, 137:14, 139:7, 139:13 <b>2014</b> [3] - 52:4, 76:5, 76:15 <b>2015</b> [2] - 125:14, 126:21 <b>2016</b> [4] - 9:25, 27:2, 48:5, 52:9 <b>2017</b> [7] - 27:3, 27:20, 96:1, 99:9, 110:7, 128:3, 132:4 <b>2018</b> [4] - 1:1, 1:6, 74:25, 142:15 <b>203</b> [3] - 50:8, 50:20, 51:12 <b>22</b> [1] - 93:22 <b>22.5</b> [1] - 125:17 <b>24</b> [3] - 9:15, 27:16, 63:8 <b>240,000</b> [1] - 95:14 <b>25</b> [2] - 9:15, 27:17 <b>26</b> [1] - 112:5 <b>2604(b)15</b> [1] - 29:23 <b>27</b> [2] - 9:10, 116:24 <b>28</b> [1] - 12:19 <b>29</b> [1] - 43:21 <b>2nd</b> [1] - 1:4	<b>40</b> [10] - 65:18, 69:10, 71:9, 77:23, 78:12, 78:13, 78:14, 78:16, 82:16, 117:13 <b>44</b> [1] - 117:13 <b>44th</b> [1] - 10:1 <b>45</b> [2] - 80:6, 117:14 <b>45.6</b> [1] - 118:5 <b>46</b> [1] - 118:5 <b>47th</b> [1] - 9:25 <b>48</b> [1] - 121:19 <b>4:08</b> [1] - 141:21	<b>8.5</b> [2] - 121:10, 121:11 <b>85</b> [1] - 111:4 <b>87</b> [1] - 112:3 <b>89</b> [1] - 3:20
<b>1</b>	<b>3</b>	<b>4</b>	<b>9</b>
1 [4] - 8:23, 9:1, 27:3 <b>10</b> [6] - 12:23, 47:2, 83:25, 126:4, 126:6, 140:20 <b>100</b> [1] - 26:19 <b>10013</b> [1] - 1:4 <b>1057</b> [1] - 11:10 <b>11</b> [3] - 109:4, 109:6, 109:9 <b>11.7</b> [1] - 112:6 <b>115</b> [1] - 10:24 <b>12</b> [3] - 1:6, 9:12, 140:21 <b>125</b> [1] - 1:3 <b>12th</b> [1] - 2:5 <b>13</b> [3] - 93:23, 126:4, 126:6 <b>15</b> [7] - 47:2, 126:4, 140:9, 140:11, 140:21, 140:22, 140:25 <b>15,000</b> [1] - 108:22 <b>16</b> [8] - 59:8, 60:1, 62:24, 63:6, 63:22, 82:2, 137:16, 139:18 <b>16-year-olds</b> [1] - 63:11 <b>16.4</b> [1] - 112:6 <b>16th</b> [1] - 142:15 <b>17</b> [2] - 9:14, 63:22 <b>17-year-old</b> [1] - 63:22 <b>18</b> [9] - 59:8, 60:2, 62:22, 62:25, 63:6, 63:7, 64:13, 65:2, 140:10 <b>18,000</b> [1] - 58:24 <b>18-hour</b> [1] - 42:10 <b>18th</b> [1] - 52:21 <b>1973</b> [1] - 83:17 <b>1974</b> [1] - 48:20 <b>1990</b> [1] - 49:11 <b>1990's</b> [1] - 56:20 <b>1993</b> [1] - 2:16 <b>1996</b> [1] - 29:19 <b>1998</b> [1] - 41:2 <b>1:14</b> [1] - 1:6	<b>3</b> [1] - 80:19 <b>30</b> [1] - 116:21 <b>300</b> [3] - 47:16, 51:21 <b>31.5</b> [1] - 71:8 <b>32</b> [2] - 3:21, 48:7	<b>5</b>	<b>90</b> [1] - 111:5 <b>900,217</b> [1] - 83:20 <b>900,538</b> [1] - 83:19 <b>95</b> [1] - 73:11 <b>96</b> [1] - 135:1 <b>99.9</b> [1] - 68:18
		<b>6</b>	<b>A</b>
		<b>5</b> [1] - 45:16 <b>5,000</b> [1] - 84:3 <b>5-106</b> [1] - 45:17 <b>50</b> [13] - 10:1, 76:24, 76:25, 77:22, 78:1, 78:5, 78:10, 78:11, 85:13, 118:5, 121:4, 121:20, 131:1 <b>500</b> [1] - 139:18 <b>500,000</b> [1] - 97:25 <b>500,010</b> [1] - 98:1 <b>51</b> [1] - 3:22 <b>53</b> [3] - 82:12, 82:14, 130:21	<b>AALDEF</b> [3] - 8:1, 48:20, 88:17 <b>aberration</b> [1] - 83:6 <b>ability</b> [3] - 21:21, 26:21, 60:14 <b>able</b> [11] - 24:2, 43:23, 43:25, 51:1, 52:3, 90:19, 95:8, 95:24, 96:13, 112:9, 123:4 <b>about</b> [133] - 5:11, 12:22, 15:24, 18:8, 21:18, 22:1, 23:7, 23:19, 25:2, 25:16, 26:3, 26:5, 29:7, 30:14, 30:17, 30:18, 31:18, 31:21, 32:7, 33:16, 34:5, 34:18, 35:19, 36:10, 36:11, 37:18, 37:22, 39:19, 44:4, 46:1, 48:6, 48:7, 55:24, 61:8, 62:20, 63:2, 66:23, 68:1, 68:19, 69:1, 69:10, 71:2, 72:15, 72:24, 72:25, 76:10, 77:13, 77:14, 79:21, 81:23, 82:17, 83:24, 84:5, 84:9, 84:21, 84:23, 86:11, 87:3, 88:6, 91:6, 94:8, 97:20, 97:24, 99:19, 100:2, 102:18, 102:23, 102:25, 104:12, 105:16, 106:9, 106:10, 106:15, 106:23, 106:24, 106:25, 107:1, 107:3, 107:10, 107:11, 107:12, 107:15, 107:16, 107:20, 107:25, 108:1, 108:18, 109:4, 111:15, 112:19, 113:9, 113:15, 116:12, 116:13, 116:14, 117:4, 118:15, 120:6, 120:11, 120:17, 122:8, 122:15, 122:24, 123:24, 124:24, 125:3, 125:7, 127:16,
		<b>7</b>	
		<b>7.8</b> [1] - 125:16 <b>70</b> [1] - 71:7 <b>73</b> [1] - 84:17 <b>77</b> [1] - 121:18 <b>78</b> [1] - 38:3 <b>783,133</b> [1] - 83:18 <b>785,365</b> [1] - 84:4 <b>787,835</b> [1] - 83:21 <b>790,019</b> [1] - 84:4	

<p>129:16, 129:18, 130:8, 130:19, 131:20, 131:21, 132:18, 132:19, 133:3, 134:21, 135:12, 136:2, 138:15, 138:16, 138:21, 140:6, 140:10, 140:14, 140:20, 140:22, 141:1  <b>above</b> [2] - 141:21, 142:8  <b>abridge</b> [1] - 9:4  <b>absent</b> [2] - 16:1, 122:22  <b>absentee</b> [24] - 9:10, 10:10, 13:9, 14:22, 14:25, 15:4, 15:10, 15:16, 15:19, 16:25, 17:5, 17:6, 17:16, 18:6, 18:7, 18:14, 21:19, 21:22, 27:7, 27:8, 27:16, 27:18, 27:23  <b>absolute</b> [1] - 29:1  <b>absolutely</b> [5] - 7:15, 25:7, 29:5, 54:19, 72:6  <b>accept</b> [1] - 81:22  <b>accepted</b> [1] - 82:4  <b>accepting</b> [1] - 82:6  <b>Access</b> [2] - 51:20, 51:24  <b>access</b> [7] - 14:12, 15:19, 16:22, 26:6, 46:22, 49:9, 138:12  <b>according</b> [1] - 9:7  <b>account</b> [2] - 122:19, 127:10  <b>accountability</b> [3] - 28:23, 29:13, 37:11  <b>accountable</b> [1] - 39:23  <b>accounts</b> [1] - 12:19  <b>accuracy</b> [3] - 24:10, 41:10, 96:2  <b>accurate</b> [2] - 11:20, 87:8  <b>achieve</b> [1] - 134:1  <b>acknowledge</b> [1] - 51:6  <b>ACLU's</b> [2] - 3:1, 3:2  <b>across</b> [2] - 20:22, 71:18  <b>act</b> [1] - 38:3  <b>Act</b> [5] - 13:18, 37:3, 51:20, 51:24, 54:9  <b>action</b> [5] - 10:10, 37:21, 38:1, 58:11, 142:11  <b>active</b> [1] - 40:7  <b>actively</b> [1] - 129:25  <b>activities</b> [1] - 39:23  <b>actual</b> [1] - 97:11  <b>actually</b> [6] - 19:4, 27:13, 31:12, 32:22,</p>	<p>34:15, 35:7, 35:15, 36:24, 37:20, 37:25, 38:9, 38:12, 44:11, 45:14, 47:16, 50:2, 53:16, 56:18, 57:10, 57:20, 62:21, 62:25, 67:13, 67:23, 71:23, 73:1, 76:9, 80:5, 80:9, 81:1, 81:7, 81:22, 82:2, 82:8, 82:18, 87:3, 91:10, 95:9, 95:12, 103:24, 104:6, 109:24, 110:6, 112:23, 114:25, 116:3, 116:7, 116:22, 117:6, 117:16, 117:23, 118:9, 118:10, 118:18, 119:5, 119:13, 119:18, 120:23, 123:21, 126:7, 127:15, 132:23, 133:13, 135:16, 139:3, 140:23  <b>add</b> [2] - 31:3, 135:25  <b>added</b> [1] - 27:2  <b>addition</b> [5] - 15:24, 29:22, 30:1, 38:2, 89:7  <b>additional</b> [1] - 26:11  <b>additionally</b> [1] - 29:16  <b>address</b> [6] - 53:11, 55:25, 72:3, 72:16, 90:8, 110:7  <b>addressed</b> [3] - 50:18, 54:2, 132:17  <b>addresses</b> [1] - 41:5  <b>adhere</b> [1] - 46:16  <b>adjourn</b> [2] - 141:14, 141:16  <b>adjourned</b> [1] - 141:20  <b>administer</b> [2] - 63:17, 102:5  <b>administered</b> [1] - 128:21  <b>administering</b> [1] - 93:7  <b>administration</b> [13] - 4:16, 6:10, 6:13, 10:22, 11:3, 25:18, 37:9, 42:20, 60:18, 68:10, 91:19, 93:18, 101:20  <b>Administration</b> [1] - 30:2  <b>administrative</b> [1] - 41:12  <b>administratively</b> [1] - 31:7  <b>administrator</b> [3] - 31:9, 96:18, 101:17  <b>administrators</b> [2] - 31:12, 46:7  <b>adopt</b> [5] - 13:1, 13:3, 28:17, 55:10, 60:7  <b>adopted</b> [2] - 9:6, 70:22  <b>adopting</b> [1] - 84:9</p>	<p><b>adoptions</b> [1] - 34:10  <b>advance</b> [3] - 70:15, 78:8, 78:19  <b>advanced</b> [1] - 132:2  <b>advances</b> [1] - 68:8  <b>advertising</b> [1] - 33:14  <b>advisory</b> [6] - 50:12, 51:4, 51:7, 52:16, 52:18, 52:23  <b>advocacy</b> [2] - 58:8, 77:15  <b>Advocacy</b> [1] - 8:4  <b>advocate</b> [5] - 32:10, 65:17, 71:3, 83:5, 104:3  <b>advocates</b> [2] - 77:17, 91:19  <b>Affairs</b> [1] - 26:13  <b>affect</b> [2] - 37:23, 75:18  <b>affected</b> [1] - 76:16  <b>affects</b> [1] - 60:9  <b>affidavit</b> [2] - 12:4, 43:9  <b>affiliation</b> [1] - 6:16  <b>affirm</b> [1] - 14:1  <b>affirmative</b> [2] - 82:24, 85:17  <b>afford</b> [1] - 139:20  <b>afforded</b> [3] - 115:20, 115:25, 117:1  <b>Afghanistan</b> [2] - 9:21, 9:23  <b>African</b> [2] - 81:19, 133:11  <b>African-American</b> [2] - 81:19, 133:11  <b>after</b> [18] - 7:9, 17:17, 23:13, 23:14, 40:24, 49:4, 49:11, 49:22, 50:24, 65:19, 79:5, 80:6, 80:21, 81:17, 83:10, 95:20, 105:5, 132:11  <b>afternoon</b> [8] - 2:1, 2:25, 3:16, 4:6, 8:15, 48:15, 58:4, 66:18  <b>afternoon's</b> [1] - 3:12  <b>again</b> [15] - 18:20, 20:16, 48:11, 52:12, 62:9, 64:18, 65:7, 85:11, 88:16, 90:1, 109:5, 110:12, 116:1, 121:24, 125:8  <b>against</b> [2] - 31:6, 76:14  <b>age</b> [6] - 59:7, 59:16, 60:1, 60:2, 63:3, 71:6  <b>agencies</b> [6] - 12:24, 13:3, 24:2, 24:24, 39:20, 43:20  <b>agency</b> [13] - 30:4, 30:10, 32:7, 32:11, 33:9, 35:15, 36:9, 36:15,</p>	<p>39:22, 41:12, 43:22, 51:25, 54:12  <b>ages</b> [2] - 44:1, 63:5  <b>aggregated</b> [1] - 90:24  <b>aggressively</b> [1] - 85:6  <b>ago</b> [2] - 21:18, 66:5  <b>agree</b> [3] - 80:10, 80:21, 127:4  <b>agreed</b> [1] - 89:17  <b>agreeing</b> [1] - 120:4  <b>ah</b> [1] - 130:5  <b>ahead</b> [4] - 80:16, 80:21, 87:24, 98:20  <b>aide</b> [2] - 2:14, 2:23  <b>algorithmic</b> [2] - 79:13, 79:16  <b>alive</b> [1] - 34:15  <b>all</b> [63] - 2:4, 6:7, 6:18, 6:24, 7:12, 7:16, 8:12, 12:16, 12:20, 13:14, 17:2, 17:18, 18:7, 18:10, 21:9, 21:24, 25:23, 30:8, 39:15, 39:20, 39:22, 41:17, 42:23, 43:18, 44:1, 45:21, 45:22, 51:24, 57:12, 61:7, 64:4, 66:19, 68:20, 72:12, 73:11, 77:9, 78:1, 79:24, 86:12, 88:7, 90:12, 90:19, 93:14, 93:22, 94:1, 97:1, 98:1, 101:13, 102:19, 105:10, 105:11, 106:10, 107:23, 109:10, 112:25, 116:10, 117:17, 120:24, 121:14, 124:7, 124:24, 133:2, 140:11  <b>Alliance</b> [1] - 9:19  <b>allocation</b> [1] - 29:3  <b>allotted</b> [1] - 114:12  <b>allow</b> [6] - 6:21, 13:15, 27:6, 43:8, 114:12, 120:15  <b>allowed</b> [7] - 22:11, 42:25, 113:22, 134:18, 134:24, 140:11, 140:12  <b>allowing</b> [6] - 21:4, 58:5, 60:1, 69:3, 138:20, 140:7  <b>allows</b> [7] - 19:1, 31:12, 42:7, 71:24, 71:25, 90:18, 102:24  <b>almost</b> [4] - 73:11, 111:2, 111:10, 116:21  <b>along</b> [4] - 47:23, 55:10, 88:10, 88:13  <b>alphabet</b> [2] - 40:23, 44:13  <b>already</b> [13] - 11:9, 11:10, 12:11, 32:11, 34:16, 35:1, 46:25,</p>
---	--	---	--



<p>60:16, 61:22, 105:21, 109:20, 126:12, 126:15  <b>also</b> [45] - 5:3, 5:25, 11:18, 14:10, 20:8, 33:20, 34:20, 37:22, 38:19, 38:21, 41:8, 43:25, 49:6, 50:19, 51:9, 51:22, 52:24, 54:15, 59:12, 64:18, 69:12, 71:5, 71:16, 74:13, 75:14, 82:10, 83:11, 88:21, 91:11, 91:17, 96:17, 97:5, 97:6, 97:12, 102:19, 104:13, 105:5, 108:3, 108:8, 121:24, 129:15, 129:22, 130:11, 132:8, 137:2  <b>also-rans</b> [1] - 137:2  <b>although</b> [2] - 78:17, 107:7  <b>always</b> [9] - 16:21, 32:5, 40:7, 48:16, 77:3, 86:20, 110:14, 114:6, 122:3  <b>am</b> [17] - 3:1, 3:4, 3:12, 3:20, 4:8, 14:20, 16:2, 23:18, 32:6, 34:7, 40:25, 48:18, 93:1, 100:14, 104:24, 142:10, 142:12  <b>ambiguous</b> [5] - 16:20, 18:21, 18:22, 22:14  <b>amended</b> [1] - 28:11  <b>amendments</b> [1] - 10:12  <b>American</b> [18] - 3:23, 8:2, 8:8, 48:17, 48:19, 48:22, 49:9, 56:21, 69:15, 73:7, 73:9, 75:11, 81:19, 85:1, 89:9, 89:11, 133:11  <b>Americans</b> [4] - 56:18, 56:22, 57:14, 89:20  <b>among</b> [8] - 29:24, 57:8, 73:9, 84:20, 84:25, 85:9, 105:6  <b>amongst</b> [2] - 4:24, 118:19  <b>amount</b> [2] - 17:4, 48:6  <b>amplify</b> [1] - 28:11  <b>analogs</b> [1] - 125:21  <b>analysis</b> [5] - 20:15, 71:1, 95:4, 96:11, 106:12  <b>and/or</b> [1] - 64:6  <b>Andrew</b> [2] - 8:3, 58:3  <b>anecdotal</b> [1] - 127:25  <b>anecdotaly</b> [2] - 99:3, 136:1  <b>Angela</b> [3] - 2:18, 62:17, 74:7  <b>ANGELA</b> [1] - 1:18  <b>Angelo</b> [1] - 4:7  <b>ANGELO</b> [9] - 1:15, 4:6,</p>	<p>22:17, 22:25, 23:2, 24:15, 24:18, 44:8, 97:20  <b>Annetta</b> [1] - 98:20  <b>ANNETTA</b> [1] - 1:22  <b>another</b> [3] - 26:23, 65:6, 101:5  <b>answer</b> [7] - 19:18, 20:9, 25:19, 45:1, 58:17, 67:11, 109:18  <b>answering</b> [1] - 14:17  <b>any</b> [32] - 19:10, 20:13, 21:5, 24:4, 29:2, 44:6, 44:10, 44:20, 45:4, 45:12, 47:9, 54:12, 54:24, 55:2, 56:4, 56:17, 57:7, 61:12, 62:20, 72:21, 74:6, 77:20, 85:22, 97:18, 99:24, 100:2, 107:12, 112:15, 115:9, 129:10, 142:10  <b>anybody</b> [2] - 43:21, 116:9  <b>anyone</b> [3] - 80:25, 98:18, 139:21  <b>anything</b> [2] - 16:2, 140:22  <b>anyway</b> [7] - 80:13, 81:10, 105:3, 108:8, 123:10, 124:8, 135:2  <b>anywhere</b> [2] - 3:19, 90:20  <b>apologize</b> [1] - 98:21  <b>apparently</b> [3] - 29:9, 59:20, 99:18  <b>appealing</b> [1] - 129:25  <b>appears</b> [3] - 34:24, 37:5, 136:12  <b>application</b> [1] - 27:8  <b>applies</b> [2] - 19:2, 29:18  <b>apply</b> [3] - 19:9, 22:4, 31:20  <b>appointed</b> [2] - 35:10, 38:19  <b>appointment</b> [1] - 38:18  <b>appreciate</b> [4] - 98:4, 98:17, 102:10, 128:10  <b>apprised</b> [1] - 51:9  <b>appropriated</b> [1] - 26:10  <b>appropriately</b> [1] - 129:7  <b>appropriates</b> [1] - 10:23  <b>approximately</b> [1] - 12:19  <b>April</b> [3] - 5:8, 27:14, 27:16  <b>arbitrarily</b> [1] - 78:15  <b>archaic</b> [1] - 9:3  <b>ARCHER</b> [1] - 1:16  <b>are</b> [159] - 5:4, 5:23,</p>	<p>9:10, 9:24, 10:20, 11:3, 11:8, 11:16, 12:3, 12:4, 13:9, 14:10, 16:12, 16:13, 17:5, 17:20, 18:9, 19:12, 19:22, 19:24, 20:1, 21:5, 21:8, 21:20, 21:23, 22:14, 23:6, 23:8, 23:10, 24:6, 24:9, 24:13, 31:5, 33:19, 34:12, 36:3, 36:9, 36:23, 37:5, 38:8, 38:12, 38:13, 38:15, 39:1, 39:4, 41:12, 41:19, 41:20, 42:2, 42:17, 44:15, 44:16, 46:8, 47:20, 47:25, 48:8, 48:11, 49:3, 49:7, 49:8, 50:15, 51:18, 52:13, 54:21, 54:25, 56:23, 56:25, 57:1, 57:12, 57:21, 59:3, 60:18, 61:8, 61:9, 61:10, 61:18, 61:21, 62:13, 63:8, 63:11, 65:20, 67:3, 67:9, 67:21, 68:9, 68:21, 72:4, 72:18, 73:1, 75:17, 76:1, 82:18, 84:12, 87:3, 87:4, 89:8, 90:3, 90:15, 91:12, 92:3, 94:21, 94:22, 95:8, 101:9, 104:14, 105:24, 107:15, 110:13, 111:1, 111:8, 112:15, 112:23, 115:5, 115:25, 116:15, 117:12, 118:13, 119:3, 120:21, 120:22, 121:18, 124:10, 124:19, 124:20, 125:12, 125:18, 125:20, 125:21, 126:4, 126:5, 128:6, 128:7, 128:16, 128:21, 129:3, 129:4, 129:6, 130:5, 130:13, 131:2, 131:5, 134:12, 135:6, 135:19, 135:21, 135:23, 135:24, 137:15, 138:9, 139:1, 139:9, 141:3, 141:6, 141:20  <b>are there</b> [8] - 23:20, 64:1, 72:21, 86:4, 86:9, 101:19, 108:7, 109:21  <b>area</b> [10] - 20:19, 26:4, 31:15, 31:18, 82:12, 130:20, 131:9, 131:18, 141:6  <b>areas</b> [3] - 20:20, 22:14, 29:14  <b>aren't</b> [2] - 20:7, 108:2  <b>argue</b> [4] - 31:5, 78:17, 83:23, 84:5  <b>argued</b> [1] - 100:11  <b>arguing</b> [1] - 91:6  <b>argument</b> [5] - 21:11,</p>	<p>28:8, 28:19, 31:15, 34:4  <b>arguments</b> [1] - 99:21  <b>arisen</b> [1] - 101:21  <b>Army</b> [1] - 9:21  <b>around</b> [8] - 6:12, 32:23, 61:11, 102:2, 105:10, 106:5, 130:12, 130:13  <b>arrive</b> [1] - 115:24  <b>Article</b> [3] - 8:23, 9:1, 38:3  <b>as</b> [135] - 2:2, 2:6, 2:14, 2:15, 2:22, 2:23, 3:14, 3:19, 4:20, 5:8, 5:12, 6:11, 6:20, 7:18, 10:12, 13:2, 13:16, 14:20, 15:1, 15:23, 16:17, 19:1, 19:11, 23:6, 24:25, 25:8, 25:13, 25:20, 26:1, 26:24, 27:3, 28:7, 28:25, 32:9, 32:20, 32:25, 33:21, 34:4, 35:16, 35:21, 38:21, 39:6, 40:13, 46:21, 47:8, 50:5, 53:11, 54:17, 55:21, 58:7, 58:14, 59:20, 60:19, 62:6, 62:14, 63:3, 63:10, 63:19, 65:8, 66:24, 71:21, 71:22, 75:15, 77:6, 78:4, 80:11, 81:6, 81:8, 81:9, 86:5, 87:9, 88:8, 89:2, 90:8, 91:18, 93:9, 93:10, 94:3, 95:16, 96:17, 100:17, 104:2, 105:7, 106:17, 109:10, 109:24, 110:1, 110:8, 110:11, 111:25, 113:6, 113:16, 115:21, 116:2, 116:19, 116:20, 116:21, 118:5, 119:14, 122:25, 126:13, 126:14, 127:24, 128:1, 128:11, 128:18, 128:19, 129:9, 133:6, 135:23, 138:8, 140:8  <b>Asian</b> [17] - 8:2, 48:17, 48:19, 48:22, 49:9, 50:21, 54:4, 56:18, 56:21, 56:22, 57:14, 73:9, 75:11, 85:1, 89:9, 89:11, 89:20  <b>Asian-American</b> [11] - 8:2, 48:17, 48:19, 48:22, 49:9, 56:21, 73:9, 75:11, 85:1, 89:9, 89:11  <b>Asian-Americans</b> [4] - 56:18, 56:22, 57:14, 89:20  <b>Asian-Indian</b> [1] - 50:21  <b>aside</b> [3] - 36:12,</p>
--	--	---	--

<p>106:20, 106:24  <b>ask</b> [12] - 6:2, 7:10, 14:19, 15:9, 22:17, 44:25, 77:19, 79:15, 90:5, 112:20, 140:17, 140:20  <b>asked</b> [5] - 4:19, 8:16, 18:4, 105:16, 111:24  <b>asking</b> [4] - 2:6, 16:7, 40:13, 100:18  <b>aspect</b> [3] - 93:11, 132:24, 138:25  <b>assembly</b> [1] - 57:25  <b>assessment</b> [1] - 55:21  <b>Assistance</b> [2] - 30:2, 94:20  <b>assistance</b> [16] - 13:17, 13:19, 13:22, 50:9, 50:16, 50:21, 51:10, 51:13, 51:16, 51:23, 52:1, 52:5, 52:8, 52:10, 54:4, 55:17  <b>Assistant</b> [2] - 66:8, 93:1  <b>assistant</b> [3] - 2:14, 111:22, 140:1  <b>assists</b> [1] - 12:14  <b>associate</b> [1] - 66:14  <b>assume</b> [2] - 21:24, 131:15  <b>assumed</b> [2] - 62:15, 67:7  <b>assuming</b> [1] - 18:9  <b>assuring</b> [1] - 40:6  <b>at</b> [115] - 3:1, 3:2, 3:5, 3:6, 4:7, 5:4, 7:4, 7:11, 8:1, 8:7, 8:9, 10:7, 11:22, 16:15, 20:8, 21:1, 21:9, 24:24, 25:1, 25:23, 27:13, 29:7, 33:11, 35:1, 37:1, 38:4, 39:10, 43:10, 44:21, 45:9, 45:15, 45:23, 46:9, 48:18, 50:15, 51:11, 51:24, 52:6, 52:10, 54:17, 55:11, 56:1, 56:23, 57:24, 62:9, 62:24, 62:25, 63:6, 63:12, 64:10, 65:20, 66:12, 66:15, 67:15, 68:4, 70:1, 70:8, 71:14, 72:17, 73:19, 74:10, 75:15, 76:18, 79:4, 82:9, 85:7, 86:9, 88:4, 89:1, 90:17, 90:19, 92:2, 92:9, 93:16, 95:21, 98:13, 100:14, 103:25, 105:14, 105:17, 105:25, 110:20, 112:3, 115:24, 117:14, 117:20, 118:17, 118:23, 119:5,</p>	<p>120:22, 120:24, 121:13, 121:14, 125:11, 125:12, 125:14, 126:20, 131:2, 131:3, 131:10, 133:4, 133:18, 133:20, 134:4, 135:5, 135:16, 136:3, 136:22, 140:18, 141:21  <b>attack</b> [1] - 136:8  <b>attended</b> [1] - 40:9  <b>attention</b> [5] - 102:20, 105:15, 106:2, 122:12, 124:21  <b>attorney</b> [3] - 2:19, 7:4, 7:19  <b>attorneys</b> [1] - 49:6  <b>Auditorium</b> [1] - 1:4  <b>Australia</b> [1] - 67:15  <b>authoritative</b> [1] - 16:18  <b>authority</b> [5] - 11:14, 15:2, 16:3, 25:8, 56:11  <b>authorizing</b> [1] - 59:25  <b>automated</b> [1] - 94:11  <b>automatic</b> [5] - 9:11, 10:15, 24:25, 25:5, 25:9  <b>available</b> [7] - 9:8, 9:10, 9:12, 9:14, 9:17, 9:22, 13:10  <b>average</b> [3] - 121:5, 121:18, 123:14  <b>avoid</b> [1] - 15:9  <b>avoidable</b> [1] - 114:2  <b>aware</b> [3] - 16:2, 48:8, 48:21  <b>away</b> [4] - 26:20, 104:18, 110:22, 134:10</p>	<p>119:7, 120:19, 122:8, 122:15, 138:5, 138:10, 138:12, 139:3, 139:14, 140:10  <b>balloting</b> [2] - 10:10, 94:5  <b>ballots</b> [38] - 9:10, 12:4, 12:6, 13:9, 14:22, 16:25, 17:5, 17:16, 18:7, 18:15, 21:19, 27:16, 27:18, 27:19, 27:23, 41:8, 50:24, 51:1, 64:2, 72:25, 73:11, 80:4, 80:5, 80:7, 80:8, 81:4, 81:9, 81:12, 87:17, 94:24, 95:1, 95:9, 95:13, 95:15, 108:2, 134:22, 135:1  <b>banking</b> [1] - 48:2  <b>bar</b> [1] - 42:22  <b>barcode</b> [1] - 27:8  <b>bare</b> [1] - 107:5  <b>base</b> [10] - 83:10, 84:25, 103:22, 104:22, 105:5, 123:1, 128:8, 128:13, 130:16  <b>based</b> [7] - 37:4, 70:17, 86:5, 87:2, 101:3, 110:2, 130:13  <b>basic</b> [2] - 95:7, 98:12  <b>basically</b> [7] - 23:21, 39:15, 53:25, 72:1, 81:9, 89:21, 95:6  <b>basis</b> [3] - 38:5, 47:11, 91:9  <b>bastion</b> [1] - 36:16  <b>Bay</b> [5] - 82:12, 130:20, 131:9, 131:18  <b>Bayside</b> [1] - 49:24  <b>be</b> [176] - 3:19, 3:22, 3:23, 4:15, 5:6, 5:12, 5:18, 8:25, 9:2, 11:15, 12:4, 13:6, 15:25, 20:6, 20:15, 21:2, 21:3, 23:12, 23:13, 24:10, 24:13, 25:7, 28:7, 28:9, 28:10, 28:15, 28:21, 29:13, 29:25, 30:3, 30:4, 30:10, 30:15, 30:18, 30:21, 31:3, 31:14, 31:22, 33:15, 33:19, 34:12, 34:13, 34:24, 35:14, 35:19, 35:20, 36:14, 36:18, 37:7, 37:25, 38:18, 39:1, 39:2, 39:5, 39:20, 39:21, 40:22, 41:18, 42:9, 42:18, 42:19, 42:21, 42:23, 43:7, 43:10, 43:16, 43:23, 43:24, 44:1, 44:19, 45:19, 46:3,</p>	<p>46:10, 46:12, 46:14, 47:20, 48:1, 48:17, 48:21, 51:18, 52:5, 52:25, 53:17, 53:20, 53:24, 54:15, 54:19, 55:2, 55:9, 55:10, 55:13, 55:14, 55:18, 59:1, 60:21, 62:6, 62:7, 62:15, 64:14, 64:24, 67:10, 69:17, 70:11, 72:5, 72:19, 72:20, 74:2, 74:16, 76:10, 77:5, 79:2, 79:8, 79:21, 85:3, 87:8, 88:17, 90:19, 90:25, 91:6, 91:20, 92:10, 93:5, 93:13, 94:19, 95:23, 97:14, 97:16, 97:24, 98:5, 101:10, 103:8, 105:6, 106:1, 106:6, 107:4, 107:9, 107:10, 108:20, 109:6, 109:17, 110:4, 112:8, 112:16, 113:15, 113:21, 114:16, 115:2, 116:19, 116:20, 118:10, 119:7, 119:18, 119:19, 121:8, 122:21, 123:12, 123:14, 123:21, 124:14, 124:19, 125:9, 126:6, 127:3, 128:25, 129:19, 130:13, 134:2, 135:9, 136:10, 137:2, 137:13, 139:13  <b>bear</b> [1] - 10:6  <b>became</b> [1] - 3:22  <b>because</b> [68] - 8:7, 8:8, 18:18, 21:7, 21:16, 24:6, 24:8, 27:23, 27:24, 28:18, 29:9, 34:7, 34:8, 35:3, 38:11, 40:22, 41:16, 42:21, 44:12, 46:5, 46:18, 52:19, 53:15, 56:15, 58:12, 61:6, 67:22, 68:24, 73:19, 76:20, 78:1, 78:10, 80:3, 84:11, 85:3, 86:6, 89:12, 90:13, 91:24, 94:10, 98:1, 98:14, 103:12, 104:9, 104:17, 104:22, 104:24, 107:10, 108:24, 110:20, 111:10, 119:6, 123:10, 123:22, 125:1, 125:18, 125:24, 126:21, 129:3, 132:14, 132:19, 134:5, 135:7, 136:8, 136:19, 138:20, 140:12  <b>become</b> [3] - 30:15, 82:4, 132:13  <b>becomes</b> [2] - 138:22, 141:3</p>
	<p><b>B</b></p>		
	<p><b>B</b> [1] - 40:24  <b>back</b> [10] - 24:11, 45:25, 46:18, 49:19, 65:23, 75:4, 76:13, 89:16, 107:22, 109:12  <b>background</b> [1] - 3:8  <b>Badillo</b> [1] - 83:23  <b>balance</b> [1] - 87:14  <b>ballot</b> [55] - 14:25, 15:4, 15:10, 15:11, 15:20, 17:6, 19:24, 21:22, 27:7, 27:8, 35:20, 36:8, 50:3, 55:23, 60:5, 68:5, 68:19, 68:22, 69:25, 70:1, 70:16, 72:21, 75:20, 75:22, 75:23, 87:18, 95:3, 108:9, 110:14, 110:25, 111:10, 111:12, 112:8, 113:18, 113:19, 113:23, 114:1, 114:9, 114:16, 114:23, 115:5, 115:12, 115:22, 119:4,</p>		

<p><b>been</b> [41] - 2:13, 3:15, 16:9, 27:19, 31:11, 35:22, 36:19, 36:20, 36:22, 40:8, 41:2, 41:11, 44:9, 49:5, 56:16, 62:21, 67:13, 70:25, 73:17, 73:18, 75:3, 79:6, 79:10, 82:25, 83:6, 85:4, 85:6, 86:15, 88:23, 99:19, 99:24, 106:13, 109:2, 114:24, 118:23, 120:2, 129:25, 130:3, 141:10</p> <p><b>before</b> [21] - 4:12, 5:21, 6:2, 8:6, 9:16, 32:1, 43:6, 47:22, 52:4, 52:9, 53:15, 56:17, 56:19, 59:5, 60:2, 93:5, 93:9, 97:8, 103:25, 130:23, 137:11</p> <p><b>began</b> [1] - 93:12</p> <p><b>begging</b> [1] - 16:7</p> <p><b>begin</b> [3] - 2:6, 7:3, 8:5</p> <p><b>beginning</b> [1] - 65:24</p> <p><b>begins</b> [2] - 8:24, 9:1</p> <p><b>behalf</b> [2] - 62:10, 93:4</p> <p><b>behind</b> [2] - 38:16, 132:8</p> <p><b>being</b> [23] - 5:24, 6:24, 7:6, 29:8, 34:21, 35:15, 50:18, 54:5, 56:22, 59:9, 59:12, 59:14, 60:16, 70:21, 89:20, 116:15, 116:16, 122:12, 123:3, 123:4, 128:21, 133:16, 134:6</p> <p><b>believe</b> [23] - 14:23, 28:10, 28:21, 29:11, 29:16, 29:21, 29:22, 30:1, 30:3, 30:5, 30:24, 31:20, 43:25, 44:15, 47:6, 47:13, 56:10, 59:17, 64:8, 89:19, 90:10, 90:22, 92:8</p> <p><b>beneficiaries</b> [1] - 90:16</p> <p><b>benefits</b> [2] - 62:13, 90:14</p> <p><b>Bengali</b> [7] - 50:23, 51:1, 51:4, 51:10, 51:13, 52:23</p> <p><b>Berkeley</b> [1] - 59:13</p> <p><b>best</b> [9] - 46:12, 46:16, 46:21, 57:5, 67:19, 95:18, 106:11, 109:17, 123:21</p> <p><b>better</b> [14] - 13:23, 16:7, 16:21, 41:17, 41:23, 42:4, 45:9, 72:13, 109:7, 109:11, 113:7, 113:13, 114:9, 130:2</p> <p><b>between</b> [5] - 25:24, 57:11, 62:24, 63:5, 80:2</p>	<p><b>beyond</b> [6] - 21:21, 53:23, 90:11, 91:7, 92:16, 136:19</p> <p><b>big</b> [11] - 14:25, 32:8, 41:5, 49:20, 76:14, 103:19, 106:3, 106:4, 111:16, 121:3, 132:13</p> <p><b>bigger</b> [1] - 107:7</p> <p><b>biggest</b> [2] - 131:12, 131:14</p> <p><b>Bill</b> [1] - 2:24</p> <p><b>bill</b> [1] - 74:2</p> <p><b>bit</b> [4] - 21:17, 56:14, 65:9, 102:18</p> <p><b>Black</b> [1] - 132:11</p> <p><b>black</b> [3] - 104:6, 104:9, 131:8</p> <p><b>blood</b> [1] - 142:11</p> <p><b>Board</b> [74] - 10:23, 11:5, 11:11, 12:17, 12:22, 13:5, 17:15, 23:22, 23:23, 25:24, 26:2, 26:8, 26:17, 26:25, 27:4, 27:10, 27:17, 28:2, 28:19, 28:23, 29:1, 29:18, 29:20, 29:24, 32:19, 34:6, 34:9, 34:12, 35:18, 36:3, 36:20, 37:2, 37:5, 37:10, 37:16, 38:9, 38:19, 39:2, 39:5, 39:8, 39:13, 40:10, 40:14, 40:17, 41:17, 42:19, 42:25, 43:3, 43:6, 43:9, 43:24, 44:9, 45:19, 45:24, 46:1, 46:13, 46:15, 47:1, 47:13, 49:13, 50:6, 50:19, 50:23, 51:2, 51:3, 51:9, 51:12, 51:16, 52:7, 52:11, 52:17, 52:22, 64:25, 89:13</p> <p><b>board</b> [10] - 56:14, 56:23, 64:6, 88:20, 89:1, 89:21, 90:18, 93:24, 93:25, 110:19</p> <p><b>Board's</b> [3] - 27:24, 41:8, 41:11</p> <p><b>boards</b> [4] - 10:14, 89:10, 89:25, 138:24</p> <p><b>body</b> [3] - 30:20, 39:18, 55:21</p> <p><b>bones</b> [1] - 107:5</p> <p><b>book</b> [3] - 40:21, 41:5, 44:18</p> <p><b>books</b> [27] - 11:19, 11:21, 11:25, 12:2, 12:5, 12:7, 12:12, 22:19, 22:23, 23:4, 23:8, 23:12, 29:8, 40:19, 43:14, 43:16, 43:17, 44:12,</p>	<p>44:14, 44:15, 45:4, 45:11, 45:13, 45:14, 45:18</p> <p><b>booth</b> [1] - 140:18</p> <p><b>borough</b> [4] - 6:12, 65:21, 87:1, 87:25</p> <p><b>boroughs</b> [4] - 5:9, 51:14, 56:1, 58:22</p> <p><b>borrowing</b> [1] - 54:21</p> <p><b>boss</b> [1] - 98:6</p> <p><b>Boston</b> [1] - 131:22</p> <p><b>both</b> [11] - 4:10, 14:4, 62:3, 73:23, 73:24, 90:5, 94:18, 103:8, 110:6, 128:17, 133:21</p> <p><b>bother</b> [1] - 32:15</p> <p><b>bottom</b> [1] - 108:10</p> <p><b>Bradley</b> [1] - 2:24</p> <p><b>BRAGG</b> [1] - 1:16</p> <p><b>breakdown</b> [1] - 61:11</p> <p><b>Breed</b> [6] - 79:10, 82:8, 85:12, 133:10, 133:11, 135:4</p> <p><b>Breed's</b> [1] - 82:19</p> <p><b>Brennan</b> [1] - 3:5</p> <p><b>brief</b> [2] - 65:12, 88:17</p> <p><b>briefly</b> [3] - 94:15, 134:8, 137:12</p> <p><b>bright</b> [1] - 126:13</p> <p><b>bring</b> [1] - 94:10</p> <p><b>bringing</b> [2] - 21:10, 37:10</p> <p><b>brings</b> [1] - 46:21</p> <p><b>Brisbane</b> [1] - 8:9</p> <p><b>broad</b> [3] - 54:13, 54:23, 127:2</p> <p><b>broader</b> [2] - 122:12, 128:13</p> <p><b>broadest</b> [3] - 11:7, 30:7, 30:12</p> <p><b>broken</b> [1] - 10:7</p> <p><b>broken-down</b> [1] - 10:7</p> <p><b>Bronx</b> [1] - 51:11</p> <p><b>Brooklyn</b> [7] - 27:14, 41:1, 49:12, 50:4, 51:11, 83:9, 83:12</p> <p><b>Brown</b> [1] - 76:13</p> <p><b>budget</b> [8] - 4:9, 10:24, 28:22, 29:3, 29:12, 30:5, 34:20, 38:11</p> <p><b>budgetary</b> [1] - 33:25</p> <p><b>build</b> [1] - 127:2</p> <p><b>building</b> [3] - 128:12, 131:16, 133:25</p> <p><b>bullet</b> [3] - 25:20, 33:2, 110:1</p> <p><b>bullets</b> [1] - 91:25</p> <p><b>burden</b> [1] - 10:4</p> <p><b>BURNETT</b> [12] - 111:20,</p>	<p>114:11, 115:7, 115:13, 115:19, 123:11, 124:10, 127:12, 127:15, 127:21, 129:13, 140:3</p> <p><b>Burnett</b> [3] - 66:14, 111:18, 122:7</p> <p><b>business</b> [1] - 12:21</p> <p><b>but</b> [166] - 3:10, 5:20, 5:23, 9:3, 9:9, 9:11, 9:13, 9:15, 9:18, 9:23, 10:19, 12:24, 12:25, 13:21, 15:1, 15:11, 16:17, 16:19, 17:11, 17:18, 18:14, 18:17, 20:24, 20:25, 21:12, 22:15, 23:6, 24:12, 24:13, 24:20, 25:10, 28:2, 31:4, 33:2, 35:16, 36:2, 36:7, 38:21, 40:20, 42:17, 42:21, 44:9, 45:12, 46:9, 46:25, 48:11, 48:25, 51:14, 53:4, 55:8, 56:16, 56:23, 56:25, 57:13, 61:24, 63:10, 65:6, 65:11, 66:22, 67:2, 67:9, 68:5, 70:4, 70:5, 70:8, 71:5, 71:14, 72:9, 72:18, 73:2, 73:6, 74:15, 76:6, 76:9, 77:21, 77:22, 78:3, 78:18, 81:10, 81:11, 81:15, 81:20, 81:23, 82:5, 83:13, 84:7, 84:15, 84:23, 85:8, 86:20, 87:9, 87:19, 87:20, 89:22, 91:9, 92:3, 92:16, 92:21, 95:15, 98:15, 98:17, 98:24, 99:3, 102:5, 102:7, 103:25, 104:7, 104:9, 104:15, 105:4, 105:5, 105:10, 105:21, 105:22, 105:24, 106:7, 106:18, 106:24, 107:6, 108:17, 109:8, 109:18, 110:10, 110:11, 110:14, 110:18, 110:25, 111:3, 111:6, 111:14, 113:5, 113:14, 113:23, 114:7, 114:25, 116:4, 117:15, 119:21, 121:12, 123:18, 124:11, 125:5, 125:21, 128:11, 128:15, 129:7, 129:22, 130:11, 131:1, 131:3, 133:7, 133:12, 133:15, 134:2, 135:2, 135:13, 135:22, 136:10, 137:7, 138:11, 138:14, 138:25, 139:21, 141:10</p> <p><b>button</b> [1] - 40:21</p> <p><b>by</b> [62] - 2:6, 4:4, 4:18, 5:16, 10:21, 19:13, 21:3,</p>
---	--	---	--

<p>21:4, 21:10, 24:4, 28:24, 28:25, 29:4, 32:6, 34:14, 35:15, 36:14, 38:21, 38:22, 40:12, 41:11, 41:12, 41:18, 41:20, 42:8, 43:19, 44:18, 45:19, 46:11, 48:6, 55:13, 59:14, 71:6, 72:21, 73:23, 75:10, 80:1, 81:18, 82:8, 82:13, 84:3, 85:15, 90:21, 92:11, 94:19, 95:10, 95:12, 95:24, 106:6, 109:18, 116:3, 117:11, 120:4, 122:1, 122:9, 124:18, 133:20, 134:16, 135:12, 138:2, 142:11</p>	<p>72:18, 78:1, 78:9, 78:11, 84:5, 87:14, 90:5, 91:20, 93:16, 96:10, 96:11, 96:16, 99:3, 99:9, 100:1, 102:3, 105:12, 108:16, 108:23, 109:8, 109:25, 110:20, 111:18, 111:19, 112:15, 113:10, 114:4, 116:2, 116:4, 120:21, 123:6, 127:21, 127:25  <b>can you</b> [4] - 22:21, 22:22, 22:23, 114:8  <b>can't</b> [10] - 15:9, 16:18, 25:10, 29:10, 31:7, 43:12, 116:7, 124:17, 128:15, 139:19  <b>candidacy</b> [1] - 84:24  <b>candidate</b> [30] - 65:16, 68:18, 70:8, 73:5, 74:2, 76:5, 78:11, 78:24, 82:7, 102:24, 103:15, 103:17, 103:18, 104:9, 104:10, 104:12, 104:16, 104:19, 112:4, 119:11, 119:12, 119:16, 123:17, 123:18, 128:10, 133:22, 135:11, 138:18, 139:11  <b>candidates</b> [70] - 68:11, 68:13, 68:20, 69:12, 70:9, 70:13, 70:14, 71:14, 73:20, 73:23, 77:8, 78:8, 78:13, 82:23, 83:7, 83:11, 84:19, 84:24, 85:10, 88:2, 88:9, 89:15, 90:21, 94:7, 101:9, 104:21, 105:7, 110:3, 110:13, 110:24, 113:22, 114:12, 115:4, 122:11, 123:12, 124:12, 124:13, 124:21, 124:23, 125:15, 125:23, 128:9, 128:17, 130:5, 130:12, 131:11, 131:14, 131:24, 131:25, 132:1, 132:17, 136:14, 136:24, 137:2, 137:7, 137:9, 137:14, 137:23, 138:1, 138:19, 138:22, 139:1, 139:6, 139:15, 139:24, 140:8, 140:9, 140:15, 140:21, 141:2  <b>cannot</b> [3] - 95:16, 100:16, 102:8  <b>Cantonese</b> [2] - 49:16, 49:17  <b>Cantonese-speaking</b> [1] - 49:17  <b>capabilities</b> [1] - 13:2  <b>capacity</b> [1] - 119:21  <b>capture</b> [1] - 21:8</p>	<p><b>captured</b> [1] - 65:1  <b>cards</b> [1] - 40:15  <b>care</b> [2] - 102:18, 102:25  <b>Carl</b> [2] - 93:5, 98:7  <b>CARLO</b> [1] - 1:21  <b>CARRION</b> [5] - 1:17, 54:8, 54:15, 54:23, 55:2  <b>carry</b> [1] - 36:17  <b>case</b> [11] - 28:25, 51:3, 63:11, 64:7, 107:12, 112:22, 113:5, 115:19, 122:18, 126:2, 133:13  <b>cases</b> [4] - 64:4, 125:14, 126:20, 126:25  <b>Casey</b> [2] - 93:4, 98:6  <b>cast</b> [5] - 12:3, 68:19, 114:24, 117:11  <b>casting</b> [2] - 12:6, 60:5  <b>catch</b> [2] - 75:14  <b>category</b> [1] - 63:7  <b>Catherine</b> [2] - 17:13, 40:2  <b>causal</b> [1] - 35:4  <b>Cause</b> [5] - 7:22, 26:7, 37:1, 66:7, 136:16  <b>cause</b> [4] - 15:20, 15:22, 16:4, 18:6  <b>causes</b> [2] - 16:12, 139:17  <b>caution</b> [3] - 46:4, 62:4, 91:17  <b>cautionary</b> [1] - 46:8  <b>Cayuga</b> [1] - 12:10  <b>CBS</b> [1] - 43:4  <b>ceiling</b> [1] - 13:18  <b>Center</b> [2] - 3:6, 72:14  <b>century</b> [2] - 67:14  <b>CEO</b> [1] - 66:3  <b>certain</b> [9] - 21:7, 51:17, 52:6, 56:19, 57:20, 61:13, 64:20, 87:21, 131:15  <b>certainly</b> [7] - 24:12, 25:9, 27:12, 61:24, 113:7, 113:11, 127:4  <b>certainty</b> [1] - 134:13  <b>certified</b> [3] - 17:22, 17:23, 94:19  <b>certify</b> [5] - 17:18, 17:24, 94:21, 142:7, 142:10  <b>CESAR</b> [2] - 1:15, 1:21  <b>Cesar</b> [1] - 2:2  <b>chair</b> [1] - 4:20  <b>Chair</b> [12] - 1:15, 2:3, 2:10, 6:20, 8:13, 14:19, 15:14, 32:3, 65:8, 65:23, 77:12, 92:24</p>	<p><b>Chair's</b> [1] - 123:8  <b>Chairman</b> [2] - 6:5, 17:9  <b>challenge</b> [3] - 11:1, 45:9, 46:18  <b>challenged</b> [1] - 47:11  <b>challenger</b> [1] - 127:2  <b>challengers</b> [1] - 126:19  <b>challenges</b> [2] - 11:4, 101:20  <b>chance</b> [5] - 44:4, 115:15, 117:1, 117:2, 118:1  <b>chances</b> [1] - 125:20  <b>change</b> [9] - 31:16, 55:16, 81:16, 84:10, 89:18, 99:15, 110:22, 139:5, 139:25  <b>changed</b> [2] - 71:5, 108:8  <b>changes</b> [8] - 5:5, 10:16, 19:1, 31:13, 80:12, 80:17, 86:19, 121:12  <b>changing</b> [4] - 6:15, 56:2, 80:14  <b>charge</b> [1] - 78:21  <b>CHARTER</b> [1] - 1:1  <b>charter</b> [1] - 46:20  <b>Charter</b> [31] - 2:3, 3:20, 5:5, 5:11, 8:19, 11:17, 13:25, 14:4, 25:3, 26:24, 27:2, 28:10, 28:18, 29:16, 29:22, 30:25, 32:18, 34:10, 34:20, 36:5, 38:2, 38:13, 38:22, 45:3, 45:8, 45:14, 46:2, 46:12, 51:15, 53:10, 55:8  <b>chicken</b> [2] - 100:23, 101:2  <b>chief</b> [1] - 2:22  <b>child</b> [2] - 58:11, 89:5  <b>childcare</b> [1] - 15:8  <b>Chinatown</b> [2] - 49:15, 49:23  <b>Chinese</b> [11] - 49:11, 49:24, 50:3, 50:8, 51:6, 52:5, 52:7, 52:19, 85:1, 103:16  <b>Chinese-American</b> [1] - 85:1  <b>Choice</b> [1] - 72:14  <b>choice</b> [122] - 31:17, 31:20, 53:3, 65:14, 67:4, 67:18, 67:24, 68:10, 68:17, 68:22, 69:1, 69:13, 69:22, 69:24, 70:12, 71:23, 71:24, 72:7, 74:12, 74:15, 74:23, 74:24, 75:21, 75:22, 75:23, 77:6,</p>
<p><b>C</b></p>			
<p><b>C</b> [4] - 1:9, 11:10, 142:1  <b>cabins</b> [2] - 16:3, 45:12  <b>calculations</b> [2] - 97:21, 117:8  <b>calculator</b> [1] - 95:6  <b>California</b> [5] - 59:13, 79:24, 80:3, 81:10, 137:22  <b>call</b> [7] - 13:22, 17:3, 66:16, 94:12, 94:25, 95:11, 113:18  <b>called</b> [2] - 5:14, 72:13  <b>came</b> [3] - 40:24, 49:18, 94:25  <b>campaign</b> [8] - 2:14, 84:1, 86:19, 90:14, 90:18, 90:21, 128:2, 128:5  <b>Campaign</b> [5] - 32:19, 39:2, 39:5, 39:8, 39:13  <b>campaigners</b> [1] - 128:4  <b>campaigning</b> [3] - 79:10, 127:25, 134:15  <b>campaigns</b> [7] - 2:15, 76:1, 82:24, 82:25, 97:2, 97:5, 125:2  <b>can</b> [81] - 7:10, 7:12, 8:20, 10:19, 11:25, 12:7, 13:12, 13:14, 13:20, 14:14, 14:21, 15:19, 15:21, 17:6, 20:18, 21:12, 21:24, 21:25, 22:14, 23:12, 24:12, 25:11, 25:13, 28:1, 28:7, 30:3, 31:4, 31:16, 36:11, 36:14, 36:17, 37:7, 44:13, 44:17, 45:1, 45:8, 45:18, 46:22, 47:3, 48:1, 48:17, 58:15, 60:3, 68:15, 70:18, 71:17,</p>			

<p>77:21, 79:23, 80:9, 82:1, 82:12, 82:17, 85:2, 85:4, 85:19, 86:6, 86:12, 86:24, 87:10, 87:15, 87:16, 87:19, 88:18, 88:23, 89:12, 89:14, 90:12, 90:23, 91:1, 91:7, 93:7, 93:18, 94:3, 94:22, 95:2, 95:11, 98:25, 99:19, 100:4, 100:9, 100:15, 101:8, 101:10, 101:22, 102:3, 102:23, 103:6, 103:11, 105:1, 105:8, 109:21, 109:22, 110:6, 110:11, 111:12, 111:13, 112:13, 112:24, 113:13, 113:15, 113:21, 114:15, 114:16, 114:18, 114:19, 114:20, 114:21, 114:22, 117:5, 118:14, 120:12, 120:17, 121:15, 121:25, 122:10, 122:14, 122:22, 122:23, 123:1, 123:3, 123:6, 124:4, 124:22, 124:23, 127:4, 127:12, 128:12, 129:11, 129:24, 131:17, 132:14, 136:5, 136:9, 137:24, 138:6, 138:7, 138:9</p> <p><b>choices</b> [1] - 35:18, 70:15, 81:18, 82:22, 96:12, 100:24, 101:3, 110:13, 129:4, 132:4, 133:8</p> <p><b>choose</b> [3] - 111:16, 116:1, 128:11</p> <p><b>chose</b> [2] - 85:3, 94:2</p> <p><b>chosen</b> [1] - 91:4</p> <p><b>cite</b> [1] - 105:22</p> <p><b>cited</b> [1] - 5:16</p> <p><b>cities</b> [8] - 14:12, 59:10, 63:21, 64:7, 67:3, 67:21, 91:14, 133:2</p> <p><b>citing</b> [1] - 83:6</p> <p><b>citizen</b> [2] - 9:1, 47:20</p> <p><b>Citizen</b> [3] - 8:4, 58:9, 58:19</p> <p><b>Citizen's</b> [1] - 58:7</p> <p><b>citizens</b> [5] - 4:18, 10:6, 66:24, 79:12, 89:8</p> <p><b>citizens'</b> [1] - 10:20</p> <p><b>citizenship</b> [3] - 57:8, 57:16, 60:22</p> <p><b>city</b> [25] - 26:10, 35:7, 43:20, 49:2, 51:22, 57:22, 57:24, 59:14, 61:6, 63:9, 65:21, 66:21, 69:19, 72:17, 74:22, 77:24, 83:9, 83:10, 86:5, 86:8, 87:24, 106:18,</p>	<p>124:25, 130:19, 139:9</p> <p><b>City</b> [148] - 2:3, 3:10, 3:17, 3:19, 5:5, 5:9, 6:12, 7:24, 8:18, 8:21, 9:19, 10:19, 10:22, 10:23, 11:2, 11:13, 12:1, 12:20, 12:22, 12:24, 13:3, 13:6, 13:15, 13:19, 13:23, 13:24, 14:4, 14:9, 14:21, 15:21, 16:6, 16:13, 16:19, 18:5, 19:1, 20:17, 22:4, 22:8, 22:11, 22:15, 23:7, 24:2, 24:24, 25:3, 25:24, 25:25, 26:2, 26:8, 26:9, 26:17, 26:23, 26:25, 27:4, 27:17, 27:20, 27:22, 27:24, 28:3, 28:13, 28:15, 28:16, 28:19, 28:20, 29:17, 30:1, 30:6, 30:11, 31:16, 31:23, 33:3, 33:6, 34:5, 34:19, 35:15, 37:10, 37:16, 38:22, 38:23, 39:20, 39:23, 41:14, 41:19, 42:7, 42:19, 43:22, 45:3, 45:22, 46:9, 46:10, 46:15, 48:5, 48:9, 49:1, 49:13, 50:10, 54:12, 54:14, 54:19, 56:9, 56:10, 56:13, 57:8, 59:6, 60:7, 61:6, 63:10, 63:25, 64:10, 64:15, 66:8, 68:2, 68:16, 70:24, 73:1, 75:19, 81:17, 87:1, 87:5, 87:25, 89:5, 90:1, 90:10, 90:17, 92:22, 93:1, 93:2, 93:4, 93:20, 95:13, 95:16, 96:6, 98:5, 98:6, 98:25, 99:17, 99:19, 101:24, 102:10, 106:5, 106:20, 107:1, 107:6, 108:21, 110:19, 138:23</p> <p><b>City's</b> [12] - 10:25, 14:1, 16:3, 23:10, 25:8, 28:8, 30:20, 32:22, 46:13, 46:17, 55:17, 61:22</p> <p><b>city-wide</b> [6] - 77:24, 83:9, 83:10, 86:5, 86:8, 87:24</p> <p><b>citywide</b> [4] - 2:15, 43:17, 70:24, 71:2</p> <p><b>civic</b> [8] - 10:8, 30:9, 39:12, 39:14, 43:25, 58:25, 62:4, 62:8</p> <p><b>Civic</b> [1] - 39:3</p> <p><b>civically</b> [3] - 30:16, 59:1, 61:14</p> <p><b>civics</b> [4] - 58:10, 58:12, 58:17, 58:21</p>	<p><b>Civil</b> [5] - 7:5, 7:19, 8:8, 8:9, 41:19</p> <p><b>clarification</b> [3] - 21:16, 24:21, 63:1</p> <p><b>clarify</b> [2] - 8:7, 29:17</p> <p><b>clarifying</b> [1] - 18:3</p> <p><b>clarity</b> [3] - 36:25, 45:6, 45:20</p> <p><b>Clarke</b> [4] - 3:17, 17:10, 129:14</p> <p><b>CLARKE</b> [11] - 1:17, 3:16, 16:24, 46:24, 61:6, 62:3, 126:9, 127:6, 127:14, 134:4, 141:19</p> <p><b>classic</b> [1] - 120:16</p> <p><b>clean</b> [1] - 43:16</p> <p><b>clear</b> [11] - 14:20, 30:11, 37:1, 69:3, 70:21, 72:6, 75:25, 79:21, 113:4, 115:14, 124:6</p> <p><b>clearer</b> [1] - 33:18</p> <p><b>clearly</b> [5] - 36:23, 62:13, 77:17, 104:16, 108:17</p> <p><b>Clerk</b> [4] - 66:8, 93:1, 93:4, 98:6</p> <p><b>clerk</b> [1] - 81:15</p> <p><b>clickbait</b> [1] - 91:12</p> <p><b>clinical</b> [1] - 14:8</p> <p><b>Clinton's</b> [1] - 79:25</p> <p><b>close</b> [6] - 80:12, 80:14, 80:18, 80:20, 105:25, 133:17</p> <p><b>closed</b> [1] - 80:6</p> <p><b>closely</b> [1] - 72:17</p> <p><b>closer</b> [2] - 125:21, 125:24</p> <p><b>co</b> [3] - 7:23, 17:11, 40:22</p> <p><b>co-panelists</b> [1] - 17:11</p> <p><b>co-president</b> [1] - 7:23</p> <p><b>co-workers</b> [1] - 40:22</p> <p><b>coach</b> [1] - 58:23</p> <p><b>coalition</b> [5] - 56:8, 75:12, 123:23, 127:2, 131:16</p> <p><b>Coalition</b> [1] - 2:20</p> <p><b>coalitions</b> [1] - 130:13</p> <p><b>coasting</b> [1] - 76:15</p> <p><b>code</b> [1] - 42:22</p> <p><b>cognitively</b> [1] - 140:18</p> <p><b>coincidental</b> [1] - 131:6</p> <p><b>colleague</b> [2] - 60:7, 136:1</p> <p><b>colleagues</b> [2] - 100:7, 102:2</p> <p><b>college</b> [3] - 41:6, 59:21, 79:17</p> <p><b>color</b> [8] - 74:22, 82:15,</p>	<p>82:18, 84:21, 131:6, 131:14, 132:1, 132:8</p> <p><b>colored</b> [1] - 84:18</p> <p><b>columns</b> [1] - 68:14</p> <p><b>combination</b> [2] - 94:1, 95:2</p> <p><b>combine</b> [2] - 96:11, 103:7</p> <p><b>combining</b> [2] - 33:8, 33:24</p> <p><b>come</b> [8] - 4:2, 12:24, 12:25, 20:21, 40:24, 97:13, 107:22, 140:24</p> <p><b>comes</b> [6] - 15:12, 15:16, 80:11, 82:21, 110:14, 113:25</p> <p><b>coming</b> [4] - 3:7, 47:14, 57:19, 101:13</p> <p><b>comment</b> [3] - 84:15, 120:1, 137:12</p> <p><b>comments</b> [7] - 6:13, 49:8, 53:2, 53:5, 88:17, 111:19, 127:23</p> <p><b>commission</b> [3] - 4:20, 40:17, 78:22</p> <p><b>Commission</b> [29] - 2:4, 2:5, 2:7, 4:25, 5:1, 5:20, 6:6, 6:8, 8:14, 8:19, 14:15, 16:15, 25:16, 29:10, 30:2, 30:24, 32:3, 34:10, 40:16, 58:5, 59:5, 59:23, 60:24, 85:23, 88:15, 94:20, 111:20, 136:22, 141:10</p> <p><b>COMMISSION</b> [1] - 1:1</p> <p><b>Commissioner</b> [1] - 17:10</p> <p><b>commissioners</b> [6] - 29:23, 40:10, 44:6, 65:13, 65:22, 92:25</p> <p><b>COMMISSIONERS</b> [1] - 1:12</p> <p><b>commitment</b> [2] - 14:2, 33:3</p> <p><b>common</b> [2] - 9:5, 118:10</p> <p><b>Common</b> [5] - 7:22, 26:6, 37:1, 66:6, 136:15</p> <p><b>commonly</b> [1] - 111:1</p> <p><b>commonsense</b> [1] - 60:3</p> <p><b>communications</b> [1] - 43:2</p> <p><b>communities</b> [5] - 61:8, 61:10, 61:14, 62:4, 127:6</p> <p><b>community</b> [12] - 3:23, 5:17, 59:20, 89:9, 90:18, 103:15, 103:16, 127:8, 129:21, 130:3, 139:8, 139:22</p>
---	---	---	--

<p><b>company</b> [1] - 96:8  <b>compare</b> [4] - 103:4, 120:9, 120:20, 122:7  <b>compared</b> [1] - 104:7  <b>comparison</b> [1] - 120:8  <b>comparisons</b> [1] - 101:11  <b>compelled</b> [1] - 41:13  <b>compelling</b> [1] - 92:15  <b>competently</b> [1] - 13:21  <b>competing</b> [1] - 79:11  <b>competition</b> [1] - 130:25  <b>competitive</b> [4] - 90:16, 124:5, 124:15, 124:16  <b>complained</b> [1] - 42:10  <b>complaining</b> [1] - 36:10  <b>complete</b> [2] - 119:4, 119:7  <b>completed</b> [1] - 97:16  <b>completely</b> [3] - 36:8, 114:24, 134:10  <b>completeness</b> [1] - 119:1  <b>complex</b> [2] - 5:23, 25:17  <b>complexities</b> [1] - 138:25  <b>complexity</b> [1] - 97:21  <b>compliance</b> [2] - 37:2, 43:20  <b>complied</b> [1] - 52:12  <b>complies</b> [1] - 38:9  <b>comply</b> [7] - 36:21, 37:5, 37:19, 41:14, 50:7, 50:12, 50:20  <b>components</b> [1] - 95:22  <b>composition</b> [1] - 71:3  <b>compromising</b> [1] - 96:2  <b>comptroller</b> [2] - 65:17, 104:20  <b>computer</b> [1] - 99:23  <b>con</b> [1] - 69:2  <b>concept</b> [3] - 91:8, 95:8, 113:18  <b>conceptually</b> [1] - 90:11  <b>concern</b> [2] - 60:23, 98:17  <b>concerned</b> [2] - 60:18, 123:7  <b>concerning</b> [1] - 60:21  <b>concerns</b> [8] - 34:5, 34:8, 53:8, 53:12, 54:2, 99:18, 118:13, 122:7  <b>concluded</b> [1] - 141:22  <b>conditions</b> [1] - 29:11  <b>conduct</b> [5] - 48:22, 49:4, 49:6, 53:14, 62:7</p>	<p><b>conducting</b> [1] - 118:23  <b>Conference</b> [1] - 9:7  <b>confidence</b> [1] - 92:6  <b>confident</b> [2] - 22:3, 105:24  <b>confidentially</b> [1] - 22:1  <b>conflict</b> [1] - 38:16  <b>Conflicts</b> [2] - 29:17, 29:25  <b>conform</b> [1] - 45:20  <b>conforms</b> [1] - 27:9  <b>confronted</b> [1] - 42:3  <b>confuse</b> [1] - 23:16  <b>confused</b> [1] - 21:17  <b>Congressman</b> [1] - 2:22  <b>connect</b> [2] - 133:8, 136:14  <b>connected</b> [3] - 74:14, 92:5, 135:9  <b>connection</b> [5] - 62:23, 134:13, 134:14, 135:7, 138:17  <b>connections</b> [4] - 85:16, 85:17, 87:13, 133:24  <b>connectivity</b> [1] - 43:18  <b>cons</b> [1] - 72:4  <b>consecutive</b> [1] - 50:24  <b>consensus</b> [1] - 133:25  <b>consent</b> [1] - 121:10  <b>consequences</b> [1] - 57:2  <b>consider</b> [10] - 14:11, 28:2, 42:20, 59:7, 59:24, 88:7, 96:16, 113:18, 117:4, 117:10  <b>considerable</b> [2] - 48:6, 122:11  <b>consideration</b> [8] - 16:14, 59:5, 60:11, 61:3, 61:17, 61:25, 88:5, 119:9  <b>considerations</b> [1] - 86:4  <b>considered</b> [4] - 20:3, 59:14, 70:22, 79:2  <b>considering</b> [3] - 20:5, 88:23, 102:2  <b>consistent</b> [6] - 11:5, 45:15, 50:17, 96:22, 97:6, 98:16  <b>consistently</b> [1] - 50:14  <b>consolidation</b> [1] - 10:17  <b>constant</b> [1] - 96:24  <b>constituency</b> [2] - 103:20, 103:24  <b>constituents</b> [2] - 11:2, 91:3  <b>Constitution</b> [7] - 8:23,</p>	<p>8:24, 10:12, 15:3, 15:17, 31:19, 38:21  <b>constitution</b> [3] - 15:2, 15:23, 18:22  <b>constitutional</b> [4] - 10:20, 28:12, 35:1, 46:23  <b>consuming</b> [2] - 10:3, 13:7  <b>contact</b> [2] - 12:25, 43:22  <b>contain</b> [1] - 23:9  <b>contest</b> [2] - 87:15, 87:16  <b>context</b> [7] - 5:6, 58:9, 59:19, 59:21, 64:6, 64:23, 120:18  <b>continue</b> [3] - 5:19, 7:12, 96:14  <b>continues</b> [1] - 10:14  <b>continuum</b> [3] - 30:6, 30:8, 39:19  <b>contract</b> [1] - 16:23  <b>contractor</b> [1] - 41:21  <b>contradiction</b> [1] - 30:23  <b>contradictions</b> [1] - 31:18  <b>contrary</b> [1] - 120:2  <b>contrast</b> [1] - 136:6  <b>contribute</b> [1] - 60:14  <b>contribution</b> [1] - 60:15  <b>control</b> [3] - 22:9, 22:15, 43:19  <b>controller</b> [1] - 43:20  <b>controversy</b> [1] - 25:24  <b>conundrum</b> [1] - 20:22  <b>convenient</b> [1] - 13:15  <b>conversation</b> [1] - 73:14  <b>conversations</b> [1] - 131:21  <b>convey</b> [1] - 139:14  <b>conveying</b> [1] - 122:23  <b>convincing</b> [1] - 40:14  <b>cooperation</b> [1] - 29:10  <b>coordinate</b> [4] - 123:14, 123:20, 124:12, 126:24  <b>coordinating</b> [1] - 123:12  <b>coordination</b> [2] - 39:16, 124:14  <b>coordinator</b> [2] - 41:1, 42:1  <b>coordinators</b> [1] - 41:3  <b>Corporation</b> [2] - 29:19, 35:8  <b>correct</b> [11] - 11:23, 18:11, 18:12, 18:17, 19:5, 19:6, 22:25, 34:7,</p>	<p>83:4, 121:20, 142:8  <b>correction</b> [1] - 24:11  <b>correctly</b> [1] - 114:25  <b>Cortland</b> [1] - 12:10  <b>cost</b> [25] - 10:6, 11:4, 11:20, 23:2, 23:5, 23:7, 24:6, 24:12, 24:13, 24:14, 55:20, 98:24, 99:10, 99:12, 99:15, 106:19, 106:25, 107:23, 108:13, 108:14, 108:18, 108:20, 109:4  <b>cost-wise</b> [1] - 55:20  <b>costly</b> [2] - 10:3, 13:6  <b>costs</b> [10] - 11:24, 23:10, 39:17, 107:9, 107:15, 107:16, 107:25, 108:7, 108:21, 109:1  <b>could</b> [54] - 13:1, 15:5, 15:6, 15:9, 15:22, 16:19, 18:19, 18:20, 20:6, 21:20, 29:13, 29:17, 34:13, 34:14, 42:18, 44:11, 44:14, 44:19, 51:15, 53:17, 53:20, 53:24, 54:15, 54:18, 55:2, 55:7, 55:13, 55:14, 60:20, 62:15, 64:22, 65:5, 68:1, 74:19, 76:23, 78:3, 78:13, 85:18, 86:25, 87:7, 89:23, 89:25, 97:22, 105:23, 113:20, 116:19, 116:20, 124:15, 127:1, 127:2, 132:5, 139:13  <b>couldn't</b> [3] - 44:13, 119:15, 136:8  <b>Council</b> [3] - 3:18, 25:25, 29:7  <b>council</b> [17] - 3:20, 3:21, 4:11, 26:10, 35:7, 49:2, 57:22, 57:25, 59:14, 65:21, 81:17, 87:1, 87:5, 87:25, 90:17, 91:3, 93:23  <b>councils</b> [1] - 130:19  <b>Counsel</b> [2] - 29:19, 35:9  <b>counsel</b> [1] - 2:15  <b>count</b> [15] - 17:16, 17:17, 70:16, 79:1, 79:13, 79:22, 79:25, 80:11, 81:9, 82:10, 95:16, 114:20, 126:24, 134:25, 135:12  <b>counted</b> [8] - 12:5, 12:6, 17:1, 17:5, 36:9, 70:11, 114:9, 137:15  <b>counties</b> [1] - 12:9  <b>counting</b> [7] - 70:16,</p>
---	---	--	---

<p>78:20, 79:6, 95:2, 95:12, 117:23, 135:1  <b>country</b> [5] - 60:23, 71:19, 79:4, 102:2, 106:5  <b>counts</b> [1] - 70:7  <b>COUNTY</b> [1] - 142:4  <b>County</b> [5] - 41:6, 49:23, 50:22, 112:4, 112:6  <b>county</b> [1] - 10:13  <b>couple</b> [7] - 6:20, 20:11, 22:17, 65:12, 105:20, 116:19, 140:5  <b>courage</b> [1] - 35:12  <b>course</b> [5] - 69:5, 72:4, 122:2, 130:10, 135:22  <b>courts</b> [1] - 16:10  <b>cover</b> [1] - 65:11  <b>covered</b> [7] - 41:18, 49:11, 49:22, 50:16, 51:12, 55:18, 98:22  <b>Craig</b> [2] - 66:14, 120:5  <b>Craig's</b> [2] - 110:16, 128:23  <b>create</b> [3] - 39:14, 43:16, 79:16  <b>created</b> [4] - 41:4, 41:12, 43:8, 87:12  <b>creates</b> [6] - 69:16, 85:9, 85:20, 86:19, 86:20, 100:9  <b>creative</b> [3] - 5:10, 48:12, 94:23  <b>creature</b> [1] - 37:22  <b>credible</b> [1] - 87:8  <b>Creole</b> [1] - 26:12  <b>critical</b> [1] - 95:20  <b>crowded</b> [2] - 67:25, 71:17  <b>crux</b> [1] - 5:1  <b>culture</b> [3] - 69:15, 139:8, 139:22  <b>Cuomo</b> [1] - 84:1  <b>curious</b> [3] - 119:25, 122:6, 122:24  <b>current</b> [8] - 21:21, 65:20, 86:9, 112:7, 115:10, 120:11, 122:17, 137:5  <b>currently</b> [6] - 13:1, 26:24, 28:24, 43:2, 59:14, 94:21  <b>cut</b> [2] - 43:15, 95:7</p>	<p>59:15  <b>D.C.'s</b> [1] - 55:13  <b>DA</b> [1] - 19:24  <b>daily</b> [1] - 47:11  <b>DALE</b> [1] - 1:20  <b>Dale</b> [2] - 2:25, 85:24  <b>data</b> [6] - 11:21, 95:4, 96:11, 110:20, 125:1, 125:13  <b>database</b> [1] - 64:9  <b>daughter</b> [1] - 3:24  <b>David</b> [3] - 66:11, 102:13, 108:10  <b>Day</b> [1] - 16:1  <b>day</b> [11] - 9:13, 10:11, 12:8, 21:9, 42:4, 42:11, 80:2, 80:15, 97:10, 135:16, 142:15  <b>days</b> [6] - 9:16, 42:18, 79:25, 105:20, 105:23  <b>dead</b> [2] - 32:16, 43:13  <b>deadline</b> [2] - 6:15, 10:16  <b>deal</b> [5] - 44:14, 72:10, 72:11, 108:24, 141:12  <b>dealing</b> [1] - 66:23  <b>deals</b> [1] - 33:10  <b>DEATH</b> [1] - 43:10  <b>DEB</b> [1] - 1:16  <b>debate</b> [2] - 70:25, 132:15  <b>debates</b> [1] - 135:14  <b>decades</b> [3] - 4:9, 4:10, 56:13  <b>decide</b> [3] - 15:7, 47:3, 113:25  <b>deciding</b> [1] - 122:20  <b>decision</b> [3] - 29:19, 73:16, 111:9  <b>decisions</b> [1] - 76:21  <b>declared</b> [2] - 97:14, 115:23  <b>decline</b> [3] - 69:10, 121:5, 121:11  <b>declining</b> [1] - 82:1  <b>decrease</b> [3] - 19:20, 104:8  <b>deep</b> [1] - 130:20  <b>defeated</b> [3] - 75:10, 81:17, 81:18  <b>Defense</b> [3] - 3:13, 8:2, 48:19  <b>defer</b> [1] - 127:15  <b>deficiencies</b> [1] - 113:17  <b>deficiency</b> [2] - 112:16, 116:12  <b>define</b> [4] - 15:21, 18:5, 45:11, 45:14</p>	<p><b>definitely</b> [1] - 37:7  <b>definition</b> [2] - 16:6, 45:13  <b>degree</b> [1] - 34:8  <b>Delanos</b> [1] - 76:24  <b>deliver</b> [1] - 62:25  <b>delivered</b> [2] - 27:15, 27:19  <b>demand</b> [1] - 52:4  <b>demanding</b> [1] - 52:5  <b>democracy</b> [26] - 3:5, 4:2, 4:3, 8:1, 14:2, 14:8, 16:22, 47:7, 48:18, 57:18, 58:23, 59:2, 59:3, 66:24, 78:22, 79:9, 83:1, 91:2, 92:8, 92:13, 100:10, 106:9, 107:14, 112:19, 116:14, 127:9  <b>Democrat</b> [3] - 50:4, 50:6, 133:11  <b>democratic</b> [3] - 84:12, 109:8, 109:10  <b>demonstrated</b> [3] - 51:10, 52:2, 97:10  <b>denied</b> [2] - 49:5, 139:4  <b>Department</b> [2] - 89:17, 110:21  <b>depends</b> [6] - 14:8, 115:7, 116:18, 117:14, 129:6  <b>Deputy</b> [1] - 66:11  <b>deputy</b> [2] - 3:10, 102:16  <b>describe</b> [2] - 16:4, 45:18  <b>described</b> [5] - 15:25, 34:9, 53:9, 53:12, 122:16  <b>description</b> [1] - 45:4  <b>designated</b> [2] - 50:22, 50:25  <b>desk</b> [1] - 23:25  <b>despite</b> [1] - 99:20  <b>detailed</b> [1] - 110:5  <b>details</b> [1] - 93:14  <b>determines</b> [1] - 110:12  <b>determining</b> [1] - 92:10  <b>develop</b> [2] - 98:7, 128:8  <b>developed</b> [1] - 101:25  <b>devil's</b> [1] - 32:10  <b>devise</b> [1] - 112:15  <b>did</b> [18] - 42:24, 52:8, 71:1, 73:6, 78:19, 81:16, 84:22, 84:25, 89:13, 98:7, 99:7, 100:4, 117:16, 126:23, 128:3, 130:20, 133:12, 135:25  <b>did it</b> [1] - 99:6  <b>did they</b> [1] - 108:11</p>	<p><b>didn't</b> [21] - 40:23, 40:24, 55:24, 56:17, 73:6, 77:1, 80:24, 84:19, 85:2, 87:9, 101:7, 108:11, 108:13, 108:14, 110:21, 115:9, 116:9, 119:14, 135:13, 135:14  <b>difference</b> [5] - 14:25, 32:8, 47:17, 128:20, 129:11  <b>differences</b> [2] - 57:11, 72:21  <b>different</b> [29] - 20:11, 33:16, 47:25, 56:15, 57:9, 57:11, 63:18, 68:6, 68:23, 74:17, 74:22, 86:4, 86:7, 86:10, 88:5, 99:10, 102:4, 102:6, 102:7, 107:8, 111:3, 115:21, 123:4, 128:5, 128:6, 128:16, 128:17, 133:6  <b>difficult</b> [7] - 13:12, 26:3, 33:1, 46:6, 102:4, 140:21, 140:23  <b>diminish</b> [1] - 136:12  <b>direct</b> [5] - 3:5, 11:23, 35:4, 44:23, 135:7  <b>directed</b> [1] - 27:5  <b>direction</b> [6] - 16:21, 35:12, 36:25, 41:16, 45:8, 70:10  <b>directions</b> [2] - 16:5, 41:14  <b>directly</b> [6] - 12:17, 15:17, 38:17, 62:10, 67:3, 136:15  <b>Director</b> [4] - 8:3, 66:9, 66:11, 93:1  <b>director</b> [9] - 2:18, 3:1, 6:3, 7:22, 8:1, 48:18, 58:8, 66:12, 102:16  <b>disabilities</b> [1] - 15:25  <b>disabled</b> [1] - 15:5  <b>disaffection</b> [1] - 83:22  <b>disagree</b> [1] - 129:12  <b>disappointment</b> [1] - 76:8  <b>discern</b> [1] - 125:5  <b>discrete</b> [1] - 64:8  <b>discretion</b> [2] - 29:2, 60:25  <b>discuss</b> [4] - 8:16, 14:14, 22:15, 67:6  <b>discussed</b> [1] - 27:11  <b>discussion</b> [8] - 3:12, 4:24, 28:6, 29:7, 66:22, 68:1, 72:19, 132:15  <b>disenfranchised</b> [1] - 27:22</p>
<p><b>D</b></p>			
<p><b>D.C</b> [14] - 9:9, 9:11, 9:13, 9:14, 9:17, 10:1, 51:19, 51:20, 51:24, 52:7, 52:11, 54:8, 55:11,</p>			

<p><b>disfranchised</b> [1] - 8:25  <b>dispatched</b> [1] - 49:14  <b>disposal</b> [1] - 135:6  <b>dispositions</b> [1] - 58:25  <b>disproportionate</b> [1] - 84:20  <b>distributed</b> [1] - 114:21  <b>distributing</b> [1] - 95:10  <b>district</b> [4] - 2:22, 86:5, 87:5, 90:25  <b>district-based</b> [1] - 86:5  <b>districts</b> [1] - 131:13  <b>dive</b> [1] - 130:20  <b>diverse</b> [3] - 129:9, 131:7, 131:19  <b>diversity</b> [3] - 10:25, 13:24, 131:19  <b>divided</b> [1] - 117:11  <b>DMV</b> [5] - 12:14, 12:21, 13:2, 23:20, 24:3  <b>Do</b> [1] - 74:6  <b>do</b> [89] - 2:6, 5:19, 14:21, 16:19, 17:17, 20:17, 21:14, 22:4, 22:11, 24:13, 25:10, 35:12, 36:7, 36:24, 39:4, 39:10, 39:15, 41:23, 43:25, 44:10, 44:13, 44:15, 45:2, 45:12, 47:12, 50:14, 56:10, 57:10, 57:12, 57:17, 60:5, 62:3, 63:7, 63:10, 65:9, 66:21, 67:2, 70:18, 70:19, 71:23, 71:25, 72:6, 72:9, 72:10, 78:1, 78:3, 78:6, 79:22, 79:23, 80:9, 80:10, 81:2, 81:3, 86:17, 87:24, 89:21, 91:12, 92:1, 92:7, 94:9, 95:8, 98:17, 100:3, 102:10, 103:7, 105:1, 105:4, 106:8, 109:10, 109:11, 112:8, 112:9, 115:11, 115:24, 116:1, 117:2, 117:7, 118:19, 126:13, 127:3, 128:7, 129:7, 129:8, 139:7, 139:10, 139:20, 140:18, 142:7  <b>do they</b> [2] - 64:13, 130:8  <b>do you</b> [13] - 22:20, 23:2, 24:23, 32:13, 37:18, 45:2, 56:4, 57:7, 62:20, 120:1, 136:25, 137:5, 137:7  <b>doable</b> [1] - 91:16  <b>document</b> [1] - 46:3  <b>documented</b> [2] - 93:11, 114:4</p>	<p><b>does</b> [27] - 15:19, 17:12, 23:20, 24:3, 35:5, 42:19, 62:25, 63:25, 64:15, 75:18, 95:17, 98:18, 99:18, 110:7, 110:15, 111:6, 113:23, 114:1, 114:7, 114:9, 118:15, 120:23, 123:16, 128:4, 129:10, 134:10, 134:14  <b>does it</b> [2] - 130:1, 137:7  <b>does that</b> [5] - 7:14, 37:23, 70:5, 129:23, 130:8  <b>doesn't</b> [17] - 25:22, 36:17, 79:19, 81:12, 92:21, 109:23, 114:6, 115:11, 117:5, 118:19, 119:15, 119:17, 119:20, 120:13, 123:18, 126:25, 135:22  <b>doing</b> [14] - 4:10, 5:14, 33:12, 44:16, 47:4, 66:20, 77:18, 78:9, 95:24, 99:10, 108:24, 111:6, 120:20, 131:2  <b>DOJ</b> [1] - 139:4  <b>dollar</b> [1] - 10:24  <b>dollars</b> [4] - 83:25, 109:4, 109:6, 109:9  <b>dominate</b> [1] - 104:17  <b>dominated</b> [1] - 31:25  <b>don't</b> [64] - 16:9, 16:10, 17:10, 17:18, 17:24, 20:13, 22:13, 23:5, 23:16, 25:7, 25:10, 30:22, 35:11, 42:14, 42:18, 44:20, 46:4, 46:5, 51:23, 70:7, 74:13, 81:8, 81:25, 82:2, 83:23, 91:9, 101:8, 105:4, 105:14, 105:20, 105:22, 106:2, 106:3, 106:7, 109:17, 109:21, 112:7, 116:7, 116:10, 117:1, 117:24, 118:3, 119:6, 123:19, 123:20, 123:22, 123:24, 124:1, 124:11, 124:21, 124:22, 127:18, 129:1, 129:13, 130:5, 131:5, 133:8, 135:17, 137:23  <b>done</b> [18] - 17:19, 18:18, 20:15, 28:7, 34:13, 37:7, 37:8, 53:21, 56:16, 74:1, 81:22, 110:6, 113:12, 118:1, 118:17, 133:23, 133:24  <b>doors</b> [1] - 4:1  <b>down</b> [12] - 10:7, 46:18, 69:25, 74:12, 76:6, 82:2,</p>	<p>84:20, 99:8, 101:6, 110:14, 126:21, 136:7  <b>downloadable</b> [1] - 97:1  <b>downside</b> [1] - 62:7  <b>downsides</b> [1] - 71:15  <b>drafting</b> [1] - 45:7  <b>drastic</b> [1] - 57:24  <b>draws</b> [1] - 15:1  <b>drive</b> [3] - 93:10, 98:14, 112:21  <b>driving</b> [2] - 70:3, 75:19  <b>drop</b> [2] - 24:1, 103:23  <b>drop-off</b> [2] - 24:1, 103:23  <b>dropped</b> [2] - 71:4, 121:4  <b>dropping</b> [1] - 137:4  <b>DS200</b> [1] - 96:6  <b>due</b> [1] - 119:8  <b>duopoly</b> [1] - 10:13  <b>duplication</b> [2] - 30:23, 39:17  <b>during</b> [3] - 5:17, 8:11, 62:8  <b>dynamic</b> [3] - 73:21, 129:19, 131:16  <b>dynamics</b> [3] - 76:1, 104:14, 131:4</p>	<p>125:4, 127:3, 141:3  <b>easily</b> [1] - 13:10  <b>easy</b> [3] - 25:19, 42:21, 94:13  <b>echo</b> [1] - 13:21  <b>economically</b> [1] - 33:22  <b>economics</b> [1] - 97:22  <b>economy</b> [2] - 10:25, 60:16  <b>ED</b> [1] - 44:24  <b>Ed</b> [2] - 83:25, 126:22  <b>educate</b> [1] - 129:7  <b>educated</b> [1] - 129:3  <b>education</b> [21] - 39:21, 39:22, 44:1, 47:18, 58:10, 58:12, 58:17, 58:21, 62:4, 62:8, 87:21, 91:15, 93:19, 96:20, 99:14, 101:19, 106:21, 106:25, 109:13, 128:17, 128:24  <b>Education</b> [1] - 48:19  <b>educational</b> [1] - 96:17  <b>educator</b> [1] - 4:4  <b>effect</b> [3] - 31:16, 57:24, 76:2  <b>effective</b> [11] - 11:5, 11:20, 27:2, 30:22, 31:22, 33:13, 74:1, 77:18, 99:8, 135:23, 137:11  <b>effectively</b> [2] - 33:4, 113:25  <b>effects</b> [1] - 122:16  <b>efficiency</b> [1] - 45:21  <b>efficient</b> [2] - 11:19, 33:22  <b>effort</b> [3] - 35:2, 56:8, 77:18  <b>efforts</b> [2] - 30:20, 33:24  <b>eight</b> [10] - 58:9, 74:2, 87:5, 90:21, 117:24, 117:25, 133:22, 137:10, 137:16, 138:1  <b>eight-candidate</b> [2] - 74:2, 133:22  <b>eight-year-old</b> [1] - 58:9  <b>either</b> [3] - 46:25, 112:14, 118:9  <b>elected</b> [14] - 3:19, 3:23, 35:10, 47:3, 56:22, 78:25, 79:19, 80:25, 82:13, 83:8, 89:20, 90:24, 92:5, 131:8  <b>electing</b> [1] - 111:2  <b>Election</b> [10] - 16:1, 41:13, 42:6, 43:9, 45:17, 64:25, 77:23, 94:17,</p>
<b>E</b>			
<p><b>E</b> [17] - 1:9, 11:19, 11:25, 12:5, 12:7, 44:12, 44:14, 44:15, 44:18, 45:4, 45:11, 45:13, 45:14, 45:18, 142:1  <b>e</b> [2] - 47:12, 47:13  <b>e-mail</b> [2] - 47:12, 47:13  <b>E-poll</b> [12] - 11:19, 11:25, 12:5, 12:7, 44:12, 44:14, 44:15, 45:4, 45:11, 45:13, 45:14, 45:18  <b>each</b> [13] - 5:9, 6:22, 7:9, 7:17, 23:3, 58:22, 83:8, 95:3, 95:20, 96:12, 119:11, 139:11  <b>eager</b> [1] - 6:18  <b>earlier</b> [2] - 46:2, 136:6  <b>early</b> [19] - 6:14, 9:8, 10:17, 12:8, 13:9, 13:13, 17:24, 18:8, 19:7, 19:13, 19:19, 20:19, 20:20, 20:23, 21:3, 21:6, 21:8, 43:16, 62:19  <b>earn</b> [2] - 131:1, 135:17  <b>earning</b> [3] - 134:15, 135:8, 135:10  <b>ears</b> [1] - 113:6  <b>easier</b> [4] - 125:1,</p>			



<p>94:20, 96:8  <b>election</b> [105] - 4:21, 6:9, 6:13, 9:3, 9:16, 9:20, 10:2, 10:21, 11:3, 12:8, 17:2, 17:17, 17:19, 17:20, 17:25, 20:2, 21:1, 21:9, 21:23, 25:18, 27:21, 31:1, 31:2, 31:8, 35:14, 36:6, 37:9, 37:23, 41:9, 43:7, 45:5, 47:14, 47:17, 48:5, 48:9, 48:10, 48:24, 50:3, 52:9, 65:15, 68:9, 69:4, 69:6, 69:9, 70:24, 73:4, 73:17, 74:23, 74:25, 75:7, 75:13, 75:19, 77:1, 77:4, 78:2, 78:25, 79:1, 79:5, 80:2, 80:18, 80:20, 81:20, 91:5, 91:19, 91:23, 92:10, 93:13, 94:6, 96:3, 96:17, 97:8, 97:10, 98:10, 99:12, 101:17, 101:20, 102:6, 102:7, 102:24, 104:2, 104:14, 105:9, 109:1, 109:5, 109:7, 116:18, 117:14, 117:18, 117:22, 120:18, 120:20, 120:22, 121:2, 123:13, 124:18, 129:10, 129:19, 130:10, 131:9, 133:17, 137:25, 138:6, 138:7  <b>Elections</b> [33] - 11:11, 12:17, 12:22, 13:5, 17:15, 23:23, 25:25, 26:8, 26:18, 27:1, 27:4, 28:23, 29:18, 29:24, 34:6, 36:4, 37:17, 40:10, 43:24, 44:10, 45:19, 46:1, 46:14, 46:16, 47:1, 47:13, 49:14, 50:7, 50:19, 52:7, 66:9, 93:2  <b>elections</b> [90] - 2:13, 4:16, 4:17, 5:13, 8:17, 8:20, 10:14, 10:18, 11:8, 13:14, 14:6, 19:2, 19:10, 19:12, 19:20, 19:21, 20:7, 21:24, 22:2, 22:5, 22:10, 22:12, 22:13, 22:16, 28:15, 32:9, 32:23, 34:19, 40:6, 43:17, 48:25, 49:2, 50:24, 52:4, 56:3, 56:6, 57:3, 58:7, 59:8, 59:13, 63:19, 63:20, 64:15, 69:13, 69:19, 70:23, 72:9, 75:15, 75:17, 78:23, 79:18, 79:24, 81:13, 81:21, 82:14, 84:6, 86:5, 86:8, 86:25,</p>	<p>88:21, 89:2, 92:6, 93:21, 103:9, 104:4, 110:19, 112:15, 118:7, 118:8, 119:9, 119:16, 120:10, 121:1, 121:15, 121:21, 121:22, 123:25, 124:6, 124:13, 124:15, 125:11, 126:1, 126:3, 126:17, 128:21, 131:22, 133:3, 134:3, 134:5, 139:9  <b>Elections'</b> [3] - 10:24, 11:6, 89:14  <b>ElectionWare</b> [1] - 96:8  <b>electoral</b> [7] - 56:21, 75:12, 79:3, 79:17, 89:11, 112:12, 117:9  <b>electorate</b> [2] - 71:3, 71:5  <b>electorates</b> [2] - 71:11, 131:10  <b>electronic</b> [20] - 9:16, 9:22, 11:18, 12:12, 12:13, 22:18, 22:19, 22:23, 22:24, 23:3, 23:4, 23:11, 23:14, 23:15, 24:24, 25:1, 25:4, 29:8, 42:23, 43:17  <b>electronically</b> [3] - 12:15, 13:4, 23:24  <b>eligibility</b> [1] - 56:2  <b>eligible</b> [3] - 12:25, 60:5, 64:14  <b>eliminated</b> [4] - 95:23, 114:18, 114:20, 114:22  <b>eliminating</b> [1] - 33:7  <b>elimination</b> [2] - 78:9, 78:14  <b>else</b> [2] - 55:14, 98:18  <b>else's</b> [1] - 70:16  <b>elsewhere</b> [2] - 9:6, 13:8  <b>embarrassing</b> [1] - 9:24  <b>embolden</b> [1] - 35:7  <b>embracing</b> [1] - 68:22  <b>emerging</b> [1] - 118:13  <b>emphasize</b> [1] - 41:24  <b>emphasized</b> [1] - 31:10  <b>empowers</b> [1] - 137:1  <b>enact</b> [1] - 25:8  <b>enacted</b> [2] - 25:7, 56:15  <b>encourage</b> [8] - 11:6, 20:17, 30:6, 32:12, 59:23, 88:8, 98:12, 137:7  <b>encouraged</b> [2] - 30:15, 92:11  <b>encouraging</b> [7] - 39:23, 40:7, 57:18, 66:23, 72:23, 134:1, 134:2</p>	<p><b>end</b> [15] - 7:11, 11:16, 14:4, 24:11, 25:3, 25:4, 27:13, 39:10, 45:10, 53:14, 73:3, 79:17, 82:9, 119:14, 135:16  <b>endeavor</b> [1] - 25:22  <b>ended</b> [1] - 133:16  <b>ending</b> [2] - 10:13, 79:2  <b>endorsements</b> [1] - 139:11  <b>endorses</b> [1] - 30:11  <b>ends</b> [1] - 134:6  <b>energy</b> [2] - 77:9, 127:10  <b>enforce</b> [4] - 11:15, 28:4, 35:8, 46:15  <b>enforced</b> [3] - 53:17, 53:20, 53:24  <b>enforcing</b> [1] - 35:11  <b>enfranchise</b> [1] - 59:16  <b>enfranchised</b> [1] - 63:12  <b>engage</b> [3] - 5:21, 33:20, 33:21  <b>engaged</b> [5] - 3:15, 14:10, 30:16, 33:20, 59:1  <b>Engagement</b> [1] - 39:4  <b>engagement</b> [10] - 10:8, 30:9, 30:19, 33:16, 39:12, 39:14, 105:9, 105:10, 132:25, 135:9  <b>engages</b> [1] - 91:11  <b>engaging</b> [1] - 92:11  <b>English</b> [1] - 51:24  <b>enhance</b> [1] - 78:22  <b>enhanced</b> [1] - 95:23  <b>enhances</b> [1] - 79:9  <b>enough</b> [8] - 42:11, 48:8, 74:1, 90:25, 101:25, 127:8, 139:3, 140:7  <b>ensure</b> [8] - 10:19, 13:22, 28:22, 37:19, 38:9, 58:11, 60:13, 90:23  <b>ensures</b> [1] - 91:2  <b>ensuring</b> [1] - 46:22  <b>enter</b> [1] - 126:19  <b>enterprise</b> [1] - 99:23  <b>enthusiasm</b> [1] - 63:13  <b>entire</b> [3] - 5:5, 10:24, 113:22  <b>entirely</b> [1] - 140:12  <b>entitled</b> [2] - 9:2, 11:3  <b>entity</b> [1] - 39:8  <b>entrance</b> [1] - 26:20  <b>entry</b> [1] - 95:4  <b>environment</b> [4] - 59:22, 89:24, 127:4, 139:8</p>	<p><b>equipment</b> [7] - 68:8, 72:11, 94:18, 96:5, 99:17, 99:21  <b>equipped</b> [2] - 58:24, 109:17  <b>equivalent</b> [1] - 51:5  <b>error</b> [1] - 108:6  <b>especially</b> [4] - 16:13, 47:15, 57:25, 116:13  <b>essential</b> [1] - 14:3  <b>essentially</b> [6] - 67:9, 78:17, 82:4, 87:11, 108:6, 123:15  <b>establish</b> [5] - 42:4, 51:4, 51:7, 78:3, 78:4  <b>established</b> [2] - 5:2, 52:16  <b>establishing</b> [1] - 52:24  <b>esteemed</b> [1] - 6:18  <b>estimate</b> [1] - 108:4  <b>estimates</b> [1] - 23:6  <b>estimation</b> [1] - 93:25  <b>etc</b> [1] - 19:25  <b>ethnic</b> [5] - 57:9, 118:16, 118:25, 119:3, 119:10  <b>even</b> [12] - 48:25, 75:17, 94:10, 103:12, 103:20, 104:3, 113:22, 125:14, 125:23, 135:15, 138:22, 140:24  <b>even-year</b> [1] - 75:17  <b>events</b> [2] - 45:24, 84:13  <b>eventual</b> [1] - 117:16  <b>eventually</b> [1] - 50:6  <b>ever</b> [3] - 3:18, 44:11, 104:24  <b>every</b> [20] - 18:6, 31:3, 31:8, 40:11, 42:9, 42:22, 44:18, 48:23, 58:11, 66:20, 67:8, 76:21, 93:11, 93:21, 108:25, 112:12, 123:13, 124:18, 129:3, 133:21  <b>Every</b> [1] - 9:1  <b>everybody</b> [5] - 17:2, 49:16, 49:18, 91:10, 103:13  <b>everyone</b> [3] - 70:16, 97:11, 135:12  <b>everyone's</b> [1] - 111:6  <b>everywhere</b> [1] - 114:3  <b>evidence</b> [3] - 72:7, 72:23, 103:4  <b>exactly</b> [3] - 103:23, 113:4, 130:22  <b>example</b> [23] - 11:10,</p>
---	--	--	--

<p>14:22, 15:7, 15:9, 15:11, 26:7, 26:23, 51:19, 56:19, 57:22, 68:12, 71:6, 73:3, 81:6, 101:5, 103:13, 103:18, 115:19, 117:20, 128:9, 130:4, 137:22, 140:25  <b>examples</b> [1] - 26:4  <b>Excel</b> [2] - 95:5, 96:13  <b>excellent</b> [1] - 15:13  <b>except</b> [1] - 35:11  <b>exceptional</b> [1] - 66:25  <b>exceptionally</b> [1] - 131:18  <b>excited</b> [4] - 17:3, 66:19, 104:12, 130:8  <b>excites</b> [1] - 102:25  <b>exciting</b> [2] - 75:7, 76:4  <b>excuse</b> [5] - 8:10, 9:9, 10:10, 15:16, 95:3  <b>excused</b> [1] - 18:6  <b>executive</b> [4] - 2:18, 6:3, 7:21, 42:8  <b>exempt</b> [1] - 29:20  <b>exercise</b> [5] - 10:3, 11:14, 14:18, 58:16, 60:25  <b>exercising</b> [1] - 63:13  <b>exhausted</b> [4] - 115:22, 119:8, 119:14, 119:18  <b>exhaustion</b> [18] - 113:19, 116:5, 116:17, 117:23, 119:1, 119:5, 120:7, 121:8, 122:8, 122:15, 125:16, 125:20, 128:19, 132:25, 134:20, 136:23, 140:10, 141:10  <b>exist</b> [1] - 21:19  <b>existing</b> [1] - 55:17  <b>exists</b> [2] - 35:1, 39:13  <b>exit</b> [1] - 48:22  <b>expand</b> [5] - 15:6, 16:5, 20:18, 61:23, 123:23  <b>expanded</b> [3] - 3:21, 14:12, 30:3  <b>expanding</b> [9] - 16:22, 19:19, 20:16, 21:3, 26:5, 28:13, 33:8, 33:24, 62:16  <b>expect</b> [4] - 44:13, 65:10, 91:9, 97:9  <b>expectation</b> [1] - 136:19  <b>expedite</b> [1] - 95:25  <b>expedited</b> [1] - 95:13  <b>expended</b> [1] - 99:13  <b>expenditures</b> [4] - 30:21, 135:13, 135:19, 136:7  <b>expenses</b> [1] - 99:4  <b>expensive</b> [1] - 86:18</p>	<p><b>experience</b> [4] - 63:21, 91:14, 91:24, 125:10  <b>experienced</b> [1] - 113:3  <b>experiences</b> [1] - 102:3  <b>experiencing</b> [1] - 112:23  <b>experiential</b> [1] - 58:21  <b>expert</b> [1] - 128:15  <b>expertise</b> [2] - 33:18, 127:24  <b>experts</b> [3] - 4:24, 5:15, 7:10  <b>explain</b> [6] - 6:3, 97:9, 98:15, 100:8, 100:19, 114:8  <b>explained</b> [2] - 28:25, 97:12  <b>export</b> [1] - 96:13  <b>exposed</b> [1] - 60:21  <b>exposure</b> [1] - 139:16  <b>express</b> [5] - 14:5, 14:6, 115:14, 116:3, 139:23  <b>expressed</b> [1] - 28:16  <b>expressing</b> [1] - 15:20  <b>expression</b> [1] - 116:4  <b>extensive</b> [2] - 22:9, 22:15  <b>extensively</b> [1] - 93:10  <b>extent</b> [7] - 13:19, 16:11, 18:21, 20:18, 22:12, 45:8, 89:23  <b>extraordinarily</b> [1] - 83:12  <b>extremely</b> [1] - 51:18</p>	<p><b>families</b> [3] - 54:21, 60:10, 61:20  <b>family</b> [5] - 13:10, 43:8, 43:10, 43:13, 59:19  <b>fan</b> [1] - 132:13  <b>far</b> [10] - 6:7, 44:24, 45:10, 63:6, 100:17, 106:12, 127:24, 128:1, 128:19, 129:9  <b>fascinating</b> [3] - 25:17, 133:17, 141:11  <b>fat</b> [1] - 41:5  <b>favorite</b> [1] - 140:25  <b>Fe</b> [11] - 68:16, 74:13, 74:21, 74:23, 75:20, 81:6, 81:11, 134:18, 134:25, 136:2, 136:4  <b>Fe's</b> [1] - 135:2  <b>feature</b> [1] - 78:5  <b>federal</b> [9] - 36:21, 53:24, 57:3, 63:20, 64:15, 87:20, 120:25, 121:6, 121:23  <b>Federal</b> [1] - 13:17  <b>fee</b> [1] - 139:17  <b>feel</b> [4] - 35:13, 60:3, 92:4, 127:7  <b>feels</b> [1] - 132:18  <b>feet</b> [1] - 26:20  <b>fellow</b> [2] - 4:7, 102:1  <b>felt</b> [1] - 132:16  <b>Fernandez</b> [1] - 2:18  <b>FERNANDEZ</b> [8] - 1:18, 2:17, 62:18, 63:14, 74:8, 75:1, 76:3, 77:10  <b>few</b> [8] - 4:13, 37:15, 66:4, 100:11, 105:23, 126:20, 127:23, 130:16  <b>fewer</b> [2] - 89:19, 141:2  <b>Fi</b> [1] - 43:18  <b>field</b> [2] - 133:22, 137:9  <b>fields</b> [2] - 67:25, 71:17  <b>figure</b> [3] - 53:19, 136:8, 140:19  <b>figuring</b> [1] - 125:12  <b>filig</b> [1] - 139:17  <b>filled</b> [3] - 74:3, 113:20, 125:19  <b>final</b> [14] - 70:13, 73:7, 73:16, 73:24, 85:14, 105:23, 113:24, 115:1, 120:15, 126:6, 129:5, 133:8, 134:23, 135:1  <b>finally</b> [4] - 12:7, 13:25, 30:24, 60:6  <b>finance</b> [4] - 86:19, 90:15, 90:18, 90:22  <b>Finance</b> [5] - 32:19, 39:2, 39:5, 39:8, 39:13</p>	<p><b>financing</b> [1] - 126:1  <b>find</b> [7] - 11:12, 46:24, 104:22, 126:10, 126:25, 136:25, 137:5  <b>finding</b> [2] - 40:21, 82:11  <b>finds</b> [1] - 118:18  <b>fine</b> [3] - 55:8, 87:17, 101:1  <b>finish</b> [1] - 136:20  <b>finished</b> [1] - 107:18  <b>finisher</b> [2] - 131:23, 133:20  <b>finishers</b> [4] - 78:20, 132:3, 132:7, 133:18  <b>finishes</b> [2] - 70:12, 120:13  <b>fire</b> [1] - 29:2  <b>first</b> [43] - 3:18, 3:22, 4:19, 5:7, 7:16, 14:19, 20:13, 28:10, 31:7, 37:9, 54:10, 59:6, 67:12, 68:17, 70:12, 70:14, 74:23, 76:13, 77:20, 80:5, 81:18, 85:14, 93:20, 94:16, 99:5, 100:13, 107:4, 109:22, 111:11, 111:13, 112:11, 113:18, 114:15, 114:18, 121:19, 122:24, 127:24, 131:8, 131:23, 132:4, 136:4, 139:9  <b>Fiscal</b> [2] - 66:12, 102:17  <b>fiscal</b> [3] - 105:16, 106:3, 106:12  <b>fit</b> [1] - 133:5  <b>fits</b> [1] - 113:5  <b>five</b> [17] - 6:22, 11:16, 42:9, 50:24, 58:22, 65:6, 68:18, 68:20, 82:15, 91:22, 115:3, 134:20, 134:24, 135:12, 137:10, 139:23, 141:5  <b>five-candidate</b> [1] - 68:18  <b>fixes</b> [1] - 10:18  <b>flag</b> [1] - 71:1  <b>flash</b> [2] - 93:10, 98:14  <b>flaunted</b> [1] - 35:15  <b>flexible</b> [1] - 14:24  <b>floor</b> [1] - 13:18  <b>Floor</b> [1] - 1:4  <b>Flushing</b> [1] - 49:17  <b>flyer</b> [1] - 43:4  <b>focus</b> [11] - 8:19, 49:8, 68:24, 70:25, 77:9, 91:21, 92:13, 92:15, 95:19, 123:16, 129:17</p>
<b>F</b>			
<p><b>F</b> [1] - 142:1  <b>facial</b> [1] - 15:15  <b>facing</b> [1] - 46:19  <b>fact</b> [23] - 16:8, 25:23, 26:17, 32:2, 32:6, 33:2, 45:2, 61:9, 63:11, 67:14, 75:2, 82:6, 87:3, 87:17, 99:8, 105:11, 105:18, 106:6, 109:11, 110:23, 117:5, 124:12, 128:13  <b>factoid</b> [1] - 69:23  <b>factor</b> [5] - 87:15, 107:9, 114:1, 126:14, 134:11  <b>factors</b> [2] - 92:4, 92:9  <b>failed</b> [1] - 50:23  <b>failing</b> [1] - 50:20  <b>failure</b> [2] - 27:24, 50:7  <b>Fair</b> [2] - 66:3, 67:2  <b>fair</b> [2] - 40:6, 76:10  <b>fairly</b> [3] - 42:21, 125:20, 126:7  <b>fall</b> [1] - 113:11  <b>familiar</b> [1] - 4:14</p>			

<p><b>focused</b> [3] - 67:4, 96:21, 99:14  <b>focusing</b> [1] - 4:15  <b>folks</b> [2] - 58:15, 89:7  <b>follow</b> [12] - 5:22, 16:25, 18:13, 18:24, 24:21, 26:9, 27:24, 28:20, 44:25, 79:24, 97:22, 129:14  <b>follow-up</b> [3] - 18:13, 18:24, 44:25  <b>following</b> [3] - 26:2, 34:9, 37:6  <b>for</b> [262] - 2:12, 2:20, 2:21, 2:22, 3:6, 3:7, 4:2, 4:14, 4:23, 5:2, 5:20, 6:6, 6:15, 6:22, 6:24, 7:6, 7:25, 8:14, 10:16, 11:10, 11:16, 12:9, 12:19, 13:16, 13:18, 14:5, 14:11, 14:15, 14:22, 15:7, 15:9, 15:10, 16:7, 16:8, 16:17, 18:6, 18:7, 18:10, 18:14, 19:13, 19:18, 19:19, 20:2, 20:6, 20:23, 20:25, 21:1, 21:7, 21:24, 24:7, 25:16, 26:16, 28:14, 28:17, 29:3, 29:5, 29:6, 29:9, 29:14, 31:23, 33:5, 33:6, 36:21, 37:2, 37:4, 37:14, 37:21, 39:23, 40:3, 40:8, 41:5, 42:4, 42:10, 42:13, 42:21, 43:16, 44:4, 44:22, 45:18, 46:6, 47:6, 47:15, 48:4, 48:8, 48:9, 48:16, 48:25, 49:1, 49:9, 49:11, 50:7, 50:8, 50:16, 50:20, 50:24, 51:5, 51:10, 51:13, 51:19, 52:19, 53:5, 53:9, 54:19, 54:20, 55:4, 55:23, 56:2, 56:5, 56:13, 56:17, 56:19, 57:7, 57:12, 57:13, 57:22, 58:5, 58:8, 59:2, 59:5, 60:11, 60:17, 61:3, 62:2, 63:5, 63:13, 63:15, 63:19, 64:1, 64:9, 64:14, 65:1, 65:12, 65:16, 65:21, 65:22, 65:24, 66:6, 67:13, 67:19, 67:24, 68:17, 68:19, 69:19, 69:24, 70:1, 70:2, 70:7, 70:16, 71:2, 74:8, 74:22, 75:7, 77:24, 79:3, 80:25, 82:14, 82:25, 86:1, 86:4, 86:7, 86:12, 86:25, 87:12, 87:19, 87:23, 87:25, 88:7, 88:16,</p>	<p>88:20, 89:9, 89:25, 90:8, 90:12, 91:25, 92:15, 92:19, 93:2, 94:3, 95:3, 96:4, 96:12, 96:15, 97:17, 98:25, 99:5, 99:13, 99:19, 99:21, 101:7, 101:13, 102:14, 103:3, 103:13, 103:18, 103:19, 104:3, 104:20, 105:8, 105:12, 108:19, 108:20, 109:4, 110:10, 110:24, 111:16, 111:21, 111:22, 111:25, 113:17, 115:3, 115:4, 116:8, 116:10, 117:3, 117:10, 117:20, 118:19, 119:23, 120:13, 121:2, 122:11, 122:21, 123:8, 124:3, 126:1, 126:14, 127:10, 127:18, 128:9, 128:10, 128:17, 129:21, 130:4, 131:3, 133:1, 137:14, 137:24, 138:1, 138:5, 138:6, 139:7, 139:13, 139:16, 140:19, 140:25, 141:4, 142:6  <b>force</b> [1] - 46:21  <b>forced</b> [4] - 12:3, 36:20, 37:2, 94:22  <b>foremost</b> [3] - 94:16, 100:13, 139:9  <b>forever</b> [1] - 65:5  <b>forgetting</b> [1] - 33:10  <b>forgiveness</b> [1] - 16:7  <b>form</b> [3] - 43:7, 43:10, 78:7  <b>format</b> [1] - 118:2  <b>formats</b> [1] - 118:14  <b>former</b> [5] - 3:9, 3:17, 4:9, 11:11  <b>forms</b> [8] - 5:20, 12:14, 12:16, 23:24, 24:7, 24:9, 30:16, 30:19  <b>fortunately</b> [1] - 99:25  <b>forum</b> [1] - 97:9  <b>forums</b> [5] - 5:8, 5:17, 6:12, 96:23, 97:4  <b>forward</b> [6] - 6:17, 14:17, 44:16, 60:11, 60:24, 123:17  <b>found</b> [1] - 133:17  <b>foundation</b> [1] - 101:25  <b>founded</b> [1] - 48:20  <b>founder</b> [1] - 3:13  <b>four</b> [11] - 7:12, 42:19, 82:13, 89:16, 90:20, 93:21, 118:8, 125:18, 137:18, 137:20, 139:23  <b>fours</b> [1] - 45:22  <b>fourth</b> [3] - 134:16,</p>	<p>134:17, 137:3  <b>fraction</b> [2] - 23:9, 107:2  <b>franchise</b> [3] - 14:12, 28:14, 62:16  <b>Francisco</b> [33] - 69:22, 73:4, 73:14, 73:22, 79:4, 79:10, 79:22, 81:1, 82:9, 87:18, 88:22, 112:5, 112:8, 116:23, 117:22, 118:17, 119:10, 121:9, 121:21, 125:17, 125:22, 125:24, 125:25, 126:21, 133:2, 133:13, 134:21, 135:5, 137:16, 138:2, 138:4, 138:10  <b>Francisco's</b> [1] - 126:2  <b>frankly</b> [5] - 15:18, 28:8, 28:18, 91:24, 123:8  <b>freedom</b> [2] - 71:24, 71:25  <b>Friday</b> [1] - 17:17  <b>from</b> [80] - 2:16, 3:18, 3:21, 3:22, 4:12, 5:7, 5:17, 6:14, 6:17, 6:18, 6:22, 7:12, 7:19, 15:2, 15:17, 16:1, 17:14, 17:15, 21:6, 26:20, 29:10, 29:20, 31:8, 33:22, 35:10, 35:13, 39:2, 39:7, 41:3, 44:6, 46:18, 46:24, 48:4, 48:6, 54:22, 57:5, 59:8, 61:19, 62:15, 66:6, 66:9, 69:6, 72:12, 73:2, 73:3, 74:17, 77:15, 81:15, 83:11, 86:23, 89:15, 90:20, 91:18, 93:7, 93:12, 96:1, 96:8, 96:12, 96:16, 101:14, 102:1, 102:20, 103:17, 103:20, 103:22, 104:6, 104:18, 105:10, 106:15, 110:22, 117:17, 118:10, 126:10, 127:23, 128:6, 128:22, 131:10, 136:1, 137:13  <b>front</b> [4] - 28:1, 75:8, 108:17, 112:9  <b>front-runner</b> [1] - 75:8  <b>frontrunner</b> [4] - 111:8, 123:9, 124:7, 124:20  <b>frustrated</b> [1] - 41:11  <b>full</b> [2] - 12:1, 41:18  <b>full-time</b> [1] - 41:18  <b>fully</b> [2] - 23:17, 65:1  <b>function</b> [2] - 41:17, 109:24  <b>functioning</b> [1] - 41:16  <b>functions</b> [1] - 95:7  <b>Fund</b> [3] - 3:13, 8:2,</p>	<p>48:19  <b>fundamental</b> [1] - 14:1  <b>fundamentally</b> [1] - 115:21  <b>funding</b> [1] - 32:21  <b>further</b> [5] - 11:14, 16:14, 18:19, 61:25, 142:10  <b>future</b> [1] - 119:16</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/> <p><b>gains</b> [1] - 21:3  <b>gave</b> [1] - 84:16  <b>gears</b> [1] - 108:16  <b>geez</b> [1] - 100:25  <b>general</b> [10] - 27:21, 43:6, 75:15, 94:6, 101:9, 120:24, 128:21, 129:5, 133:3, 140:16  <b>generally</b> [2] - 104:4, 119:2  <b>generate</b> [1] - 96:10  <b>generation</b> [2] - 24:14, 58:19  <b>Generation</b> [3] - 8:4, 58:7, 58:9  <b>generous</b> [1] - 125:25  <b>geographic</b> [1] - 55:15  <b>geography</b> [2] - 11:1, 107:8  <b>get</b> [47] - 6:2, 7:2, 12:6, 12:7, 17:1, 17:3, 21:12, 21:22, 29:10, 40:14, 41:7, 41:22, 42:12, 42:13, 42:14, 43:23, 47:5, 47:11, 51:1, 64:3, 69:9, 70:14, 71:10, 71:13, 78:11, 78:13, 79:19, 81:11, 85:13, 88:9, 99:8, 104:25, 105:12, 105:13, 110:16, 114:9, 114:21, 115:18, 117:1, 120:12, 125:1, 125:22, 127:9, 133:16, 135:14, 137:1, 137:6  <b>gets</b> [7] - 17:4, 42:22, 43:4, 65:9, 114:20, 114:22, 122:17  <b>getter</b> [1] - 79:19  <b>getting</b> [7] - 21:16, 32:8, 33:13, 69:14, 72:13, 119:14, 122:3  <b>GEWOLB</b> [5] - 1:18, 6:5, 7:8, 7:15, 65:8  <b>Gewolb</b> [2] - 4:13, 6:3  <b>give</b> [15] - 5:15, 6:25, 11:12, 16:18, 26:4, 45:8, 61:13, 73:2, 111:24, 124:17, 127:25, 136:18,</p>
---	--	--	---

<p>137:21, 140:6, 140:16  <b>given</b> [4] - 19:10, 60:23, 63:17, 129:18  <b>gives</b> [1] - 22:8  <b>giving</b> [4] - 33:25, 41:25, 61:18, 118:22  <b>go</b> [33] - 18:1, 18:19, 21:20, 22:20, 26:14, 31:7, 36:6, 45:10, 45:25, 46:19, 47:4, 55:7, 65:5, 67:8, 67:10, 70:4, 77:1, 86:21, 87:24, 93:14, 94:15, 98:20, 99:7, 100:22, 101:2, 105:5, 111:11, 114:18, 115:25, 120:23, 135:14, 135:15  <b>GODSIL</b> [10] - 1:19, 34:3, 34:22, 35:16, 53:8, 53:25, 122:6, 124:3, 141:14, 141:16  <b>Godsil</b> [2] - 32:2, 129:15  <b>goes</b> [3] - 5:1, 66:6, 111:12  <b>going</b> [68] - 5:12, 6:2, 6:21, 7:2, 8:10, 21:8, 21:14, 24:6, 24:10, 24:20, 28:3, 28:4, 28:5, 28:9, 32:10, 35:25, 39:25, 44:25, 46:14, 47:22, 49:8, 60:6, 72:20, 72:24, 75:4, 75:16, 77:5, 79:7, 79:17, 85:3, 85:5, 89:15, 102:17, 104:17, 104:22, 104:24, 105:2, 105:3, 105:5, 105:18, 106:6, 110:16, 112:16, 115:16, 116:3, 123:12, 123:19, 125:9, 125:22, 126:5, 126:6, 126:22, 127:3, 128:7, 129:4, 129:19, 130:6, 130:13, 132:21, 135:4, 135:20, 135:21, 135:22, 136:18, 140:20, 141:7  <b>gone</b> [1] - 136:19  <b>good</b> [33] - 2:1, 2:25, 3:16, 4:6, 8:15, 15:20, 16:4, 18:5, 41:7, 42:11, 45:7, 46:8, 46:10, 47:20, 48:15, 58:4, 66:18, 72:12, 72:15, 79:20, 82:25, 86:13, 89:8, 97:24, 103:9, 108:23, 109:3, 113:12, 113:16, 125:12, 130:15, 131:2, 132:17  <b>gosh</b> [1] - 80:17  <b>got</b> [17] - 5:24, 7:21, 40:17, 65:6, 76:23,</p>	<p>76:25, 78:24, 84:22, 97:25, 111:25, 115:5, 115:13, 124:24, 129:20, 130:7  <b>governance</b> [1] - 4:8  <b>governing</b> [1] - 19:4  <b>government</b> [3] - 22:10, 41:7, 79:12  <b>governor</b> [6] - 70:1, 76:12, 121:3, 137:22, 137:24, 138:6  <b>Grace</b> [3] - 66:8, 92:25, 127:19  <b>gradual</b> [1] - 31:11  <b>grant</b> [2] - 15:3, 41:7  <b>graph</b> [2] - 74:14  <b>graphs</b> [1] - 74:10  <b>Gray</b> [3] - 7:23, 17:14, 40:2  <b>GRAY</b> [7] - 17:13, 17:23, 19:24, 40:3, 44:15, 47:10, 47:24  <b>gray</b> [1] - 26:3  <b>Great</b> [1] - 90:7  <b>great</b> [9] - 4:1, 17:9, 25:6, 67:5, 73:15, 77:10, 116:11, 140:3, 141:12  <b>greater</b> [5] - 4:17, 24:9, 24:10, 28:22, 86:24  <b>greatest</b> [1] - 126:10  <b>GREENBERGER</b> [1] - 1:19  <b>Greenville</b> [1] - 59:11  <b>grew</b> [1] - 80:1  <b>Grossman</b> [8] - 7:3, 7:4, 7:18, 8:5, 8:6, 15:6, 25:12, 25:21  <b>GROSSMAN</b> [18] - 8:13, 15:13, 17:9, 17:22, 18:12, 18:17, 19:6, 19:17, 20:9, 20:11, 21:25, 22:6, 22:22, 23:1, 23:5, 24:17, 25:2, 45:6  <b>ground</b> [3] - 6:4, 6:21, 113:7  <b>groundwork</b> [1] - 16:16  <b>group</b> [7] - 5:8, 48:7, 51:5, 51:7, 52:23, 57:4, 72:13  <b>groups</b> [12] - 41:7, 50:12, 51:5, 52:16, 52:18, 57:9, 57:11, 57:13, 61:18, 118:16, 118:20, 119:11  <b>growing</b> [1] - 67:20  <b>guarantee</b> [1] - 91:22  <b>guaranteed</b> [1] - 30:5  <b>guess</b> [6] - 2:12, 22:19, 79:14, 81:10, 105:4,</p>	<p>133:25  <b>guidance</b> [1] - 16:11  <b>guys</b> [6] - 111:25, 112:11, 112:19, 113:6, 116:22, 117:4</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>habit</b> [3] - 21:12, 21:13, 59:18  <b>had</b> [68] - 14:24, 19:8, 21:22, 35:12, 40:12, 41:1, 43:1, 48:1, 49:14, 49:20, 49:23, 49:24, 50:6, 50:10, 50:19, 51:2, 52:22, 56:12, 69:8, 73:17, 73:25, 74:11, 75:3, 75:6, 78:23, 78:25, 79:10, 81:4, 81:16, 83:13, 83:17, 83:18, 83:19, 84:16, 88:6, 88:20, 89:4, 89:6, 89:16, 89:25, 99:6, 100:1, 100:2, 100:3, 101:11, 108:1, 108:4, 112:4, 113:3, 113:21, 118:1, 119:11, 121:2, 121:22, 130:21, 131:22, 132:10, 132:12, 133:23, 133:24, 134:22, 135:5, 137:14, 139:6  <b>HAGHNAZARI</b> [2] - 142:6, 142:18  <b>Haitian</b> [1] - 26:12  <b>half</b> [3] - 42:18, 117:24, 117:25  <b>ham</b> [4] - 100:23, 101:1, 101:2  <b>hand</b> [4] - 36:9, 65:23, 134:8, 142:14  <b>handle</b> [4] - 31:12, 42:3, 72:20, 87:14  <b>handled</b> [2] - 87:17, 139:3  <b>handling</b> [1] - 138:9  <b>handout</b> [5] - 67:7, 68:4, 68:12, 69:19, 70:25  <b>handouts</b> [2] - 68:23, 117:21  <b>hands</b> [3] - 40:13, 41:24, 81:16  <b>hands-on</b> [1] - 41:24  <b>happen</b> [6] - 44:11, 56:9, 80:13, 103:14, 114:7, 135:4  <b>happened</b> [5] - 20:7, 75:13, 75:16, 84:6, 132:5  <b>happening</b> [4] - 57:6, 72:16, 130:10, 134:3  <b>happens</b> [6] - 64:7,</p>	<p>64:12, 75:15, 114:6, 124:19, 130:7  <b>happy</b> [1] - 53:20  <b>hard</b> [2] - 84:8, 140:15  <b>harder</b> [1] - 140:19  <b>hardware</b> [1] - 94:18  <b>harm</b> [2] - 119:20, 119:21  <b>Harry</b> [1] - 7:3  <b>has</b> [63] - 6:8, 7:10, 16:9, 22:11, 22:15, 25:21, 26:24, 27:11, 27:12, 29:1, 31:10, 31:11, 32:3, 32:22, 33:3, 34:16, 35:18, 36:15, 36:20, 36:22, 37:7, 40:7, 41:9, 43:22, 44:19, 45:2, 56:10, 56:16, 62:21, 64:17, 67:13, 67:19, 69:1, 69:4, 70:6, 70:24, 76:21, 79:23, 80:9, 81:8, 82:3, 88:17, 90:24, 93:20, 95:14, 96:6, 97:2, 101:25, 106:13, 112:12, 113:11, 113:17, 114:23, 118:17, 125:25, 126:10, 129:25, 130:9, 130:11, 132:13, 133:10, 139:7, 139:11  <b>hasn't</b> [1] - 36:4  <b>hate</b> [1] - 105:14  <b>have</b> [224] - 2:2, 2:21, 3:25, 5:25, 7:1, 12:10, 12:21, 13:1, 13:14, 14:12, 14:23, 15:19, 16:10, 17:10, 20:13, 20:22, 20:23, 20:25, 21:9, 22:21, 22:22, 22:23, 23:2, 23:5, 23:24, 24:1, 24:23, 26:7, 26:15, 26:23, 27:19, 27:25, 28:5, 28:6, 28:9, 28:17, 30:23, 31:2, 31:9, 31:10, 31:18, 32:5, 32:11, 32:18, 32:24, 34:5, 35:11, 35:22, 35:25, 36:19, 40:9, 40:11, 40:25, 41:11, 42:18, 42:25, 46:20, 46:22, 46:25, 47:8, 47:13, 49:2, 49:5, 49:6, 50:11, 50:14, 51:5, 51:9, 51:21, 52:20, 53:2, 53:14, 55:13, 56:4, 56:17, 57:4, 57:7, 57:14, 57:23, 58:15, 58:24, 62:20, 63:18, 64:13, 67:6, 67:14, 68:11, 68:13, 68:15, 69:7, 69:8, 70:7, 71:1, 71:12, 71:17, 71:20, 71:23, 72:1,</p>
---	---	--	--

<p>72:10, 73:18, 74:6, 76:20, 76:22, 77:3, 77:8, 77:13, 78:10, 78:12, 80:7, 80:25, 81:1, 81:5, 81:8, 81:10, 81:12, 81:13, 83:15, 84:5, 84:6, 84:11, 84:18, 85:4, 85:5, 85:6, 86:2, 86:16, 87:12, 89:19, 91:3, 91:4, 92:5, 92:6, 92:21, 93:10, 93:22, 94:11, 95:4, 97:8, 98:18, 99:1, 99:13, 99:17, 99:24, 100:1, 100:2, 100:10, 100:16, 100:23, 100:24, 101:11, 101:21, 102:24, 103:7, 103:10, 103:12, 103:20, 103:22, 104:9, 104:11, 104:16, 104:19, 104:21, 104:25, 105:20, 107:24, 108:5, 108:7, 108:15, 108:25, 109:3, 109:9, 109:15, 109:20, 110:4, 110:5, 112:7, 112:8, 112:9, 112:24, 112:25, 114:14, 115:15, 116:8, 118:1, 118:7, 120:1, 120:15, 121:1, 121:15, 126:8, 127:1, 127:22, 128:4, 128:7, 128:22, 129:1, 129:12, 130:2, 130:24, 130:25, 131:3, 132:5, 132:6, 134:25, 136:17, 136:19, 137:3, 137:18, 138:18, 138:19, 138:22, 138:24, 139:10, 139:16, 139:20, 139:23, 140:2, 141:9, 142:14 <b>have you</b> [12] - 19:10, 19:15, 20:3, 37:18, 37:21, 61:11, 61:15, 63:17, 63:22, 86:7, 103:22, 134:4 <b>haven't</b> [6] - 18:18, 20:15, 53:21, 80:8, 103:25, 129:16 <b>having</b> [19] - 5:3, 7:11, 23:13, 30:19, 44:18, 48:16, 52:15, 52:16, 52:17, 52:23, 64:25, 69:17, 76:2, 77:4, 82:21, 82:22, 82:23, 107:18, 111:21 <b>he</b> [20] - 4:20, 4:21, 4:22, 75:10, 76:13, 76:15, 76:25, 84:25, 85:3, 85:5, 92:21, 111:19, 113:1, 118:18, 123:10, 126:23, 135:13, 135:14</p>	<p><b>head</b> [2] - 15:24, 45:16 <b>headquartered</b> [1] - 48:20 <b>health</b> [2] - 13:11, 14:7 <b>healthier</b> [2] - 91:2, 105:8 <b>healthy</b> [3] - 92:8, 92:13, 100:9 <b>hear</b> [9] - 4:12, 6:18, 69:6, 72:24, 81:15, 81:23, 85:11, 101:16, 137:13 <b>heard</b> [10] - 5:6, 5:10, 5:17, 6:13, 7:12, 7:18, 48:17, 55:25, 102:19, 108:5 <b>hearing</b> [3] - 6:17, 44:9, 86:22 <b>HEARING</b> [1] - 1:2 <b>hearings</b> [2] - 53:4, 56:1 <b>heartfelt</b> [1] - 65:7 <b>heaviest</b> [1] - 10:4 <b>held</b> [2] - 5:8, 65:19 <b>hello</b> [1] - 3:4 <b>help</b> [7] - 11:22, 15:21, 25:22, 34:15, 43:15, 55:21, 85:18 <b>helpful</b> [8] - 51:18, 52:19, 52:22, 53:1, 55:9, 96:18, 124:9, 136:11 <b>helping</b> [2] - 44:23, 68:9 <b>helps</b> [2] - 33:5, 136:14 <b>her</b> [6] - 73:11, 73:12, 80:25, 132:16, 135:5, 136:3 <b>here</b> [32] - 2:7, 2:11, 3:2, 6:24, 6:25, 7:6, 13:20, 16:18, 21:25, 23:6, 25:2, 25:7, 25:11, 48:21, 56:9, 67:10, 68:1, 68:23, 83:4, 86:8, 88:16, 93:5, 107:24, 112:20, 112:21, 118:8, 119:9, 120:6, 133:5, 137:16, 138:16, 141:12 <b>here's</b> [1] - 41:15 <b>hereby</b> [1] - 142:7 <b>hereunto</b> [1] - 142:14 <b>hey</b> [2] - 86:16, 87:22 <b>hi</b> [1] - 22:17 <b>high</b> [10] - 10:6, 35:20, 35:23, 42:13, 42:14, 47:18, 56:23, 93:17, 94:16, 116:20 <b>higher</b> [7] - 63:6, 70:18, 103:10, 103:12, 108:4, 119:5, 122:3 <b>highest</b> [1] - 75:3 <b>highlight</b> [1] - 68:24</p>	<p><b>highly</b> [1] - 43:25 <b>Hilary</b> [1] - 79:25 <b>him</b> [2] - 110:17, 127:16 <b>hindsight</b> [1] - 84:1 <b>hire</b> [1] - 29:2 <b>hired</b> [1] - 40:17 <b>his</b> [7] - 8:11, 84:24, 84:25, 85:2, 110:17, 111:19, 135:12 <b>history</b> [2] - 72:25, 137:3 <b>HO</b> [10] - 1:20, 2:25, 55:4, 57:7, 63:15, 64:12, 65:3, 85:25, 101:13, 101:16 <b>Ho</b> [1] - 2:25 <b>Hofstra</b> [1] - 66:15 <b>hold</b> [1] - 39:22 <b>holistically</b> [1] - 53:11 <b>home</b> [3] - 13:13, 119:2, 119:19 <b>Home</b> [2] - 18:25, 22:7 <b>homework</b> [1] - 133:23 <b>honest</b> [1] - 98:5 <b>honestly</b> [2] - 95:21, 123:5 <b>honor</b> [3] - 2:2, 93:5, 102:12 <b>honored</b> [1] - 58:20 <b>hope</b> [3] - 20:21, 39:10, 101:24 <b>hopefully</b> [1] - 38:22 <b>horse</b> [1] - 32:16 <b>hot</b> [1] - 118:22 <b>hourly</b> [1] - 44:20 <b>hours</b> [1] - 42:19 <b>House</b> [1] - 3:25 <b>housed</b> [1] - 30:10 <b>how</b> [44] - 4:21, 8:19, 19:15, 26:8, 31:10, 34:22, 37:23, 41:17, 44:13, 47:11, 55:16, 57:7, 63:17, 68:1, 69:13, 70:4, 70:10, 70:19, 72:15, 72:20, 84:24, 85:8, 87:22, 96:19, 97:12, 97:13, 104:24, 108:8, 113:4, 113:12, 113:20, 114:9, 116:15, 118:15, 118:23, 118:25, 122:7, 123:24, 128:20, 129:6, 132:18, 133:15, 140:22 <b>how do</b> [6] - 19:14, 47:5, 62:7, 108:1, 126:14, 127:10 <b>how many</b> [1] - 43:12 <b>however</b> [7] - 85:14, 119:8, 119:15, 127:25,</p>	<p>133:9, 135:6, 139:11 <b>huge</b> [3] - 83:15, 84:12, 136:14 <b>human</b> [1] - 24:11 <b>hundred</b> [3] - 27:16, 27:21, 49:2 <b>Hyattsville</b> [1] - 59:11</p> <hr/> <p><b>I</b></p> <p><b>I</b> [437] - 2:2, 2:4, 2:6, 2:12, 2:21, 3:1, 3:4, 3:12, 3:20, 3:22, 3:25, 4:8, 4:13, 4:18, 5:12, 6:2, 6:17, 7:1, 7:7, 7:9, 8:7, 8:16, 8:22, 9:18, 14:13, 14:15, 14:16, 14:20, 14:23, 15:1, 15:15, 15:23, 16:2, 16:6, 16:14, 16:17, 16:18, 16:20, 17:10, 17:24, 18:18, 19:8, 19:18, 20:13, 20:15, 20:16, 20:19, 21:25, 22:17, 22:19, 23:5, 23:6, 23:15, 23:16, 23:18, 24:5, 24:13, 25:5, 25:10, 25:20, 26:16, 27:25, 28:6, 28:8, 28:15, 28:16, 28:18, 28:21, 29:6, 29:11, 29:14, 30:19, 31:4, 31:7, 31:9, 31:14, 31:16, 31:20, 31:25, 32:5, 32:6, 32:17, 32:24, 33:5, 33:11, 33:21, 34:3, 34:7, 34:17, 34:21, 34:22, 35:5, 36:2, 36:10, 36:19, 37:6, 37:7, 37:8, 37:25, 38:16, 39:7, 39:8, 39:9, 40:25, 41:1, 41:3, 42:11, 43:11, 44:15, 44:20, 45:1, 45:6, 45:7, 45:12, 45:13, 45:16, 45:25, 46:17, 46:19, 46:24, 47:12, 47:17, 48:11, 48:18, 52:25, 53:4, 53:17, 54:16, 55:5, 55:8, 55:20, 56:11, 57:10, 57:12, 58:7, 58:12, 58:16, 59:4, 61:16, 61:17, 61:25, 62:11, 62:22, 62:23, 63:2, 63:21, 64:8, 64:23, 65:4, 65:23, 66:20, 66:22, 67:1, 67:7, 67:8, 68:3, 68:5, 68:23, 69:12, 69:20, 70:4, 70:25, 71:1, 71:22, 72:6, 72:19, 72:22, 72:24, 73:16, 74:10, 74:11, 74:13, 74:18, 75:1, 75:4, 75:6,</p>
---	--	--	--

<p>75:12, 76:9, 76:17, 76:19, 77:13, 77:14, 77:19, 78:2, 79:4, 79:14, 79:20, 79:21, 80:10, 80:12, 81:10, 81:14, 82:7, 82:10, 82:20, 82:22, 82:25, 83:2, 83:3, 83:15, 83:16, 83:23, 83:24, 84:7, 84:14, 84:15, 84:17, 84:21, 85:11, 85:18, 86:13, 87:2, 87:4, 87:13, 87:20, 88:4, 88:22, 89:2, 90:13, 92:8, 92:11, 92:14, 92:16, 92:20, 93:1, 93:5, 93:9, 93:15, 94:8, 94:9, 96:20, 97:17, 97:21, 97:22, 97:23, 97:25, 98:1, 98:2, 98:4, 98:5, 98:12, 98:17, 98:21, 98:23, 98:24, 99:1, 99:3, 99:9, 99:16, 100:1, 100:14, 100:16, 100:20, 101:5, 101:24, 102:5, 102:16, 102:18, 102:19, 102:22, 103:1, 103:2, 103:3, 103:4, 103:9, 103:24, 104:1, 104:2, 104:10, 104:11, 104:13, 104:24, 105:2, 105:4, 105:6, 105:8, 105:11, 105:15, 105:20, 105:21, 106:1, 106:2, 106:4, 106:6, 106:7, 106:8, 106:13, 106:18, 106:22, 106:23, 107:24, 108:15, 108:16, 108:22, 108:23, 109:5, 109:8, 109:10, 109:11, 109:16, 110:16, 111:25, 112:1, 112:3, 112:7, 112:9, 112:10, 112:11, 112:18, 113:7, 113:10, 113:14, 114:3, 115:2, 115:3, 115:4, 115:9, 115:10, 115:11, 115:18, 115:21, 116:11, 116:22, 117:3, 117:21, 118:10, 118:12, 118:21, 119:23, 120:7, 121:24, 123:19, 123:20, 123:22, 123:23, 124:17, 125:14, 126:2, 126:9, 127:15, 127:21, 127:22, 127:25, 128:10, 128:11, 128:15, 128:16, 128:19, 128:22, 129:7, 129:11, 129:13, 129:16, 129:17, 129:18, 129:19, 129:22, 130:9, 130:23, 131:5, 131:15, 132:21, 132:23, 133:17,</p>	<p>133:19, 133:25, 134:11, 134:14, 134:23, 135:7, 135:17, 135:23, 135:25, 136:2, 136:10, 136:13, 136:25, 137:5, 137:15, 137:23, 137:25, 138:2, 138:8, 138:11, 138:13, 138:14, 138:16, 138:17, 138:25, 139:1, 139:7, 139:24, 140:5, 140:16, 141:5, 141:11, 142:1, 142:6, 142:10, 142:12, 142:14</p> <p><b>i</b><sup>[1]</sup> - 111:12</p> <p><b>I'd</b><sup>[15]</sup> - 16:24, 32:1, 39:18, 58:2, 61:7, 90:4, 91:11, 91:17, 93:17, 96:16, 125:3, 127:4, 127:16</p> <p><b>I'll</b><sup>[25]</sup> - 2:8, 6:25, 14:18, 67:9, 73:2, 73:3, 86:2, 94:15, 98:4, 101:1, 105:18, 105:23, 107:21, 110:18, 111:24, 112:10, 127:19, 130:16, 134:8, 134:16, 135:18, 137:12, 137:21</p> <p><b>I'm</b><sup>[72]</sup> - 2:11, 2:18, 3:8, 3:17, 3:18, 4:3, 4:4, 4:6, 4:7, 6:2, 6:16, 8:10, 18:9, 18:19, 19:15, 20:5, 24:19, 24:20, 25:3, 25:9, 32:10, 33:6, 33:7, 33:10, 33:17, 33:23, 35:3, 38:6, 38:7, 39:9, 44:25, 48:8, 53:18, 60:6, 64:18, 64:20, 66:19, 67:1, 75:4, 77:14, 86:22, 92:19, 97:17, 97:20, 97:22, 100:18, 101:1, 102:16, 102:17, 104:17, 104:22, 105:5, 105:20, 105:24, 106:16, 107:17, 111:22, 118:21, 119:24, 122:6, 122:23, 123:18, 123:19, 124:16, 127:24, 128:15, 136:17, 140:3</p> <p><b>I've</b><sup>[7]</sup> - 2:13, 41:2, 64:5, 116:21, 118:11, 118:22, 126:20</p> <p><b>ICE</b><sup>[1]</sup> - 61:11</p> <p><b>ID</b><sup>[1]</sup> - 61:22</p> <p><b>idea</b><sup>[7]</sup> - 45:7, 67:12, 90:11, 103:5, 103:6, 122:25, 123:4</p> <p><b>ideas</b><sup>[2]</sup> - 5:10, 46:21</p> <p><b>identify</b><sup>[3]</sup> - 95:22, 113:10, 114:14</p> <p><b>idiosyncrasies</b><sup>[1]</sup> - 123:13</p>	<p><b>if</b><sup>[105]</sup> - 7:7, 14:23, 17:4, 17:6, 20:2, 20:4, 20:5, 21:22, 24:1, 28:2, 34:24, 35:12, 36:2, 36:6, 38:7, 42:13, 42:16, 44:8, 44:12, 45:15, 45:25, 46:13, 51:14, 51:21, 52:22, 53:16, 53:19, 53:22, 53:24, 55:10, 64:12, 70:11, 73:17, 74:18, 76:23, 78:4, 78:10, 78:16, 78:18, 79:9, 79:23, 80:13, 80:15, 81:4, 83:2, 84:21, 86:8, 90:3, 91:21, 94:11, 98:21, 98:22, 99:23, 100:4, 100:8, 103:4, 103:13, 103:15, 103:16, 103:17, 103:19, 103:20, 103:21, 104:19, 104:25, 105:4, 105:22, 109:7, 109:8, 109:22, 110:13, 111:13, 114:11, 115:3, 115:9, 115:10, 115:16, 117:7, 117:20, 118:1, 119:6, 119:16, 120:12, 123:7, 123:8, 123:18, 123:20, 123:23, 124:1, 124:20, 124:23, 128:25, 129:13, 132:3, 133:18, 134:24, 135:4, 135:12, 138:19, 138:21, 139:23, 140:20</p> <p><b>ignore</b><sup>[1]</sup> - 28:3</p> <p><b>ill</b><sup>[1]</sup> - 15:4</p> <p><b>imagination</b><sup>[1]</sup> - 24:5</p> <p><b>imagine</b><sup>[1]</sup> - 103:13</p> <p><b>immediately</b><sup>[2]</sup> - 7:11, 66:16</p> <p><b>immigrant</b><sup>[3]</sup> - 2:20, 3:18, 10:6</p> <p><b>Immigrant</b><sup>[1]</sup> - 26:13</p> <p><b>immigrants</b><sup>[1]</sup> - 61:7</p> <p><b>immigration</b><sup>[1]</sup> - 66:12</p> <p><b>impact</b><sup>[13]</sup> - 20:14, 60:12, 62:5, 62:21, 69:2, 69:18, 103:8, 106:3, 106:5, 106:13, 130:9, 130:11, 136:12</p> <p><b>impacts</b><sup>[3]</sup> - 32:25, 105:16, 129:17</p> <p><b>imperative</b><sup>[1]</sup> - 10:9</p> <p><b>imperial</b><sup>[1]</sup> - 99:22</p> <p><b>impetus</b><sup>[1]</sup> - 38:16</p> <p><b>implement</b><sup>[6]</sup> - 12:8, 34:15, 56:11, 59:24, 62:1, 96:19</p> <p><b>implementation</b><sup>[2]</sup> - 99:2, 107:4</p> <p><b>implemented</b><sup>[8]</sup> -</p>	<p>27:12, 36:4, 36:14, 36:18, 44:21, 59:9, 59:12, 98:9</p> <p><b>implementing</b><sup>[3]</sup> - 23:3, 60:11, 98:25</p> <p><b>implications</b><sup>[1]</sup> - 98:24</p> <p><b>importance</b><sup>[1]</sup> - 14:23</p> <p><b>important</b><sup>[14]</sup> - 4:21, 4:25, 5:16, 16:17, 35:14, 61:16, 62:12, 66:25, 85:17, 102:23, 104:11, 104:13, 110:18, 113:17</p> <p><b>importantly</b><sup>[3]</sup> - 3:11, 11:25, 141:11</p> <p><b>impossible</b><sup>[2]</sup> - 93:13, 116:6</p> <p><b>improve</b><sup>[6]</sup> - 4:23, 8:20, 41:16, 43:1, 43:18, 60:4</p> <p><b>improved</b><sup>[1]</sup> - 37:9</p> <p><b>improvement</b><sup>[2]</sup> - 72:8, 72:9</p> <p><b>improvements</b><sup>[2]</sup> - 95:19, 98:11</p> <p><b>improving</b><sup>[4]</sup> - 5:11, 10:21, 25:18, 33:5</p> <p><b>in</b><sup>[535]</sup> - 2:11, 3:15, 4:1, 4:3, 4:4, 4:8, 5:6, 5:8, 5:9, 5:13, 5:19, 6:12, 8:17, 8:21, 9:8, 9:10, 9:12, 9:14, 9:17, 9:21, 9:23, 9:25, 10:1, 11:8, 11:9, 12:1, 12:5, 12:9, 12:14, 12:20, 12:25, 13:5, 13:8, 13:12, 13:13, 14:3, 14:6, 14:13, 15:7, 15:24, 16:4, 16:21, 19:12, 19:14, 19:20, 20:2, 20:9, 20:19, 20:20, 21:19, 22:9, 23:25, 24:6, 25:22, 25:23, 26:2, 27:2, 27:19, 28:1, 28:13, 29:12, 29:15, 30:7, 30:16, 30:21, 31:2, 31:9, 31:17, 31:18, 32:8, 32:9, 32:19, 32:23, 33:4, 33:15, 33:20, 33:21, 34:7, 34:14, 34:19, 35:16, 35:17, 36:22, 38:2, 38:10, 39:13, 39:16, 39:20, 40:15, 40:21, 41:1, 41:2, 41:20, 42:13, 42:16, 42:17, 42:23, 43:4, 43:10, 43:11, 43:14, 43:18, 43:20, 43:25, 44:1, 44:9, 45:14, 47:6, 47:18, 48:10, 48:20, 48:21, 49:11, 49:17, 49:22, 49:23, 49:24, 49:25, 50:2, 50:3, 50:7, 50:19,</p>
--	---	---	--

<p>50:21, 51:1, 51:2, 51:3, 51:11, 51:13, 51:15, 51:19, 51:20, 52:1, 52:11, 53:22, 54:16, 55:9, 55:18, 56:1, 56:3, 56:5, 56:9, 56:13, 56:14, 56:23, 57:3, 57:8, 57:16, 57:17, 57:20, 58:6, 58:13, 58:14, 58:16, 58:19, 58:22, 59:7, 59:9, 59:10, 59:15, 59:19, 60:18, 61:10, 61:21, 61:22, 62:1, 62:12, 62:16, 62:19, 62:21, 63:2, 63:4, 63:7, 63:12, 63:18, 64:2, 64:4, 64:5, 64:7, 64:14, 64:22, 65:18, 66:21, 66:24, 67:14, 67:15, 67:21, 68:1, 68:6, 68:7, 68:8, 68:18, 68:20, 68:25, 69:23, 69:24, 70:22, 71:4, 71:6, 71:7, 71:8, 71:11, 72:25, 73:4, 73:11, 73:14, 73:17, 73:19, 74:1, 74:2, 74:11, 74:13, 74:21, 74:25, 75:2, 75:3, 75:7, 75:21, 75:24, 76:4, 76:5, 76:10, 76:15, 76:23, 76:24, 76:25, 77:7, 78:2, 78:14, 78:17, 78:23, 78:24, 78:25, 79:2, 79:3, 79:9, 79:22, 80:3, 80:5, 80:11, 80:20, 80:25, 81:18, 81:19, 81:23, 82:4, 82:8, 82:12, 82:13, 83:7, 83:9, 83:13, 83:14, 83:16, 83:17, 83:18, 83:20, 83:21, 84:1, 84:3, 84:4, 84:6, 84:12, 85:14, 86:15, 86:22, 87:2, 87:5, 87:6, 87:17, 87:22, 88:1, 88:5, 88:6, 88:19, 88:20, 88:24, 89:2, 89:5, 89:7, 89:12, 89:19, 90:1, 90:10, 90:20, 90:23, 91:11, 91:14, 92:6, 92:9, 93:12, 93:14, 94:2, 94:9, 94:17, 94:23, 95:5, 95:11, 96:5, 96:15, 96:23, 97:4, 97:13, 97:14, 97:15, 97:22, 98:6, 98:7, 98:8, 98:9, 98:22, 98:25, 99:3, 99:6, 99:8, 99:9, 99:15, 100:11, 101:7, 101:8, 101:12, 101:21, 102:24, 103:1, 103:11, 103:13, 103:18, 103:20, 103:21,</p>	<p>103:23, 104:1, 104:6, 104:8, 104:12, 104:23, 104:24, 105:11, 105:17, 106:5, 106:11, 106:13, 106:18, 106:19, 107:2, 107:5, 107:6, 107:7, 107:12, 107:13, 107:14, 107:15, 107:23, 107:24, 108:3, 108:15, 108:16, 108:17, 108:19, 108:21, 108:24, 109:11, 109:20, 110:6, 110:23, 111:17, 112:2, 112:4, 112:7, 112:9, 112:15, 112:22, 113:5, 113:10, 113:15, 114:9, 114:16, 114:17, 114:25, 115:17, 115:19, 115:25, 116:1, 116:16, 116:21, 116:23, 116:25, 117:8, 117:13, 117:17, 117:22, 118:2, 118:7, 118:11, 118:13, 118:24, 118:25, 119:9, 119:15, 120:15, 120:24, 121:1, 121:4, 121:5, 121:8, 121:16, 121:17, 121:21, 121:23, 122:15, 122:20, 122:24, 123:2, 123:5, 123:6, 123:21, 124:6, 124:12, 124:13, 124:15, 124:18, 124:25, 125:2, 125:5, 125:10, 125:13, 125:14, 125:16, 125:17, 125:22, 126:2, 126:6, 126:14, 126:15, 126:20, 126:21, 127:3, 127:6, 127:9, 127:10, 127:12, 128:1, 128:3, 128:13, 128:14, 128:20, 128:21, 129:1, 129:18, 130:3, 130:10, 130:20, 131:6, 131:8, 131:9, 131:12, 131:20, 131:23, 132:3, 132:4, 132:12, 132:14, 132:15, 132:20, 133:1, 133:3, 133:5, 133:12, 133:16, 133:22, 134:3, 134:13, 134:17, 134:21, 134:23, 134:25, 135:1, 135:5, 135:6, 135:11, 135:24, 136:1, 136:3, 136:6, 136:8, 136:15, 136:19, 137:3, 137:4, 137:5, 137:6, 137:8, 137:9, 137:14, 137:16, 137:24, 138:6, 138:10, 138:15, 139:7, 139:13, 140:8, 142:12  <b>In</b> [1] - 107:20  <b>IN</b> [1] - 142:14</p>	<p><b>inactive</b> [1] - 12:2  <b>inadvertent</b> [1] - 60:19  <b>inasmuch</b> [1] - 62:6  <b>inaudible</b> [9] - 38:10, 48:3, 54:21, 80:6, 106:17, 107:8, 124:11, 125:18, 134:5  <b>inaudible</b> [3] - 122:13, 123:17, 124:13  <b>incentive</b> [2] - 74:3, 123:14  <b>incentives</b> [6] - 69:16, 82:23, 85:9, 87:12, 122:11, 123:4  <b>include</b> [4] - 27:5, 29:23, 30:7, 45:3  <b>included</b> [3] - 54:19, 108:7, 112:1  <b>includes</b> [1] - 93:23  <b>including</b> [7] - 9:12, 34:18, 48:24, 54:20, 59:10, 89:3, 89:6  <b>income</b> [2] - 10:5, 72:21  <b>inconsistencies</b> [1] - 124:5  <b>incorrect</b> [1] - 29:21  <b>increase</b> [13] - 11:17, 42:5, 43:19, 83:19, 92:2, 104:6, 110:9, 110:15, 131:6, 131:12, 131:14, 137:8  <b>increased</b> [2] - 48:3, 139:17  <b>increases</b> [2] - 69:5, 110:11  <b>increasing</b> [2] - 10:8, 62:21  <b>incremental</b> [1] - 31:11  <b>incumbency</b> [3] - 126:15, 130:17, 130:22  <b>incumbent</b> [9] - 76:3, 76:6, 76:7, 126:12, 126:14, 126:18, 128:1, 128:3, 130:24  <b>incumbents</b> [2] - 126:11, 131:2  <b>incurred</b> [1] - 62:15  <b>independence</b> [1] - 34:1  <b>independent</b> [9] - 30:4, 39:3, 39:12, 40:16, 113:2, 135:13, 135:19, 136:7, 136:13  <b>Indian</b> [2] - 50:21, 50:22  <b>indicated</b> [4] - 5:12, 25:21, 36:15, 36:16  <b>indicates</b> [2] - 29:1, 91:15  <b>indicative</b> [2] - 76:19,</p>	<p>84:18  <b>indicator</b> [1] - 75:25  <b>individuals</b> [3] - 59:25, 110:9, 139:19  <b>induce</b> [1] - 19:11  <b>influence</b> [3] - 92:4, 134:4, 134:6  <b>influenced</b> [1] - 38:17  <b>information</b> [21] - 27:1, 27:5, 30:14, 30:17, 30:18, 62:20, 64:16, 65:1, 65:22, 72:15, 93:6, 93:15, 96:25, 97:2, 98:13, 98:14, 99:2, 126:8, 126:11, 128:1, 129:24  <b>informational</b> [2] - 96:23, 97:4  <b>informed</b> [1] - 40:7  <b>infrastructure</b> [1] - 10:25  <b>initial</b> [1] - 108:4  <b>inkling</b> [1] - 16:12  <b>innovation</b> [1] - 45:12  <b>inside</b> [1] - 49:7  <b>insightful</b> [1] - 5:10  <b>insistence</b> [1] - 41:11  <b>instance</b> [6] - 29:6, 36:21, 63:5, 63:13, 121:2, 136:10  <b>instances</b> [1] - 36:20  <b>instant</b> [15] - 44:2, 67:5, 71:16, 78:7, 81:3, 81:5, 84:7, 86:17, 86:21, 88:18, 90:11, 91:8, 103:5, 128:23  <b>instantaneous</b> [1] - 24:8  <b>instantaneously</b> [2] - 12:18, 31:8  <b>instantly</b> [1] - 81:4  <b>instead</b> [3] - 23:11, 41:5, 41:25  <b>instill</b> [1] - 59:18  <b>instinctively</b> [1] - 91:13  <b>Institute</b> [3] - 4:8, 66:13, 102:17  <b>instituting</b> [1] - 29:7  <b>instruction</b> [2] - 44:22, 92:12  <b>instructions</b> [1] - 40:18  <b>instrument</b> [2] - 138:19, 138:23  <b>intact</b> [1] - 12:24  <b>integrity</b> [1] - 96:2  <b>intent</b> [2] - 95:11, 116:6  <b>interest</b> [6] - 4:1, 6:11, 28:13, 38:16, 38:20, 123:22</p>
---	--	---	--

<p><b>Interest</b> [2] - 29:17, 29:25  <b>interested</b> [4] - 4:4, 67:22, 139:21, 142:12  <b>interesting</b> [17] - 5:23, 27:25, 28:5, 67:20, 69:23, 81:20, 81:24, 82:11, 86:14, 130:17, 131:4, 131:20, 132:10, 132:24, 134:11, 137:13, 141:11  <b>interestingly</b> [1] - 130:22  <b>interests</b> [1] - 38:23  <b>interfere</b> [1] - 22:13  <b>interfering</b> [1] - 26:21  <b>interlocks</b> [1] - 30:13  <b>internal</b> [1] - 97:21  <b>internet</b> [1] - 33:11  <b>interpretation</b> [1] - 19:3  <b>interpreted</b> [1] - 28:25  <b>interpreter</b> [1] - 6:1  <b>interpreters</b> [8] - 5:25, 49:15, 49:17, 49:23, 49:24, 50:15, 52:14, 52:15  <b>interviews</b> [1] - 49:4  <b>intimate</b> [1] - 64:23  <b>into</b> [20] - 21:10, 21:13, 24:12, 45:11, 55:7, 67:3, 69:14, 84:20, 88:2, 92:20, 96:13, 106:7, 109:12, 110:17, 111:19, 113:3, 114:1, 122:19, 130:18, 132:4  <b>intrigued</b> [1] - 32:6  <b>introduce</b> [3] - 2:8, 7:17, 66:2  <b>introduction</b> [2] - 65:10, 65:24  <b>invalidate</b> [1] - 138:5  <b>investigation</b> [1] - 62:1  <b>investment</b> [1] - 91:3  <b>inviting</b> [5] - 31:3, 40:3, 53:25, 54:1, 102:15  <b>involved</b> [2] - 32:9, 39:20  <b>iPads</b> [1] - 44:21  <b>Irish</b> [1] - 131:24  <b>is</b> [297] - 2:1, 2:11, 2:17, 2:25, 3:16, 3:24, 4:2, 4:25, 5:12, 5:24, 6:10, 7:4, 7:18, 9:8, 9:12, 9:14, 9:17, 10:8, 11:13, 13:18, 14:1, 15:18, 15:21, 16:4, 16:6, 16:8, 16:12, 16:20, 16:21, 17:19, 18:3, 18:5, 18:12, 18:15, 18:20, 18:21, 18:22, 18:25, 20:4, 20:5, 20:13, 20:17,</p>	<p>21:11, 21:12, 21:16, 22:6, 24:3, 25:3, 25:6, 25:9, 25:19, 25:23, 26:2, 26:6, 27:5, 28:1, 28:2, 28:3, 28:8, 28:12, 29:4, 29:18, 29:20, 29:21, 30:5, 30:10, 31:15, 31:17, 32:11, 32:24, 33:3, 33:7, 33:12, 33:17, 34:21, 35:9, 35:14, 35:23, 36:7, 36:15, 37:10, 37:16, 38:1, 38:3, 38:4, 38:17, 39:9, 39:18, 39:19, 40:25, 41:22, 42:11, 42:12, 42:16, 43:13, 43:21, 44:22, 45:7, 45:9, 45:22, 46:2, 46:14, 47:3, 47:7, 47:10, 47:14, 47:18, 47:19, 47:24, 48:13, 50:22, 51:8, 51:12, 51:17, 51:21, 52:14, 52:18, 52:21, 54:5, 54:10, 54:23, 55:25, 58:9, 58:10, 58:17, 58:19, 59:6, 59:9, 59:14, 60:8, 60:10, 60:12, 61:6, 62:12, 63:9, 63:10, 64:8, 65:1, 65:14, 65:19, 66:20, 66:24, 67:12, 67:23, 68:4, 68:5, 68:6, 68:21, 69:3, 69:12, 69:16, 70:6, 70:18, 70:19, 70:23, 71:1, 72:7, 72:8, 72:12, 72:20, 72:22, 73:4, 73:21, 74:19, 75:24, 76:19, 77:7, 77:21, 77:23, 78:2, 78:5, 78:6, 78:22, 79:8, 79:15, 79:21, 82:5, 82:20, 83:6, 83:15, 84:10, 84:18, 86:18, 87:21, 88:7, 90:10, 90:19, 90:23, 91:10, 91:15, 92:14, 92:20, 92:25, 93:5, 94:8, 94:12, 94:13, 95:1, 95:4, 95:18, 96:4, 96:6, 96:9, 97:8, 98:14, 99:25, 100:14, 100:22, 101:5, 102:23, 103:1, 103:2, 104:2, 104:6, 106:2, 107:6, 107:17, 108:11, 108:15, 108:23, 109:2, 109:11, 109:16, 111:4, 111:7, 112:13, 112:14, 112:16, 112:18, 112:19, 112:20, 113:5, 113:13, 113:18, 113:19, 114:2, 114:3, 114:5, 114:18, 115:21,</p>	<p>115:22, 115:23, 116:2, 116:4, 116:5, 116:12, 116:22, 117:5, 117:9, 117:15, 118:5, 118:6, 118:9, 118:14, 119:19, 120:16, 121:7, 121:12, 121:25, 122:11, 122:15, 123:12, 123:14, 123:24, 124:7, 124:16, 125:4, 125:9, 126:12, 127:8, 129:4, 131:5, 131:15, 131:18, 132:23, 132:24, 133:3, 134:11, 135:10, 135:18, 136:4, 136:13, 136:15, 137:11, 137:25, 139:19, 139:21, 140:19, 140:21, 140:23, 142:8  <b>is it your</b> [1] - 15:5  <b>is that</b> [31] - 3:8, 3:12, 5:14, 14:20, 18:10, 19:4, 20:4, 20:21, 22:7, 33:9, 34:22, 39:11, 54:11, 63:5, 64:7, 68:25, 76:11, 80:12, 82:11, 86:24, 90:15, 99:21, 101:22, 108:11, 110:22, 112:11, 118:4, 118:12, 133:17, 136:3, 140:17  <b>is there</b> [15] - 47:3, 47:9, 53:9, 54:25, 77:20, 91:24, 108:10, 110:1, 112:21, 119:21, 136:23, 137:9, 141:15, 141:17  <b>is this</b> [5] - 44:8, 54:10, 54:11, 119:2, 122:9  <b>Island</b> [5] - 103:17, 103:18, 104:17, 104:19, 104:24  <b>isn't</b> [6] - 49:19, 103:22, 122:16, 122:18, 124:4, 124:8  <b>issue</b> [12] - 8:17, 8:18, 15:16, 40:4, 80:13, 100:5, 101:12, 101:23, 102:18, 117:3, 120:7, 139:19  <b>issues</b> [12] - 5:16, 13:11, 29:5, 52:13, 57:1, 61:11, 71:13, 72:11, 72:17, 101:21, 108:1, 132:16  <b>it</b> [306] - 4:10, 4:23, 13:12, 14:10, 14:20, 15:1, 15:19, 16:4, 16:10, 16:15, 16:20, 16:23, 18:19, 18:20, 18:23, 19:2, 19:18, 20:5, 21:14, 21:24, 23:22, 23:23, 25:6, 25:10, 26:22, 26:24, 27:11, 27:12,</p>	<p>27:14, 28:18, 29:4, 29:9, 30:3, 31:3, 31:11, 32:20, 33:8, 33:11, 33:18, 35:1, 35:5, 35:7, 35:18, 35:23, 36:4, 36:14, 36:24, 37:5, 37:6, 37:7, 38:11, 39:7, 40:20, 40:22, 42:3, 42:21, 42:23, 43:3, 43:4, 43:13, 44:19, 45:1, 45:2, 46:15, 47:7, 47:19, 48:11, 49:19, 52:23, 52:24, 53:17, 53:19, 54:13, 54:18, 54:24, 55:2, 55:12, 55:13, 55:14, 56:14, 59:17, 60:24, 61:15, 62:24, 63:23, 64:22, 65:23, 67:6, 67:10, 67:15, 67:18, 67:19, 67:21, 68:1, 68:12, 69:5, 69:16, 70:4, 70:18, 70:19, 70:21, 71:4, 71:25, 73:20, 75:3, 75:8, 75:14, 76:14, 76:19, 77:9, 78:4, 78:6, 78:19, 79:8, 79:22, 80:3, 80:9, 80:12, 80:13, 80:15, 80:17, 80:21, 81:11, 81:20, 81:22, 82:5, 82:6, 82:20, 83:6, 83:20, 84:3, 85:4, 85:6, 85:9, 86:20, 86:24, 87:4, 88:3, 88:7, 89:8, 89:11, 89:21, 89:22, 90:1, 90:10, 90:19, 92:16, 93:5, 93:12, 93:13, 93:16, 94:4, 95:10, 95:13, 96:13, 96:16, 96:25, 97:7, 97:10, 97:12, 97:13, 97:24, 98:8, 98:10, 98:14, 98:15, 99:3, 99:5, 99:15, 99:21, 100:3, 100:4, 100:15, 100:25, 101:8, 101:12, 102:11, 102:23, 104:15, 104:18, 105:21, 106:8, 107:5, 107:13, 107:25, 108:11, 108:13, 108:14, 108:17, 108:18, 108:24, 109:1, 109:4, 109:7, 109:18, 109:23, 110:2, 110:11, 110:12, 110:13, 110:15, 110:25, 111:6, 112:3, 112:5, 112:13, 112:14, 113:17, 113:20, 113:23, 113:25, 114:5, 114:7, 114:11, 115:7, 115:18, 116:17, 116:18, 116:19, 116:20, 116:21, 116:23, 117:5, 117:6, 118:18, 118:23,</p>
---	--	---	--



<p>118:25, 119:12, 119:17, 119:19, 119:20, 119:21, 120:9, 120:12, 120:14, 120:20, 121:9, 121:11, 122:18, 123:13, 123:16, 123:21, 124:2, 124:16, 124:18, 128:3, 128:11, 128:15, 129:4, 129:5, 129:10, 130:11, 130:14, 130:22, 131:1, 131:3, 132:2, 134:1, 134:2, 134:9, 134:10, 134:11, 134:14, 135:18, 135:22, 136:12, 136:25, 137:1, 137:11, 137:12, 137:25, 138:22, 138:25, 139:5, 139:7, 139:15, 139:18, 139:20, 139:21, 139:24, 140:17, 140:19, 141:1, 141:3</p> <p><b>it's</b> [116] - 5:20, 15:11, 15:13, 15:15, 16:16, 19:2, 19:3, 20:19, 32:25, 33:12, 35:13, 36:24, 37:22, 41:21, 43:14, 45:16, 45:23, 47:10, 48:7, 48:16, 50:16, 50:18, 52:15, 52:21, 53:19, 54:5, 54:13, 55:22, 58:13, 59:12, 60:3, 64:5, 67:5, 67:15, 68:7, 69:3, 69:14, 69:21, 70:5, 75:18, 76:18, 77:25, 78:1, 79:6, 79:7, 80:5, 80:17, 80:18, 81:2, 82:1, 82:6, 85:7, 86:14, 88:1, 88:4, 88:5, 88:24, 89:22, 93:25, 95:6, 95:20, 96:18, 98:11, 101:6, 101:16, 102:4, 102:7, 102:22, 104:11, 104:13, 106:4, 106:9, 106:18, 107:10, 110:13, 111:4, 113:4, 114:4, 114:24, 115:10, 115:14, 116:5, 116:11, 120:10, 120:20, 120:23, 122:2, 124:23, 125:1, 126:21, 128:5, 128:6, 128:16, 129:2, 129:9, 129:11, 129:18, 130:17, 131:5, 131:17, 131:19, 135:13, 138:13, 138:17, 138:18, 139:21, 139:22, 140:12, 141:10</p> <p><b>its</b> [16] - 10:19, 11:2, 11:14, 14:10, 15:7, 15:22, 19:4, 22:12, 22:16, 28:14, 29:3, 30:4, 80:11, 96:7, 118:24,</p>	<p>131:19</p> <p><b>itself</b> [4] - 8:23, 32:20, 96:15, 104:14</p> <p style="text-align: center;"><b>J</b></p> <p><b>Jane</b> [1] - 73:7</p> <p><b>January</b> [1] - 27:3</p> <p><b>Jason</b> [1] - 118:16</p> <p><b>Jerry</b> [5] - 7:25, 48:14, 66:4, 76:12, 88:13</p> <p><b>Jersey</b> [1] - 9:13</p> <p><b>job</b> [4] - 33:13, 41:22, 77:18, 113:12</p> <p><b>jobs</b> [2] - 41:18, 47:19</p> <p><b>John</b> [9] - 2:9, 2:11, 35:24, 74:7, 77:11, 84:23, 92:20, 136:18, 136:21</p> <p><b>JOHN</b> [1] - 1:22</p> <p><b>joined</b> [1] - 32:3</p> <p><b>joining</b> [1] - 14:11</p> <p><b>Jose</b> [1] - 2:23</p> <p><b>journey</b> [1] - 93:12</p> <p><b>judges</b> [1] - 19:25</p> <p><b>jump</b> [1] - 70:13</p> <p><b>jumped</b> [1] - 138:3</p> <p><b>June</b> [7] - 1:6, 2:5, 52:21, 76:23, 76:25, 142:15</p> <p><b>jurisdiction</b> [1] - 16:1</p> <p><b>just</b> [110] - 4:13, 4:18, 5:23, 7:18, 8:6, 15:11, 16:24, 18:4, 19:4, 19:8, 19:15, 19:17, 20:5, 21:15, 22:22, 24:25, 33:11, 34:3, 34:22, 38:2, 38:7, 45:25, 46:18, 46:24, 53:21, 63:1, 63:24, 64:18, 65:9, 65:12, 65:22, 66:4, 67:10, 69:19, 69:22, 70:13, 71:1, 71:4, 71:22, 71:24, 73:5, 75:13, 75:19, 76:25, 77:7, 77:8, 77:14, 80:3, 80:8, 81:2, 83:2, 84:8, 85:25, 86:2, 86:8, 88:8, 92:13, 92:15, 93:17, 94:15, 95:12, 96:16, 96:21, 97:23, 97:24, 98:2, 99:11, 100:6, 100:20, 101:18, 102:7, 104:3, 105:9, 105:11, 106:23, 107:25, 109:22, 112:10, 112:17, 114:5, 115:10, 116:9, 117:12, 118:3, 119:24, 120:2, 121:1, 121:20, 122:23, 124:3, 124:16, 124:19, 126:9, 126:10,</p>	<p>126:13, 126:19, 127:22, 128:16, 129:13, 130:2, 130:16, 132:2, 132:24, 133:7, 134:17, 137:4, 140:6, 141:7</p> <p><b>Justice</b> [5] - 3:6, 3:14, 40:15, 89:17, 110:21</p> <p style="text-align: center;"><b>K</b></p> <p><b>KALLICK</b> [3] - 102:14, 108:13, 108:15</p> <p><b>Kallick</b> [2] - 66:11, 102:13</p> <p><b>Katherine</b> [1] - 7:23</p> <p><b>keep</b> [5] - 47:14, 81:25, 82:3, 96:24, 133:1</p> <p><b>keeping</b> [1] - 98:16</p> <p><b>keeps</b> [2] - 82:1, 137:6</p> <p><b>KEVIN</b> [2] - 142:6, 142:18</p> <p><b>key</b> [3] - 70:6, 95:18, 97:8</p> <p><b>Kim</b> [1] - 73:8</p> <p><b>kind</b> [32] - 40:20, 61:12, 66:22, 68:12, 68:21, 69:14, 71:10, 75:11, 75:13, 75:24, 76:15, 76:16, 78:14, 82:3, 82:20, 94:15, 98:1, 99:22, 103:7, 105:3, 107:5, 107:8, 111:14, 112:17, 120:10, 124:7, 131:16, 133:19, 133:25, 135:17, 137:6</p> <p><b>Kings</b> [1] - 41:5</p> <p><b>knew</b> [1] - 73:20</p> <p><b>knock</b> [1] - 70:20</p> <p><b>knocked</b> [1] - 132:20</p> <p><b>know</b> [91] - 6:18, 16:9, 16:16, 17:2, 20:16, 22:14, 23:9, 29:6, 32:13, 32:17, 32:25, 40:23, 42:11, 43:15, 46:5, 46:7, 52:13, 53:15, 54:5, 54:16, 55:6, 55:16, 55:19, 56:7, 57:10, 57:12, 63:21, 63:22, 68:21, 69:16, 70:2, 71:13, 72:18, 72:19, 77:8, 77:20, 81:14, 82:6, 82:9, 83:23, 85:11, 85:12, 85:13, 86:2, 86:7, 87:8, 87:15, 88:1, 92:14, 92:20, 97:25, 103:14, 104:16, 104:23, 109:3, 109:17, 110:16, 111:11, 111:14, 111:16, 113:7, 116:6, 116:7, 116:10, 118:3, 119:6, 120:14,</p>	<p>120:17, 121:3, 125:3, 125:9, 126:5, 128:16, 129:3, 129:20, 130:24, 130:25, 131:1, 133:7, 133:15, 134:19, 137:23, 138:9, 138:11, 139:2, 139:4, 140:5, 140:16, 140:24</p> <p><b>knowledge</b> [3] - 27:10, 58:25, 125:3</p> <p><b>known</b> [3] - 3:14, 126:12, 126:16</p> <p><b>knows</b> [1] - 17:5</p> <p><b>Koch</b> [1] - 83:25</p> <p><b>Korean</b> [9] - 3:23, 49:22, 49:23, 49:25, 50:8, 50:15, 51:6, 52:20, 73:7</p> <p><b>Korean-American</b> [2] - 3:23, 73:7</p> <p><b>Korean-speaking</b> [1] - 49:25</p> <p><b>Kristen</b> [1] - 9:18</p> <p><b>KYLE</b> [1] - 1:16</p> <p style="text-align: center;"><b>L</b></p> <p><b>lack</b> [3] - 9:5, 52:14, 128:24</p> <p><b>Language</b> [3] - 51:20, 51:24, 54:9</p> <p><b>language</b> [32] - 5:25, 6:1, 13:17, 13:19, 13:22, 26:6, 26:11, 49:9, 50:8, 50:11, 50:16, 50:21, 50:22, 50:25, 51:4, 51:10, 51:13, 51:15, 51:16, 51:23, 51:25, 52:5, 52:7, 52:10, 53:9, 54:4, 54:17, 54:24, 55:2, 55:7, 55:17</p> <p><b>languages</b> [3] - 52:1, 54:25, 55:18</p> <p><b>large</b> [5] - 48:8, 88:25, 89:6, 89:12, 95:6</p> <p><b>largest</b> [1] - 58:20</p> <p><b>last</b> [25] - 9:18, 26:9, 32:18, 36:15, 38:24, 48:1, 48:25, 69:23, 70:13, 70:20, 78:23, 89:2, 90:5, 93:13, 109:2, 119:13, 119:17, 120:14, 121:14, 121:17, 132:21, 132:23, 135:18, 136:18, 140:2</p> <p><b>later</b> [6] - 12:5, 16:17, 31:22, 36:1, 45:12, 80:2</p> <p><b>Latino</b> [3] - 3:14, 104:8, 104:10</p> <p><b>law</b> [28] - 14:2, 15:1,</p>
---	---	---	---

<p>16:20, 18:21, 21:20, 25:22, 26:2, 26:9, 27:25, 28:20, 28:24, 29:1, 30:1, 35:8, 35:11, 35:14, 36:21, 37:20, 37:23, 42:16, 42:17, 43:2, 45:15, 53:24, 55:11, 65:15, 65:20, 72:17  <b>Law</b> [12] - 3:6, 19:1, 22:8, 29:18, 29:25, 41:13, 41:19, 42:6, 43:21, 45:17, 77:23, 94:17  <b>law's</b> [1] - 18:21  <b>laws</b> [3] - 11:15, 14:21, 41:14  <b>lawyer</b> [1] - 2:11  <b>lay</b> [1] - 58:12  <b>laying</b> [2] - 53:18, 113:12  <b>lead</b> [3] - 20:18, 20:20, 84:13  <b>leader</b> [1] - 75:9  <b>leading</b> [2] - 81:17, 83:11  <b>League</b> [6] - 7:23, 17:14, 40:4, 40:8, 44:2, 47:10  <b>Leandro</b> [2] - 112:6, 125:18  <b>learn</b> [1] - 69:13  <b>learned</b> [4] - 95:20, 98:10, 102:1, 141:12  <b>learning</b> [2] - 77:14, 86:23  <b>least</b> [12] - 21:1, 63:12, 73:19, 88:4, 102:20, 105:14, 105:15, 105:25, 115:5, 131:3, 133:21, 136:3  <b>leave</b> [1] - 141:4  <b>leaving</b> [3] - 53:19, 106:20, 106:24  <b>lectures</b> [1] - 41:25  <b>led</b> [2] - 58:23, 132:10  <b>Lee</b> [1] - 126:22  <b>leeway</b> [1] - 22:11  <b>left</b> [4] - 2:8, 12:3, 101:9, 117:13  <b>Legal</b> [3] - 3:13, 8:2, 48:19  <b>legal</b> [3] - 45:6, 72:16, 79:3  <b>legislate</b> [1] - 114:5  <b>legislation</b> [1] - 56:16  <b>legislative</b> [1] - 58:1  <b>Legislators</b> [1] - 9:8  <b>legislature</b> [1] - 29:4  <b>leisure</b> [1] - 93:16</p>	<p><b>Leno</b> [3] - 79:10, 85:12, 133:19  <b>Lerner</b> [5] - 7:21, 25:14, 32:6, 66:6, 90:5  <b>LERNER</b> [13] - 25:15, 32:14, 32:17, 34:17, 35:5, 35:23, 36:13, 36:19, 37:25, 38:15, 39:7, 90:7, 135:25  <b>less</b> [9] - 12:4, 13:7, 24:7, 24:11, 59:20, 82:16, 87:6, 119:3, 134:12  <b>lessons</b> [2] - 95:19, 102:1  <b>let</b> [15] - 2:6, 7:16, 19:17, 20:9, 21:15, 24:20, 26:4, 66:1, 66:16, 84:14, 110:17, 120:4, 127:16  <b>let's</b> [14] - 8:5, 25:13, 46:17, 46:19, 87:23, 87:24, 88:10, 88:13, 106:10, 114:13, 114:21, 120:19  <b>letter</b> [3] - 52:4, 88:21, 106:15  <b>letting</b> [2] - 14:24, 88:16  <b>level</b> [12] - 10:9, 29:7, 35:1, 56:14, 57:22, 62:9, 64:10, 64:11, 67:15, 90:17, 94:16, 129:3  <b>levels</b> [2] - 45:20, 58:1  <b>Levy</b> [1] - 132:9  <b>Liberties</b> [4] - 7:5, 7:20, 8:8, 8:10  <b>lien</b> [1] - 99:7  <b>life</b> [2] - 4:10, 42:1  <b>lifelong</b> [1] - 59:18  <b>like</b> [62] - 16:24, 20:17, 32:1, 36:11, 37:20, 38:11, 39:18, 43:4, 43:5, 48:25, 52:25, 53:2, 58:2, 61:7, 61:23, 62:23, 63:23, 64:24, 72:10, 75:4, 75:8, 77:22, 80:2, 80:10, 80:17, 81:7, 81:12, 83:16, 85:12, 86:17, 87:18, 90:4, 91:11, 91:17, 93:17, 96:16, 105:2, 105:14, 108:21, 111:4, 113:14, 117:3, 120:24, 121:8, 124:25, 125:24, 126:17, 129:1, 130:1, 130:9, 131:2, 131:7, 131:18, 131:22, 133:1, 133:6, 135:18, 135:23, 136:23, 137:10  <b>likelihood</b> [1] - 60:4</p>	<p><b>likely</b> [17] - 12:4, 20:19, 21:5, 82:19, 87:8, 104:21, 105:6, 105:13, 111:7, 119:3, 119:7, 119:18, 126:3, 130:24, 134:25, 138:5, 138:8  <b>likewise</b> [1] - 52:25  <b>limit</b> [3] - 15:3, 15:19, 91:23  <b>limitations</b> [1] - 37:22  <b>limited</b> [7] - 18:16, 23:19, 31:21, 54:21, 73:25, 91:7, 99:1  <b>limiting</b> [1] - 45:10  <b>line</b> [2] - 74:14, 108:10  <b>lines</b> [2] - 11:22, 55:11  <b>link</b> [2] - 35:4  <b>Liran</b> [3] - 4:6, 44:7, 97:19  <b>LIRAN</b> [1] - 1:15  <b>list</b> [5] - 35:20, 35:23, 48:13, 64:1, 68:11  <b>listed</b> [1] - 68:13  <b>listen</b> [1] - 141:9  <b>literally</b> [1] - 80:1  <b>litigated</b> [1] - 16:9  <b>litigation</b> [4] - 28:9, 35:2, 35:6, 51:2  <b>little</b> [10] - 21:17, 40:14, 68:12, 74:21, 82:16, 102:18, 114:8, 125:4, 138:14  <b>Liu</b> [1] - 84:23  <b>live</b> [2] - 5:24, 20:25  <b>live-streamed</b> [1] - 5:24  <b>Lives</b> [1] - 132:11  <b>load</b> [1] - 30:25  <b>Local</b> [1] - 43:21  <b>local</b> [17] - 4:8, 10:18, 11:2, 11:15, 13:13, 14:6, 20:23, 29:4, 56:3, 56:5, 60:14, 60:16, 63:19, 64:25, 77:16, 79:16, 125:11  <b>locations</b> [1] - 26:15  <b>logic</b> [1] - 111:9  <b>London</b> [6] - 82:8, 82:19, 85:12, 133:10, 135:4  <b>long</b> [11] - 20:25, 32:25, 59:1, 75:3, 80:3, 81:9, 81:11, 84:8, 103:3, 110:25, 137:3  <b>long-term</b> [2] - 32:25, 59:1  <b>longer</b> [3] - 64:17, 114:23, 129:16  <b>look</b> [25] - 5:4, 14:16, 24:12, 38:4, 45:15,</p>	<p>54:16, 54:17, 71:14, 72:17, 74:17, 79:4, 92:9, 92:12, 92:16, 95:21, 97:13, 98:13, 110:20, 112:3, 117:20, 130:1, 130:9, 133:14, 133:18, 134:4  <b>looked</b> [8] - 33:11, 103:25, 120:24, 121:13, 121:14, 125:14, 126:20, 131:10  <b>looking</b> [12] - 6:17, 44:16, 74:10, 86:9, 89:1, 92:19, 105:17, 117:14, 120:22, 121:13, 125:11, 133:4  <b>looks</b> [4] - 43:4, 63:23, 118:23, 118:25  <b>lose</b> [1] - 123:10  <b>loses</b> [2] - 70:12, 111:13  <b>loss</b> [1] - 21:5  <b>lost</b> [4] - 27:18, 43:4, 76:9, 135:11  <b>lot</b> [35] - 16:8, 16:11, 22:11, 28:2, 31:1, 33:19, 40:19, 40:22, 50:1, 67:3, 67:19, 71:12, 71:14, 71:18, 75:9, 79:18, 86:17, 92:3, 95:15, 96:15, 99:7, 99:20, 101:11, 103:23, 110:1, 113:9, 120:25, 125:2, 125:5, 126:18, 129:17, 137:25, 139:2, 139:7, 139:15  <b>lots</b> [6] - 5:7, 43:15, 67:16, 72:15, 130:15  <b>love</b> [2] - 105:13, 140:4  <b>low</b> [10] - 10:5, 57:12, 69:4, 69:8, 83:12, 84:10, 87:4, 116:19, 125:20, 132:20  <b>low-income</b> [1] - 10:5  <b>lower</b> [5] - 71:12, 77:2, 77:5, 78:5, 86:20  <b>lowering</b> [3] - 59:7, 59:16, 63:2  <b>lowest</b> [1] - 57:15  <b>lucky</b> [1] - 3:22</p>
<b>M</b>			
<p><b>machine</b> [1] - 140:7  <b>made</b> [17] - 4:20, 5:3, 5:6, 6:11, 20:6, 21:3, 33:3, 35:22, 39:2, 41:8, 47:17, 60:16, 85:16, 119:12, 122:9, 122:25, 123:2</p>			

<p><b>magic</b> [3] - 25:19, 51:17, 51:21  <b>magnitude</b> [1] - 107:13  <b>mail</b> [2] - 47:12, 47:13  <b>mailing</b> [2] - 27:7, 133:12  <b>main</b> [1] - 106:1  <b>Maine</b> [14] - 67:23, 68:6, 106:13, 106:18, 107:3, 107:6, 107:16, 107:20, 107:24, 108:15, 108:17, 108:21, 112:22, 140:9  <b>mainstream</b> [1] - 130:4  <b>maintain</b> [3] - 10:7, 63:25, 78:19  <b>maintained</b> [1] - 78:16  <b>maintaining</b> [1] - 78:18  <b>major</b> [1] - 48:23  <b>majority</b> [12] - 57:21, 73:15, 75:9, 81:1, 81:2, 110:3, 117:6, 117:17, 118:6, 118:9, 129:2, 131:13  <b>make</b> [39] - 4:16, 7:14, 10:2, 11:14, 13:12, 13:14, 14:25, 19:1, 19:17, 22:22, 32:8, 34:15, 34:18, 35:5, 41:17, 45:21, 46:6, 46:10, 46:15, 55:21, 56:9, 62:13, 64:25, 73:6, 76:20, 77:3, 78:6, 84:19, 85:6, 86:3, 86:25, 87:12, 100:20, 101:8, 113:23, 119:17, 129:4, 129:10  <b>makes</b> [8] - 35:2, 35:18, 86:16, 86:21, 103:3, 105:8, 109:7, 136:25  <b>makeup</b> [1] - 118:25  <b>making</b> [9] - 4:1, 33:18, 34:4, 38:12, 41:25, 58:15, 104:18, 120:11, 133:13  <b>malfunctions</b> [3] - 99:22, 99:23, 100:2  <b>man</b> [1] - 81:19  <b>managed</b> [1] - 36:24  <b>management</b> [3] - 11:20, 37:1, 62:12  <b>Mandarin</b> [2] - 49:15, 49:18  <b>Mandarin-speaking</b> [1] - 49:15  <b>mandate</b> [2] - 11:6, 36:5  <b>mandates</b> [1] - 36:17  <b>mandatory</b> [1] - 44:1  <b>Manhattan</b> [3] - 2:12, 2:20, 49:12  <b>manner</b> [1] - 99:6  <b>manually</b> [2] - 95:9,</p>	<p>95:16  <b>many</b> [14] - 4:9, 4:10, 12:21, 40:8, 46:4, 49:12, 61:9, 79:2, 81:8, 81:12, 83:22, 87:9, 118:7, 140:8  <b>map</b> [1] - 137:4  <b>MARCO</b> [1] - 1:17  <b>Marco</b> [1] - 54:7  <b>margin</b> [2] - 80:1, 80:14  <b>Mark</b> [2] - 85:12, 133:19  <b>marked</b> [1] - 125:15  <b>marriage</b> [1] - 142:11  <b>marvel</b> [1] - 24:4  <b>Maryland</b> [5] - 59:10, 59:12, 62:19, 63:2, 64:7  <b>material</b> [1] - 65:11  <b>materials</b> [3] - 93:9, 96:23, 97:3  <b>math</b> [1] - 95:7  <b>Matt</b> [3] - 4:12, 6:3, 66:1  <b>MATT</b> [1] - 1:18  <b>matt</b> [1] - 7:7  <b>Matter</b> [1] - 132:11  <b>matter</b> [6] - 15:15, 63:24, 113:20, 115:23, 141:21, 142:13  <b>matured</b> [1] - 127:8  <b>maturity</b> [1] - 11:9  <b>maximum</b> [3] - 29:3, 61:1, 82:21  <b>may</b> [17] - 31:19, 45:25, 48:21, 61:12, 62:7, 71:21, 72:3, 81:23, 82:7, 97:24, 108:5, 113:15, 123:13, 123:21, 126:13, 136:10  <b>maybe</b> [14] - 21:11, 75:7, 103:12, 107:21, 108:16, 109:25, 111:19, 116:9, 123:19, 124:25, 125:4, 130:4, 133:5, 138:14  <b>Mayor</b> [1] - 84:1  <b>mayor</b> [22] - 2:14, 3:10, 4:11, 4:19, 5:3, 39:11, 42:7, 49:1, 65:17, 68:19, 69:24, 87:19, 87:23, 93:23, 104:20, 111:4, 131:8, 137:14, 138:1, 138:7, 139:7, 139:13  <b>mayor's</b> [7] - 26:1, 26:12, 92:12, 135:2, 135:10, 136:2, 136:6  <b>mayoral</b> [9] - 73:4, 75:24, 83:10, 83:14, 83:17, 84:11, 103:19, 121:9, 131:22  <b>McDaniel</b> [1] - 118:16  <b>me</b> [35] - 2:6, 4:19, 4:21,</p>	<p>5:4, 7:16, 9:21, 19:17, 20:9, 21:15, 26:4, 48:16, 66:1, 66:16, 81:24, 95:3, 102:15, 102:21, 102:22, 104:15, 105:7, 105:15, 106:2, 108:17, 111:21, 112:10, 113:4, 113:17, 119:19, 120:4, 124:11, 125:11, 128:11, 138:3, 141:4  <b>mean</b> [18] - 17:24, 30:20, 53:18, 55:20, 64:22, 71:15, 86:14, 97:21, 103:1, 111:6, 114:6, 115:11, 119:15, 119:21, 123:18, 126:25, 127:15, 139:1  <b>meaning</b> [2] - 78:7, 117:24  <b>meaningful</b> [3] - 4:17, 5:13, 58:6  <b>means</b> [6] - 11:12, 17:3, 113:24, 117:15, 119:4, 135:16  <b>meant</b> [2] - 73:13, 77:2  <b>measure</b> [2] - 122:1, 138:10  <b>measuring</b> [1] - 121:11  <b>mechanisms</b> [2] - 37:19, 38:11  <b>media</b> [3] - 81:21, 97:2, 97:6  <b>median</b> [4] - 121:19, 121:20, 121:21, 121:23  <b>meet</b> [2] - 52:17, 52:18  <b>meeting</b> [5] - 2:5, 2:21, 5:24, 52:21, 52:24  <b>meetings</b> [4] - 40:9, 50:11, 52:20, 52:22  <b>meets</b> [1] - 11:4  <b>Meg</b> [1] - 76:14  <b>member</b> [4] - 3:17, 3:25, 8:25, 85:22  <b>member's</b> [1] - 43:13  <b>members</b> [12] - 2:7, 4:25, 5:21, 6:6, 7:17, 8:14, 14:13, 40:9, 43:8, 58:13, 90:19, 93:23  <b>men</b> [2] - 131:25, 132:7  <b>MENDY</b> [1] - 1:20  <b>mention</b> [1] - 68:3  <b>mentioned</b> [8] - 6:20, 14:22, 54:8, 55:11, 58:14, 62:18, 64:5, 89:2  <b>merged</b> [1] - 39:3  <b>merits</b> [1] - 36:11  <b>message</b> [4] - 14:7, 30:10, 30:22, 96:24  <b>messaging</b> [5] - 32:22, 33:23, 96:22, 97:7, 98:16</p>	<p><b>met</b> [2] - 5:7, 54:6  <b>method</b> [3] - 94:3, 102:5, 123:3  <b>Method</b> [3] - 93:8, 94:12, 95:1  <b>methodology</b> [1] - 102:5  <b>Mexico</b> [1] - 136:1  <b>Microsoft</b> [2] - 95:5, 96:13  <b>midterm</b> [1] - 52:4  <b>midterms</b> [1] - 48:25  <b>might</b> [20] - 7:7, 19:11, 21:6, 21:9, 26:22, 35:7, 41:15, 55:9, 55:18, 55:20, 71:22, 73:18, 83:2, 105:6, 107:9, 116:8, 132:25, 137:12, 138:14, 140:24  <b>mightily</b> [1] - 141:8  <b>million</b> [6] - 10:24, 60:13, 83:25, 109:4, 109:6, 109:9  <b>millions</b> [2] - 80:1  <b>mind</b> [7] - 15:12, 21:16, 33:12, 33:16, 77:13, 129:13, 133:1  <b>mindful</b> [1] - 34:12  <b>minimium</b> [2] - 16:16, 50:14  <b>ministerial</b> [2] - 36:5, 45:5  <b>Minneapolis</b> [26] - 66:10, 68:7, 69:6, 74:17, 75:21, 81:14, 81:15, 81:23, 92:23, 93:3, 93:8, 93:20, 94:2, 94:12, 94:25, 95:14, 98:6, 101:14, 101:25, 109:25, 127:23, 131:7, 132:3, 132:13, 137:13  <b>Minnesota</b> [2] - 94:17, 129:2  <b>minorities</b> [2] - 119:3, 127:7  <b>minority</b> [4] - 10:5, 118:16, 118:25, 119:10  <b>minute</b> [1] - 6:25  <b>minutes</b> [3] - 6:22, 80:6, 93:15  <b>MIROCZNIK</b> [1] - 1:20  <b>mirror</b> [1] - 60:15  <b>missed</b> [2] - 98:22, 98:23  <b>missing</b> [1] - 115:2  <b>mission</b> [3] - 40:8, 58:10, 58:12  <b>mistakenly</b> [1] - 57:2  <b>mistranslated</b> [2] -</p>
---	---	--	--

<p>50:4, 50:5  <b>mix</b> [3] - 87:14, 87:16, 137:6  <b>mock</b> [1] - 41:24  <b>model</b> [2] - 13:16, 93:8  <b>models</b> [1] - 58:23  <b>modern</b> [1] - 11:4  <b>modernization</b> [3] - 31:2, 31:10, 91:19  <b>modernizations</b> [1] - 9:5  <b>moment</b> [2] - 21:18, 127:18  <b>moments</b> [1] - 66:5  <b>Monday</b> [2] - 52:21, 118:5  <b>money</b> [17] - 11:18, 75:10, 83:24, 99:13, 108:11, 108:13, 108:14, 108:24, 109:2, 109:12, 125:2, 134:5, 134:6, 134:11, 135:3, 135:5, 139:19  <b>monies</b> [1] - 26:11  <b>monitoring</b> [2] - 48:23, 49:7  <b>month</b> [1] - 27:13  <b>moot</b> [1] - 124:8  <b>moral</b> [1] - 10:8  <b>more</b> [103] - 4:17, 5:16, 10:3, 11:19, 12:5, 13:6, 13:21, 14:10, 14:14, 14:24, 21:4, 21:5, 21:11, 21:12, 21:13, 22:14, 29:13, 29:14, 30:21, 32:21, 33:4, 33:14, 33:22, 35:2, 35:6, 36:24, 39:23, 43:25, 44:1, 45:8, 47:1, 49:8, 53:14, 62:25, 67:13, 69:24, 70:7, 71:19, 71:20, 72:1, 72:3, 73:22, 73:23, 77:22, 78:24, 79:9, 81:7, 81:23, 82:19, 83:2, 84:15, 85:10, 85:15, 86:23, 87:13, 88:3, 88:9, 91:2, 91:22, 104:4, 105:9, 105:10, 105:13, 106:23, 108:21, 109:7, 109:9, 110:9, 110:25, 111:5, 118:10, 119:7, 119:18, 120:21, 121:4, 121:7, 121:12, 122:13, 122:22, 123:5, 125:23, 126:3, 130:24, 134:18, 134:24, 134:25, 135:5, 136:14, 137:7, 137:8, 138:4, 138:7, 138:11, 138:12, 138:19, 138:22, 140:17, 141:1, 141:11</p>	<p><b>most</b> [26] - 3:11, 10:4, 11:25, 59:11, 62:10, 70:14, 70:19, 73:15, 83:24, 84:2, 91:8, 96:4, 105:6, 107:9, 111:7, 117:8, 123:24, 124:12, 126:8, 126:17, 128:4, 128:9, 130:21, 131:8, 135:3  <b>motion</b> [3] - 141:14, 141:15, 141:16  <b>motor</b> [2] - 12:19, 12:23  <b>MOU</b> [1] - 52:19  <b>move</b> [14] - 25:13, 33:1, 39:25, 47:23, 58:2, 60:24, 88:10, 88:13, 89:14, 90:4, 90:11, 92:22, 101:21, 111:19  <b>moved</b> [2] - 80:16  <b>movement</b> [1] - 132:11  <b>movies</b> [1] - 140:25  <b>moving</b> [1] - 91:7  <b>MR</b> [158] - 2:1, 2:10, 2:25, 3:8, 4:12, 6:5, 7:7, 7:8, 7:9, 7:15, 7:16, 8:12, 8:13, 14:18, 15:13, 17:9, 17:22, 18:1, 18:12, 18:17, 19:6, 19:17, 20:9, 20:11, 21:15, 21:25, 22:3, 22:6, 22:22, 23:1, 23:5, 24:17, 24:19, 25:2, 25:12, 31:25, 32:15, 34:2, 35:24, 35:25, 36:14, 37:13, 39:25, 44:5, 44:25, 45:6, 47:21, 48:13, 48:15, 53:6, 53:13, 54:3, 54:7, 54:8, 54:13, 54:15, 54:18, 54:23, 55:1, 55:2, 55:3, 55:4, 56:7, 57:7, 57:10, 58:2, 58:4, 61:5, 61:16, 62:9, 62:17, 63:1, 63:15, 64:4, 64:12, 64:20, 65:3, 65:4, 65:8, 66:1, 66:18, 74:6, 74:20, 75:2, 76:7, 77:11, 77:12, 77:25, 78:21, 79:20, 80:20, 80:23, 83:2, 84:14, 85:21, 85:22, 85:25, 86:13, 88:10, 88:12, 88:13, 88:15, 90:3, 92:17, 92:18, 92:19, 97:19, 98:18, 101:13, 101:16, 102:9, 102:13, 102:14, 108:10, 108:13, 108:14, 108:15, 109:14, 109:25, 110:16, 111:18, 111:20, 114:8, 114:11, 115:2, 115:7, 115:9, 115:13, 115:18, 115:19,</p>	<p>119:24, 120:3, 122:4, 123:11, 124:10, 126:17, 127:12, 127:15, 127:18, 127:21, 129:13, 130:15, 134:8, 136:17, 136:22, 137:12, 137:15, 137:17, 137:18, 137:19, 137:20, 137:21, 140:1, 140:3, 141:9, 141:15, 141:17, 141:20  <b>Mr</b> [23] - 2:10, 6:5, 6:20, 7:4, 8:5, 8:6, 8:9, 8:13, 15:6, 15:14, 25:12, 46:2, 55:5, 63:16, 65:8, 65:23, 66:17, 77:12, 86:2, 92:24, 113:11, 120:1, 122:25  <b>MS</b> [85] - 2:17, 3:4, 3:16, 4:6, 16:24, 17:13, 17:23, 18:2, 18:13, 18:24, 19:7, 19:22, 19:24, 20:1, 20:10, 22:17, 22:25, 23:2, 24:15, 24:18, 24:23, 25:15, 32:14, 32:17, 34:3, 34:17, 34:22, 35:5, 35:16, 35:23, 36:13, 36:19, 37:14, 37:25, 38:7, 38:15, 38:24, 39:7, 40:3, 44:8, 44:15, 46:24, 47:10, 47:24, 53:8, 53:25, 61:6, 62:3, 62:18, 63:14, 74:8, 75:1, 76:3, 77:10, 90:7, 92:24, 97:20, 98:4, 98:21, 99:1, 99:16, 99:25, 100:6, 100:13, 100:18, 100:20, 101:15, 101:24, 102:11, 109:16, 110:2, 122:6, 124:3, 126:9, 127:6, 127:14, 127:20, 127:22, 134:4, 135:25, 139:6, 141:14, 141:16, 141:18, 141:19  <b>Ms</b> [3] - 32:6, 129:14, 129:15  <b>much</b> [32] - 3:15, 4:3, 6:5, 6:24, 7:5, 21:5, 21:11, 24:20, 25:15, 30:21, 40:3, 46:21, 53:6, 55:4, 63:15, 66:25, 88:11, 101:13, 102:9, 104:23, 106:2, 108:4, 108:11, 108:13, 108:14, 119:14, 119:24, 121:12, 130:2, 130:6, 135:14, 141:13  <b>multi</b> [1] - 40:4  <b>multi-issue</b> [1] - 40:4  <b>multiple</b> [2] - 81:16,</p>	<p>121:16  <b>municipal</b> [20] - 18:8, 18:10, 18:16, 19:2, 19:10, 19:12, 19:13, 19:20, 19:21, 20:6, 20:22, 21:23, 22:1, 42:5, 59:8, 61:22, 64:6, 93:21, 93:22, 94:4  <b>municipalities</b> [1] - 22:9  <b>must</b> [4] - 28:19, 77:14, 94:19, 115:2  <b>my</b> [56] - 2:1, 2:8, 2:10, 2:17, 2:25, 3:8, 3:16, 3:24, 4:10, 15:23, 17:11, 17:13, 17:14, 18:20, 20:21, 21:2, 21:16, 22:6, 27:10, 29:15, 33:9, 33:12, 35:23, 41:15, 41:16, 42:23, 44:8, 45:16, 48:13, 49:7, 60:6, 65:7, 80:17, 87:2, 92:25, 98:6, 100:6, 102:1, 104:22, 105:5, 106:1, 106:11, 107:13, 112:1, 115:5, 115:12, 118:7, 118:11, 123:21, 123:23, 125:10, 127:8, 136:1, 140:3, 142:8, 142:14  <b>myself</b> [1] - 8:10</p> <p style="text-align: center;"><b>N</b></p> <p><b>N</b> [1] - 1:9  <b>Nader</b> [1] - 120:19  <b>name</b> [10] - 2:1, 2:10, 2:17, 2:25, 3:16, 23:21, 33:11, 40:21, 48:13, 92:25  <b>named</b> [2] - 73:7, 132:9  <b>narrow</b> [1] - 68:14  <b>NASSAU</b> [1] - 142:4  <b>National</b> [2] - 9:7, 37:3  <b>national</b> [4] - 3:2, 48:22, 67:15, 78:23  <b>nationally</b> [2] - 67:1, 75:16  <b>naturalization</b> [1] - 57:19  <b>naturalize</b> [1] - 64:19  <b>nature</b> [2] - 119:8, 131:10  <b>near</b> [2] - 13:13, 124:14  <b>nearly</b> [2] - 81:8, 116:6  <b>necessarily</b> [7] - 16:3, 55:13, 118:19, 119:20, 123:22, 124:1, 126:5  <b>need</b> [25] - 26:15, 26:22, 39:25, 51:10, 51:22, 52:2, 54:5, 54:24, 72:16, 78:6, 83:4, 84:8, 84:10,</p>
--	---	--	---

<p>86:10, 90:13, 94:16, 123:20, 123:24, 124:1, 124:21, 126:23, 126:24, 128:19, 128:25 <b>needed</b> [3] - 47:18, 59:1, 137:11 <b>needle</b> [1] - 33:1 <b>needs</b> [2] - 46:2, 54:17 <b>negative</b> [1] - 82:24 <b>negligible</b> [1] - 107:14 <b>neighborhoods</b> [3] - 49:25, 57:20, 135:15 <b>Nekima</b> [1] - 132:9 <b>nepotism</b> [1] - 41:22 <b>nervous</b> [1] - 61:10 <b>network</b> [1] - 59:20 <b>never</b> [5] - 27:11, 80:25, 106:4, 111:10, 134:1 <b>NEW</b> [1] - 142:3 <b>new</b> [7] - 11:13, 21:10, 39:14, 67:12, 96:4, 118:13, 127:10 <b>New</b> [128] - 1:4, 2:3, 3:2, 3:9, 3:10, 3:17, 7:5, 7:19, 7:22, 7:24, 8:9, 8:17, 8:21, 8:22, 8:24, 9:4, 9:9, 9:11, 9:13, 9:15, 9:18, 9:19, 9:23, 9:25, 10:22, 12:1, 12:7, 12:9, 12:14, 12:20, 13:2, 13:5, 13:15, 13:23, 14:9, 14:11, 15:7, 15:17, 15:21, 19:1, 22:8, 22:10, 24:2, 25:21, 25:24, 25:25, 26:2, 26:8, 26:9, 26:17, 26:25, 27:4, 27:17, 27:20, 27:22, 28:13, 28:14, 28:24, 34:5, 37:8, 37:10, 37:16, 38:23, 41:13, 41:14, 41:18, 42:6, 42:7, 42:19, 46:22, 48:4, 48:10, 48:21, 49:1, 49:13, 55:16, 56:9, 56:10, 58:19, 58:24, 59:6, 59:17, 60:4, 60:7, 60:13, 60:20, 61:6, 63:9, 64:23, 68:2, 70:23, 72:2, 72:25, 77:17, 77:23, 78:17, 81:8, 83:3, 83:14, 83:24, 84:14, 86:16, 88:6, 89:5, 90:1, 90:10, 96:6, 99:17, 99:19, 102:10, 106:5, 106:19, 107:1, 107:6, 108:3, 108:20, 108:24, 110:19, 113:5, 124:25, 125:22, 125:25, 131:18, 136:1, 138:23, 142:7 <b>news</b> [1] - 72:12 <b>next</b> [12] - 18:1, 48:13, 52:21, 65:8, 65:15,</p>	<p>84:17, 94:8, 105:20, 107:3, 108:19, 108:22, 130:1 <b>nice</b> [1] - 101:16 <b>night</b> [3] - 17:2, 41:9, 81:13 <b>nine</b> [4] - 89:15, 110:24, 139:1 <b>no</b> [38] - 5:18, 9:9, 10:10, 12:21, 15:16, 18:6, 24:15, 25:19, 31:2, 33:2, 38:3, 43:1, 55:1, 64:17, 65:16, 65:20, 72:5, 83:9, 90:3, 91:25, 94:21, 99:10, 99:15, 100:4, 100:16, 102:6, 112:13, 113:20, 114:22, 115:23, 120:5, 126:23, 126:24, 134:10, 142:12 <b>No</b> [2] - 8:24, 115:9 <b>no-excuse</b> [3] - 9:9, 10:10, 15:16 <b>nobody</b> [1] - 17:4 <b>non</b> [5] - 19:12, 19:21, 86:25, 87:16, 131:13 <b>non-municipal</b> [2] - 19:12, 19:21 <b>non-rank-choice</b> [1] - 87:16 <b>non-run-off</b> [1] - 86:25 <b>non-white</b> [1] - 131:13 <b>noncitizen</b> [7] - 56:5, 56:11, 56:12, 56:13, 56:24, 60:8, 63:23 <b>noncitizens</b> [6] - 57:2, 57:21, 57:23, 64:19, 89:3, 89:7 <b>none</b> [3] - 24:17, 118:8, 132:1 <b>nongovernmental</b> [1] - 67:17 <b>nonpartisan</b> [5] - 26:14, 40:5, 100:14, 133:3, 139:10 <b>normalization</b> [1] - 95:12 <b>normative</b> [1] - 21:11 <b>northern</b> [1] - 2:19 <b>not</b> [149] - 4:14, 5:23, 9:9, 9:11, 9:13, 9:18, 9:23, 13:6, 13:9, 13:18, 14:20, 16:2, 16:9, 17:20, 18:10, 18:19, 18:20, 19:2, 19:11, 19:12, 19:14, 20:4, 20:24, 21:6, 21:9, 22:4, 23:7, 24:3, 24:14, 25:10, 27:12, 28:4, 31:19, 31:20, 33:7, 34:9, 35:3, 35:14, 38:12, 39:10, 41:13, 41:23,</p>	<p>42:11, 42:13, 42:17, 42:19, 44:24, 45:9, 46:17, 47:4, 50:14, 50:18, 51:12, 53:16, 54:5, 55:6, 55:22, 57:10, 61:7, 64:10, 64:20, 67:12, 68:5, 73:17, 73:18, 73:19, 75:18, 77:22, 78:8, 78:18, 78:25, 79:13, 82:7, 84:22, 85:5, 85:7, 85:13, 86:20, 87:19, 89:22, 90:19, 92:13, 94:11, 97:22, 98:7, 98:8, 100:1, 100:2, 100:5, 100:17, 100:18, 101:11, 102:4, 102:7, 103:10, 104:10, 104:23, 105:3, 105:5, 105:9, 106:8, 107:18, 107:21, 111:6, 111:8, 111:11, 112:13, 112:14, 113:4, 113:15, 113:23, 114:1, 114:2, 114:4, 114:9, 115:6, 115:13, 115:20, 116:3, 117:11, 117:16, 118:5, 118:10, 123:9, 123:21, 124:6, 124:9, 125:5, 125:12, 126:5, 126:19, 127:24, 128:3, 128:15, 129:10, 129:11, 130:6, 130:18, 133:4, 133:6, 135:6, 138:17, 139:18, 140:7, 140:12, 142:10 <b>Notary</b> [1] - 142:6 <b>note</b> [3] - 61:25, 112:11, 135:25 <b>noted</b> [1] - 8:12 <b>notes</b> [3] - 40:12, 65:12, 142:9 <b>nothing</b> [6] - 35:9, 44:9, 79:23, 80:9, 92:6, 100:3 <b>notice</b> [1] - 43:3 <b>noticed</b> [2] - 74:11, 74:13 <b>notices</b> [1] - 11:11 <b>notifying</b> [1] - 43:9 <b>notion</b> [2] - 23:16, 122:10 <b>notwithstanding</b> [1] - 60:17 <b>November</b> [7] - 9:25, 26:10, 27:20, 48:1, 55:23, 75:17, 77:1 <b>now</b> [30] - 3:14, 3:24, 6:19, 12:14, 19:7, 23:24, 32:20, 39:13, 41:21, 42:17, 42:18, 47:25, 51:12, 54:11, 58:2, 61:10, 65:15, 65:23,</p>	<p>86:22, 87:7, 99:11, 109:5, 111:18, 112:23, 114:3, 114:22, 115:18, 127:7, 128:7, 140:14 <b>nowhere</b> [1] - 29:9 <b>nuanced</b> [1] - 122:22 <b>number</b> [19] - 14:13, 35:17, 35:19, 50:14, 51:17, 51:21, 59:10, 61:17, 67:20, 79:18, 87:3, 114:1, 116:23, 117:11, 117:12, 136:24, 137:8, 137:10, 140:15 <b>numbers</b> [15] - 23:18, 56:23, 68:15, 73:19, 74:22, 83:15, 84:16, 104:1, 105:22, 106:10, 109:3, 110:18, 111:24, 112:7, 112:9 <b>numerical</b> [1] - 55:12 <b>nutshell</b> [1] - 126:2 <b>NYC</b> [3] - 1:1, 32:20, 39:9 <b>NYU</b> [1] - 3:6</p> <p style="text-align: center;"><b>O</b></p> <p><b>Oakland</b> [8] - 74:11, 75:6, 76:22, 112:2, 119:10, 125:16, 125:21, 135:10 <b>object</b> [1] - 89:13 <b>objectively</b> [1] - 95:22 <b>obligation</b> [1] - 47:8 <b>obligations</b> [3] - 13:10, 50:13, 55:17 <b>obnoxious</b> [1] - 15:18 <b>observations</b> [1] - 118:11 <b>observe</b> [1] - 118:7 <b>observed</b> [2] - 50:2, 118:11 <b>obsolete</b> [1] - 10:2 <b>obstacles</b> [1] - 13:12 <b>obviously</b> [10] - 6:7, 15:12, 21:1, 34:25, 35:18, 63:9, 72:18, 77:2, 99:20, 106:9 <b>occasion</b> [1] - 110:10 <b>occasional</b> [1] - 48:3 <b>occasioned</b> [1] - 109:18 <b>occur</b> [2] - 21:6, 128:4 <b>occurred</b> [2] - 34:16, 128:14 <b>OF</b> [2] - 142:3, 142:4 <b>Of</b> [5] - 29:17, 29:25, 39:3, 66:9, 93:1 <b>of</b> [690] - 2:2, 2:3, 2:4, 2:5, 2:7, 2:12, 2:19, 2:21, 2:22, 3:6, 3:9, 3:10, 3:13,</p>
---	--	---	---

<p>3:17, 3:20, 3:25, 4:1, 4:10, 4:14, 4:16, 4:20, 5:1, 5:4, 5:7, 5:9, 5:16, 5:18, 5:22, 6:7, 6:10, 6:16, 6:20, 6:22, 7:1, 7:10, 7:17, 7:22, 7:23, 7:24, 8:1, 8:3, 8:14, 8:16, 8:19, 8:20, 8:23, 8:25, 9:4, 9:7, 9:19, 10:1, 10:14, 10:18, 10:21, 10:23, 11:5, 11:11, 11:20, 12:1, 12:11, 12:13, 12:17, 12:20, 12:22, 12:23, 12:24, 13:5, 13:16, 13:19, 13:24, 14:2, 14:3, 14:8, 14:10, 14:13, 14:19, 14:24, 15:3, 15:15, 15:21, 15:23, 16:2, 16:9, 16:11, 16:14, 16:21, 17:4, 17:11, 17:14, 17:15, 19:3, 20:11, 20:16, 21:13, 21:15, 22:11, 22:18, 23:2, 23:3, 23:9, 23:17, 23:19, 23:22, 23:23, 24:4, 24:8, 25:4, 25:17, 25:21, 25:24, 26:1, 26:8, 26:13, 26:17, 26:18, 26:25, 27:3, 27:4, 27:6, 27:7, 27:9, 27:13, 27:19, 27:24, 28:1, 28:2, 28:14, 28:23, 28:24, 29:18, 29:23, 29:24, 30:6, 30:12, 30:13, 30:19, 31:1, 31:4, 31:19, 31:25, 33:12, 33:13, 33:16, 33:19, 33:23, 34:6, 34:8, 35:16, 35:17, 35:21, 36:3, 36:11, 36:16, 36:25, 37:8, 37:16, 37:20, 37:21, 37:23, 38:1, 38:10, 38:16, 38:20, 38:23, 39:6, 39:9, 39:10, 39:14, 39:15, 39:17, 39:22, 40:4, 40:8, 40:10, 40:14, 40:19, 40:20, 40:22, 41:5, 41:10, 41:25, 42:6, 42:7, 42:9, 42:20, 43:9, 43:15, 43:19, 43:20, 43:24, 44:1, 44:9, 44:10, 44:17, 44:22, 45:4, 45:5, 45:13, 45:16, 45:19, 45:20, 46:1, 46:12, 46:13, 46:15, 46:16, 46:25, 47:1, 47:2, 47:13, 48:8, 48:18, 48:21, 49:3, 49:6, 49:13, 50:1, 50:6, 50:14, 50:19, 51:9, 51:15, 52:7,</p>	<p>52:13, 52:14, 52:19, 53:8, 54:1, 54:25, 55:11, 55:16, 55:19, 56:1, 56:8, 56:24, 57:2, 57:14, 57:16, 57:17, 57:18, 57:21, 57:25, 58:6, 58:8, 58:13, 58:14, 58:17, 58:20, 58:22, 59:10, 59:13, 59:17, 59:18, 59:19, 59:21, 60:1, 60:2, 60:4, 60:6, 60:8, 60:18, 60:20, 60:23, 61:3, 61:7, 61:12, 61:15, 61:17, 61:19, 61:21, 61:23, 62:2, 62:5, 62:10, 62:12, 62:14, 62:22, 63:5, 63:7, 63:11, 63:21, 63:24, 64:4, 64:7, 64:20, 64:21, 64:22, 64:23, 64:25, 65:6, 65:9, 65:10, 65:11, 65:12, 65:14, 65:18, 65:24, 66:3, 66:12, 66:22, 67:3, 67:8, 67:14, 67:16, 67:17, 67:18, 67:19, 67:21, 67:23, 68:12, 68:16, 68:18, 68:22, 68:24, 69:4, 69:5, 69:10, 69:14, 69:20, 70:1, 70:5, 70:15, 70:17, 70:21, 70:25, 71:3, 71:6, 71:8, 71:9, 71:10, 71:13, 71:15, 72:4, 72:8, 72:15, 72:19, 72:25, 73:8, 73:12, 73:13, 73:14, 73:15, 73:16, 73:24, 74:3, 74:22, 75:9, 75:11, 75:13, 75:17, 75:20, 75:22, 75:23, 75:24, 75:25, 76:1, 76:11, 76:15, 76:16, 76:18, 77:3, 77:4, 77:6, 77:20, 78:7, 78:14, 78:20, 78:21, 79:2, 79:7, 79:12, 79:16, 79:18, 80:8, 80:12, 80:24, 81:6, 81:13, 81:25, 82:3, 82:5, 82:9, 82:15, 82:18, 82:20, 82:22, 83:8, 83:22, 84:16, 84:18, 84:21, 85:15, 85:22, 86:17, 86:24, 87:4, 87:14, 87:16, 87:17, 88:19, 88:21, 88:25, 89:6, 89:12, 89:13, 89:17, 89:24, 90:11, 90:12, 90:13, 90:14, 90:16, 91:3, 91:5, 91:8, 91:18, 91:21, 92:3, 92:9, 92:22, 93:2, 93:4, 93:11, 93:18, 93:20, 93:22,</p>	<p>93:24, 93:25, 94:1, 94:5, 94:13, 94:15, 94:20, 95:1, 95:8, 95:14, 95:15, 95:16, 96:2, 96:6, 96:15, 97:18, 97:21, 98:1, 98:5, 99:4, 99:7, 99:10, 99:18, 99:20, 99:22, 100:11, 100:15, 100:25, 101:2, 101:11, 101:17, 101:24, 101:25, 102:16, 102:19, 103:2, 103:4, 103:5, 103:6, 103:7, 103:8, 103:23, 105:3, 105:4, 105:20, 106:11, 106:12, 106:14, 106:15, 106:16, 106:19, 106:21, 107:2, 107:4, 107:5, 107:7, 107:8, 107:9, 107:12, 107:14, 107:23, 108:5, 108:17, 108:20, 108:24, 109:23, 110:1, 110:3, 110:9, 110:18, 110:21, 111:5, 111:15, 111:25, 112:10, 112:16, 112:22, 113:12, 113:24, 114:5, 114:17, 114:23, 114:25, 115:4, 116:6, 116:13, 116:17, 116:18, 116:19, 116:24, 117:10, 117:11, 117:12, 117:17, 117:18, 117:20, 117:25, 118:2, 118:5, 118:8, 118:21, 118:24, 119:1, 119:5, 119:8, 119:13, 119:17, 120:7, 120:8, 120:9, 120:10, 120:16, 120:18, 120:25, 121:6, 121:8, 121:11, 121:17, 121:18, 121:19, 121:21, 122:1, 122:2, 122:12, 122:13, 122:19, 122:23, 122:25, 123:4, 123:23, 124:4, 124:5, 124:7, 124:17, 125:2, 125:6, 125:13, 125:20, 126:3, 126:6, 126:8, 126:11, 126:18, 127:6, 127:12, 128:4, 128:9, 128:24, 129:17, 129:23, 129:24, 130:3, 130:9, 130:15, 131:6, 131:7, 131:10, 131:14, 131:16, 131:21, 132:1, 132:8, 132:9, 132:11, 132:13, 132:24, 133:6, 133:19, 133:21, 133:25, 134:5, 134:6, 134:12, 134:13, 134:15, 134:17, 134:19, 134:20, 134:21, 135:1, 135:16, 135:17, 135:22, 136:13, 136:20,</p>	<p>136:22, 136:24, 137:1, 137:3, 137:6, 137:8, 137:22, 137:25, 138:1, 138:12, 138:25, 139:2, 139:15, 140:5, 140:11, 140:14, 140:15, 140:16, 141:5, 141:6, 142:7, 142:8, 142:11, 142:12, 142:15 <b>off</b> [69] - 12:3, 15:23, 16:7, 24:1, 44:2, 44:24, 45:15, 65:16, 65:19, 67:5, 70:23, 70:24, 71:2, 71:8, 71:16, 72:9, 73:17, 78:7, 80:15, 81:3, 83:5, 83:8, 83:13, 83:19, 83:21, 84:2, 84:5, 84:7, 84:19, 84:22, 86:7, 86:17, 86:18, 86:22, 86:25, 88:18, 90:12, 91:8, 93:20, 103:5, 103:21, 103:23, 104:2, 104:3, 104:4, 108:25, 109:1, 112:14, 113:9, 113:16, 115:16, 115:24, 116:25, 118:2, 118:22, 120:4, 120:22, 121:1, 121:2, 121:21, 121:22, 127:24, 128:23, 128:25, 129:1, 131:24, 132:20, 137:4 <b>offer</b> [2] - 14:5, 26:22 <b>office</b> [9] - 3:3, 3:24, 26:1, 39:14, 94:4, 95:3, 96:12, 106:17, 110:3 <b>Office</b> [2] - 26:12, 39:3 <b>officer</b> [1] - 39:12 <b>offices</b> [13] - 20:24, 21:7, 29:24, 77:24, 82:13, 82:14, 82:19, 86:12, 87:20, 87:24, 93:22, 121:3, 130:21 <b>official</b> [2] - 47:3, 90:24 <b>officials</b> [5] - 9:20, 35:10, 83:8, 92:5 <b>offs</b> [18] - 31:21, 65:20, 69:9, 71:12, 76:21, 81:3, 83:14, 83:17, 84:3, 84:7, 84:11, 120:25, 121:5, 121:6, 121:13, 121:24, 122:1 <b>often</b> [5] - 71:15, 71:21, 86:19, 92:14, 117:13 <b>oftentimes</b> [1] - 124:10 <b>oh</b> [7] - 32:1, 47:22, 75:1, 80:17, 85:12, 105:2, 112:23 <b>okay</b> [9] - 18:2, 34:22, 54:15, 61:13, 106:17, 107:23, 123:11, 127:20,</p>
--	---	--	--

<p>128:9  <b>Okay</b> [1] - 77:10  <b>old</b> [3] - 10:7, 58:9, 132:5  <b>older</b> [1] - 71:10  <b>omit</b> [1] - 12:2  <b>on</b> [148] - 2:8, 2:13, 4:10, 4:15, 5:15, 5:22, 10:4, 11:11, 13:13, 13:21, 14:8, 15:7, 16:1, 16:8, 16:10, 16:15, 16:18, 16:25, 17:2, 17:8, 17:11, 17:16, 18:14, 19:7, 19:13, 19:22, 19:24, 21:9, 21:19, 22:18, 24:11, 24:16, 24:20, 25:13, 26:5, 27:16, 29:5, 33:1, 33:11, 35:19, 35:20, 35:23, 36:6, 37:16, 38:5, 40:1, 40:18, 40:19, 41:8, 41:24, 44:18, 45:22, 47:9, 47:11, 47:17, 48:13, 49:8, 52:21, 53:4, 53:14, 53:21, 55:23, 56:4, 56:8, 58:2, 60:6, 61:1, 61:10, 62:10, 65:5, 66:16, 67:4, 68:24, 69:2, 69:18, 70:10, 70:17, 72:22, 72:23, 75:16, 77:9, 79:7, 79:11, 83:4, 84:9, 84:15, 90:4, 91:9, 91:21, 91:23, 92:13, 92:15, 92:22, 93:4, 93:6, 93:17, 94:16, 95:9, 96:22, 96:25, 97:9, 98:14, 99:2, 99:14, 100:21, 101:3, 104:15, 106:1, 108:6, 109:3, 109:6, 110:2, 110:4, 110:12, 110:14, 112:1, 115:1, 115:8, 115:10, 115:17, 116:18, 117:14, 118:18, 120:7, 120:19, 121:18, 123:14, 123:16, 127:16, 129:3, 129:12, 129:14, 130:11, 130:12, 130:16, 130:17, 131:4, 134:5, 134:6, 134:7, 139:13, 140:9, 140:17  <b>once</b> [10] - 59:25, 60:5, 61:13, 63:11, 65:2, 68:11, 68:13, 80:4, 93:21, 141:4  <b>one</b> [108] - 7:9, 15:11, 17:11, 18:3, 20:19, 21:1, 22:21, 24:7, 24:20, 24:21, 30:10, 30:12, 30:20, 32:5, 32:7, 33:2, 33:20, 37:16, 39:18,</p>	<p>43:3, 47:16, 50:1, 55:24, 56:18, 57:14, 58:13, 60:13, 67:8, 68:3, 68:4, 68:24, 69:18, 70:6, 70:8, 70:9, 70:17, 70:18, 70:22, 70:25, 71:4, 71:6, 71:22, 72:19, 73:3, 76:5, 77:5, 77:6, 77:7, 78:2, 78:5, 78:11, 78:25, 79:8, 79:18, 79:20, 80:15, 80:16, 81:6, 82:15, 83:2, 84:16, 84:17, 85:25, 87:6, 87:15, 90:13, 97:8, 99:18, 99:25, 100:22, 101:18, 106:3, 109:16, 110:10, 110:18, 110:21, 111:1, 111:2, 111:5, 111:15, 111:17, 112:4, 112:18, 113:21, 115:4, 117:20, 117:22, 117:23, 118:14, 121:11, 122:9, 122:13, 122:17, 123:1, 128:13, 130:17, 131:5, 132:9, 133:1, 136:9, 138:21, 138:25  <b>one's</b> [2] - 77:5, 122:23  <b>ones</b> [6] - 20:1, 72:18, 76:18, 99:5, 105:24, 115:4  <b>ongoing</b> [1] - 25:23  <b>online</b> [1] - 23:17  <b>only</b> [34] - 12:22, 18:7, 18:10, 18:18, 19:9, 23:9, 42:17, 43:3, 48:7, 50:25, 56:20, 74:24, 78:8, 78:11, 78:19, 82:2, 83:9, 85:7, 89:4, 89:10, 91:21, 95:7, 105:5, 111:2, 111:12, 111:16, 112:4, 120:11, 122:17, 122:25, 125:18, 136:9, 139:19  <b>Onondaga</b> [1] - 12:10  <b>oops</b> [1] - 27:17  <b>open</b> [9] - 4:2, 17:16, 54:24, 77:13, 89:3, 90:20, 97:5, 131:22, 139:21  <b>opens</b> [1] - 47:15  <b>operating</b> [1] - 96:7  <b>opinion</b> [5] - 15:5, 16:18, 100:16, 107:13, 112:19  <b>opponents</b> [1] - 133:14  <b>opportunities</b> [1] - 21:21  <b>opportunity</b> [13] - 4:23, 8:14, 14:15, 25:16, 28:17, 58:5, 67:6, 87:21, 90:8, 115:20, 115:25, 139:15, 139:22</p>	<p><b>opposed</b> [5] - 35:21, 59:20, 63:3, 63:20, 86:5  <b>opposite</b> [1] - 105:1  <b>Optical</b> [1] - 96:6  <b>optimal</b> [1] - 140:15  <b>optimally</b> [1] - 137:11  <b>option</b> [1] - 133:9  <b>or</b> [100] - 13:1, 14:24, 15:5, 17:5, 18:7, 19:11, 19:15, 20:3, 21:21, 21:23, 24:25, 30:23, 31:19, 34:12, 35:8, 35:10, 38:9, 38:13, 39:4, 41:14, 43:23, 45:4, 46:1, 47:16, 49:5, 51:7, 51:23, 52:17, 54:24, 55:22, 56:4, 57:3, 59:21, 62:19, 63:23, 64:15, 65:17, 65:21, 69:2, 70:1, 70:12, 70:18, 71:23, 73:12, 74:14, 75:4, 75:5, 75:23, 76:1, 79:12, 81:3, 85:12, 85:14, 86:12, 88:4, 88:18, 91:22, 93:8, 94:11, 95:23, 96:2, 96:10, 98:9, 100:17, 101:22, 103:5, 103:6, 103:11, 103:15, 103:17, 104:20, 105:14, 106:4, 106:8, 109:22, 110:10, 113:22, 115:6, 116:2, 116:9, 118:5, 120:15, 120:19, 123:2, 124:22, 126:6, 128:24, 129:5, 129:11, 129:21, 133:2, 133:10, 133:20, 133:23, 137:20, 137:23, 139:12, 141:5, 142:11  <b>Orange</b> [1] - 12:10  <b>Order</b> [1] - 67:16  <b>order</b> [6] - 42:8, 62:1, 64:14, 78:14, 96:24, 107:12  <b>organization</b> [4] - 3:14, 40:5, 58:10, 67:2  <b>organizations</b> [2] - 67:17, 97:1  <b>organize</b> [1] - 88:2  <b>organized</b> [1] - 77:17  <b>origin</b> [1] - 60:23  <b>Oscars</b> [1] - 67:18  <b>other</b> [44] - 4:13, 5:19, 12:24, 14:11, 14:13, 20:8, 20:20, 22:8, 22:21, 23:24, 29:5, 30:13, 30:16, 30:19, 35:21, 37:19, 38:8, 40:25, 41:6, 45:4, 53:4, 59:21, 71:13, 76:18, 80:17, 83:20, 84:24, 85:22, 91:14,</p>	<p>100:10, 101:19, 101:20, 104:21, 105:7, 106:4, 108:1, 124:2, 124:12, 124:21, 128:8, 132:16, 133:19, 133:21  <b>others</b> [4] - 13:20, 19:14, 20:24, 33:21  <b>otherwise</b> [2] - 124:7, 137:2  <b>ought</b> [1] - 5:6  <b>our</b> [76] - 4:3, 4:15, 4:21, 5:1, 5:11, 5:17, 6:3, 6:11, 6:15, 7:12, 10:4, 14:8, 15:2, 30:1, 30:11, 31:3, 32:2, 35:9, 35:14, 40:12, 42:25, 46:21, 52:20, 53:5, 53:14, 56:1, 57:4, 57:17, 58:19, 58:23, 59:2, 60:9, 60:14, 60:16, 60:17, 61:4, 62:9, 62:10, 65:10, 65:22, 66:23, 66:24, 67:2, 72:12, 74:22, 86:9, 88:17, 90:14, 91:14, 91:18, 91:23, 91:24, 94:23, 96:25, 99:10, 99:11, 100:15, 101:11, 102:1, 102:3, 110:4, 122:17, 123:5, 127:8, 128:3, 128:4, 128:9, 129:2, 129:8, 129:9, 136:19, 139:9, 139:11, 139:17  <b>out</b> [57] - 9:25, 11:12, 26:14, 26:18, 27:14, 33:12, 33:13, 36:17, 36:23, 39:11, 43:3, 43:6, 46:5, 46:24, 47:5, 47:12, 48:9, 53:18, 53:19, 56:25, 57:19, 58:12, 67:13, 69:14, 69:17, 70:20, 73:10, 73:11, 73:21, 74:4, 82:15, 85:10, 88:3, 91:11, 92:1, 96:21, 100:25, 101:2, 104:2, 111:15, 112:18, 113:12, 113:20, 114:5, 118:23, 124:2, 125:12, 125:19, 126:10, 128:7, 129:21, 133:14, 134:19, 135:14, 136:8, 138:3, 140:19  <b>outcome</b> [2] - 60:19, 142:12  <b>outdated</b> [1] - 29:21  <b>outlay</b> [1] - 99:4  <b>outreach</b> [7] - 93:19, 96:20, 97:1, 99:14, 106:22, 106:25, 109:12  <b>outreaching</b> [1] - 108:7</p>
--	---	---	--

<p><b>outside</b> [3] - 10:17, 41:21, 49:3</p> <p><b>outspent</b> [1] - 135:11</p> <p><b>outweigh</b> [1] - 21:5</p> <p><b>over</b> [25] - 6:8, 10:13, 22:10, 22:15, 23:25, 27:15, 27:21, 50:17, 58:24, 59:1, 60:12, 64:16, 69:5, 71:7, 71:9, 72:2, 72:9, 76:24, 76:25, 78:11, 78:13, 78:14, 86:14, 88:6, 121:6</p> <p><b>overall</b> [2] - 71:4, 76:17</p> <p><b>overcome</b> [1] - 102:8</p> <p><b>overhaul</b> [1] - 36:8</p> <p><b>oversight</b> [3] - 29:2, 29:5, 43:19</p> <p><b>overturn</b> [1] - 17:6</p> <p><b>overwhelming</b> [1] - 124:20</p> <p><b>own</b> [9] - 3:8, 15:7, 19:4, 21:16, 22:10, 22:12, 22:16, 30:4, 118:11</p>	<p>21:4, 61:14, 61:21, 64:9, 71:11</p> <p><b>participating</b> [3] - 61:22, 64:10, 65:2</p> <p><b>participation</b> [32] - 4:18, 5:13, 6:14, 8:21, 11:7, 11:8, 11:17, 14:3, 14:9, 19:20, 30:7, 30:12, 30:13, 32:23, 39:24, 58:6, 61:24, 62:22, 66:23, 68:25, 69:2, 69:10, 69:20, 70:3, 71:5, 74:12, 76:5, 76:10, 77:2, 83:14, 84:2, 122:1</p> <p><b>participatory</b> [1] - 84:12</p> <p><b>particular</b> [8] - 55:7, 55:12, 55:15, 64:2, 91:4, 99:6, 129:22, 139:16</p> <p><b>particularly</b> [12] - 44:11, 47:1, 49:9, 67:4, 67:22, 73:8, 75:6, 90:17, 120:25, 124:9, 135:19, 138:15</p> <p><b>particulars</b> [1] - 64:21</p> <p><b>parties</b> [3] - 38:20, 130:12, 142:11</p> <p><b>partisan</b> [3] - 10:13, 41:21, 123:15</p> <p><b>partisanship</b> [1] - 36:16</p> <p><b>parts</b> [1] - 20:12</p> <p><b>party</b> [9] - 6:15, 10:16, 65:18, 112:25, 113:1, 123:16, 133:7, 139:10, 139:12</p> <p><b>pass</b> [2] - 23:25, 111:18</p> <p><b>passed</b> [1] - 98:9</p> <p><b>past</b> [4] - 27:13, 88:19, 88:24, 121:6</p> <p><b>paste</b> [1] - 95:7</p> <p><b>path</b> [1] - 64:24</p> <p><b>pattern</b> [3] - 82:20, 111:7, 111:15</p> <p><b>patterns</b> [2] - 69:20, 135:20</p> <p><b>Paul</b> [4] - 74:18, 75:23, 95:17, 131:8</p> <p><b>pay</b> [13] - 29:8, 42:5, 42:8, 42:9, 42:11, 42:12, 83:25, 102:20, 105:15, 106:2, 122:12, 124:21</p> <p><b>paying</b> [1] - 42:13</p> <p><b>pegged</b> [2] - 54:16, 55:14</p> <p><b>people</b> [80] - 5:7, 5:16, 14:24, 15:4, 15:8, 15:20, 15:25, 19:11, 21:4, 21:6, 21:7, 21:8, 21:13, 23:17, 26:22, 30:14, 30:17, 32:8, 38:19, 40:19, 42:10, 43:12, 47:5,</p>	<p>47:19, 68:14, 69:17, 69:24, 71:15, 71:19, 71:20, 73:22, 74:4, 76:8, 81:21, 81:25, 82:14, 82:18, 83:23, 84:18, 84:21, 85:5, 85:10, 86:15, 91:12, 92:4, 92:15, 102:19, 102:24, 103:3, 105:6, 109:21, 109:23, 110:25, 111:5, 111:7, 116:15, 116:24, 117:8, 117:17, 120:16, 125:15, 125:19, 126:4, 129:20, 129:21, 131:6, 131:14, 132:1, 132:8, 133:24, 134:19, 134:22, 135:21, 137:3, 138:9, 138:21, 139:2, 140:7, 140:18</p> <p><b>per</b> [1] - 100:4</p> <p><b>Perales</b> [1] - 2:2</p> <p><b>PERALES</b> [60] - 1:15, 1:21, 2:1, 3:8, 4:12, 7:7, 7:9, 7:16, 8:12, 14:18, 18:1, 21:15, 22:3, 24:19, 25:12, 31:25, 32:15, 34:2, 35:24, 39:25, 44:5, 44:25, 47:21, 48:13, 53:6, 54:7, 58:2, 61:5, 62:17, 65:4, 66:1, 74:6, 77:11, 85:22, 88:10, 88:13, 90:3, 92:17, 92:19, 97:19, 98:18, 102:9, 102:13, 108:10, 108:14, 109:14, 109:25, 111:18, 114:8, 115:2, 115:9, 115:18, 119:24, 122:4, 136:17, 140:1, 141:9, 141:15, 141:17, 141:20</p> <p><b>percent</b> [62] - 12:19, 12:23, 47:2, 48:6, 48:7, 65:18, 68:18, 69:11, 71:8, 71:9, 73:12, 73:24, 76:24, 76:25, 77:22, 77:23, 78:1, 78:5, 78:10, 78:12, 78:13, 78:16, 80:19, 80:21, 80:23, 80:24, 82:2, 82:7, 82:16, 82:17, 85:13, 85:15, 87:7, 91:22, 111:5, 112:3, 112:5, 112:6, 116:19, 116:21, 116:24, 117:13, 117:24, 117:25, 118:5, 118:6, 121:4, 121:7, 121:10, 121:11, 121:19, 121:23, 121:24, 124:24, 125:16, 125:17, 131:1, 133:21, 135:1, 140:10</p>	<p><b>percentage</b> [4] - 81:25, 109:23, 117:10, 122:19</p> <p><b>percentages</b> [1] - 92:3</p> <p><b>perception</b> [2] - 80:10, 80:13</p> <p><b>perfect</b> [4] - 72:5, 89:22, 112:13, 120:5</p> <p><b>performed</b> [1] - 95:5</p> <p><b>perhaps</b> [9] - 3:11, 7:11, 17:11, 35:13, 86:23, 113:12, 113:22, 124:15, 124:24</p> <p><b>period</b> [2] - 56:19, 128:6</p> <p><b>permanent</b> [1] - 17:21</p> <p><b>permission</b> [1] - 16:8</p> <p><b>permit</b> [1] - 11:19</p> <p><b>Perry</b> [3] - 7:18, 25:21, 36:15</p> <p><b>person</b> [20] - 4:9, 13:12, 43:13, 47:8, 64:17, 70:20, 80:16, 103:21, 105:2, 111:2, 111:17, 116:8, 117:15, 122:21, 126:13, 132:18, 133:6, 135:3, 135:24</p> <p><b>personal</b> [1] - 104:19</p> <p><b>personally</b> [1] - 26:16</p> <p><b>perspective</b> [6] - 48:17, 72:12, 72:23, 73:2, 101:16, 127:23</p> <p><b>persuing</b> [1] - 61:1</p> <p><b>petition</b> [1] - 139:20</p> <p><b>Ph.D</b> [1] - 97:22</p> <p><b>philosophies</b> [1] - 79:11</p> <p><b>photostatic</b> [1] - 12:16</p> <p><b>picking</b> [2] - 31:14, 89:15</p> <p><b>picture</b> [2] - 23:22, 67:19</p> <p><b>piece</b> [2] - 101:19, 126:8</p> <p><b>Pierce</b> [1] - 112:4</p> <p><b>piling</b> [1] - 95:10</p> <p><b>pilot</b> [1] - 48:2</p> <p><b>piloted</b> [1] - 12:11</p> <p><b>place</b> [14] - 11:11, 14:1, 26:20, 36:22, 38:10, 56:18, 56:20, 61:13, 73:5, 88:20, 89:10, 121:16, 132:12, 137:4</p> <p><b>placed</b> [1] - 32:19</p> <p><b>places</b> [9] - 10:4, 11:21, 11:24, 26:15, 26:19, 55:19, 70:19, 109:20, 125:6</p> <p><b>plain</b> [1] - 113:2</p> <p><b>plausible</b> [1] - 85:4</p> <p><b>play</b> [2] - 32:10, 73:11</p>
<b>P</b>			
<p><b>P</b> [2] - 1:9</p> <p><b>P.M</b> [2] - 1:6, 141:21</p> <p><b>package</b> [1] - 57:17</p> <p><b>packet</b> [2] - 112:1, 118:21</p> <p><b>page</b> [1] - 106:11</p> <p><b>paid</b> [2] - 42:12, 127:8</p> <p><b>panel</b> [18] - 2:13, 5:21, 5:22, 6:17, 6:19, 7:17, 14:14, 32:3, 35:25, 65:5, 65:6, 65:9, 65:15, 65:25, 67:11, 89:2, 91:17, 92:12</p> <p><b>panelist</b> [3] - 24:20, 109:17, 122:9</p> <p><b>panelists</b> [5] - 6:23, 17:11, 65:11, 66:2, 100:10</p> <p><b>paper</b> [7] - 11:21, 12:2, 23:8, 23:25, 41:10, 118:7, 125:14</p> <p><b>parents</b> [1] - 89:4</p> <p><b>Park</b> [3] - 59:11, 63:4, 63:9</p> <p><b>park</b> [1] - 93:24</p> <p><b>part</b> [24] - 20:16, 27:3, 38:6, 39:6, 45:5, 56:7, 57:17, 58:14, 58:17, 62:2, 73:14, 73:15, 73:16, 75:14, 79:21, 80:12, 89:12, 108:6, 111:25, 114:5, 114:23, 118:21, 132:14, 141:6</p> <p><b>participate</b> [6] - 4:3,</p>	<p>21:4, 61:14, 61:21, 64:9, 71:11</p> <p><b>participating</b> [3] - 61:22, 64:10, 65:2</p> <p><b>participation</b> [32] - 4:18, 5:13, 6:14, 8:21, 11:7, 11:8, 11:17, 14:3, 14:9, 19:20, 30:7, 30:12, 30:13, 32:23, 39:24, 58:6, 61:24, 62:22, 66:23, 68:25, 69:2, 69:10, 69:20, 70:3, 71:5, 74:12, 76:5, 76:10, 77:2, 83:14, 84:2, 122:1</p> <p><b>participatory</b> [1] - 84:12</p> <p><b>particular</b> [8] - 55:7, 55:12, 55:15, 64:2, 91:4, 99:6, 129:22, 139:16</p> <p><b>particularly</b> [12] - 44:11, 47:1, 49:9, 67:4, 67:22, 73:8, 75:6, 90:17, 120:25, 124:9, 135:19, 138:15</p> <p><b>particulars</b> [1] - 64:21</p> <p><b>parties</b> [3] - 38:20, 130:12, 142:11</p> <p><b>partisan</b> [3] - 10:13, 41:21, 123:15</p> <p><b>partisanship</b> [1] - 36:16</p> <p><b>parts</b> [1] - 20:12</p> <p><b>party</b> [9] - 6:15, 10:16, 65:18, 112:25, 113:1, 123:16, 133:7, 139:10, 139:12</p> <p><b>pass</b> [2] - 23:25, 111:18</p> <p><b>passed</b> [1] - 98:9</p> <p><b>past</b> [4] - 27:13, 88:19, 88:24, 121:6</p> <p><b>paste</b> [1] - 95:7</p> <p><b>path</b> [1] - 64:24</p> <p><b>pattern</b> [3] - 82:20, 111:7, 111:15</p> <p><b>patterns</b> [2] - 69:20, 135:20</p> <p><b>Paul</b> [4] - 74:18, 75:23, 95:17, 131:8</p> <p><b>pay</b> [13] - 29:8, 42:5, 42:8, 42:9, 42:11, 42:12, 83:25, 102:20, 105:15, 106:2, 122:12, 124:21</p> <p><b>paying</b> [1] - 42:13</p> <p><b>pegged</b> [2] - 54:16, 55:14</p> <p><b>people</b> [80] - 5:7, 5:16, 14:24, 15:4, 15:8, 15:20, 15:25, 19:11, 21:4, 21:6, 21:7, 21:8, 21:13, 23:17, 26:22, 30:14, 30:17, 32:8, 38:19, 40:19, 42:10, 43:12, 47:5,</p>	<p>47:19, 68:14, 69:17, 69:24, 71:15, 71:19, 71:20, 73:22, 74:4, 76:8, 81:21, 81:25, 82:14, 82:18, 83:23, 84:18, 84:21, 85:5, 85:10, 86:15, 91:12, 92:4, 92:15, 102:19, 102:24, 103:3, 105:6, 109:21, 109:23, 110:25, 111:5, 111:7, 116:15, 116:24, 117:8, 117:17, 120:16, 125:15, 125:19, 126:4, 129:20, 129:21, 131:6, 131:14, 132:1, 132:8, 133:24, 134:19, 134:22, 135:21, 137:3, 138:9, 138:21, 139:2, 140:7, 140:18</p> <p><b>per</b> [1] - 100:4</p> <p><b>Perales</b> [1] - 2:2</p> <p><b>PERALES</b> [60] - 1:15, 1:21, 2:1, 3:8, 4:12, 7:7, 7:9, 7:16, 8:12, 14:18, 18:1, 21:15, 22:3, 24:19, 25:12, 31:25, 32:15, 34:2, 35:24, 39:25, 44:5, 44:25, 47:21, 48:13, 53:6, 54:7, 58:2, 61:5, 62:17, 65:4, 66:1, 74:6, 77:11, 85:22, 88:10, 88:13, 90:3, 92:17, 92:19, 97:19, 98:18, 102:9, 102:13, 108:10, 108:14, 109:14, 109:25, 111:18, 114:8, 115:2, 115:9, 115:18, 119:24, 122:4, 136:17, 140:1, 141:9, 141:15, 141:17, 141:20</p> <p><b>percent</b> [62] - 12:19, 12:23, 47:2, 48:6, 48:7, 65:18, 68:18, 69:11, 71:8, 71:9, 73:12, 73:24, 76:24, 76:25, 77:22, 77:23, 78:1, 78:5, 78:10, 78:12, 78:13, 78:16, 80:19, 80:21, 80:23, 80:24, 82:2, 82:7, 82:16, 82:17, 85:13, 85:15, 87:7, 91:22, 111:5, 112:3, 112:5, 112:6, 116:19, 116:21, 116:24, 117:13, 117:24, 117:25, 118:5, 118:6, 121:4, 121:7, 121:10, 121:11, 121:19, 121:23, 121:24, 124:24, 125:16, 125:17, 131:1, 133:21, 135:1, 140:10</p>	<p><b>percentage</b> [4] - 81:25, 109:23, 117:10, 122:19</p> <p><b>percentages</b> [1] - 92:3</p> <p><b>perception</b> [2] - 80:10, 80:13</p> <p><b>perfect</b> [4] - 72:5, 89:22, 112:13, 120:5</p> <p><b>performed</b> [1] - 95:5</p> <p><b>perhaps</b> [9] - 3:11, 7:11, 17:11, 35:13, 86:23, 113:12, 113:22, 124:15, 124:24</p> <p><b>period</b> [2] - 56:19, 128:6</p> <p><b>permanent</b> [1] - 17:21</p> <p><b>permission</b> [1] - 16:8</p> <p><b>permit</b> [1] - 11:19</p> <p><b>Perry</b> [3] - 7:18, 25:21, 36:15</p> <p><b>person</b> [20] - 4:9, 13:12, 43:13, 47:8, 64:17, 70:20, 80:16, 103:21, 105:2, 111:2, 111:17, 116:8, 117:15, 122:21, 126:13, 132:18, 133:6, 135:3, 135:24</p> <p><b>personal</b> [1] - 104:19</p> <p><b>personally</b> [1] - 26:16</p> <p><b>perspective</b> [6] - 48:17, 72:12, 72:23, 73:2, 101:16, 127:23</p> <p><b>persuing</b> [1] - 61:1</p> <p><b>petition</b> [1] - 139:20</p> <p><b>Ph.D</b> [1] - 97:22</p> <p><b>philosophies</b> [1] - 79:11</p> <p><b>photostatic</b> [1] - 12:16</p> <p><b>picking</b> [2] - 31:14, 89:15</p> <p><b>picture</b> [2] - 23:22, 67:19</p> <p><b>piece</b> [2] - 101:19, 126:8</p> <p><b>Pierce</b> [1] - 112:4</p> <p><b>piling</b> [1] - 95:10</p> <p><b>pilot</b> [1] - 48:2</p> <p><b>piloted</b> [1] - 12:11</p> <p><b>place</b> [14] - 11:11, 14:1, 26:20, 36:22, 38:10, 56:18, 56:20, 61:13, 73:5, 88:20, 89:10, 121:16, 132:12, 137:4</p> <p><b>placed</b> [1] - 32:19</p> <p><b>places</b> [9] - 10:4, 11:21, 11:24, 26:15, 26:19, 55:19, 70:19, 109:20, 125:6</p> <p><b>plain</b> [1] - 113:2</p> <p><b>plausible</b> [1] - 85:4</p> <p><b>play</b> [2] - 32:10, 73:11</p>



<p><b>playbook</b> [1] - 124:18  <b>playbooks</b> [1] - 69:14  <b>playing</b> [1] - 123:1  <b>please</b> [2] - 43:7, 88:14  <b>pleased</b> [1] - 48:16  <b>pleasure</b> [2] - 100:14, 102:11  <b>plenty</b> [1] - 12:24  <b>plethora</b> [1] - 92:9  <b>plunge</b> [1] - 67:2  <b>plurality</b> [8] - 72:2, 72:8, 117:7, 117:18, 120:9, 120:21, 122:2, 131:12  <b>point</b> [23] - 4:20, 5:4, 13:21, 21:15, 25:1, 33:23, 34:24, 61:19, 64:21, 68:4, 88:4, 91:11, 91:18, 96:21, 104:23, 112:18, 119:2, 120:10, 122:24, 123:8, 123:9, 129:12, 136:24  <b>pointed</b> [1] - 104:2  <b>points</b> [5] - 72:20, 116:20, 120:8, 122:9, 140:6  <b>police</b> [1] - 132:12  <b>Policy</b> [3] - 8:3, 66:13, 102:17  <b>policy</b> [12] - 25:6, 28:13, 46:10, 46:11, 46:13, 46:17, 58:8, 60:3, 60:8, 60:9, 60:19, 61:1  <b>policymakers</b> [1] - 100:15  <b>political</b> [11] - 8:21, 14:3, 38:20, 60:15, 61:24, 69:15, 130:11, 137:4, 139:10, 139:12, 139:14  <b>politicians</b> [1] - 123:25  <b>politics</b> [2] - 85:19, 134:7  <b>poll</b> [53] - 11:12, 11:13, 11:18, 11:19, 11:21, 11:22, 11:25, 12:2, 12:5, 12:7, 12:12, 22:23, 23:3, 23:8, 23:11, 29:8, 40:19, 41:1, 41:4, 41:23, 41:24, 42:1, 42:5, 42:8, 42:22, 42:24, 42:25, 43:11, 43:17, 43:18, 44:12, 44:14, 44:15, 44:22, 44:23, 45:4, 45:11, 45:13, 45:14, 45:18, 48:23, 49:3, 49:6, 49:7, 50:15, 51:11, 52:6, 52:10, 107:16, 127:1  <b>polling</b> [6] - 11:21, 11:23, 26:15, 26:19, 26:20, 125:1</p>	<p><b>polls</b> [7] - 11:22, 41:2, 43:11, 47:6, 80:6, 85:8, 116:4  <b>pool</b> [2] - 88:25, 89:6  <b>pooling</b> [2] - 33:17, 33:18  <b>population</b> [2] - 60:20, 107:7  <b>populations</b> [1] - 129:9  <b>portal</b> [1] - 27:1  <b>Portland</b> [1] - 140:9  <b>position</b> [3] - 18:20, 35:6, 100:14  <b>positions</b> [1] - 59:4  <b>positive</b> [3] - 32:24, 57:24, 69:18  <b>possibility</b> [1] - 21:2  <b>possible</b> [5] - 11:7, 53:11, 57:1, 57:5, 125:2  <b>post</b> [4] - 41:23, 59:21, 69:9  <b>Postal</b> [3] - 27:10, 27:14, 27:15  <b>posted</b> [1] - 97:14  <b>potential</b> [2] - 62:14, 119:20  <b>potentially</b> [5] - 16:5, 60:12, 60:21, 99:22, 115:16  <b>Pounds</b> [1] - 132:10  <b>power</b> [2] - 126:11, 126:15  <b>practical</b> [2] - 19:8, 63:24  <b>practically</b> [1] - 55:20  <b>practice</b> [2] - 42:2, 95:18  <b>practices</b> [2] - 9:3, 10:2  <b>practicing</b> [1] - 2:11  <b>pre</b> [4] - 62:19, 74:15, 112:1, 130:23  <b>pre-2006</b> [1] - 75:5  <b>pre-packet</b> [1] - 112:1  <b>pre-rank-choice</b> [1] - 74:15  <b>precaution</b> [1] - 61:1  <b>precinct</b> [1] - 118:24  <b>precipitously</b> [1] - 71:4  <b>precisely</b> [1] - 35:4  <b>preclear</b> [1] - 110:22  <b>preclearance</b> [2] - 89:17, 139:4  <b>prefer</b> [1] - 115:15  <b>preference</b> [1] - 114:14  <b>preferences</b> [2] - 101:4, 123:5  <b>preferred</b> [1] - 119:12  <b>preliminary</b> [1] - 63:8  <b>premise</b> [1] - 84:9</p>	<p><b>preparation</b> [1] - 99:2  <b>prepare</b> [2] - 36:5, 99:4  <b>prepared</b> [5] - 6:22, 8:11, 11:15, 55:6, 58:15  <b>preregister</b> [1] - 60:2  <b>preregistration</b> [2] - 59:24, 63:4  <b>prerogative</b> [1] - 14:18  <b>presentation</b> [1] - 74:9  <b>presented</b> [1] - 116:22  <b>president</b> [5] - 7:23, 65:21, 66:3, 81:17, 87:25  <b>presidential</b> [4] - 48:5, 48:10, 52:9, 120:18  <b>presidentials</b> [1] - 48:24  <b>presidents</b> [1] - 87:2  <b>press</b> [1] - 118:22  <b>pressing</b> [1] - 90:3  <b>presumably</b> [1] - 84:20  <b>presume</b> [1] - 7:9  <b>pretty</b> [12] - 33:12, 76:14, 87:4, 105:24, 110:25, 114:3, 126:22, 140:21, 140:23, 140:24, 141:7  <b>prevent</b> [1] - 57:5  <b>prevented</b> [1] - 89:18  <b>previous</b> [5] - 34:10, 82:14, 94:4, 98:22, 122:9  <b>previously</b> [1] - 2:13  <b>price</b> [1] - 127:9  <b>primaries</b> [7] - 65:21, 67:24, 69:7, 87:6, 87:22, 88:8, 133:5  <b>primarily</b> [5] - 105:16, 107:10, 107:15, 107:16, 107:20  <b>primary</b> [33] - 10:17, 50:3, 65:18, 65:19, 67:25, 71:7, 71:17, 83:10, 83:18, 83:21, 84:4, 90:17, 91:10, 94:5, 99:11, 99:13, 101:5, 101:7, 104:7, 112:14, 113:9, 113:16, 115:24, 121:6, 121:23, 123:2, 123:7, 123:15, 128:8, 128:22, 132:6, 132:20  <b>principle</b> [4] - 36:7, 101:23, 139:12, 139:14  <b>principles</b> [1] - 70:6  <b>printed</b> [2] - 23:8, 24:7  <b>printing</b> [1] - 11:24  <b>prioritization</b> [1] - 35:17  <b>prioritize</b> [1] - 38:20  <b>privacy</b> [1] - 40:18  <b>private</b> [2] - 37:20, 38:1  <b>pro</b> [1] - 69:2</p>	<p><b>probably</b> [10] - 83:22, 124:14, 125:5, 125:23, 127:3, 133:4, 133:10, 138:12, 138:17, 141:2  <b>problem</b> [7] - 44:21, 50:17, 107:18, 112:21, 112:25, 114:2, 136:14  <b>problematic</b> [1] - 51:8  <b>problems</b> [9] - 36:3, 43:1, 44:9, 49:13, 49:21, 50:1, 50:2, 53:18, 56:17  <b>procedure</b> [2] - 37:4, 37:6  <b>proceeding</b> [1] - 38:4  <b>process</b> [42] - 13:7, 28:22, 29:12, 31:11, 34:14, 34:20, 38:18, 39:11, 39:19, 39:22, 45:5, 56:16, 61:21, 77:16, 80:4, 93:11, 94:9, 94:12, 94:13, 95:1, 95:13, 95:19, 95:20, 95:25, 97:11, 97:15, 98:8, 98:11, 99:5, 99:7, 100:8, 109:8, 109:10, 114:6, 114:17, 114:23, 116:16, 127:11, 128:2, 139:20  <b>processed</b> [4] - 80:7, 80:8, 81:4, 98:10  <b>processes</b> [1] - 99:8  <b>produce</b> [1] - 117:6  <b>produced</b> [1] - 89:8  <b>produces</b> [1] - 117:7  <b>product</b> [1] - 3:20  <b>profession</b> [1] - 4:5  <b>Professor</b> [2] - 66:14, 122:6  <b>professor</b> [4] - 66:15, 111:22, 118:17, 140:1  <b>program</b> [7] - 3:5, 8:1, 48:18, 48:23, 57:18, 61:23, 107:11  <b>programming</b> [1] - 107:25  <b>programs</b> [1] - 30:6  <b>progress</b> [1] - 27:6  <b>progressed</b> [1] - 110:11  <b>prohibition</b> [1] - 24:16  <b>project</b> [2] - 3:2, 48:2  <b>projected</b> [1] - 60:12  <b>prolonged</b> [1] - 79:1  <b>promising</b> [3] - 63:10, 69:21, 73:1  <b>promote</b> [4] - 100:16, 100:19, 128:15, 134:14  <b>promoted</b> [1] - 97:7  <b>promotes</b> [1] - 131:17  <b>promotion</b> [1] - 111:22</p>
--	---	---	---

<p><b>proper</b> [1] - 8:18  <b>properly</b> [1] - 36:18  <b>proposal</b> [6] - 18:5, 18:15, 20:6, 60:25, 77:13, 77:16  <b>proposals</b> [5] - 6:16, 11:16, 31:1, 46:5, 56:5  <b>propose</b> [1] - 59:6  <b>proposed</b> [2] - 41:4, 62:11  <b>proposition</b> [1] - 28:1  <b>pros</b> [1] - 72:4  <b>prospective</b> [1] - 60:1  <b>prospects</b> [1] - 33:5  <b>protected</b> [1] - 10:21  <b>protecting</b> [2] - 14:4, 28:14  <b>protection</b> [1] - 14:5  <b>provide</b> [11] - 13:20, 26:11, 27:1, 29:13, 50:23, 51:16, 51:25, 58:21, 70:10, 93:6, 119:4  <b>provided</b> [13] - 10:22, 13:23, 29:4, 52:6, 52:7, 93:9, 93:15, 96:22, 96:24, 98:11, 110:4, 117:21, 118:21  <b>provides</b> [4] - 45:17, 53:24, 65:16, 72:15  <b>providing</b> [1] - 32:21  <b>provision</b> [4] - 26:24, 52:3, 60:12, 60:17  <b>provisions</b> [1] - 51:19  <b>provocative</b> [1] - 79:15  <b>prudential</b> [1] - 46:8  <b>psychology</b> [1] - 111:3  <b>PUBLIC</b> [1] - 1:2  <b>public</b> [22] - 3:23, 5:18, 6:11, 25:6, 28:12, 30:11, 33:19, 39:21, 39:24, 46:10, 46:11, 46:13, 46:17, 56:1, 65:17, 71:2, 83:5, 97:5, 97:9, 101:19, 104:3, 126:1  <b>Public</b> [1] - 142:6  <b>public's</b> [1] - 33:15  <b>publication</b> [1] - 112:1  <b>publish</b> [1] - 105:19  <b>published</b> [1] - 105:21  <b>Puerto</b> [3] - 3:13, 103:14, 103:15  <b>pulled</b> [1] - 75:11  <b>purchase</b> [1] - 96:4  <b>purpose</b> [1] - 124:4  <b>purposes</b> [2] - 2:12, 2:21  <b>pursued</b> [1] - 85:7  <b>purview</b> [1] - 91:24  <b>push</b> [4] - 16:4, 16:21,</p>	<p>18:22, 21:24  <b>put</b> [12] - 16:15, 35:19, 36:11, 38:10, 40:18, 55:23, 59:4, 60:10, 105:7, 105:18, 120:19, 123:17</p> <p style="text-align: center;"><b>Q</b></p> <p><b>qualification</b> [1] - 40:25  <b>qualifications</b> [1] - 63:19  <b>quality</b> [6] - 10:21, 42:14, 112:19, 116:13, 116:18  <b>Queens</b> [5] - 49:12, 49:22, 49:24, 50:21, 51:1  <b>question</b> [42] - 14:19, 15:13, 15:21, 16:25, 18:3, 18:8, 18:13, 18:24, 19:8, 20:3, 24:22, 25:17, 36:24, 38:24, 44:8, 45:1, 45:25, 47:24, 55:24, 74:11, 78:21, 79:15, 79:20, 85:23, 86:13, 91:21, 92:21, 98:19, 100:7, 101:18, 106:21, 106:25, 109:15, 109:16, 112:2, 118:14, 125:7, 129:23, 130:18, 136:18, 138:12, 140:14  <b>questioning</b> [2] - 19:16, 32:1  <b>questions</b> [19] - 7:10, 7:13, 14:17, 22:18, 32:4, 37:15, 40:13, 44:6, 54:9, 67:11, 69:1, 74:6, 77:19, 90:4, 90:6, 92:18, 92:19, 97:18, 130:15  <b>quick</b> [4] - 26:4, 63:1, 65:9, 101:18  <b>quickly</b> [4] - 25:13, 66:2, 67:10, 96:20  <b>quite</b> [7] - 68:16, 69:21, 73:1, 73:6, 87:3, 120:23, 121:25  <b>quo</b> [1] - 86:9  <b>quote</b> [4] - 11:6, 21:22, 99:12, 124:11</p> <p style="text-align: center;"><b>R</b></p> <p><b>R</b> [3] - 1:9, 40:23, 142:1  <b>race</b> [28] - 19:13, 57:9, 68:19, 70:3, 72:22, 75:24, 76:9, 76:15, 83:7, 84:22, 103:19, 104:12, 111:4, 111:16, 111:17, 121:9, 126:19, 131:4, 131:23, 135:2, 135:11, 135:24, 136:2, 136:6,</p>	<p>138:8, 138:18  <b>racess</b> [16] - 18:7, 18:8, 18:10, 19:3, 19:4, 20:8, 76:12, 79:24, 81:16, 82:16, 82:18, 87:4, 87:5, 90:13, 90:16  <b>Rachel</b> [4] - 32:2, 34:2, 53:7, 122:5  <b>RACHEL</b> [1] - 1:19  <b>racial</b> [6] - 57:11, 57:13, 118:15, 118:24, 119:3, 119:10  <b>raise</b> [2] - 11:1, 42:7  <b>raised</b> [4] - 46:2, 64:22, 99:19, 122:8  <b>raising</b> [2] - 40:12, 132:16  <b>Ralph</b> [1] - 120:19  <b>ran</b> [1] - 139:2  <b>range</b> [2] - 6:16, 61:23  <b>ranges</b> [1] - 116:17  <b>ranging</b> [1] - 6:14  <b>Rank</b> [1] - 72:14  <b>rank</b> [106] - 31:17, 31:20, 36:12, 53:3, 65:14, 67:4, 67:18, 67:24, 68:10, 68:15, 68:17, 68:22, 69:1, 69:13, 69:22, 69:24, 72:7, 72:25, 74:12, 74:15, 74:23, 74:24, 75:21, 75:22, 75:23, 77:6, 77:21, 79:23, 80:9, 82:1, 82:12, 82:17, 85:4, 85:19, 86:6, 86:12, 86:24, 87:10, 87:15, 87:16, 87:19, 87:23, 88:18, 88:23, 89:12, 89:14, 90:12, 90:23, 91:1, 91:7, 93:7, 93:18, 94:3, 94:22, 98:25, 99:19, 100:4, 100:9, 101:22, 102:3, 100:9, 101:22, 102:3, 102:23, 103:6, 103:11, 105:1, 109:21, 109:22, 110:6, 111:5, 111:8, 112:13, 112:24, 113:13, 113:15, 113:23, 114:13, 115:9, 117:5, 118:14, 120:17, 121:15, 121:25, 122:10, 122:14, 122:22, 123:3, 123:6, 124:4, 127:4, 127:12, 129:11, 131:17, 132:14, 136:5, 138:7, 138:9, 140:7, 140:8, 140:11, 140:13, 140:22  <b>Rank-Choice</b> [1] - 72:14  <b>rank-choice</b> [86] - 31:17, 31:20, 53:3,</p>	<p>65:14, 67:4, 67:18, 67:24, 68:10, 68:17, 68:22, 69:1, 69:13, 69:22, 69:24, 72:7, 74:12, 74:15, 74:23, 74:24, 75:21, 75:22, 75:23, 77:6, 77:21, 79:23, 80:9, 82:1, 82:12, 82:17, 85:4, 85:19, 86:6, 86:12, 86:24, 87:10, 87:15, 87:19, 88:18, 88:23, 89:12, 89:14, 90:12, 90:23, 91:1, 91:7, 93:7, 93:18, 94:3, 94:22, 95:11, 98:25, 99:19, 100:4, 100:9, 101:22, 102:3, 102:23, 103:6, 103:11, 105:1, 109:21, 110:6, 112:13, 112:24, 113:13, 113:15, 117:5, 118:14, 120:17, 121:15, 121:25, 122:10, 122:14, 122:22, 123:3, 123:6, 124:4, 127:4, 127:12, 129:11, 131:17, 132:14, 136:5, 136:9, 138:7, 138:9  <b>rank-voting</b> [1] - 36:12  <b>ranked</b> [14] - 9:25, 68:20, 70:18, 73:12, 73:23, 74:2, 85:15, 91:4, 113:21, 114:11, 115:8, 133:20, 134:20, 134:22  <b>ranking</b> [7] - 70:9, 91:13, 101:3, 109:24, 110:10, 110:23, 134:18  <b>rankings</b> [7] - 70:10, 73:25, 91:12, 134:16, 134:19, 134:24, 135:8  <b>ranks</b> [1] - 113:21  <b>rans</b> [1] - 137:2  <b>rate</b> [6] - 42:9, 48:4, 117:23, 128:19, 130:23, 140:10  <b>rates</b> [6] - 57:8, 57:12, 57:15, 63:6, 116:17, 125:16  <b>rather</b> [3] - 16:22, 82:24, 138:21  <b>reach</b> [7] - 60:1, 60:2, 73:21, 74:4, 85:10, 88:3, 124:2  <b>reached</b> [2] - 51:17, 141:9  <b>reaches</b> [2] - 116:23, 117:13  <b>reaching</b> [3] - 69:17, 133:14, 141:6  <b>read</b> [1] - 83:16  <b>ready</b> [2] - 7:2, 12:7</p>
---	--	---	---

<p><b>real</b> [6] - 4:22, 42:1, 79:2, 82:22, 93:17, 111:9  <b>real-life</b> [1] - 42:1  <b>realistic</b> [1] - 97:15  <b>realize</b> [1] - 78:10  <b>really</b> [40] - 5:10, 5:20, 19:3, 36:10, 36:17, 39:10, 39:18, 49:8, 62:5, 67:25, 72:22, 78:6, 78:18, 79:14, 80:11, 80:14, 81:19, 81:24, 82:3, 86:3, 92:20, 95:19, 95:20, 97:24, 99:9, 99:15, 101:22, 102:23, 102:25, 107:13, 108:3, 110:23, 129:5, 130:7, 131:17, 133:7, 137:10, 137:25, 138:13  <b>reason</b> [5] - 17:20, 34:11, 91:12, 103:9, 110:21  <b>reasonable</b> [3] - 64:24, 123:1, 125:10  <b>reasonably</b> [1] - 125:25  <b>reasons</b> [1] - 31:5  <b>recalcitrant</b> [1] - 46:14  <b>recall</b> [1] - 15:23  <b>receipt</b> [1] - 27:7  <b>receive</b> [2] - 15:10, 117:16  <b>received</b> [4] - 6:8, 24:10, 117:18, 118:8  <b>receives</b> [5] - 12:18, 12:22, 23:23, 58:11, 65:17  <b>receiving</b> [3] - 30:14, 30:17, 30:18  <b>recent</b> [4] - 69:19, 84:2, 117:21, 131:9  <b>recently</b> [1] - 59:11  <b>recognition</b> [1] - 83:9  <b>recognize</b> [2] - 32:2, 90:13  <b>recommend</b> [4] - 24:23, 29:14, 53:10, 60:7  <b>recommendation</b> [1] - 61:2  <b>recommendations</b> [6] - 6:9, 34:18, 37:24, 38:12, 38:25, 41:15  <b>recommended</b> [1] - 40:15  <b>recommending</b> [4] - 18:9, 25:3, 39:1, 39:5  <b>record</b> [7] - 8:7, 16:15, 83:4, 83:16, 96:10, 100:21, 111:23  <b>recreate</b> [1] - 89:24  <b>recruited</b> [1] - 26:13</p>	<p><b>redistricting</b> [1] - 53:3  <b>reduce</b> [2] - 44:18, 89:14  <b>reduced</b> [3] - 41:10, 96:15, 139:18  <b>reduction</b> [1] - 24:6  <b>reelection</b> [1] - 76:16  <b>refers</b> [1] - 32:20  <b>reflect</b> [1] - 123:5  <b>reflects</b> [2] - 13:23, 46:20  <b>reform</b> [7] - 23:19, 31:1, 31:2, 31:4, 31:23, 36:6, 59:9  <b>reforms</b> [8] - 10:9, 10:15, 11:14, 16:17, 28:2, 38:13, 44:10, 92:10  <b>refused</b> [3] - 26:9, 51:4, 51:6  <b>regard</b> [2] - 30:21, 123:11  <b>Regarding</b> [1] - 54:3  <b>regarding</b> [3] - 33:14, 53:3, 97:4  <b>regardless</b> [1] - 129:23  <b>register</b> [4] - 9:15, 47:5, 59:25, 64:18  <b>registered</b> [3] - 12:1, 47:2, 95:14  <b>registering</b> [4] - 12:15, 23:17, 61:9, 62:24  <b>registration</b> [28] - 6:14, 9:12, 9:14, 9:17, 9:22, 10:1, 10:11, 10:15, 10:16, 12:9, 12:13, 12:20, 22:18, 22:19, 22:24, 23:4, 23:15, 23:16, 24:24, 24:25, 25:5, 25:6, 25:9, 42:4, 44:19, 57:19, 62:19, 64:1  <b>registrations</b> [3] - 12:23, 13:4, 13:5  <b>Registry</b> [1] - 37:3  <b>regular</b> [2] - 38:5, 91:9  <b>regularly</b> [4] - 9:3, 23:12, 40:9, 66:21  <b>reinforced</b> [1] - 97:6  <b>reiterate</b> [1] - 100:6  <b>related</b> [1] - 142:10  <b>relates</b> [2] - 38:25, 136:11  <b>relating</b> [1] - 6:9  <b>relation</b> [2] - 27:20, 131:20  <b>relative</b> [2] - 121:12, 129:10  <b>relatively</b> [3] - 36:4, 68:14, 92:2  <b>relativity</b> [1] - 120:6</p>	<p><b>relevance</b> [1] - 107:24  <b>relevant</b> [5] - 3:11, 106:19, 107:1, 108:3, 108:20  <b>reliably</b> [1] - 92:1  <b>remain</b> [1] - 58:20  <b>remarks</b> [3] - 6:22, 8:11, 60:6  <b>removed</b> [1] - 39:2  <b>replace</b> [2] - 70:23, 71:16  <b>replaced</b> [2] - 23:11, 95:24  <b>replacement</b> [1] - 69:4  <b>replacing</b> [2] - 23:8, 86:18  <b>replicate</b> [2] - 24:3, 95:8  <b>replicating</b> [1] - 23:20  <b>report</b> [7] - 40:16, 41:20, 96:10, 105:19, 107:18, 110:5  <b>reporting</b> [3] - 29:12, 29:14, 41:9  <b>reports</b> [1] - 81:21  <b>representation</b> [1] - 116:15  <b>representative</b> [1] - 91:1  <b>Representatives</b> [1] - 3:25  <b>represented</b> [4] - 93:24, 116:16, 130:4  <b>reprint</b> [1] - 23:13  <b>Republican</b> [2] - 50:5  <b>republicans</b> [2] - 133:12, 133:15  <b>requesting</b> [2] - 38:13, 52:9  <b>require</b> [9] - 10:9, 10:11, 10:18, 11:1, 24:11, 37:8, 51:16, 51:23, 53:23  <b>required</b> [3] - 26:19, 38:21, 38:22  <b>requirement</b> [4] - 27:4, 27:11, 38:17, 89:4  <b>requirements</b> [6] - 27:9, 28:3, 28:4, 29:20, 36:23, 56:2  <b>requires</b> [13] - 9:15, 11:10, 26:25, 43:2, 43:21, 48:11, 50:11, 51:25, 61:25, 92:9, 94:18, 123:16, 125:8  <b>requisite</b> [1] - 37:11  <b>reregister</b> [1] - 64:14  <b>research</b> [6] - 4:7, 18:18, 53:14, 53:22, 66:12, 118:22</p>	<p><b>reserve</b> [1] - 53:5  <b>residents</b> [6] - 12:21, 14:10, 27:22, 28:14, 51:22, 57:21  <b>resist</b> [2] - 30:25, 89:13  <b>resistance</b> [1] - 46:19  <b>resolution</b> [2] - 45:20, 57:5  <b>resolved</b> [2] - 28:9, 124:8  <b>Resource</b> [1] - 72:14  <b>resources</b> [1] - 33:17  <b>respect</b> [8] - 17:9, 23:14, 64:19, 86:6, 101:12, 128:11, 135:10, 135:17  <b>respectfully</b> [1] - 129:12  <b>response</b> [2] - 58:13, 124:9  <b>responsibilities</b> [2] - 15:8, 26:1  <b>responsive</b> [1] - 86:15  <b>rest</b> [2] - 13:16, 80:8  <b>restaurant</b> [1] - 100:23  <b>restore</b> [1] - 56:12  <b>restoring</b> [2] - 56:24, 57:23  <b>restriction</b> [1] - 55:1  <b>restrictions</b> [2] - 21:19, 22:4  <b>result</b> [1] - 12:5  <b>resulted</b> [1] - 89:19  <b>results</b> [8] - 9:23, 17:19, 17:20, 63:8, 81:5, 81:13, 89:9, 97:12  <b>retention</b> [1] - 130:23  <b>reusable</b> [1] - 23:11  <b>revealed</b> [1] - 129:24  <b>review</b> [1] - 93:16  <b>reviewed</b> [1] - 42:9  <b>Revision</b> [8] - 2:3, 2:5, 3:21, 8:19, 31:1, 32:18, 34:10, 36:6  <b>REVISION</b> [1] - 1:1  <b>revitalize</b> [1] - 32:16  <b>revitalized</b> [1] - 32:22  <b>Rican</b> [3] - 3:13, 103:14, 103:15  <b>Richie</b> [6] - 66:3, 67:1, 86:2, 113:11, 120:1, 122:25  <b>richie</b> [1] - 66:17  <b>RICHE</b> [20] - 66:18, 74:20, 75:2, 76:7, 77:25, 79:20, 80:23, 84:14, 86:13, 88:12, 110:16, 120:3, 126:17, 127:18, 130:15, 134:8, 137:12, 137:17, 137:19, 137:21</p>
---	---	--	---

<p><b>rid</b> [1] - 40:14  <b>right</b> [83] - 7:16, 8:12, 12:14, 13:25, 14:5, 14:6, 15:16, 15:22, 16:2, 17:25, 20:18, 21:1, 23:8, 23:24, 28:12, 34:19, 34:25, 36:13, 37:20, 38:1, 41:21, 43:6, 44:23, 46:3, 47:4, 47:25, 48:21, 49:5, 49:20, 54:3, 54:13, 54:18, 55:3, 56:7, 58:16, 63:13, 78:3, 78:15, 80:15, 80:18, 80:24, 85:2, 85:7, 86:16, 87:1, 87:11, 87:18, 90:4, 104:1, 104:18, 105:1, 105:11, 105:25, 106:10, 107:21, 107:23, 110:20, 110:24, 111:14, 111:19, 112:25, 114:19, 115:23, 116:10, 119:6, 119:16, 120:6, 120:12, 120:14, 123:16, 123:22, 123:25, 124:25, 126:23, 128:7, 129:18, 130:2, 132:2, 132:19, 135:3, 137:17, 140:19  <b>rights</b> [13] - 2:20, 3:1, 3:15, 7:4, 7:19, 9:4, 10:20, 46:23, 56:25, 57:23, 66:24, 73:2, 91:18  <b>Rights</b> [1] - 13:18  <b>risk</b> [3] - 62:12, 119:5, 136:22  <b>risks</b> [2] - 60:21, 62:15  <b>Rob</b> [7] - 66:3, 67:1, 76:24, 103:25, 104:14, 127:16, 136:11  <b>Rob's</b> [2] - 103:25, 140:6  <b>Roberts</b> [1] - 67:16  <b>robust</b> [4] - 35:2, 35:6, 38:8, 122:13  <b>role</b> [1] - 14:3  <b>rolls</b> [1] - 12:3  <b>round</b> [9] - 70:15, 78:20, 85:14, 113:24, 119:13, 119:17, 121:19, 135:2  <b>rounds</b> [2] - 77:4, 121:16  <b>Rouse</b> [1] - 9:19  <b>Rule</b> [2] - 18:25, 22:7  <b>rule</b> [1] - 14:2  <b>Rules</b> [1] - 67:16  <b>rules</b> [3] - 6:4, 6:21, 138:12  <b>run</b> [83] - 31:21, 44:2, 65:16, 65:19, 65:20, 67:5, 69:9, 69:13, 70:23,</p>	<p>70:24, 71:2, 71:8, 71:12, 71:16, 72:9, 73:17, 78:7, 80:15, 81:3, 82:23, 83:5, 83:8, 83:13, 83:14, 83:17, 83:19, 83:21, 84:2, 84:3, 84:5, 84:7, 84:11, 84:19, 84:22, 86:7, 86:17, 86:18, 86:22, 86:25, 88:18, 90:12, 90:19, 91:8, 103:5, 103:21, 104:2, 104:3, 104:4, 104:22, 108:25, 109:1, 109:5, 112:14, 113:9, 113:16, 115:16, 115:24, 116:25, 118:2, 120:22, 120:25, 121:1, 121:2, 121:5, 121:6, 121:13, 121:21, 121:22, 121:24, 122:1, 127:10, 128:23, 128:25, 129:1, 130:18, 131:24, 137:7, 139:24  <b>run-off</b> [55] - 44:2, 65:16, 65:19, 67:5, 70:23, 70:24, 71:2, 71:8, 71:16, 72:9, 73:17, 78:7, 80:15, 81:3, 83:5, 83:8, 83:13, 83:19, 83:21, 84:2, 84:5, 84:7, 84:19, 84:22, 86:7, 86:17, 86:18, 90:12, 91:8, 103:5, 103:21, 104:2, 104:3, 108:25, 109:1, 112:14, 113:9, 113:16, 115:16, 115:24, 116:25, 118:2, 120:22, 120:25, 121:1, 121:2, 121:5, 115:16, 115:24, 116:25, 118:2, 120:22, 121:1, 121:2, 121:5, 118:2, 120:22, 121:1, 121:2, 121:21, 121:22, 128:23, 128:25, 129:1, 130:18, 131:24, 137:7, 139:24  <b>run-offs</b> [17] - 31:21, 65:20, 69:9, 71:12, 81:3, 83:14, 83:17, 84:3, 84:7, 84:11, 120:25, 121:5, 121:6, 121:13, 121:24, 122:1  <b>runner</b> [1] - 75:8  <b>running</b> [13] - 71:19, 71:20, 76:14, 87:4, 90:22, 104:20, 124:19, 124:24, 125:19, 125:23, 126:4, 126:12, 126:18  <b>Russian</b> [1] - 26:11</p>	<p>62:11, 76:4, 77:7, 86:16, 110:1, 120:2, 133:14, 136:3  <b>same</b> [26] - 9:13, 10:11, 13:1, 18:8, 19:23, 19:24, 20:2, 20:8, 39:16, 41:20, 42:4, 45:9, 46:9, 49:19, 51:5, 52:8, 66:6, 73:19, 75:15, 96:5, 97:2, 97:3, 99:17, 103:23, 107:10, 130:22  <b>same-day</b> [3] - 9:13, 10:11, 42:4  <b>sample</b> [1] - 41:7  <b>San</b> [36] - 69:22, 73:3, 73:14, 73:22, 79:4, 79:9, 79:22, 80:25, 82:9, 87:18, 88:22, 112:5, 112:6, 112:7, 116:23, 117:22, 118:17, 119:9, 121:8, 121:9, 121:21, 125:17, 125:21, 125:24, 126:1, 126:21, 133:1, 133:12, 134:21, 135:5, 137:16, 138:2, 138:3, 138:10  <b>Santa</b> [12] - 68:16, 74:13, 74:21, 74:23, 75:20, 81:6, 81:11, 134:18, 134:25, 135:2, 136:2, 136:4  <b>save</b> [5] - 11:18, 11:24, 108:11, 108:23, 109:9  <b>saving</b> [1] - 83:24  <b>savings</b> [5] - 23:7, 24:13, 24:14, 99:12, 106:6  <b>saw</b> [2] - 20:23, 106:20  <b>say</b> [59] - 4:13, 4:19, 15:15, 16:20, 23:15, 45:16, 46:17, 46:19, 47:22, 54:23, 56:5, 56:12, 61:7, 64:19, 71:21, 76:10, 77:14, 82:10, 84:15, 84:22, 85:11, 87:21, 99:3, 100:1, 100:12, 102:17, 105:2, 105:12, 105:18, 105:22, 106:2, 106:19, 106:22, 106:23, 108:23, 109:5, 110:18, 114:11, 114:22, 116:8, 116:19, 118:12, 120:15, 121:25, 125:3, 128:9, 132:22, 132:23, 134:12, 134:16, 134:24, 135:18, 135:24, 138:2, 138:17, 138:20, 139:18, 140:5  <b>saying</b> [11] - 18:19, 25:10, 36:3, 43:7, 97:25,</p>	<p>104:21, 108:12, 115:5, 124:16, 129:14, 136:12  <b>says</b> [2] - 29:19, 54:14  <b>Scan</b> [1] - 96:7  <b>scans</b> [1] - 112:8  <b>scenario</b> [1] - 101:6  <b>school</b> [14] - 47:18, 54:16, 54:22, 56:14, 56:22, 64:6, 88:20, 89:1, 89:5, 89:10, 89:20, 89:25, 110:19, 138:24  <b>School</b> [1] - 3:6  <b>schools</b> [2] - 44:2, 54:20  <b>SCISSURA</b> [1] - 1:21  <b>score</b> [1] - 16:8  <b>se</b> [1] - 100:4  <b>seat</b> [2] - 90:20, 131:22  <b>seats</b> [2] - 110:24, 139:1  <b>second</b> [36] - 38:6, 42:16, 65:25, 70:15, 71:14, 71:23, 73:12, 78:20, 78:21, 85:2, 100:25, 101:8, 101:10, 105:7, 106:11, 111:13, 114:15, 114:19, 114:20, 115:8, 117:3, 118:4, 122:15, 123:21, 124:3, 124:22, 125:7, 128:12, 128:25, 131:23, 133:20, 134:15, 135:8, 141:17, 141:18, 141:19  <b>secondary</b> [1] - 59:22  <b>secondly</b> [4] - 26:23, 28:21, 31:14, 59:23  <b>secretary</b> [1] - 3:9  <b>Secretary</b> [3] - 106:14, 106:15, 106:16  <b>Section</b> [8] - 8:23, 9:1, 11:10, 29:23, 42:6, 50:8, 50:20, 51:12  <b>secure</b> [1] - 13:7  <b>securely</b> [1] - 12:18  <b>Security</b> [1] - 23:18  <b>security</b> [2] - 4:8, 24:9  <b>see</b> [34] - 5:5, 22:20, 24:5, 24:6, 39:10, 39:18, 43:5, 44:17, 53:19, 53:22, 62:23, 63:10, 67:16, 68:4, 69:11, 69:12, 74:14, 75:1, 89:25, 90:20, 91:9, 104:5, 108:16, 115:18, 116:9, 124:15, 126:3, 132:25, 135:20, 136:13, 136:16, 137:8, 138:14, 139:24  <b>SEECHARRAN</b> [5] - 1:22, 98:21, 99:16, 100:6, 100:18</p>
<b>S</b>			
	<p><b>S</b> [1] - 1:9  <b>safety</b> [1] - 62:2  <b>said</b> [13] - 5:3, 16:10, 27:17, 49:19, 54:10,</p>		

<p><b>seeing</b> [12] - 33:14, 52:14, 68:8, 68:21, 69:15, 71:18, 111:3, 131:5, 134:12, 134:21, 135:6, 135:20  <b>seek</b> [2] - 85:2, 124:22  <b>seeking</b> [1] - 53:17  <b>seem</b> [3] - 33:15, 92:1, 135:23  <b>seemed</b> [2] - 40:22, 74:16  <b>seemingly</b> [2] - 70:3, 111:15  <b>seems</b> [8] - 15:3, 68:15, 69:17, 104:15, 131:2, 134:2, 135:9, 135:18  <b>seen</b> [13] - 32:18, 50:17, 63:4, 67:8, 70:21, 77:15, 87:16, 88:24, 89:22, 106:12, 110:9, 114:2, 116:21  <b>senate</b> [1] - 75:9  <b>senator</b> [1] - 70:2  <b>Senator</b> [1] - 2:23  <b>send</b> [5] - 23:22, 43:3, 52:3, 105:23, 114:16  <b>sends</b> [2] - 14:7, 39:11  <b>senior</b> [1] - 4:7  <b>sense</b> [20] - 7:1, 7:14, 9:5, 23:2, 30:7, 33:9, 55:19, 57:7, 62:2, 84:13, 86:17, 86:21, 86:25, 88:1, 121:8, 123:6, 130:3, 133:4, 134:17, 136:25  <b>sent</b> [2] - 43:5, 43:24  <b>sentences</b> [1] - 100:11  <b>separate</b> [4] - 39:7, 63:25, 64:2, 64:8  <b>separately</b> [1] - 106:23  <b>separation</b> [1] - 33:15  <b>September</b> [1] - 137:5  <b>sequential</b> [1] - 78:9  <b>sequentially</b> [1] - 70:19  <b>series</b> [1] - 70:5  <b>seriously</b> [1] - 15:4  <b>Serrano</b> [1] - 2:23  <b>serve</b> [3] - 4:19, 13:16, 58:7  <b>served</b> [1] - 2:15  <b>service</b> [2] - 51:22, 107:14  <b>Service</b> [4] - 27:15, 39:9, 41:19  <b>Services</b> [2] - 66:9, 93:2  <b>services</b> [5] - 26:22, 54:11, 54:14, 54:19, 54:22  <b>serving</b> [2] - 2:2, 9:20</p>	<p><b>set</b> [5] - 12:1, 36:22, 53:11, 54:1, 142:14  <b>sets</b> [1] - 14:10  <b>setting</b> [3] - 16:16, 36:25, 37:4  <b>settled</b> [1] - 65:9  <b>settlement</b> [1] - 37:4  <b>settling</b> [1] - 51:3  <b>seven</b> [3] - 137:10, 138:3, 138:4  <b>several</b> [6] - 49:2, 56:13, 57:1, 93:9, 100:10, 132:8  <b>shakes</b> [1] - 118:23  <b>shall</b> [2] - 8:25, 9:2  <b>share</b> [5] - 14:16, 58:6, 98:2, 110:17, 118:4  <b>shared</b> [1] - 74:10  <b>SHARON</b> [1] - 1:19  <b>sharp</b> [1] - 84:17  <b>she</b> [20] - 9:21, 73:8, 73:10, 73:17, 76:7, 76:8, 80:23, 81:18, 97:25, 132:13, 132:14, 132:15, 132:18, 132:19, 133:12, 133:18, 135:5  <b>she's</b> [4] - 132:17, 133:11, 133:14, 133:15  <b>shift</b> [1] - 108:16  <b>shifting</b> [1] - 86:11  <b>shifts</b> [3] - 42:17, 42:24, 42:25  <b>shocking</b> [1] - 133:15  <b>shootings</b> [1] - 132:12  <b>short</b> [3] - 85:25, 105:19, 113:11  <b>shorten</b> [1] - 11:22  <b>shortly</b> [1] - 20:20  <b>shot</b> [1] - 125:10  <b>should</b> [51] - 10:19, 11:13, 13:3, 13:6, 14:5, 20:21, 25:6, 27:19, 28:10, 28:15, 28:17, 28:21, 30:4, 30:9, 30:15, 30:18, 30:25, 31:14, 33:20, 34:12, 36:7, 39:20, 39:21, 41:18, 42:9, 42:21, 43:7, 43:10, 43:23, 44:1, 45:3, 45:19, 46:9, 46:10, 46:12, 46:15, 47:13, 55:23, 56:12, 59:7, 60:24, 61:14, 91:6, 92:10, 92:12, 95:23, 102:20, 106:8, 106:22, 116:12, 141:2  <b>show</b> [5] - 52:2, 63:12, 104:1, 116:25  <b>showed</b> [1] - 117:17</p>	<p><b>showing</b> [1] - 69:19  <b>shows</b> [1] - 68:12  <b>shuffles</b> [1] - 43:5  <b>side</b> [1] - 4:11  <b>Siegal</b> [4] - 2:11, 46:2, 92:20, 136:18  <b>SIEGAL</b> [15] - 1:22, 2:10, 35:25, 36:14, 37:13, 77:12, 78:21, 80:20, 83:2, 85:21, 92:18, 136:22, 137:15, 137:18, 137:20  <b>sign</b> [3] - 5:25, 23:21, 43:8  <b>signature</b> [2] - 43:23, 43:24  <b>signatures</b> [1] - 12:16  <b>significant</b> [4] - 31:10, 98:11, 104:8, 122:18  <b>significantly</b> [5] - 26:21, 83:19, 95:25, 96:4, 139:25  <b>silent</b> [1] - 29:5  <b>silver</b> [3] - 25:20, 33:2, 91:25  <b>similarly</b> [2] - 18:15, 52:8  <b>simple</b> [4] - 29:22, 59:21, 98:12, 98:15  <b>simplest</b> [1] - 100:22  <b>simply</b> [5] - 23:18, 35:2, 86:3, 100:19, 114:5  <b>since</b> [8] - 3:24, 5:7, 19:9, 41:2, 58:22, 82:11, 105:17, 121:17  <b>single</b> [10] - 31:4, 42:22, 99:11, 103:11, 120:12, 122:20, 123:17, 124:18, 137:24, 138:6  <b>sit</b> [6] - 16:17, 21:25, 23:6, 25:7, 25:11, 79:12  <b>site</b> [8] - 11:13, 41:1, 41:4, 42:24, 42:25, 43:11, 49:7, 52:11  <b>sites</b> [9] - 11:12, 41:24, 43:18, 44:22, 49:4, 50:15, 51:11, 52:6, 58:20  <b>sitting</b> [1] - 25:2  <b>situation</b> [2] - 79:5, 89:24  <b>situations</b> [2] - 42:2, 42:3  <b>six</b> [3] - 58:20, 137:10, 141:5  <b>sixth</b> [1] - 131:25  <b>size</b> [1] - 123:23  <b>skew</b> [1] - 104:4  <b>skills</b> [1] - 58:25  <b>skip</b> [1] - 138:8</p>	<p><b>sleeves</b> [1] - 40:19  <b>slides</b> [3] - 67:9, 70:5, 87:2  <b>slight</b> [1] - 74:16  <b>slightly</b> [2] - 102:7, 124:9  <b>slow</b> [1] - 36:6  <b>small</b> [6] - 36:17, 40:12, 40:20, 84:13, 92:3, 106:18  <b>smaller</b> [3] - 58:1, 63:9, 107:6  <b>so</b> [234] - 4:3, 4:23, 6:7, 6:10, 6:16, 6:19, 6:21, 6:25, 7:2, 8:12, 8:22, 15:18, 15:22, 16:9, 16:11, 18:3, 18:13, 18:14, 19:2, 19:7, 19:19, 20:3, 20:9, 20:15, 20:21, 21:2, 21:10, 21:25, 24:1, 25:2, 26:3, 27:25, 28:6, 29:6, 29:11, 30:10, 30:13, 32:15, 32:17, 33:23, 34:3, 34:24, 35:12, 35:25, 36:6, 37:6, 37:16, 41:15, 42:2, 42:13, 44:24, 45:10, 46:3, 46:17, 47:18, 49:7, 49:20, 49:25, 52:13, 53:5, 53:13, 53:25, 54:18, 55:2, 57:14, 60:5, 60:23, 61:9, 62:3, 62:23, 63:1, 63:3, 63:8, 64:4, 64:17, 66:25, 67:1, 67:5, 67:7, 67:12, 67:16, 69:6, 69:18, 70:2, 70:4, 70:5, 70:14, 70:20, 70:23, 71:10, 72:4, 72:22, 73:13, 73:24, 74:5, 74:18, 74:21, 75:16, 75:18, 75:24, 76:17, 76:25, 77:1, 78:15, 79:7, 80:24, 81:16, 82:1, 82:18, 83:19, 84:3, 84:10, 85:7, 87:7, 88:3, 88:23, 89:1, 89:5, 89:21, 91:13, 92:8, 92:14, 93:15, 93:25, 94:8, 94:15, 94:22, 95:13, 95:14, 95:24, 96:15, 96:25, 97:1, 97:11, 98:2, 99:6, 99:14, 99:15, 99:16, 100:16, 101:3, 101:10, 101:13, 102:16, 102:22, 104:1, 104:10, 104:14, 105:4, 105:11, 105:15, 105:21, 106:1, 106:10, 106:11, 106:12, 106:18, 107:2, 107:3, 107:14, 107:15, 108:15,</p>
--	---	--	---

<p>108:17, 108:25, 109:2, 109:22, 109:23, 110:11, 110:17, 110:25, 111:14, 112:10, 113:9, 114:11, 114:13, 115:16, 116:24, 117:2, 119:13, 119:18, 120:6, 120:20, 120:24, 121:7, 121:10, 121:17, 121:20, 121:24, 122:6, 122:13, 122:23, 123:11, 123:13, 123:17, 124:8, 124:14, 125:7, 125:20, 126:2, 126:24, 128:3, 128:12, 128:23, 129:5, 129:11, 129:13, 129:17, 130:2, 130:15, 131:3, 132:2, 133:1, 133:22, 134:23, 135:10, 135:17, 135:25, 136:9, 136:22, 137:5, 138:8, 139:14, 139:20, 140:5, 140:12, 140:20, 141:2, 141:4, 141:13  <b>So</b> [4] - 74:23, 74:24, 75:2, 76:24  <b>Social</b> [1] - 23:17  <b>Software</b> [1] - 96:9  <b>software</b> [3] - 94:19, 96:10, 107:11  <b>solely</b> [1] - 64:9  <b>solution</b> [3] - 58:14, 112:17, 112:20  <b>solutions</b> [5] - 11:2, 11:8, 45:23, 48:12, 54:1  <b>solve</b> [1] - 112:22  <b>some</b> [79] - 5:10, 5:15, 5:22, 10:9, 11:8, 20:23, 28:6, 29:6, 29:14, 32:24, 35:21, 37:21, 39:11, 39:14, 41:19, 48:21, 49:20, 51:15, 52:13, 53:14, 55:15, 55:19, 55:25, 56:1, 57:1, 57:25, 59:21, 61:18, 61:21, 62:5, 62:14, 65:10, 65:11, 68:23, 68:25, 70:6, 72:22, 75:5, 75:25, 76:8, 79:13, 79:16, 81:10, 86:12, 86:22, 88:5, 105:17, 106:13, 108:1, 108:5, 109:2, 109:3, 110:19, 112:17, 113:10, 113:14, 118:2, 118:13, 118:17, 120:19, 121:3, 123:13, 124:17, 126:13, 127:25, 131:4, 131:21, 132:11, 132:20, 132:25, 134:13, 134:20, 135:4, 135:6, 137:9, 140:16</p>	<p><b>somebody</b> [8] - 40:11, 101:7, 105:14, 115:11, 126:15, 127:1, 129:25, 130:7  <b>somebody's</b> [1] - 17:7  <b>somehow</b> [2] - 64:16, 137:1  <b>someone</b> [7] - 64:12, 64:13, 73:12, 105:12, 105:13, 120:13, 123:9  <b>something</b> [39] - 20:4, 20:24, 26:6, 34:13, 38:3, 38:4, 43:5, 46:1, 47:4, 47:10, 47:22, 53:15, 53:20, 53:22, 53:23, 55:8, 55:10, 55:14, 55:22, 55:24, 57:16, 60:10, 71:22, 72:24, 75:4, 77:22, 91:10, 97:24, 102:8, 113:3, 113:6, 113:19, 114:4, 115:2, 118:6, 127:21, 137:24, 138:21, 140:23  <b>sometimes</b> [6] - 43:14, 52:15, 91:20, 110:12, 113:1, 130:19  <b>somewhat</b> [2] - 97:20, 136:11  <b>sophisticated</b> [2] - 61:8, 126:7  <b>sorry</b> [4] - 38:6, 105:20, 106:16, 107:17  <b>sort</b> [26] - 15:15, 24:8, 31:25, 63:24, 67:19, 69:20, 70:21, 71:6, 73:8, 73:13, 77:3, 79:7, 79:16, 81:6, 82:22, 100:11, 118:2, 120:8, 120:16, 121:18, 122:13, 124:17, 131:7, 135:16, 140:14, 140:16  <b>sorting</b> [1] - 95:1  <b>sounds</b> [2] - 38:11, 64:24  <b>south</b> [1] - 121:1  <b>space</b> [1] - 88:2  <b>speak</b> [6] - 6:21, 22:1, 33:4, 51:23, 67:25, 127:16  <b>speakers</b> [1] - 90:6  <b>speaking</b> [7] - 49:15, 49:17, 49:25, 61:19, 62:10, 119:2, 123:24  <b>special</b> [2] - 47:15, 47:17  <b>specific</b> [8] - 28:6, 34:18, 34:19, 34:25, 41:4, 59:4, 64:21, 83:3  <b>specifically</b> [8] - 28:11, 38:17, 53:9, 54:4, 61:19,</p>	<p>64:5, 94:10, 95:10  <b>specifications</b> [1] - 45:17  <b>specified</b> [1] - 38:2  <b>speed</b> [1] - 45:21  <b>speeds</b> [1] - 40:20  <b>spelled</b> [1] - 36:23  <b>spend</b> [4] - 106:23, 107:2, 113:14, 141:1  <b>spending</b> [3] - 24:19, 104:23, 136:13  <b>spent</b> [6] - 4:9, 75:9, 105:17, 106:13, 109:6, 135:3  <b>split</b> [3] - 42:16, 42:24, 42:25  <b>spoiler</b> [1] - 113:2  <b>spoke</b> [4] - 9:18, 49:16, 49:18, 63:2  <b>spoken</b> [1] - 7:10  <b>spreadsheet</b> [2] - 95:5, 96:14  <b>SS</b> [1] - 142:3  <b>St</b> [4] - 74:18, 75:23, 95:16, 131:8  <b>staff</b> [6] - 2:22, 2:23, 29:3, 29:4, 33:25, 39:17  <b>staffing</b> [1] - 32:21  <b>stage</b> [1] - 14:11  <b>stand</b> [4] - 26:19, 46:11, 125:4, 130:25  <b>standards</b> [2] - 94:19, 94:21  <b>standing</b> [1] - 121:25  <b>standpoint</b> [1] - 96:17  <b>stands</b> [1] - 26:24  <b>stark</b> [1] - 133:6  <b>start</b> [9] - 2:8, 5:7, 8:22, 31:23, 61:15, 73:21, 112:10, 120:4, 141:4  <b>started</b> [3] - 6:2, 98:5, 98:7  <b>starting</b> [3] - 33:3, 47:12, 69:12  <b>starts</b> [1] - 8:6  <b>stat</b> [1] - 138:2  <b>State</b> [19] - 3:9, 8:22, 8:24, 9:8, 10:12, 12:9, 15:2, 15:17, 25:21, 28:24, 38:21, 42:6, 48:10, 67:23, 106:14, 106:15, 118:17, 142:7  <b>STATE</b> [1] - 142:3  <b>state</b> [41] - 8:16, 8:17, 8:20, 8:25, 10:9, 10:13, 13:8, 13:16, 14:21, 15:1, 16:17, 18:21, 19:3, 21:20, 22:4, 22:7, 22:9, 22:13, 24:15, 25:22,</p>	<p>28:11, 31:3, 31:19, 37:23, 41:13, 42:16, 43:2, 45:15, 46:23, 56:15, 57:3, 57:25, 63:20, 64:11, 64:15, 64:17, 65:15, 72:17, 87:20, 100:22, 112:24  <b>State's</b> [1] - 106:16  <b>state-level</b> [1] - 10:9  <b>state-wide</b> [1] - 112:24  <b>statement</b> [1] - 46:12  <b>statements</b> [1] - 46:16  <b>Staten</b> [5] - 103:17, 103:18, 104:17, 104:19, 104:24  <b>States</b> [4] - 66:21, 67:21, 70:22, 121:16  <b>states</b> [10] - 9:9, 9:10, 9:12, 9:14, 9:17, 10:1, 31:9, 91:14, 120:17, 120:25  <b>statewide</b> [2] - 12:20, 67:24  <b>stationed</b> [1] - 49:3  <b>statistical</b> [1] - 20:14  <b>status</b> [2] - 60:22, 86:9  <b>statute</b> [1] - 28:25  <b>statutory</b> [3] - 10:18, 11:6, 16:11  <b>stayed</b> [4] - 73:11, 73:14, 73:15, 73:16  <b>stenographic</b> [1] - 142:9  <b>step</b> [5] - 37:10, 88:2, 124:17, 124:18, 131:21  <b>steps</b> [1] - 95:23  <b>stick</b> [1] - 114:13  <b>stifle</b> [1] - 10:14  <b>still</b> [13] - 14:20, 43:14, 50:10, 50:13, 50:18, 56:25, 57:4, 111:22, 117:12, 117:23, 134:11, 135:20, 139:21  <b>stop</b> [1] - 127:18  <b>stops</b> [1] - 35:9  <b>store</b> [1] - 11:25  <b>strategic</b> [1] - 125:8  <b>strategies</b> [1] - 128:16  <b>strategy</b> [1] - 128:14  <b>streak</b> [1] - 113:2  <b>streamed</b> [1] - 5:24  <b>street</b> [1] - 41:4  <b>Street</b> [1] - 1:3  <b>strengthen</b> [3] - 28:7, 28:19, 59:3  <b>strengthened</b> [1] - 30:3  <b>strengths</b> [1] - 90:14  <b>stretch</b> [1] - 24:4  <b>striking</b> [1] - 136:3</p>
--	--	---	--

<p><b>strong</b> [5] - 72:7, 73:8, 75:8, 99:20, 113:1  <b>stronger</b> [1] - 46:20  <b>strongest</b> [1] - 31:15  <b>strongly</b> [4] - 26:7, 78:15, 98:12, 119:11  <b>struggle</b> [1] - 141:7  <b>student</b> [1] - 59:13  <b>students</b> [7] - 54:16, 54:20, 58:22, 60:9, 61:20, 62:11, 140:3  <b>studies</b> [1] - 20:14  <b>study</b> [3] - 63:11, 112:3, 117:9  <b>style</b> [1] - 134:15  <b>subject</b> [3] - 13:6, 29:24, 92:21  <b>submission</b> [1] - 55:9  <b>submit</b> [1] - 53:2  <b>submitted</b> [1] - 88:21  <b>submitting</b> [1] - 53:15  <b>subparts</b> [1] - 79:8  <b>subsequent</b> [1] - 55:9  <b>subsequently</b> [3] - 94:6, 115:15, 139:17  <b>subset</b> [1] - 54:25  <b>substantial</b> [2] - 24:5, 60:20  <b>success</b> [3] - 56:21, 82:20, 89:11  <b>successes</b> [1] - 40:12  <b>successfully</b> [2] - 12:11, 59:9  <b>such</b> [4] - 40:13, 51:18, 52:22, 120:19  <b>sue</b> [4] - 37:2, 50:6, 50:19, 51:2  <b>suggest</b> [7] - 16:6, 18:19, 20:14, 31:16, 55:6, 78:15, 88:4  <b>suggesting</b> [9] - 21:20, 21:23, 33:6, 33:7, 33:17, 33:24, 34:13, 45:23, 115:12  <b>suggestion</b> [2] - 18:25, 21:2  <b>suggestions</b> [6] - 28:7, 35:21, 41:9, 41:19, 41:20, 55:25  <b>suggests</b> [1] - 125:13  <b>summary</b> [1] - 29:15  <b>super</b> [1] - 111:11  <b>supervising</b> [1] - 2:19  <b>support</b> [6] - 56:24, 59:19, 60:17, 88:22, 89:21, 90:25  <b>supported</b> [2] - 88:18, 90:21  <b>supporting</b> [1] - 111:8</p>	<p><b>supportive</b> [3] - 38:1, 88:19, 88:24  <b>supports</b> [2] - 26:7, 44:2  <b>supposed</b> [2] - 32:11, 47:20  <b>sure</b> [16] - 4:1, 13:14, 19:17, 22:23, 35:3, 35:14, 38:18, 45:22, 53:16, 58:15, 62:13, 64:4, 64:20, 64:25, 140:3  <b>surmise</b> [1] - 104:10  <b>surmising</b> [1] - 128:24  <b>surmounted</b> [1] - 72:19  <b>surprisingly</b> [1] - 130:18  <b>surrounding</b> [1] - 60:22  <b>survey</b> [3] - 81:22, 110:4, 110:6  <b>Susan</b> [5] - 7:21, 25:13, 66:6, 90:4, 134:9  <b>Susan's</b> [1] - 46:3  <b>Sutton</b> [1] - 83:22  <b>swath</b> [1] - 122:12  <b>sweeps</b> [1] - 61:12  <b>system</b> [65] - 4:22, 10:7, 21:10, 24:1, 27:9, 27:10, 36:22, 37:1, 60:15, 63:18, 67:18, 72:2, 72:5, 74:4, 76:1, 76:21, 76:22, 77:20, 79:3, 81:2, 82:3, 82:13, 84:9, 86:7, 87:10, 87:11, 88:20, 89:5, 89:22, 90:15, 90:22, 91:13, 94:11, 94:22, 95:21, 96:7, 96:9, 103:6, 103:11, 105:1, 106:7, 108:9, 108:25, 109:24, 110:22, 112:12, 112:13, 112:14, 113:13, 113:16, 115:10, 115:25, 118:15, 120:5, 120:11, 122:17, 122:22, 123:6, 129:1, 132:5, 132:19, 136:9, 136:25, 138:13  <b>Systems</b> [1] - 96:8  <b>systems</b> [4] - 11:5, 113:10, 114:12, 117:9</p>	<p><b>Tabulator</b> [1] - 96:7  <b>tabulators</b> [1] - 100:3  <b>Tacoma</b> [3] - 59:10, 63:4, 63:9  <b>take</b> [10] - 23:21, 61:13, 79:25, 81:9, 86:10, 101:1, 104:18, 119:2, 119:19, 122:19  <b>take-home</b> [2] - 119:2, 119:19  <b>takeaway</b> [1] - 106:1  <b>taken</b> [2] - 121:15, 132:12  <b>takes</b> [4] - 79:22, 80:3, 81:11, 98:15  <b>taking</b> [3] - 5:18, 40:11, 62:2  <b>talk</b> [11] - 25:16, 31:21, 32:7, 44:4, 94:8, 105:16, 106:10, 113:9, 130:19, 132:18, 134:8  <b>talked</b> [5] - 21:18, 31:9, 88:6, 129:16, 136:2  <b>talking</b> [14] - 23:7, 23:19, 25:2, 26:3, 26:5, 72:25, 91:6, 106:14, 107:12, 113:14, 120:6, 133:2, 138:15, 138:16  <b>talks</b> [1] - 15:24  <b>targeted</b> [3] - 51:11, 52:6, 52:10  <b>task</b> [2] - 42:20, 140:22  <b>taxpayers</b> [1] - 11:18  <b>teacher</b> [1] - 58:23  <b>teacher-led</b> [1] - 58:23  <b>teams</b> [1] - 49:6  <b>technically</b> [1] - 47:25  <b>techniques</b> [1] - 48:11  <b>technological</b> [3] - 13:2, 24:4, 45:23  <b>technologies</b> [1] - 13:3  <b>technology</b> [1] - 81:7  <b>tell</b> [8] - 25:11, 43:12, 99:9, 109:25, 112:10, 127:21, 129:23  <b>telling</b> [3] - 4:21, 5:4, 47:14  <b>tells</b> [1] - 125:11  <b>Telluride</b> [1] - 106:17  <b>temptation</b> [1] - 30:25  <b>ten</b> [6] - 80:21, 91:22, 111:15, 124:23, 124:24, 138:22  <b>tend</b> [3] - 57:14, 63:6, 137:18  <b>tendency</b> [1] - 78:2  <b>tends</b> [1] - 118:9  <b>tens</b> [1] - 59:17  <b>term</b> [3] - 32:25, 59:1,</p>	<p>129:17  <b>terms</b> [18] - 29:11, 35:16, 35:17, 57:16, 58:14, 62:12, 64:22, 103:2, 106:11, 106:19, 107:7, 107:23, 114:25, 118:24, 118:25, 127:12, 136:20  <b>terrific</b> [1] - 66:20  <b>testified</b> [1] - 46:25  <b>testify</b> [2] - 13:20, 88:16  <b>testimony</b> [11] - 5:18, 7:6, 29:15, 36:2, 37:14, 55:5, 61:4, 63:16, 86:1, 98:23, 109:19  <b>Texas</b> [2] - 121:1, 121:4  <b>text</b> [1] - 48:2  <b>than</b> [44] - 11:21, 13:7, 16:7, 16:22, 48:9, 63:7, 63:9, 67:13, 68:6, 69:25, 70:7, 71:19, 71:20, 71:22, 73:23, 78:5, 82:16, 82:24, 85:15, 87:6, 88:5, 95:15, 99:10, 101:19, 102:6, 103:12, 107:6, 108:5, 111:1, 111:5, 113:7, 113:13, 118:10, 120:21, 121:4, 121:7, 123:6, 128:8, 134:18, 138:6, 138:13, 138:19, 138:21, 141:1  <b>Thank</b> [3] - 2:10, 8:13, 88:12  <b>thank</b> [58] - 2:17, 6:24, 14:15, 17:23, 18:2, 24:18, 25:12, 25:15, 31:24, 37:13, 37:14, 40:3, 44:4, 44:5, 47:21, 48:15, 53:6, 55:4, 58:4, 61:3, 63:14, 63:15, 65:3, 65:4, 66:1, 66:18, 66:25, 74:5, 74:8, 74:20, 77:10, 77:12, 85:21, 86:1, 88:11, 88:15, 90:2, 90:7, 92:17, 92:24, 97:17, 101:13, 101:15, 102:9, 102:12, 102:14, 107:19, 109:14, 111:20, 119:23, 119:24, 120:3, 122:4, 127:22, 136:17, 141:13  <b>thanks</b> [6] - 3:6, 6:5, 6:6, 7:5, 65:7, 111:21  <b>that</b> [645] - 3:24, 4:1, 4:19, 4:22, 4:23, 5:3, 5:4, 5:6, 5:19, 5:22, 6:10, 6:19, 7:1, 7:3, 7:9, 8:5, 9:22, 10:4, 10:14, 10:19, 11:1, 11:3, 11:12, 11:16, 11:17, 12:4, 12:6, 13:14, 13:19, 13:22, 14:4, 14:7,</p>
<b>T</b>			
<p><b>T</b> [2] - 142:1  <b>table</b> [1] - 44:24  <b>tabs</b> [1] - 40:19  <b>tabulate</b> [1] - 94:23  <b>tabulated</b> [1] - 114:17  <b>tabulation</b> [8] - 94:9, 94:14, 95:25, 96:14, 97:11, 113:24, 114:17, 119:13</p>			

<p>14:9, 14:12, 14:23, 15:6, 15:8, 15:12, 16:2, 16:5, 16:6, 16:12, 16:13, 16:19, 16:20, 17:2, 17:8, 17:11, 17:19, 18:5, 18:9, 18:12, 18:17, 18:19, 18:25, 19:11, 19:12, 19:15, 19:22, 19:24, 20:1, 20:3, 20:4, 20:6, 20:7, 20:9, 20:15, 20:24, 21:1, 21:5, 21:19, 21:20, 21:23, 21:24, 22:3, 22:6, 22:12, 22:14, 23:12, 24:10, 25:11, 26:17, 27:2, 27:3, 27:9, 27:11, 27:14, 28:10, 28:15, 28:16, 28:17, 28:19, 28:21, 29:1, 29:6, 29:9, 29:11, 29:15, 29:16, 29:17, 29:20, 29:21, 29:22, 30:1, 30:5, 30:6, 30:7, 30:10, 30:11, 30:12, 30:24, 31:4, 31:5, 31:6, 31:9, 31:11, 31:15, 31:17, 31:19, 31:20, 32:2, 32:6, 32:7, 32:11, 32:23, 33:2, 33:9, 33:19, 34:4, 34:7, 34:11, 34:13, 34:14, 34:15, 34:24, 35:3, 35:11, 35:14, 35:18, 35:19, 35:20, 35:21, 36:4, 36:8, 36:9, 36:10, 36:11, 36:15, 36:16, 36:18, 36:19, 37:5, 37:6, 37:10, 37:19, 37:22, 38:1, 38:4, 38:8, 38:13, 39:1, 39:5, 39:6, 39:9, 39:12, 39:18, 39:20, 39:21, 40:15, 40:17, 40:22, 41:9, 41:12, 41:15, 42:2, 42:10, 42:11, 42:23, 43:12, 43:21, 43:22, 44:16, 44:17, 44:22, 44:24, 45:2, 45:3, 45:7, 45:10, 45:11, 45:12, 45:19, 45:22, 46:4, 46:11, 46:20, 46:22, 47:4, 47:6, 47:7, 47:9, 48:1, 48:8, 48:22, 49:3, 49:4, 49:6, 49:7, 50:2, 50:10, 50:15, 50:17, 50:24, 51:7, 51:14, 51:15, 51:17, 51:22, 51:25, 52:1, 52:3, 52:5, 52:14, 52:24, 53:2, 53:5, 53:8, 53:10, 53:12, 53:20, 53:21, 53:23, 53:24, 54:9, 54:17, 54:21, 54:25, 55:7, 55:9,</p>	<p>55:11, 55:16, 55:19, 55:22, 55:24, 55:25, 56:8, 56:9, 56:15, 56:18, 57:5, 57:12, 57:17, 57:21, 58:11, 58:12, 58:15, 59:4, 59:6, 60:3, 60:7, 60:9, 60:10, 60:13, 60:18, 60:19, 61:9, 61:10, 61:12, 61:13, 61:17, 62:4, 62:6, 62:8, 62:11, 62:13, 62:18, 62:21, 62:24, 63:10, 63:11, 63:13, 63:21, 64:2, 64:5, 64:16, 64:17, 64:21, 64:25, 65:1, 65:4, 65:18, 66:16, 66:19, 67:7, 67:21, 67:25, 68:4, 68:5, 68:8, 68:15, 69:4, 69:6, 69:8, 69:11, 69:15, 70:2, 70:3, 70:5, 70:7, 71:11, 71:13, 71:15, 71:25, 72:3, 72:5, 72:6, 72:7, 72:18, 72:23, 73:3, 73:5, 73:13, 73:14, 73:20, 74:10, 74:11, 74:13, 74:19, 75:5, 75:13, 75:18, 75:24, 76:3, 76:4, 76:9, 76:11, 76:16, 77:1, 77:8, 77:15, 78:2, 78:3, 78:5, 78:7, 80:11, 80:13, 81:12, 81:16, 81:23, 81:25, 82:6, 82:20, 83:3, 84:8, 84:9, 84:10, 84:15, 84:17, 84:22, 85:9, 85:11, 85:16, 85:17, 85:19, 86:10, 86:18, 86:20, 87:4, 87:17, 87:18, 87:25, 88:2, 88:20, 88:24, 89:2, 89:6, 89:16, 89:18, 89:23, 89:25, 90:10, 90:22, 90:24, 91:1, 91:6, 91:9, 91:10, 91:15, 91:20, 91:23, 92:1, 92:4, 92:6, 92:8, 92:9, 92:12, 92:14, 92:15, 92:20, 92:22, 93:7, 93:15, 94:4, 94:12, 94:15, 94:17, 94:18, 95:4, 95:13, 95:15, 95:18, 95:21, 95:23, 96:5, 96:10, 96:11, 96:12, 96:13, 96:15, 96:19, 96:21, 96:22, 96:24, 97:1, 97:4, 97:7, 97:8, 97:10, 97:17, 97:23, 98:2, 98:4, 98:23, 99:3, 99:6, 99:16, 99:17, 99:25, 100:1, 100:4, 100:21, 101:5, 101:9,</p>	<p>101:10, 101:12, 101:21, 101:24, 102:1, 102:4, 102:25, 103:1, 103:2, 103:4, 103:9, 103:10, 103:12, 103:19, 103:20, 103:22, 103:23, 104:1, 104:15, 105:2, 105:8, 105:19, 106:4, 106:12, 107:13, 107:20, 107:22, 108:2, 108:4, 108:5, 108:20, 108:23, 109:4, 109:5, 109:8, 109:11, 109:20, 109:23, 110:7, 110:18, 110:24, 111:3, 111:6, 111:7, 111:9, 112:3, 112:9, 113:1, 113:4, 113:6, 113:13, 113:24, 114:1, 114:6, 114:8, 114:13, 115:4, 115:20, 115:22, 116:2, 116:4, 116:5, 116:12, 116:22, 117:3, 117:5, 117:8, 117:12, 117:13, 117:15, 117:18, 117:21, 117:22, 118:13, 118:18, 118:22, 118:23, 119:4, 119:6, 119:11, 119:12, 119:15, 119:19, 119:21, 120:5, 120:7, 120:10, 120:16, 120:23, 121:8, 121:10, 121:15, 122:7, 122:10, 122:13, 122:16, 122:18, 122:24, 123:7, 123:15, 123:18, 123:19, 123:20, 124:8, 125:3, 125:8, 125:11, 125:12, 126:8, 126:22, 126:24, 127:2, 127:5, 127:7, 127:16, 127:17, 128:10, 128:12, 128:13, 128:14, 128:25, 129:4, 129:12, 130:9, 130:12, 130:13, 130:18, 130:23, 131:2, 131:16, 131:20, 132:9, 132:12, 133:2, 134:1, 134:2, 134:6, 134:14, 134:17, 134:20, 135:9, 135:10, 135:15, 135:17, 136:4, 136:10, 136:25, 137:1, 137:5, 137:6, 137:10, 138:3, 138:10, 138:11, 138:16, 139:3, 139:16, 139:18, 139:24, 140:4, 140:21, 141:4, 141:6, 142:10, 142:12 <b>That</b><sup>[1]</sup> - 142:8 <b>that's</b><sup>[68]</sup> - 3:15, 15:11, 17:19, 18:17, 19:6, 20:24, 22:6, 33:22, 33:23, 34:11, 34:17,</p>	<p>39:17, 40:20, 55:8, 56:8, 57:16, 60:16, 61:16, 68:10, 68:20, 70:25, 71:18, 72:6, 72:12, 72:16, 76:17, 77:6, 78:18, 79:13, 81:7, 82:10, 82:25, 83:3, 84:1, 85:18, 86:13, 87:14, 87:22, 91:5, 99:15, 99:18, 106:7, 107:21, 107:24, 111:14, 114:19, 116:23, 120:5, 120:12, 120:14, 125:2, 125:5, 125:13, 126:1, 126:7, 126:25, 127:3, 130:3, 130:10, 131:13, 133:9, 133:25, 135:4, 136:9, 138:11, 140:15 <b>the</b><sup>[1349]</sup> - 2:2, 2:3, 2:5, 2:6, 2:7, 2:14, 2:18, 2:19, 2:21, 2:22, 3:1, 3:2, 3:5, 3:10, 3:12, 3:13, 3:14, 3:17, 3:18, 3:19, 3:20, 3:21, 3:22, 3:25, 4:1, 4:7, 4:10, 4:11, 4:15, 4:18, 4:19, 4:24, 5:1, 5:3, 5:4, 5:9, 5:16, 5:20, 5:21, 6:4, 6:6, 6:8, 6:11, 6:12, 6:15, 6:17, 6:18, 6:20, 6:23, 7:1, 7:4, 7:10, 7:11, 7:17, 7:18, 7:19, 7:21, 8:1, 8:2, 8:7, 8:9, 8:14, 8:16, 8:18, 8:19, 8:20, 8:22, 8:24, 9:4, 9:7, 9:19, 9:21, 9:23, 10:4, 10:12, 10:13, 10:16, 10:19, 10:21, 10:23, 10:24, 11:2, 11:5, 11:7, 11:11, 11:12, 11:13, 11:17, 11:22, 11:25, 12:3, 12:11, 12:13, 12:14, 12:17, 12:21, 12:22, 13:1, 13:2, 13:4, 13:8, 13:16, 13:17, 13:18, 13:19, 13:22, 13:24, 13:25, 14:1, 14:2, 14:4, 14:5, 14:7, 14:11, 14:12, 14:13, 14:15, 14:18, 14:19, 14:21, 15:3, 15:16, 15:17, 15:21, 15:22, 15:23, 15:24, 16:1, 16:3, 16:5, 16:6, 16:8, 16:10, 16:11, 16:13, 16:14, 16:15, 16:16, 16:19, 16:20, 16:21, 17:1, 17:4, 17:5, 17:14, 17:15, 17:16, 17:17, 17:18, 17:19, 17:20, 17:21, 18:5, 18:8, 18:14, 18:15, 18:18, 18:20, 18:21, 18:22,</p>
--	---	--	---



<p>18:24, 18:25, 19:3, 19:7, 19:9, 19:12, 19:13, 19:14, 19:23, 19:24, 20:1, 20:2, 20:8, 20:13, 20:14, 20:17, 20:18, 20:22, 21:3, 21:7, 21:10, 21:12, 21:13, 21:18, 21:21, 22:3, 22:7, 22:9, 22:12, 22:15, 22:19, 22:21, 23:2, 23:7, 23:9, 23:16, 23:19, 23:20, 23:22, 23:23, 23:25, 24:3, 24:4, 24:11, 25:3, 25:8, 25:15, 25:21, 25:24, 25:25, 26:1, 26:2, 26:8, 26:10, 26:12, 26:17, 26:18, 26:20, 26:23, 26:25, 27:2, 27:4, 27:6, 27:7, 27:9, 27:10, 27:13, 27:14, 27:17, 27:20, 27:24, 28:2, 28:3, 28:4, 28:8, 28:10, 28:11, 28:14, 28:16, 28:17, 28:19, 28:22, 28:23, 28:24, 29:1, 29:3, 29:4, 29:7, 29:10, 29:11, 29:12, 29:16, 29:17, 29:18, 29:20, 29:23, 29:24, 29:25, 30:2, 30:7, 30:8, 30:10, 30:11, 30:13, 30:14, 30:20, 30:24, 30:25, 31:12, 31:15, 31:16, 31:17, 31:19, 31:23, 31:25, 32:2, 32:3, 32:6, 32:10, 32:18, 32:19, 32:22, 33:1, 33:2, 33:3, 33:5, 33:6, 33:9, 33:10, 33:11, 33:13, 33:15, 33:17, 33:18, 33:19, 33:21, 34:4, 34:5, 34:8, 34:9, 34:11, 34:20, 35:1, 35:4, 35:7, 35:8, 35:11, 35:12, 35:13, 35:16, 35:17, 35:19, 35:20, 35:21, 36:3, 36:7, 36:8, 36:11, 36:15, 36:20, 36:22, 36:25, 37:2, 37:3, 37:4, 37:8, 37:9, 37:10, 37:11, 37:16, 37:20, 37:21, 37:22, 38:2, 38:6, 38:9, 38:10, 38:11, 38:16, 38:18, 38:19, 38:20, 38:21, 38:22, 38:23, 38:24, 38:25, 39:1, 39:2, 39:3, 39:5, 39:7, 39:8, 39:10, 39:11, 39:12, 39:13, 39:16, 39:22, 40:4, 40:8, 40:10, 40:14, 40:15, 40:16, 40:17,</p>	<p>40:18, 40:21, 40:23, 40:25, 41:2, 41:5, 41:8, 41:10, 41:11, 41:16, 41:17, 41:18, 41:20, 41:21, 41:22, 42:1, 42:3, 42:5, 42:6, 42:7, 42:8, 42:9, 42:11, 42:16, 42:17, 42:19, 42:20, 42:24, 43:2, 43:3, 43:4, 43:6, 43:9, 43:10, 43:11, 43:14, 43:16, 43:19, 43:22, 43:23, 43:24, 44:2, 44:6, 44:9, 44:11, 44:12, 44:13, 44:15, 44:17, 44:21, 44:22, 44:23, 45:2, 45:3, 45:5, 45:7, 45:8, 45:9, 45:14, 45:16, 45:19, 45:20, 45:22, 45:23, 45:24, 46:1, 46:2, 46:9, 46:10, 46:11, 46:12, 46:13, 46:14, 46:15, 46:16, 46:18, 47:1, 47:3, 47:6, 47:7, 47:10, 47:11, 47:13, 47:14, 47:18, 48:4, 48:5, 48:7, 48:9, 48:13, 48:17, 48:18, 48:24, 49:1, 49:5, 49:7, 49:13, 49:16, 49:19, 50:1, 50:2, 50:3, 50:6, 50:10, 50:14, 50:15, 50:17, 50:19, 50:22, 50:23, 50:25, 51:2, 51:3, 51:5, 51:9, 51:11, 51:12, 51:15, 51:16, 51:19, 51:21, 51:24, 52:4, 52:6, 52:8, 52:9, 52:11, 52:13, 52:14, 52:15, 52:16, 52:17, 52:18, 52:19, 52:22, 52:23, 53:8, 53:9, 53:18, 53:21, 53:23, 54:1, 54:5, 54:8, 54:10, 54:20, 54:22, 55:7, 55:10, 55:11, 55:23, 56:1, 56:8, 56:10, 56:13, 56:14, 56:16, 56:18, 56:20, 56:22, 57:4, 57:8, 57:10, 57:11, 57:12, 57:14, 57:18, 57:22, 58:5, 58:6, 58:13, 58:14, 58:17, 58:22, 58:25, 59:1, 59:3, 59:5, 59:6, 59:7, 59:12, 59:14, 59:16, 59:18, 59:19, 59:23, 60:1, 60:2, 60:4, 60:6, 60:8, 60:15, 60:18, 60:24, 61:9, 61:10, 61:19, 61:21, 61:22, 61:23, 62:1, 62:5, 62:7, 62:13, 62:14, 62:16,</p>	<p>62:20, 62:21, 62:23, 63:2, 63:5, 63:7, 63:8, 63:11, 63:21, 63:25, 64:4, 64:7, 64:10, 64:15, 64:16, 64:20, 64:22, 64:25, 65:4, 65:5, 65:8, 65:12, 65:14, 65:15, 65:18, 65:19, 65:20, 65:22, 65:24, 66:2, 66:6, 66:11, 66:12, 66:21, 66:22, 67:2, 67:11, 67:18, 67:21, 67:23, 68:1, 68:5, 68:7, 68:9, 68:10, 68:11, 68:13, 68:16, 68:17, 68:22, 69:3, 69:14, 69:16, 70:1, 70:2, 70:6, 70:13, 70:14, 70:20, 70:22, 70:25, 71:1, 71:2, 71:3, 71:5, 71:7, 71:8, 71:14, 71:19, 71:24, 71:25, 72:7, 72:10, 72:12, 72:13, 72:19, 72:20, 72:25, 73:5, 73:6, 73:15, 73:16, 73:19, 73:20, 73:22, 73:24, 74:2, 74:3, 74:4, 74:10, 74:12, 74:22, 74:24, 75:3, 75:15, 75:19, 75:20, 75:21, 75:22, 75:23, 75:24, 75:25, 76:1, 76:5, 76:7, 76:11, 76:15, 76:16, 76:18, 77:2, 77:5, 77:7, 77:8, 77:15, 77:16, 77:21, 77:22, 77:23, 78:2, 78:3, 78:8, 78:9, 78:13, 78:19, 78:20, 78:21, 78:23, 78:24, 79:3, 79:4, 79:5, 79:12, 79:14, 79:15, 79:18, 79:21, 79:22, 80:5, 80:6, 80:7, 80:8, 80:11, 80:14, 80:16, 80:21, 80:24, 81:13, 81:15, 81:16, 81:21, 81:24, 82:3, 82:6, 82:8, 82:9, 82:12, 82:13, 82:23, 83:4, 83:5, 83:11, 83:13, 83:14, 83:15, 83:16, 83:18, 83:20, 83:21, 83:22, 84:2, 84:3, 84:4, 84:10, 84:13, 84:16, 84:17, 84:18, 84:19, 84:22, 84:24, 85:8, 85:9, 85:10, 85:14, 85:15, 85:19, 85:22, 86:14, 86:23, 86:25, 87:1, 87:3, 87:5, 87:10, 87:11, 87:14, 87:17, 87:20, 87:24, 88:1, 88:6, 88:7, 88:15, 88:19,</p>	<p>88:24, 89:1, 89:2, 89:4, 89:5, 89:9, 89:10, 89:13, 89:14, 89:15, 89:16, 89:17, 89:20, 89:23, 89:24, 89:25, 90:5, 90:8, 90:11, 90:12, 90:14, 90:15, 90:17, 90:18, 90:21, 90:24, 90:25, 91:3, 91:4, 91:5, 91:10, 91:15, 91:17, 91:21, 92:1, 92:11, 92:12, 92:22, 93:1, 93:2, 93:4, 93:7, 93:8, 93:11, 93:14, 93:18, 93:20, 93:23, 93:24, 94:2, 94:3, 94:5, 94:6, 94:8, 94:9, 94:11, 94:12, 94:13, 94:17, 94:18, 94:19, 94:20, 94:25, 95:1, 95:2, 95:8, 95:12, 95:13, 95:16, 95:18, 95:21, 95:22, 95:25, 96:2, 96:4, 96:5, 96:6, 96:8, 96:14, 97:2, 97:3, 97:4, 97:5, 97:6, 97:7, 97:8, 97:11, 97:12, 97:14, 97:20, 97:21, 98:5, 98:7, 98:9, 98:13, 98:16, 98:22, 98:24, 98:25, 99:2, 99:5, 99:8, 99:10, 99:12, 99:13, 99:17, 99:18, 99:21, 99:22, 100:2, 100:8, 100:14, 100:15, 100:21, 100:22, 100:25, 101:2, 101:5, 101:7, 101:8, 101:9, 101:14, 101:16, 101:19, 101:21, 101:22, 101:24, 102:2, 102:16, 102:19, 102:20, 102:22, 102:24, 103:4, 103:6, 103:8, 103:10, 103:14, 103:16, 103:21, 104:2, 104:6, 104:7, 104:8, 104:12, 104:13, 104:14, 105:1, 105:6, 105:7, 105:10, 105:16, 105:20, 106:4, 106:5, 106:7, 106:10, 106:11, 106:12, 106:14, 106:15, 106:16, 106:19, 106:20, 106:24, 106:25, 107:4, 107:9, 107:10, 107:11, 107:14, 107:16, 107:17, 107:20, 107:21, 107:23, 107:25, 108:2, 108:20, 109:2, 109:10, 109:20, 110:3, 110:10, 110:12, 110:13, 110:14, 110:18, 110:20, 110:21, 110:22, 111:4, 111:7, 111:8, 111:15,</p>
---	--	--	---

<p>111:20, 111:21, 111:23, 111:24, 112:1, 112:2, 112:7, 112:9, 112:11, 112:20, 112:22, 113:5, 113:6, 113:18, 113:22, 113:23, 113:25, 114:9, 114:17, 114:23, 115:1, 115:4, 115:5, 115:10, 115:22, 115:25, 116:2, 116:3, 116:6, 116:16, 116:17, 116:18, 116:21, 116:25, 117:3, 117:5, 117:7, 117:8, 117:10, 117:11, 117:12, 117:13, 117:14, 117:15, 117:17, 117:18, 117:20, 117:23, 118:4, 118:8, 118:12, 118:13, 118:15, 118:21, 118:22, 118:24, 119:1, 119:8, 119:12, 119:17, 119:19, 119:20, 119:21, 120:1, 120:7, 120:9, 120:10, 120:11, 120:15, 120:16, 120:18, 120:19, 120:24, 121:1, 121:3, 121:5, 121:6, 121:8, 121:12, 121:13, 121:14, 121:16, 121:17, 121:18, 121:19, 121:20, 121:23, 122:7, 122:8, 122:9, 122:11, 122:14, 122:16, 122:18, 122:20, 122:24, 123:1, 123:8, 123:9, 123:16, 123:23, 124:4, 124:5, 124:14, 124:22, 125:8, 125:12, 125:13, 125:14, 125:15, 125:21, 126:3, 126:6, 126:10, 126:11, 126:14, 126:15, 126:19, 127:9, 127:11, 127:23, 128:1, 128:17, 128:18, 128:22, 128:23, 129:2, 129:4, 129:5, 129:16, 129:17, 129:19, 129:20, 129:22, 129:24, 130:1, 130:4, 130:10, 130:11, 130:12, 130:13, 130:17, 130:20, 130:21, 130:22, 131:7, 131:8, 131:9, 131:10, 131:11, 131:13, 131:18, 131:23, 131:24, 131:25, 132:2, 132:6, 132:11, 132:15, 132:16, 132:19, 132:21, 133:5, 133:9, 133:13, 133:18, 133:19, 133:25, 134:4, 134:5, 134:6, 134:16, 134:17, 134:20, 134:21, 134:23, 135:1, 135:2, 135:3, 135:7,</p>	<p>135:11, 135:14, 135:15, 135:16, 135:18, 135:19, 136:2, 136:4, 136:6, 136:12, 136:18, 136:22, 136:24, 137:1, 137:4, 137:6, 137:8, 137:9, 138:2, 138:8, 138:9, 138:13, 138:16, 138:20, 138:24, 139:3, 139:8, 139:13, 139:19, 140:1, 140:2, 140:6, 140:9, 140:10, 140:14, 140:17, 140:18, 141:2, 141:3, 141:21, 142:7, 142:8, 142:11, 142:12 <b>their</b> [62] - 5:15, 11:13, 11:23, 13:22, 14:23, 22:10, 26:21, 26:22, 27:6, 27:7, 27:23, 43:12, 43:13, 43:23, 44:18, 46:23, 47:19, 48:4, 50:7, 50:12, 58:16, 60:9, 60:14, 60:22, 61:20, 61:24, 67:24, 69:20, 70:8, 70:11, 70:12, 79:11, 79:24, 85:3, 92:5, 92:6, 94:4, 105:7, 108:6, 108:9, 109:22, 111:10, 111:11, 124:22, 129:21, 131:1, 132:4, 132:5, 133:3, 133:8, 133:9, 133:13, 133:23, 133:24, 137:6, 138:5, 138:24, 139:12 <b>them</b> [43] - 11:15, 12:18, 17:18, 17:24, 24:21, 26:19, 27:18, 33:25, 42:21, 47:5, 47:6, 50:11, 52:16, 52:24, 71:16, 73:16, 80:3, 83:16, 85:18, 87:12, 87:23, 92:2, 93:22, 95:16, 103:1, 108:18, 115:21, 118:8, 121:7, 121:18, 129:7, 130:1, 132:2, 132:9, 132:17, 133:21, 135:21, 135:22, 139:16, 140:19, 140:20 <b>theme</b> [1] - 58:6 <b>themselves</b> [1] - 2:8 <b>then</b> [41] - 7:11, 18:14, 19:1, 19:7, 19:8, 19:14, 28:4, 32:5, 38:7, 38:24, 46:14, 55:18, 60:6, 62:3, 64:12, 64:13, 68:14, 74:7, 74:13, 90:5, 94:5, 95:4, 103:21, 104:13, 105:4, 108:1, 114:16, 114:18, 115:15, 120:20, 122:14, 124:20, 127:19,</p>	<p>128:23, 130:1, 130:2, 132:7, 132:19, 134:8, 141:5 <b>theoretical</b> [1] - 28:5 <b>there</b> [115] - 4:22, 5:18, 11:16, 16:12, 18:25, 20:7, 22:14, 25:19, 25:23, 28:12, 29:6, 29:18, 30:5, 31:5, 33:15, 33:19, 35:9, 36:3, 36:19, 38:8, 39:21, 40:11, 40:13, 41:22, 42:18, 44:21, 46:5, 47:25, 48:10, 49:12, 49:21, 49:25, 50:22, 51:14, 51:18, 51:21, 52:12, 53:22, 54:10, 56:20, 57:1, 58:18, 59:3, 61:9, 62:7, 63:23, 64:8, 65:20, 67:13, 68:4, 69:14, 71:9, 72:4, 72:22, 73:18, 73:20, 73:25, 74:16, 77:25, 78:5, 79:1, 79:12, 81:11, 81:22, 83:7, 83:12, 85:9, 87:3, 87:20, 89:8, 89:10, 89:21, 90:3, 91:20, 92:3, 94:21, 96:9, 98:8, 99:9, 99:24, 103:22, 106:6, 106:14, 111:7, 112:14, 112:16, 112:17, 115:3, 115:16, 118:12, 120:22, 121:7, 121:17, 122:10, 123:3, 123:12, 123:14, 124:10, 125:18, 126:23, 126:24, 128:16, 132:7, 137:15, 137:16, 137:22, 137:23, 138:1, 138:3, 140:9, 141:3 <b>there's</b> [54] - 23:25, 24:8, 24:15, 33:2, 34:11, 34:13, 34:25, 44:20, 53:4, 55:1, 57:20, 62:6, 62:18, 67:7, 67:20, 68:3, 68:22, 68:25, 69:18, 70:4, 70:20, 71:14, 71:21, 72:5, 72:13, 74:21, 77:17, 80:10, 82:5, 82:12, 88:25, 91:11, 97:23, 101:10, 103:3, 103:9, 103:15, 103:16, 103:17, 106:3, 109:2, 111:2, 111:9, 112:12, 112:17, 120:5, 120:7, 123:7, 124:6, 125:1, 126:18, 128:20, 129:22, 131:4 <b>thereafter</b> [1] - 20:21 <b>therefore</b> [1] - 47:8 <b>these</b> [27] - 5:22, 11:4,</p>	<p>13:3, 14:16, 27:18, 33:16, 44:10, 52:20, 58:1, 64:1, 64:2, 67:9, 71:11, 71:17, 75:17, 76:17, 76:20, 76:21, 77:3, 87:22, 105:22, 105:24, 116:24, 118:20, 131:21, 133:2, 134:3 <b>they</b> [132] - 11:22, 15:9, 17:1, 17:3, 17:15, 17:17, 17:18, 17:24, 22:13, 23:21, 23:22, 24:13, 25:10, 35:11, 35:12, 35:13, 36:23, 37:5, 37:19, 38:14, 38:15, 40:17, 40:23, 41:12, 42:2, 42:18, 44:13, 44:16, 44:17, 47:8, 49:5, 49:14, 49:18, 50:13, 51:6, 51:23, 59:25, 60:2, 61:14, 62:22, 63:12, 68:7, 68:15, 69:7, 70:7, 70:10, 70:11, 73:13, 73:21, 73:25, 80:4, 80:7, 80:25, 81:1, 81:4, 81:12, 81:13, 81:15, 84:12, 85:2, 85:6, 85:15, 85:16, 85:17, 87:9, 87:10, 87:18, 89:4, 101:7, 102:25, 105:4, 106:20, 107:2, 108:1, 108:2, 108:3, 108:4, 108:6, 108:8, 110:1, 112:24, 112:25, 113:2, 113:11, 116:8, 116:9, 116:25, 117:18, 118:1, 119:11, 119:13, 119:15, 121:22, 122:20, 123:25, 124:1, 124:11, 124:19, 124:20, 124:22, 124:24, 125:9, 125:19, 127:7, 128:25, 129:3, 130:5, 131:3, 132:6, 133:7, 133:20, 133:22, 133:24, 135:23, 136:4, 136:8, 137:13, 138:4, 138:24, 139:4, 139:20, 140:8, 140:11, 140:12 <b>they'd</b> [1] - 42:3 <b>they're</b> [17] - 21:13, 24:8, 39:15, 44:24, 60:5, 68:6, 77:18, 80:5, 85:8, 100:25, 101:2, 105:3, 119:5, 130:7, 135:21, 141:7 <b>they've</b> [6] - 44:21, 79:6, 81:20, 82:11, 82:17, 130:21 <b>thing</b> [17] - 36:7, 39:16, 49:20, 52:8, 68:3, 83:2,</p>
---	---	---	--

<p>83:3, 94:8, 101:1, 107:21, 112:11, 112:18, 118:12, 132:21, 132:23, 133:1, 135:18 <b>things</b> [16] - 4:13, 22:12, 22:20, 37:20, 44:16, 45:21, 46:6, 46:9, 60:22, 72:10, 86:10, 92:1, 108:2, 130:16, 138:13, 140:5 <b>think</b> [165] - 5:5, 7:2, 14:13, 20:16, 20:19, 24:5, 24:13, 25:5, 25:20, 27:25, 28:8, 28:15, 28:16, 28:18, 30:19, 31:4, 31:7, 31:14, 32:7, 32:17, 32:24, 33:5, 33:21, 34:11, 35:5, 36:19, 37:6, 37:7, 37:8, 38:16, 39:8, 40:20, 41:3, 44:10, 44:20, 45:1, 45:3, 45:6, 45:7, 45:12, 47:18, 48:11, 51:7, 52:25, 55:8, 55:20, 57:24, 58:17, 61:16, 61:17, 61:25, 62:11, 64:23, 66:22, 68:5, 69:12, 69:21, 72:6, 72:22, 72:24, 73:17, 75:4, 75:6, 75:12, 76:17, 76:19, 78:2, 79:20, 80:12, 81:14, 82:7, 82:20, 82:22, 82:25, 83:3, 83:24, 84:8, 84:16, 84:17, 84:21, 84:23, 85:19, 86:11, 87:4, 87:13, 87:20, 88:22, 90:13, 97:23, 100:9, 102:19, 102:22, 103:1, 103:2, 103:3, 103:4, 103:9, 103:10, 103:24, 104:1, 104:11, 104:13, 105:3, 105:6, 105:8, 105:11, 105:12, 106:3, 106:4, 106:6, 106:7, 106:8, 106:22, 108:23, 109:8, 109:10, 111:12, 111:25, 113:10, 114:3, 116:11, 116:12, 118:10, 120:7, 120:16, 122:20, 123:20, 124:1, 125:9, 126:2, 128:19, 129:7, 129:16, 129:17, 129:18, 129:20, 129:22, 130:9, 130:23, 131:5, 131:20, 132:24, 134:14, 134:23, 135:8, 135:18, 135:23, 136:10, 137:25, 138:8, 138:11, 138:13, 138:15, 138:25, 139:7, 140:20, 141:5, 141:12</p>	<p><b>thinking</b> [1] - 39:9, 86:11, 106:24, 116:13, 116:14, 117:4, 122:15, 122:24, 130:5, 140:22, 141:1 <b>thinks</b> [3] - 16:13, 39:19, 123:19 <b>third</b> [16] - 71:23, 73:13, 110:10, 112:25, 113:1, 114:15, 114:21, 114:22, 118:12, 124:23, 131:25, 133:20, 134:16, 134:21, 135:8, 137:3 <b>this</b> [148] - 2:4, 2:12, 2:21, 3:12, 4:4, 4:20, 5:21, 5:23, 6:10, 8:14, 8:25, 13:21, 16:8, 16:9, 19:9, 21:11, 21:16, 24:16, 25:1, 25:16, 25:17, 25:22, 27:13, 30:19, 30:21, 32:7, 34:12, 34:14, 35:18, 36:9, 36:14, 39:19, 41:20, 42:20, 43:10, 43:15, 44:4, 47:24, 54:15, 55:21, 59:8, 60:8, 60:11, 60:17, 60:19, 60:23, 60:25, 61:1, 62:16, 63:12, 65:11, 65:15, 66:20, 66:22, 67:12, 67:17, 68:17, 69:17, 71:18, 73:4, 74:24, 75:14, 75:16, 76:3, 76:4, 77:7, 77:13, 77:16, 78:22, 79:8, 79:11, 79:16, 80:15, 84:15, 86:3, 86:16, 88:4, 90:8, 91:22, 92:20, 94:10, 96:9, 96:25, 97:6, 97:15, 98:22, 99:6, 100:13, 102:5, 102:18, 103:25, 104:1, 104:15, 104:18, 105:17, 105:21, 106:16, 107:1, 107:3, 107:17, 108:19, 108:22, 108:25, 109:16, 110:17, 111:25, 112:2, 113:3, 113:5, 113:19, 113:24, 114:2, 114:3, 114:6, 115:19, 115:21, 116:8, 116:12, 117:21, 118:6, 118:9, 118:18, 119:19, 120:14, 120:16, 122:25, 123:4, 123:24, 124:7, 130:20, 132:24, 134:12, 134:22, 136:4, 136:24, 138:2, 142:11, 142:12, 142:15 <b>thoroughly</b> [1] - 14:14 <b>those</b> [56] - 4:2, 4:14,</p>	<p>12:16, 17:6, 23:3, 23:10, 24:12, 26:16, 29:20, 33:24, 34:8, 40:14, 45:21, 46:7, 46:8, 47:15, 51:13, 52:1, 52:13, 53:4, 56:24, 61:12, 62:2, 64:9, 70:9, 70:17, 71:8, 71:9, 72:18, 73:18, 74:17, 76:11, 82:14, 82:15, 82:16, 82:18, 82:21, 84:6, 87:7, 95:9, 96:11, 103:8, 104:25, 107:15, 108:21, 110:20, 117:1, 117:25, 121:23, 124:13, 126:6, 134:15, 135:8, 139:15 <b>though</b> [7] - 69:11, 76:19, 104:4, 107:10, 115:20, 125:7, 126:20 <b>thought</b> [15] - 4:21, 4:22, 7:2, 17:8, 19:10, 37:18, 37:21, 38:8, 47:9, 61:12, 61:15, 61:18, 63:17, 85:5, 85:18 <b>thoughtful</b> [1] - 35:19 <b>thoughts</b> [2] - 56:4, 140:17 <b>thousand</b> [3] - 27:16, 27:21, 47:16 <b>thousands</b> [2] - 9:4, 59:17 <b>three</b> [25] - 59:4, 68:20, 70:9, 73:25, 74:3, 77:19, 80:2, 81:20, 82:4, 83:17, 83:15, 95:2, 96:11, 100:24, 114:11, 114:13, 114:14, 125:13, 125:15, 125:19, 134:18, 134:19, 134:23, 137:20, 138:18 <b>three-candidate</b> [1] - 138:18 <b>three-choice</b> [1] - 95:2 <b>threshold</b> [9] - 54:11, 55:12, 77:21, 78:4, 78:11, 78:12, 78:16, 136:23, 141:5 <b>threw</b> [1] - 26:18 <b>thrives</b> [1] - 14:9 <b>through</b> [25] - 2:16, 12:23, 27:8, 28:9, 30:9, 38:9, 38:10, 38:18, 51:1, 51:14, 56:15, 67:8, 67:10, 70:4, 70:8, 74:19, 77:16, 82:4, 93:12, 93:14, 94:15, 96:9, 99:7, 120:18, 131:25 <b>throughout</b> [1] - 5:8 <b>throw</b> [1] - 46:4 <b>thus</b> [1] - 63:6 <b>tic</b> [3] - 74:16, 84:17,</p>	<p>138:14 <b>ticket</b> [2] - 76:11, 76:18 <b>tied</b> [2] - 68:7, 131:15 <b>time</b> [38] - 3:24, 7:1, 10:3, 10:7, 13:7, 13:15, 20:8, 20:25, 24:20, 41:10, 41:18, 45:9, 46:9, 56:19, 61:3, 68:17, 70:8, 75:3, 75:15, 79:22, 80:4, 81:11, 90:10, 96:15, 97:17, 98:15, 104:24, 105:17, 106:13, 106:24, 108:25, 109:3, 113:14, 119:23, 130:2, 130:12, 136:4, 141:1 <b>time-consuming</b> [2] - 10:3, 13:7 <b>timeframe</b> [1] - 97:15 <b>times</b> [4] - 81:21, 120:22, 135:12, 138:4 <b>tinier</b> [1] - 95:15 <b>tiny</b> [1] - 107:2 <b>to</b> [802] - 2:4, 2:7, 2:14, 2:15, 2:23, 3:11, 3:19, 3:22, 3:23, 4:2, 4:13, 4:16, 4:18, 4:19, 4:23, 5:1, 5:4, 5:5, 5:6, 5:12, 5:19, 5:21, 6:2, 6:3, 6:6, 6:9, 6:11, 6:14, 6:17, 6:18, 6:19, 6:21, 7:2, 8:6, 8:10, 8:16, 8:22, 9:2, 9:7, 9:15, 10:6, 10:12, 10:14, 10:22, 11:3, 11:6, 11:11, 11:12, 11:14, 11:15, 11:16, 11:23, 12:3, 12:4, 12:8, 12:15, 12:17, 13:4, 13:6, 13:12, 13:15, 13:16, 13:22, 13:23, 13:25, 14:1, 14:2, 14:4, 14:5, 14:6, 14:11, 14:12, 14:16, 14:17, 14:20, 14:23, 15:1, 15:3, 15:4, 15:12, 15:19, 15:20, 15:24, 16:3, 16:4, 16:11, 16:15, 16:21, 16:22, 16:24, 18:3, 18:16, 18:18, 19:1, 19:2, 19:9, 19:11, 20:14, 20:17, 20:18, 20:19, 20:20, 20:25, 21:4, 21:5, 21:8, 21:14, 21:21, 22:4, 22:11, 22:12, 22:17, 22:20, 22:22, 23:7, 23:13, 23:14, 23:16, 23:22, 23:24, 24:2, 24:6, 24:10, 24:20, 25:3, 25:8, 25:10, 25:13, 25:15, 25:16, 26:1, 26:9, 26:11, 26:14, 26:19, 26:20, 26:21, 26:22, 27:1, 27:2,</p>
--	--	--	--

<p>27:5, 27:6, 27:10, 27:17, 27:20, 27:24, 28:3, 28:4, 28:5, 28:7, 28:9, 28:11, 28:12, 28:17, 28:22, 29:2, 29:3, 29:8, 29:13, 29:18, 29:22, 29:23, 29:24, 30:1, 30:9, 30:11, 30:15, 30:25, 31:3, 31:8, 31:9, 31:12, 31:17, 31:18, 31:21, 31:23, 32:1, 32:10, 32:12, 32:15, 32:20, 33:1, 33:3, 33:15, 33:18, 33:19, 34:3, 34:4, 34:8, 34:19, 34:23, 34:24, 34:25, 35:7, 35:12, 35:14, 35:19, 35:21, 35:25, 36:5, 36:9, 36:20, 36:24, 37:2, 37:5, 37:7, 37:10, 37:11, 37:19, 38:2, 38:9, 38:18, 38:19, 38:25, 39:15, 39:18, 39:22, 39:25, 40:14, 40:17, 40:22, 41:7, 41:13, 41:17, 42:2, 42:7, 42:18, 42:20, 42:24, 42:25, 43:3, 43:5, 43:8, 43:15, 43:16, 43:23, 43:24, 43:25, 44:4, 44:16, 44:23, 44:25, 45:2, 45:7, 45:10, 45:11, 45:16, 45:19, 45:20, 45:21, 45:25, 46:3, 46:4, 46:6, 46:11, 46:14, 46:16, 46:22, 46:23, 46:24, 47:5, 47:6, 47:11, 47:12, 47:14, 47:20, 47:22, 48:2, 48:5, 48:7, 48:12, 49:5, 49:8, 49:15, 49:19, 50:6, 50:7, 50:11, 50:12, 50:19, 50:20, 50:23, 51:1, 51:2, 51:4, 51:6, 51:16, 51:25, 52:3, 53:2, 53:11, 53:14, 53:18, 53:19, 53:20, 53:22, 54:1, 54:16, 54:24, 55:6, 55:10, 55:13, 55:14, 55:21, 56:8, 56:11, 56:22, 56:25, 57:4, 57:5, 57:14, 57:19, 57:23, 58:2, 58:4, 58:5, 58:11, 58:13, 58:14, 58:15, 58:16, 58:20, 58:21, 59:1, 59:3, 59:4, 59:8, 59:20, 59:23, 59:25, 60:2, 60:5, 60:10, 60:12, 60:14, 60:16, 60:21, 60:25, 61:7, 61:18, 61:20, 61:23, 62:1, 62:12, 62:23, 62:24,</p>	<p>63:3, 63:6, 63:8, 63:17, 63:20, 64:13, 64:14, 64:16, 64:17, 64:19, 65:4, 65:11, 65:23, 66:19, 67:5, 67:6, 67:8, 67:10, 67:11, 67:25, 68:3, 68:7, 68:16, 68:23, 69:7, 69:12, 69:13, 69:17, 70:11, 70:13, 70:15, 70:23, 71:1, 71:15, 71:21, 71:24, 71:25, 72:1, 72:10, 72:16, 72:20, 72:24, 73:21, 73:22, 73:25, 74:2, 74:4, 74:16, 75:4, 75:13, 76:8, 76:10, 76:20, 76:22, 77:1, 77:3, 77:5, 77:7, 77:19, 78:3, 78:6, 78:19, 78:20, 78:22, 79:2, 79:8, 79:15, 79:17, 79:21, 79:22, 79:23, 79:25, 80:4, 80:9, 80:11, 81:9, 81:11, 81:24, 81:25, 82:2, 82:5, 82:23, 83:4, 83:16, 83:25, 84:8, 84:10, 84:22, 85:3, 85:5, 85:10, 86:5, 86:6, 86:10, 86:11, 86:12, 86:15, 86:17, 86:21, 87:12, 87:21, 88:1, 88:2, 88:3, 88:7, 88:8, 88:9, 88:15, 89:3, 89:8, 89:13, 89:14, 89:15, 89:20, 89:23, 90:4, 90:8, 90:11, 90:12, 90:13, 90:19, 90:20, 90:21, 90:23, 90:25, 91:1, 91:9, 91:11, 91:17, 92:1, 92:5, 92:7, 92:15, 92:16, 92:22, 93:5, 93:6, 93:13, 93:14, 93:17, 94:2, 94:3, 94:4, 94:8, 94:10, 94:13, 94:16, 94:21, 94:22, 94:23, 95:8, 95:18, 95:24, 96:1, 96:13, 96:14, 96:16, 96:18, 96:19, 96:21, 96:24, 97:5, 97:8, 97:9, 97:18, 98:2, 98:13, 98:15, 99:4, 99:5, 99:7, 99:8, 99:11, 100:1, 100:3, 100:6, 100:8, 100:11, 100:19, 100:20, 100:22, 100:24, 101:6, 101:16, 101:21, 102:10, 102:17, 102:20, 102:22, 102:24, 103:6, 103:7, 103:10, 104:7, 104:11, 104:15, 104:17, 104:18, 104:22, 104:25, 105:2,</p>	<p>105:3, 105:5, 105:7, 105:12, 105:13, 105:15, 105:16, 105:18, 105:25, 106:2, 106:19, 107:1, 107:22, 108:16, 108:23, 109:4, 109:18, 110:14, 110:16, 111:4, 111:8, 111:9, 111:11, 111:12, 111:16, 111:18, 111:20, 111:21, 112:8, 112:9, 112:16, 112:17, 112:20, 112:21, 112:22, 113:4, 113:6, 113:14, 113:17, 113:22, 113:23, 113:25, 114:12, 114:16, 114:18, 114:21, 115:13, 115:14, 115:16, 115:25, 116:1, 116:2, 116:3, 116:6, 116:22, 117:2, 117:4, 118:2, 118:9, 119:3, 119:7, 119:8, 119:12, 119:17, 119:18, 119:19, 119:20, 120:1, 120:2, 120:9, 120:15, 120:20, 122:11, 122:12, 122:14, 123:1, 123:5, 123:8, 123:11, 123:12, 123:13, 123:14, 123:16, 123:17, 123:19, 123:20, 123:22, 123:23, 123:24, 124:2, 124:19, 124:21, 125:1, 125:4, 125:7, 125:9, 125:10, 125:21, 125:22, 125:24, 126:3, 126:5, 126:6, 126:9, 126:16, 126:22, 126:23, 126:24, 127:3, 127:9, 127:16, 128:5, 128:6, 128:8, 128:20, 129:4, 129:6, 129:7, 129:10, 129:12, 129:14, 129:19, 130:1, 130:6, 130:13, 130:19, 130:25, 131:3, 131:11, 131:15, 131:20, 132:6, 132:18, 132:21, 133:1, 133:5, 133:12, 133:14, 133:16, 134:2, 134:9, 134:25, 135:4, 135:9, 135:14, 135:20, 135:21, 135:22, 135:25, 136:3, 136:6, 136:8, 136:11, 136:12, 136:16, 136:18, 137:7, 137:13, 137:18, 138:3, 138:5, 138:8, 138:20, 139:5, 139:7, 139:16, 139:18, 139:21, 139:22, 139:23, 140:6, 140:7, 140:11, 140:13, 140:15, 140:18, 140:19, 140:20, 140:22, 141:4,</p>	<p>141:7, 141:14, 141:16, 142:10, 142:11  <b>today</b> [17] - 4:15, 5:14, 5:19, 5:20, 7:6, 14:16, 23:6, 25:7, 55:6, 67:22, 68:5, 77:25, 86:1, 93:6, 93:17, 103:7, 117:21  <b>today's</b> [2] - 4:24, 5:12  <b>together</b> [3] - 5:14, 75:12, 105:18  <b>told</b> [2] - 9:21, 24:19  <b>too</b> [8] - 4:9, 24:19, 46:4, 46:6, 106:2, 125:13, 127:21, 140:6  <b>took</b> [2] - 73:5, 80:15  <b>tools</b> [1] - 48:1  <b>top</b> [20] - 15:23, 45:16, 70:1, 73:22, 74:2, 75:20, 75:21, 75:23, 76:11, 76:18, 78:6, 78:8, 78:19, 89:15, 89:16, 94:6, 132:3, 132:6, 133:18, 133:19  <b>topic</b> [4] - 5:12, 6:10, 65:14, 90:8  <b>topics</b> [1] - 5:22  <b>total</b> [6] - 83:6, 108:19, 117:11, 117:12, 118:4  <b>totally</b> [1] - 79:6  <b>touch</b> [2] - 93:17, 130:16  <b>touched</b> [2] - 87:2, 104:15  <b>touching</b> [1] - 95:9  <b>towards</b> [2] - 92:13, 104:5  <b>track</b> [1] - 27:6  <b>trade</b> [1] - 76:21  <b>trade-offs</b> [1] - 76:21  <b>tradeoff</b> [1] - 112:12  <b>tradeoffs</b> [1] - 77:3  <b>traditional</b> [6] - 72:2, 94:5, 99:11, 102:6, 123:2  <b>traditionally</b> [1] - 110:15  <b>tragedy</b> [1] - 79:3  <b>trained</b> [1] - 26:13  <b>training</b> [2] - 41:23, 41:25  <b>transcription</b> [1] - 142:8  <b>transfer</b> [1] - 64:16  <b>transformative</b> [1] - 31:23  <b>transformed</b> [1] - 32:20  <b>transgender</b> [1] - 81:19  <b>transition</b> [1] - 82:5  <b>translate</b> [1] - 132:4  <b>translators</b> [4] - 26:12, 26:14, 26:16, 26:18</p>
--	--	---	--

<p><b>transmission</b> [3] - 12:13, 24:9, 25:4  <b>transmit</b> [1] - 13:4  <b>transmits</b> [1] - 12:15  <b>transparency</b> [2] - 37:12, 97:7  <b>transparent</b> [2] - 40:6, 79:14  <b>transport</b> [2] - 108:2, 108:8  <b>transportation</b> [1] - 13:11  <b>trap</b> [1] - 91:20  <b>travelling</b> [1] - 102:10  <b>treated</b> [2] - 84:25, 85:8  <b>tremendous</b> [2] - 6:11, 24:1  <b>true</b> [6] - 72:6, 73:20, 116:23, 125:5, 125:13, 126:25  <b>trust</b> [1] - 36:18  <b>try</b> [9] - 34:3, 35:8, 67:8, 67:10, 82:23, 87:12, 88:3, 88:9, 135:21  <b>trying</b> [11] - 4:16, 32:15, 39:15, 56:25, 57:4, 73:21, 112:21, 112:22, 133:16, 139:5  <b>Tuesday</b> [2] - 13:13, 40:11  <b>turkey</b> [2] - 100:23, 100:24  <b>turn</b> [4] - 6:19, 62:22, 91:25, 109:11  <b>turned</b> [1] - 48:9  <b>turning</b> [1] - 129:21  <b>turnout</b> [43] - 10:2, 25:19, 33:1, 33:6, 48:4, 48:7, 57:12, 57:15, 58:16, 69:5, 69:8, 69:18, 71:6, 71:12, 75:2, 75:19, 76:6, 76:17, 77:5, 82:21, 83:13, 83:15, 84:10, 84:19, 86:20, 91:20, 91:23, 92:2, 92:7, 103:2, 103:11, 103:19, 104:6, 104:9, 105:9, 118:19, 120:23, 121:4, 121:5, 121:10, 126:20, 132:20  <b>turnouts</b> [1] - 92:14  <b>turns</b> [2] - 27:14, 64:13  <b>twice</b> [4] - 42:24, 52:17, 52:18, 52:20  <b>two</b> [52] - 6:25, 24:7, 26:4, 31:5, 54:9, 65:19, 68:19, 70:9, 70:13, 70:14, 70:17, 70:21, 71:19, 71:20, 73:7, 73:22, 73:24, 74:17, 77:4, 78:7, 78:8, 78:12,</p>	<p>78:19, 78:23, 79:7, 82:15, 83:7, 83:11, 90:5, 93:14, 94:6, 101:6, 101:9, 110:10, 113:17, 113:21, 120:8, 120:15, 122:9, 126:7, 131:21, 131:24, 132:2, 132:3, 132:6, 132:7, 133:18, 134:19, 134:23, 135:24, 138:19, 138:21  <b>two-minute</b> [1] - 6:25  <b>two-person</b> [1] - 135:24  <b>two-step</b> [1] - 131:21  <b>type</b> [4] - 30:12, 51:15, 89:24  <b>types</b> [2] - 33:16, 126:3  <b>typically</b> [5] - 69:4, 69:9, 71:11, 111:4, 139:23</p>	<p><b>unintended</b> [1] - 57:2  <b>Union</b> [4] - 7:5, 7:20, 8:8, 8:10  <b>unique</b> [4] - 10:25, 11:1, 95:2, 96:11  <b>unit</b> [1] - 55:15  <b>United</b> [4] - 66:21, 67:21, 70:22, 121:16  <b>unknown</b> [2] - 116:11, 126:16  <b>unlike</b> [1] - 116:24  <b>unlikely</b> [1] - 111:11  <b>unnecessary</b> [1] - 30:23  <b>unquote</b> [1] - 99:12  <b>unregistered</b> [1] - 12:25  <b>until</b> [1] - 17:19  <b>untraceable</b> [1] - 27:23  <b>unusual</b> [2] - 90:20, 120:24  <b>up</b> [41] - 16:25, 18:13, 18:24, 24:21, 29:3, 35:20, 35:23, 36:25, 37:4, 37:11, 40:20, 44:25, 45:10, 53:11, 74:16, 75:3, 79:17, 84:3, 84:17, 88:1, 93:22, 94:10, 94:25, 101:13, 104:18, 116:2, 116:25, 117:17, 119:14, 120:23, 121:25, 127:9, 131:1, 133:16, 134:6, 136:20, 138:14, 140:11, 140:24, 141:12  <b>up-tic</b> [3] - 74:16, 84:17, 138:14  <b>updated</b> [2] - 23:12, 44:20  <b>upon</b> [1] - 129:6  <b>upside</b> [2] - 62:6, 122:14  <b>urge</b> [3] - 16:14, 60:24, 92:16  <b>us</b> [21] - 4:23, 5:15, 5:21, 6:2, 25:22, 34:14, 43:12, 49:19, 51:3, 52:17, 58:5, 66:4, 74:19, 79:2, 88:16, 89:18, 96:15, 109:4, 109:25, 115:14, 116:24  <b>US</b> [1] - 9:21  <b>usage</b> [1] - 121:17  <b>use</b> [14] - 12:11, 47:12, 48:12, 67:14, 67:18, 68:7, 71:25, 86:24, 94:3, 94:23, 101:5, 102:3, 130:21, 135:22  <b>used</b> [21] - 23:13, 29:13, 34:21, 41:24, 45:19, 48:1, 68:16, 69:7, 74:23, 76:22, 77:21, 77:25,</p>	<p>81:20, 82:11, 87:19, 109:20, 128:6, 129:6, 132:6, 133:5, 136:4  <b>useful</b> [2] - 138:18, 138:23  <b>uses</b> [4] - 67:20, 82:5, 138:16, 138:23  <b>using</b> [11] - 28:21, 34:20, 48:2, 67:17, 67:21, 68:6, 81:7, 91:1, 95:6, 134:17  <b>usually</b> [4] - 2:6, 117:6, 121:12, 123:25</p>
<b>U</b>		<b>V</b>	
	<p><b>U.S</b> [4] - 2:23, 27:10, 27:15, 94:20  <b>ultimate</b> [1] - 90:24  <b>ultimately</b> [2] - 73:6, 75:10  <b>Una</b> [2] - 3:16, 61:5  <b>UNA</b> [1] - 1:17  <b>unambiguous</b> [1] - 14:7  <b>unclear</b> [1] - 79:7  <b>under</b> [13] - 30:10, 30:20, 51:12, 52:3, 65:20, 112:3, 115:24, 116:5, 119:9, 121:20, 122:16, 130:3, 132:5  <b>understand</b> [20] - 15:1, 19:18, 34:4, 34:21, 34:23, 36:2, 47:19, 53:4, 55:5, 62:5, 94:13, 94:17, 96:18, 98:2, 99:16, 116:5, 117:25, 128:20, 128:22, 129:8  <b>understanding</b> [8] - 17:13, 17:15, 22:7, 34:7, 35:3, 55:15, 91:13, 101:12  <b>understood</b> [3] - 62:14, 97:12, 126:22  <b>undocumented</b> [2] - 89:3, 89:7  <b>uneducated</b> [1] - 128:24  <b>unexpected</b> [1] - 13:11  <b>unfortunately</b> [6] - 15:18, 25:20, 50:13, 57:13, 116:11, 124:17  <b>unified</b> [3] - 30:22, 33:4, 39:18  <b>unilaterally</b> [1] - 16:19</p>	<p><b>VAAC</b> [6] - 30:1, 32:19, 33:7, 38:25, 39:1, 39:13  <b>valid</b> [2] - 68:19, 128:25  <b>valuable</b> [2] - 10:15, 115:6  <b>value</b> [2] - 44:17, 77:6  <b>vantage</b> [1] - 61:19  <b>various</b> [2] - 54:1, 93:24  <b>vary</b> [2] - 57:8, 110:2  <b>VATTAMALA</b> [10] - 48:15, 53:13, 54:3, 54:13, 54:18, 55:1, 55:3, 56:7, 57:10, 88:15  <b>Vattamala</b> [4] - 7:25, 48:14, 55:5, 66:4  <b>vendor</b> [1] - 72:11  <b>version</b> [1] - 107:5  <b>versions</b> [1] - 39:15  <b>versus</b> [4] - 84:7, 122:1, 122:2, 126:12  <b>very</b> [65] - 3:15, 4:3, 4:25, 5:23, 6:5, 6:24, 7:5, 20:25, 23:19, 25:15, 28:5, 28:6, 28:11, 29:15, 31:22, 32:25, 34:19, 37:25, 40:3, 51:8, 52:19, 52:22, 52:25, 53:6, 54:13, 55:4, 56:23, 63:15, 69:8, 74:17, 75:8, 77:18, 84:16, 84:25, 87:7, 87:8, 88:11, 88:17, 88:19, 88:25, 89:8, 90:1, 90:16, 91:15, 92:11, 92:14, 96:18, 96:21, 98:12, 102:9, 104:20, 106:18, 111:1, 115:6, 119:24, 124:5, 125:12, 130:6, 133:16, 136:10, 141:13  <b>Veterans</b> [1] - 9:19  <b>Vice</b> [1] - 32:2  <b>victory</b> [1] - 17:7  <b>videos</b> [2] - 96:23, 98:13</p>	

<p><b>Vietnamese</b> [1] - 52:10  <b>view</b> [6] - 17:10, 25:8, 33:23, 50:10, 91:18, 123:25  <b>views</b> [3] - 5:15, 14:16, 56:4  <b>vigorous</b> [1] - 39:21  <b>violating</b> [1] - 14:21  <b>virtually</b> [1] - 91:25  <b>vision</b> [1] - 79:12  <b>vital</b> [1] - 46:3  <b>vivid</b> [1] - 26:7  <b>voice</b> [2] - 33:5, 115:14  <b>volunteer</b> [1] - 40:5  <b>volunteerism</b> [4] - 30:8, 30:15, 32:9, 33:10  <b>volunteers</b> [1] - 49:3  <b>Vote</b> [2] - 66:3, 67:2  <b>vote</b> [48] - 9:2, 12:15, 13:12, 13:15, 13:25, 14:6, 14:7, 14:24, 19:12, 22:20, 28:12, 34:19, 34:25, 43:7, 46:23, 47:12, 47:17, 49:5, 57:20, 58:16, 62:24, 63:6, 64:14, 65:18, 70:6, 70:7, 70:10, 70:11, 76:23, 77:7, 79:19, 80:24, 87:22, 94:3, 101:7, 105:12, 111:16, 114:10, 114:19, 115:10, 117:19, 120:13, 122:18, 122:21, 123:8, 129:5, 130:6  <b>vote-getter</b> [1] - 79:19  <b>voted</b> [11] - 21:9, 49:5, 69:22, 69:24, 69:25, 70:1, 71:8, 71:9, 115:3, 115:4, 116:8  <b>Voter</b> [3] - 30:2, 66:9, 93:2  <b>voter</b> [50] - 6:13, 9:11, 9:16, 9:22, 10:2, 10:11, 10:15, 11:7, 11:20, 12:19, 12:23, 24:24, 24:25, 25:4, 25:5, 25:9, 25:18, 27:1, 27:6, 33:1, 33:6, 35:13, 40:15, 43:1, 44:19, 44:23, 63:25, 64:9, 68:24, 69:2, 70:6, 71:21, 71:24, 84:9, 85:2, 87:21, 91:15, 95:10, 96:20, 99:14, 100:11, 103:2, 106:21, 106:22, 109:12, 116:2, 116:7, 138:20  <b>Voters</b> [3] - 7:24, 17:14, 40:4  <b>voters</b> [85] - 9:15, 10:5, 10:22, 11:12, 11:23,</p>	<p>12:1, 12:2, 12:3, 12:6, 13:1, 13:14, 13:20, 13:23, 21:10, 23:10, 28:16, 37:8, 38:23, 40:7, 40:21, 47:2, 47:14, 48:3, 48:8, 49:4, 49:10, 60:1, 62:22, 62:25, 63:5, 63:7, 64:1, 64:2, 68:18, 68:21, 71:7, 72:20, 73:9, 73:10, 73:12, 73:18, 73:24, 75:7, 77:7, 82:22, 83:18, 83:20, 83:21, 83:23, 85:1, 85:16, 87:13, 87:14, 88:3, 89:1, 89:6, 91:8, 94:2, 95:14, 100:16, 101:11, 105:10, 110:23, 113:3, 117:1, 118:1, 122:12, 122:19, 124:2, 125:8, 125:11, 126:5, 126:8, 128:18, 128:24, 129:2, 129:6, 129:8, 129:25, 136:15, 137:1, 137:6, 138:4, 139:2, 141:6  <b>Votes</b> [1] - 32:21  <b>votes</b> [22] - 17:4, 36:9, 47:16, 72:1, 78:25, 79:6, 80:22, 84:3, 87:9, 88:9, 97:25, 104:25, 115:5, 117:10, 117:11, 117:12, 123:21, 124:22, 124:23, 133:16, 134:25  <b>voting</b> [157] - 3:1, 3:15, 7:4, 7:19, 9:4, 9:8, 10:3, 10:17, 10:20, 12:8, 13:9, 13:13, 18:9, 19:8, 19:13, 19:14, 19:19, 20:2, 20:19, 20:20, 20:23, 21:4, 21:6, 21:7, 21:8, 21:12, 21:13, 26:14, 30:9, 30:16, 30:18, 31:17, 31:20, 32:12, 33:14, 36:12, 40:18, 43:16, 44:3, 53:3, 56:2, 56:5, 56:11, 56:12, 56:13, 56:24, 57:3, 57:23, 59:7, 59:8, 59:16, 59:18, 60:8, 61:8, 62:19, 63:3, 63:19, 63:22, 63:23, 64:5, 65:14, 67:4, 67:5, 67:18, 67:23, 67:24, 68:8, 68:10, 68:17, 69:1, 69:13, 69:23, 69:25, 72:8, 72:10, 73:2, 74:12, 74:15, 74:16, 74:24, 75:18, 75:21, 75:22, 77:6, 77:21, 79:23, 80:10, 82:1, 82:12, 82:17, 84:11, 85:4,</p>	<p>85:19, 86:6, 86:12, 86:24, 87:10, 87:19, 88:18, 88:19, 88:23, 89:12, 89:14, 90:12, 90:23, 91:2, 91:7, 91:18, 93:7, 93:18, 93:19, 94:3, 94:18, 94:22, 95:11, 98:25, 99:17, 99:20, 100:4, 100:9, 101:22, 102:3, 102:23, 103:3, 103:6, 103:11, 109:21, 110:1, 110:6, 112:13, 112:24, 113:13, 113:15, 116:10, 117:5, 118:14, 119:17, 120:9, 120:17, 121:15, 121:25, 122:2, 122:10, 122:14, 122:22, 123:3, 123:6, 124:5, 125:8, 127:13, 131:17, 132:14, 136:5, 136:9, 138:5, 140:18  <b>Voting</b> [3] - 13:17, 37:3, 72:14  <b>vulnerable</b> [1] - 10:5</p>	<p>50:2, 50:4, 50:25, 51:1, 51:14, 54:10, 56:14, 56:15, 56:18, 56:20, 69:25, 70:2, 70:3, 71:6, 73:7, 73:8, 73:20, 74:3, 74:10, 74:18, 74:25, 75:2, 75:8, 75:10, 75:14, 75:20, 75:21, 75:22, 75:23, 75:24, 76:4, 76:7, 76:8, 76:12, 76:13, 76:14, 76:15, 77:2, 78:25, 79:1, 80:14, 80:15, 80:21, 80:23, 81:17, 81:18, 81:22, 81:24, 83:7, 83:12, 84:4, 85:3, 85:5, 87:5, 87:6, 87:18, 88:22, 89:3, 89:10, 89:11, 89:16, 92:11, 94:4, 96:25, 97:5, 98:8, 98:22, 99:4, 99:9, 99:15, 100:5, 100:15, 102:11, 105:15, 106:15, 106:20, 107:17, 107:20, 107:25, 108:4, 108:6, 109:18, 110:24, 110:25, 112:3, 112:5, 112:6, 113:1, 113:20, 115:6, 115:12, 115:16, 116:7, 117:24, 121:10, 121:19, 121:20, 121:22, 121:24, 122:13, 123:15, 126:21, 126:22, 126:23, 126:24, 128:13, 129:14, 130:22, 131:12, 131:15, 132:2, 132:9, 132:14, 132:15, 132:21, 136:11, 139:15, 140:10  <b>was she</b> [1] - 76:6  <b>was that</b> [1] - 89:4  <b>was there</b> [3] - 97:10, 99:4, 138:25  <b>Washington</b> [4] - 51:20, 52:11, 59:15, 112:5  <b>wasn't</b> [1] - 132:20  <b>waste</b> [1] - 41:10  <b>watch</b> [2] - 79:13, 83:25  <b>wave</b> [1] - 75:14  <b>way</b> [32] - 6:12, 14:24, 17:1, 30:8, 32:23, 36:8, 41:22, 45:11, 47:7, 50:25, 51:14, 62:16, 79:15, 82:8, 83:20, 88:8, 90:23, 94:13, 101:14, 106:3, 112:15, 117:8, 120:16, 121:11, 122:23, 128:5, 134:17, 136:7, 138:2, 141:1, 142:12  <b>ways</b> [13] - 14:13, 33:19, 38:8, 43:15, 70:21, 75:25, 86:22,</p>
<b>W</b>			
<p><b>WACHLAROWICZ</b> [13] - 92:24, 98:4, 99:1, 99:25, 100:13, 100:20, 101:15, 101:24, 102:11, 110:2, 127:20, 127:22, 139:6  <b>Wachlarowicz</b> [2] - 66:8, 92:25  <b>wait</b> [1] - 105:23  <b>waiting</b> [2] - 7:25, 65:7  <b>walk</b> [1] - 74:19  <b>want</b> [35] - 4:2, 4:13, 4:18, 23:16, 25:10, 34:23, 42:20, 45:16, 46:4, 46:6, 46:24, 59:4, 60:10, 62:23, 65:4, 70:11, 71:15, 71:21, 77:19, 79:21, 81:25, 82:2, 94:8, 94:10, 96:21, 100:24, 101:1, 108:23, 112:16, 123:19, 123:23, 127:9, 135:25, 136:16, 140:8  <b>wanted</b> [12] - 8:22, 22:17, 34:3, 68:3, 68:23, 71:1, 98:2, 100:20, 113:4, 126:9, 129:14  <b>wanting</b> [1] - 61:20  <b>wards</b> [1] - 93:24  <b>warning</b> [1] - 6:25  <b>was</b> [141] - 3:21, 4:22, 5:1, 6:10, 8:16, 9:22, 27:2, 29:6, 40:15, 41:17, 48:20, 49:11, 49:22,</p>			

<p>88:6, 94:23, 113:10, 113:15, 134:13, 135:7  <b>we</b> [266] - 4:12, 4:15, 5:4, 5:5, 5:7, 5:8, 5:17, 5:19, 5:25, 6:11, 7:2, 7:3, 7:10, 7:12, 8:20, 9:5, 10:6, 13:21, 14:23, 15:6, 15:7, 16:9, 16:10, 17:2, 20:18, 20:21, 20:22, 20:23, 20:25, 21:12, 21:18, 21:20, 21:22, 21:24, 22:14, 23:6, 23:8, 24:1, 24:12, 25:13, 26:7, 26:23, 27:17, 28:10, 28:21, 29:16, 29:21, 29:22, 30:1, 30:3, 30:5, 30:22, 30:24, 31:2, 31:4, 31:14, 32:11, 32:17, 32:25, 35:19, 36:7, 36:11, 36:17, 37:1, 38:4, 39:10, 39:14, 40:11, 40:17, 41:3, 41:6, 41:11, 42:24, 43:1, 43:5, 43:25, 44:10, 44:13, 46:4, 46:5, 46:22, 47:5, 47:23, 48:1, 48:3, 48:22, 49:2, 49:6, 49:20, 49:23, 49:24, 50:2, 50:6, 50:10, 50:19, 50:25, 51:2, 51:5, 51:7, 51:9, 52:3, 52:8, 52:20, 53:2, 53:5, 53:13, 53:21, 54:4, 54:16, 54:17, 55:22, 55:25, 56:10, 56:17, 56:23, 56:25, 57:14, 57:17, 57:24, 58:15, 58:20, 59:6, 59:17, 59:23, 60:3, 60:7, 60:10, 60:18, 60:23, 61:13, 63:10, 63:18, 65:5, 65:10, 67:2, 67:3, 67:14, 68:11, 71:1, 74:6, 78:15, 78:17, 78:25, 81:23, 83:3, 83:18, 84:5, 84:8, 84:10, 84:11, 85:11, 86:2, 86:6, 86:10, 87:22, 88:6, 88:20, 88:21, 89:13, 89:16, 89:18, 89:21, 89:23, 89:25, 90:5, 90:10, 90:13, 90:15, 90:22, 91:6, 91:21, 91:23, 92:9, 92:10, 92:22, 93:10, 93:21, 94:9, 94:12, 94:22, 94:25, 95:4, 95:7, 95:11, 95:16, 95:24, 96:12, 96:21, 96:22, 96:24, 97:10, 97:12, 98:1, 98:7, 98:8, 98:9, 98:10, 99:5, 99:6, 99:7, 99:13, 99:14, 100:2,</p>	<p>100:22, 102:9, 103:7, 105:17, 106:22, 108:24, 109:3, 110:4, 110:5, 111:18, 112:23, 113:9, 113:10, 113:18, 114:4, 115:23, 116:4, 116:7, 116:10, 116:12, 117:9, 117:24, 118:2, 118:6, 118:7, 119:6, 120:24, 121:13, 121:14, 122:17, 123:6, 123:8, 127:9, 127:18, 129:16, 130:17, 130:19, 130:20, 131:5, 131:10, 134:12, 136:15, 136:17, 136:19, 136:20, 137:2, 137:18, 139:6, 139:10, 139:17, 141:9, 141:20  <b>we'd</b> [2] - 53:2, 112:8  <b>we'll</b> [7] - 6:19, 31:21, 47:4, 81:15, 101:2, 105:19, 110:17  <b>We're</b> [1] - 48:20  <b>we're</b> [49] - 5:14, 6:18, 6:21, 7:2, 7:25, 20:2, 24:19, 26:5, 28:4, 33:13, 35:25, 39:25, 40:4, 46:18, 47:4, 47:12, 48:2, 48:16, 52:14, 53:16, 53:17, 53:20, 56:7, 57:3, 61:18, 62:10, 67:22, 68:8, 68:21, 71:18, 72:23, 79:17, 86:11, 86:23, 88:19, 91:5, 95:15, 105:18, 107:12, 111:3, 116:13, 116:14, 117:22, 120:6, 123:7, 130:6, 133:2, 138:15  <b>we've</b> [30] - 5:6, 5:9, 5:14, 5:24, 6:12, 7:21, 40:12, 41:8, 44:8, 50:17, 56:12, 63:4, 65:5, 65:6, 70:21, 77:15, 78:23, 83:13, 83:17, 86:15, 87:16, 88:23, 88:24, 89:22, 106:12, 110:5, 110:9, 114:2, 127:8, 141:12  <b>weak</b> [1] - 130:24  <b>wealthier</b> [2] - 71:10, 104:5  <b>website</b> [2] - 41:8, 96:25  <b>week</b> [5] - 9:18, 69:23, 79:5, 79:11, 97:8  <b>weekly</b> [1] - 40:9  <b>weeks</b> [2] - 65:19, 80:2  <b>weigh</b> [4] - 115:17, 116:1, 118:2  <b>weighed</b> [1] - 19:15</p>	<p><b>weighing</b> [1] - 114:25  <b>WEISER</b> [15] - 1:23, 3:4, 18:2, 18:13, 18:24, 19:7, 19:22, 20:1, 20:10, 24:23, 37:14, 38:7, 38:24, 109:16, 141:18  <b>Weiser</b> [1] - 3:4  <b>welcome</b> [2] - 2:4, 97:18  <b>Well</b> [2] - 34:17, 49:19  <b>well</b> [49] - 2:15, 7:16, 24:25, 32:5, 32:9, 33:21, 39:6, 54:17, 62:9, 62:14, 65:8, 68:16, 71:22, 73:6, 80:20, 80:23, 84:14, 84:25, 88:25, 89:23, 90:1, 90:9, 91:21, 93:10, 106:17, 107:21, 109:6, 110:8, 114:4, 115:7, 115:11, 116:8, 116:15, 118:15, 118:19, 121:14, 121:25, 122:25, 124:10, 126:13, 126:22, 128:18, 130:5, 135:9, 137:21, 138:8, 138:10, 139:3, 140:24  <b>Wendy</b> [4] - 3:4, 18:1, 24:21, 109:15  <b>WENDY</b> [1] - 1:23  <b>went</b> [9] - 29:9, 73:10, 74:12, 76:6, 83:20, 84:3, 84:20, 136:7  <b>were</b> [63] - 18:4, 24:2, 27:18, 27:22, 27:23, 37:2, 38:12, 47:22, 49:12, 49:25, 50:25, 52:3, 53:22, 55:10, 56:22, 69:11, 71:7, 71:9, 73:23, 73:25, 78:16, 80:14, 83:7, 83:8, 83:11, 85:15, 85:16, 89:10, 91:25, 95:24, 96:12, 96:21, 98:8, 99:5, 100:8, 101:21, 107:1, 107:16, 108:21, 110:19, 110:23, 115:3, 120:10, 125:16, 125:19, 131:11, 131:24, 132:1, 132:7, 132:8, 133:20, 134:22, 135:1, 137:16, 137:22, 137:23, 138:1, 138:3, 138:4, 139:4, 140:9, 140:11  <b>weren't</b> [2] - 134:23, 140:12  <b>wet</b> [1] - 43:23  <b>what</b> [96] - 5:1, 5:5, 5:13, 14:20, 15:22, 16:4, 16:10, 18:3, 20:14, 20:16, 23:20, 24:3, 24:12, 25:3, 25:8, 26:1,</p>	<p>28:7, 32:17, 33:6, 33:17, 37:18, 39:9, 39:17, 42:12, 47:19, 53:16, 53:17, 53:23, 55:19, 58:13, 62:5, 62:11, 62:14, 62:20, 63:4, 63:7, 63:21, 63:23, 64:6, 64:12, 64:22, 64:23, 67:9, 68:21, 71:18, 78:4, 79:2, 81:7, 84:5, 86:22, 86:23, 92:10, 94:25, 97:9, 100:12, 103:1, 103:2, 103:7, 103:8, 103:14, 104:5, 104:13, 106:20, 107:2, 107:24, 108:12, 108:15, 108:16, 108:22, 109:11, 109:23, 112:10, 112:23, 115:3, 115:23, 116:5, 116:6, 117:25, 118:11, 123:15, 128:6, 128:22, 129:6, 129:14, 129:23, 130:1, 130:6, 130:8, 132:4, 133:4, 133:16, 133:17, 136:11, 136:15  <b>what are</b> [1] - 116:17  <b>what is</b> [9] - 8:17, 8:18, 17:8, 35:15, 100:25, 112:20, 129:19, 140:14  <b>what was</b> [3] - 98:24, 132:21, 136:3  <b>what's</b> [8] - 17:21, 75:16, 79:7, 81:24, 102:22, 120:2, 123:9, 129:24  <b>whatnot</b> [2] - 23:18, 46:7  <b>whatsoever</b> [1] - 100:5  <b>when</b> [55] - 3:21, 4:19, 10:7, 14:9, 17:5, 20:7, 23:15, 26:5, 26:10, 36:21, 41:3, 42:2, 43:11, 47:2, 47:15, 48:17, 51:17, 54:11, 62:22, 64:13, 69:3, 73:10, 76:12, 76:13, 76:24, 77:4, 83:13, 84:11, 85:8, 86:11, 88:22, 88:25, 89:1, 89:16, 93:12, 97:13, 97:14, 98:8, 111:1, 111:3, 113:25, 115:22, 116:13, 117:4, 121:13, 121:22, 126:11, 126:17, 129:25, 130:7, 130:19, 136:20, 138:5, 138:23, 139:4  <b>when you</b> [8] - 22:20, 54:23, 71:20, 89:6, 104:16, 120:8, 120:21, 128:7</p>
--	--	--	---

<p><b>where</b> [65] - 11:13, 16:20, 20:7, 20:22, 20:23, 23:20, 26:15, 31:15, 36:20, 36:22, 45:11, 47:16, 48:2, 49:16, 49:18, 54:5, 56:20, 56:21, 65:16, 68:11, 68:13, 68:14, 69:3, 69:8, 70:20, 73:21, 73:24, 75:25, 76:18, 76:22, 77:20, 77:25, 79:5, 79:17, 79:18, 83:10, 87:6, 89:10, 90:18, 91:2, 99:12, 101:6, 106:13, 113:19, 114:19, 120:11, 122:17, 123:7, 124:25, 125:4, 125:22, 126:4, 126:25, 127:1, 127:7, 130:10, 130:21, 131:11, 131:13, 132:5, 135:20, 136:24, 141:6</p> <p><b>where's</b> [1] - 106:11</p> <p><b>whereas</b> [2] - 104:25, 122:21</p> <p><b>whereby</b> [1] - 24:2</p> <p><b>WHEREOF</b> [1] - 142:14</p> <p><b>Whereupon</b> [1] - 141:21</p> <p><b>whether</b> [10] - 16:19, 19:11, 55:22, 69:1, 70:17, 81:2, 81:3, 92:4, 116:1, 129:11</p> <p><b>which</b> [89] - 12:17, 15:1, 15:18, 17:3, 23:9, 24:3, 26:6, 26:25, 27:5, 27:19, 28:1, 28:8, 29:19, 30:9, 31:21, 32:18, 34:9, 34:15, 34:21, 34:25, 35:9, 38:3, 38:4, 41:24, 43:21, 45:17, 51:7, 55:18, 55:25, 63:18, 64:24, 65:14, 68:5, 68:6, 68:9, 69:16, 69:25, 70:17, 70:19, 72:14, 73:1, 73:4, 74:3, 76:12, 77:4, 77:14, 77:23, 78:6, 78:24, 79:1, 79:9, 79:21, 83:5, 83:7, 84:25, 86:18, 88:7, 89:18, 90:15, 90:23, 91:8, 93:22, 94:9, 94:23, 95:1, 95:11, 96:6, 97:15, 106:22, 107:9, 108:7, 109:16, 109:17, 110:4, 113:11, 113:15, 117:9, 119:4, 124:6, 131:11, 131:15, 132:23, 133:5, 136:13, 136:15, 139:18, 140:17</p> <p><b>while</b> [2] - 9:20, 12:2</p> <p><b>white</b> [5] - 131:12,</p>	<p>131:13, 131:24, 131:25, 132:7</p> <p><b>whiter</b> [2] - 71:10, 104:5</p> <p><b>Whitman</b> [1] - 76:14</p> <p><b>whittled</b> [1] - 101:6</p> <p><b>who</b> [51] - 4:2, 5:15, 9:20, 15:19, 15:25, 21:9, 26:22, 38:19, 46:25, 47:3, 64:9, 64:19, 70:14, 71:8, 71:9, 73:5, 75:9, 75:11, 78:24, 84:6, 86:16, 104:12, 105:6, 109:21, 110:12, 115:8, 115:11, 115:14, 116:24, 117:8, 117:17, 120:13, 122:19, 122:20, 123:18, 125:9, 125:15, 126:10, 126:13, 130:8, 132:10, 133:9, 134:22, 134:23, 135:3, 135:11, 136:1, 136:8, 137:2, 139:19</p> <p><b>who are</b> [8] - 2:7, 4:14, 15:4, 30:14, 30:17, 62:2, 102:2, 116:25</p> <p><b>who is</b> [10] - 7:25, 85:7, 103:21, 104:16, 104:20, 126:6, 126:12, 127:1, 132:10, 133:19</p> <p><b>who was</b> [4] - 66:4, 75:8, 75:18, 116:9</p> <p><b>who's</b> [4] - 110:14, 123:9, 124:19, 126:15</p> <p><b>whoever</b> [2] - 85:13, 117:15</p> <p><b>whole</b> [6] - 44:19, 57:17, 75:9, 97:15, 99:23, 124:4</p> <p><b>whom</b> [3] - 5:17, 61:21, 83:8</p> <p><b>whose</b> [1] - 58:10</p> <p><b>why</b> [23] - 17:20, 32:15, 33:23, 34:17, 39:17, 44:10, 47:19, 74:19, 76:17, 78:10, 91:5, 91:12, 100:8, 102:18, 102:19, 102:20, 105:15, 106:1, 106:7, 110:21, 115:21, 127:18, 132:25</p> <p><b>Wi</b> [1] - 43:18</p> <p><b>Wi-Fi</b> [1] - 43:18</p> <p><b>wide</b> [7] - 77:24, 83:9, 83:10, 86:5, 86:8, 87:24, 112:24</p> <p><b>widely</b> [1] - 9:6</p> <p><b>wider</b> [1] - 59:19</p> <p><b>Wilkes</b> [3] - 8:3, 58:3, 63:16</p> <p><b>WILKES</b> [6] - 58:4, 61:16, 62:9, 63:1, 64:4, 64:20</p>	<p><b>will</b> [59] - 4:15, 5:15, 5:18, 5:19, 5:22, 10:11, 10:12, 10:18, 11:17, 11:22, 12:5, 13:20, 15:25, 18:1, 19:9, 27:5, 28:18, 30:20, 30:21, 32:8, 32:24, 36:18, 53:5, 72:5, 78:4, 82:8, 82:10, 84:14, 84:15, 85:11, 85:13, 88:17, 91:21, 92:22, 97:16, 99:22, 110:2, 110:4, 111:5, 111:10, 111:16, 119:21, 121:7, 122:19, 122:20, 122:21, 123:10, 124:13, 124:14, 126:19, 130:24, 132:23, 138:2, 138:17, 140:1, 140:5, 140:16</p> <p><b>willing</b> [2] - 29:8, 46:11</p> <p><b>willingness</b> [1] - 48:12</p> <p><b>win</b> [15] - 72:1, 76:23, 82:7, 82:8, 85:18, 87:9, 98:1, 105:3, 105:4, 122:20, 123:19, 125:10, 126:23, 128:3, 135:21</p> <p><b>winner</b> [12] - 17:3, 17:4, 91:5, 111:17, 113:25, 115:23, 115:24, 117:6, 117:7, 117:10, 117:16, 121:18</p> <p><b>winner's</b> [1] - 118:4</p> <p><b>winnings</b> [4] - 72:1, 87:7, 87:9, 97:14</p> <p><b>winning</b> [5] - 76:13, 82:19, 131:7, 131:11, 131:15</p> <p><b>winnowing</b> [1] - 69:7</p> <p><b>wins</b> [3] - 85:13, 129:2, 135:5</p> <p><b>wise</b> [1] - 55:20</p> <p><b>wish</b> [1] - 66:20</p> <p><b>with</b> [155] - 2:9, 4:14, 4:17, 4:24, 7:1, 7:3, 8:5, 8:22, 9:18, 9:20, 9:21, 11:4, 11:5, 12:21, 12:25, 14:16, 15:8, 16:25, 17:9, 20:25, 22:13, 23:11, 23:14, 23:17, 24:10, 24:21, 25:7, 26:21, 27:9, 30:4, 30:13, 30:22, 31:1, 31:23, 32:18, 33:10, 36:3, 36:21, 37:2, 37:19, 38:18, 39:3, 41:6, 41:14, 42:3, 43:20, 43:22, 44:14, 45:2, 45:15, 45:22, 47:11, 49:4, 49:13, 50:8, 50:10, 50:11, 50:12, 50:20, 51:3, 52:17, 52:18, 52:23, 52:24, 53:21,</p>	<p>54:9, 58:24, 60:25, 61:11, 62:1, 62:4, 64:19, 65:4, 65:5, 66:4, 66:16, 66:23, 67:1, 67:11, 67:23, 67:25, 68:9, 69:22, 71:16, 72:1, 72:10, 72:11, 73:3, 74:3, 74:14, 74:15, 79:18, 79:23, 80:7, 80:9, 80:23, 82:7, 82:16, 82:21, 83:21, 84:7, 85:3, 85:23, 86:6, 87:10, 87:13, 88:3, 89:18, 92:7, 92:22, 93:6, 94:6, 94:25, 95:18, 96:7, 96:14, 96:20, 97:17, 98:3, 98:5, 99:23, 100:2, 100:3, 101:2, 101:9, 101:12, 104:23, 106:14, 107:18, 113:5, 114:13, 118:15, 120:4, 120:21, 121:16, 122:8, 122:10, 123:3, 123:11, 124:12, 127:5, 127:19, 133:8, 133:24, 134:10, 135:3, 135:9, 136:15, 138:7, 139:8, 140:25</p> <p><b>within</b> [12] - 57:4, 59:12, 59:18, 80:19, 90:25, 92:11, 103:14, 103:16, 104:14, 105:19, 131:19, 142:7</p> <p><b>without</b> [8] - 14:21, 22:21, 22:23, 23:12, 29:2, 39:16, 81:1, 96:1</p> <p><b>WITNESS</b> [1] - 142:14</p> <p><b>witnessed</b> [1] - 26:16</p> <p><b>woman</b> [7] - 3:19, 73:7, 75:11, 132:9, 132:10, 133:9, 133:11</p> <p><b>Women</b> [3] - 7:23, 17:14, 40:4</p> <p><b>women</b> [1] - 132:8</p> <p><b>won</b> [7] - 76:3, 76:24, 82:17, 84:7, 133:10, 135:3</p> <p><b>won't</b> [3] - 67:8, 70:4, 126:8</p> <p><b>wonder</b> [3] - 36:11, 63:21, 98:24</p> <p><b>wondering</b> [4] - 20:5, 38:7, 64:18, 74:18</p> <p><b>word</b> [4] - 17:21, 33:13, 134:17, 140:2</p> <p><b>work</b> [19] - 4:15, 8:7, 41:6, 44:18, 47:7, 53:21, 56:25, 57:4, 67:1, 67:3, 68:1, 68:16, 74:1, 89:23, 116:22, 118:18, 128:10, 131:3, 133:23</p> <p><b>worked</b> [3] - 2:21, 9:20,</p>
---	---	---	---



<p>88:25  <b>worker</b> [6] - 41:23, 42:1, 42:5, 42:8, 42:22, 44:23  <b>workers</b> [8] - 11:23, 40:22, 42:5, 42:13, 42:14, 42:15, 44:12, 107:17  <b>working</b> [6] - 13:10, 41:2, 43:11, 43:22, 56:8, 90:1  <b>works</b> [3] - 6:7, 8:9, 70:4  <b>worried</b> [1] - 97:20  <b>worry</b> [2] - 31:18, 100:1  <b>worst</b> [1] - 50:1  <b>Worth</b> [1] - 1:3  <b>worth</b> [3] - 20:4, 78:18, 116:10  <b>worthless</b> [2] - 115:12, 115:13  <b>worthwhile</b> [1] - 115:6  <b>worthy</b> [2] - 16:13, 29:25  <b>would</b> [132] - 7:3, 14:25, 15:15, 16:6, 16:14, 16:20, 17:6, 19:19, 20:15, 20:17, 21:2, 24:5, 24:13, 29:25, 31:3, 31:5, 31:16, 31:22, 35:13, 35:20, 37:25, 39:7, 42:23, 43:5, 43:15, 44:17, 45:13, 46:17, 46:19, 51:18, 52:25, 53:10, 53:13, 53:23, 55:10, 55:16, 55:21, 57:23, 59:16, 59:18, 60:13, 60:15, 60:24, 61:23, 62:3, 62:5, 62:6, 62:23, 64:24, 65:23, 66:21, 68:13, 70:11, 70:15, 70:16, 76:10, 76:22, 78:8, 78:15, 78:17, 79:15, 80:13, 80:21, 81:5, 83:16, 83:25, 84:5, 84:6, 85:4, 85:5, 85:6, 86:21, 87:10, 87:11, 88:4, 89:19, 93:13, 97:13, 97:14, 99:13, 100:12, 101:10, 103:8, 103:10, 103:14, 104:10, 104:21, 105:22, 106:1, 106:2, 106:6, 106:18, 106:22, 106:23, 107:4, 107:9, 108:20, 109:5, 109:6, 109:11, 109:17, 112:10, 112:11, 112:18, 113:7, 113:8, 113:14, 114:20, 117:3, 117:9, 118:1, 118:12, 119:19, 120:14, 121:24,</p>	<p>122:7, 127:15, 128:11, 128:25, 134:12, 136:20, 137:2, 138:14, 138:16, 140:4, 141:1  <b>wouldn't</b> [4] - 55:12, 79:8, 135:15, 139:24  <b>written</b> [3] - 29:15, 42:17, 139:12  <b>wrong</b> [1] - 52:15</p> <p style="text-align: center;"><b>X</b></p> <p><b>X</b> [4] - 1:1, 1:7, 17:4, 128:10</p> <p style="text-align: center;"><b>Y</b></p> <p><b>yeah</b> [9] - 31:25, 37:25, 47:24, 53:13, 74:20, 125:3, 127:14, 137:15, 137:19  <b>year</b> [20] - 23:13, 23:14, 48:25, 52:17, 52:20, 58:9, 68:17, 71:18, 74:24, 75:17, 107:2, 107:3, 107:4, 108:19, 108:22, 112:2, 134:22  <b>year's</b> [1] - 93:13  <b>years</b> [10] - 40:8, 42:10, 43:14, 50:17, 52:18, 78:24, 86:15, 88:6, 93:21, 121:17  <b>Yes</b> [1] - 38:15  <b>yes</b> [13] - 7:8, 7:15, 19:22, 20:1, 20:10, 23:1, 32:14, 35:23, 45:13, 97:19, 121:7, 124:16, 139:6  <b>yet</b> [1] - 105:22  <b>York</b> [116] - 1:4, 2:3, 3:2, 3:9, 3:10, 3:17, 7:5, 7:19, 7:22, 7:24, 8:9, 8:17, 8:21, 8:22, 8:24, 9:9, 9:11, 9:13, 9:15, 9:18, 9:19, 9:23, 9:25, 10:22, 12:1, 12:7, 12:9, 12:20, 13:2, 13:5, 13:15, 13:23, 14:9, 14:11, 15:7, 15:17, 15:21, 19:1, 22:8, 22:11, 24:2, 25:22, 25:24, 25:25, 26:2, 26:8, 26:9, 26:17, 26:25, 27:4, 27:17, 27:20, 27:22, 28:13, 28:15, 28:24, 34:5, 37:8, 37:10, 37:16, 38:23, 41:13, 41:14, 41:18, 42:6, 42:7, 42:19, 48:4, 48:10, 48:21, 49:1, 49:13, 55:16, 56:9, 56:10, 58:19, 59:6, 60:7, 61:6, 63:10, 64:23, 68:2,</p>	<p>70:23, 73:1, 77:17, 77:23, 78:17, 81:8, 83:3, 83:14, 86:16, 88:7, 89:5, 90:1, 90:10, 96:6, 99:17, 99:19, 102:10, 106:5, 106:19, 107:1, 107:6, 108:3, 108:21, 108:24, 110:19, 113:5, 124:25, 125:22, 125:25, 131:18, 138:23, 142:7  <b>YORK</b> [1] - 142:3  <b>Yorkers</b> [11] - 9:5, 12:14, 46:22, 58:24, 59:17, 60:4, 60:13, 60:20, 72:3, 83:24, 84:14  <b>you</b> [377] - 2:4, 2:17, 4:14, 6:6, 6:20, 6:24, 6:25, 7:1, 7:18, 14:16, 14:22, 16:16, 17:23, 18:2, 18:3, 18:9, 19:15, 20:15, 21:20, 21:23, 22:13, 22:20, 23:9, 23:20, 23:21, 24:5, 24:6, 24:18, 24:23, 25:11, 25:12, 25:15, 26:4, 26:15, 27:25, 28:1, 29:10, 31:7, 31:17, 31:18, 31:24, 32:7, 32:17, 33:20, 34:5, 34:9, 34:11, 34:12, 37:13, 37:14, 38:12, 39:1, 39:4, 40:3, 41:22, 41:23, 42:11, 42:12, 42:14, 43:12, 43:15, 44:4, 44:5, 45:1, 45:10, 45:11, 45:15, 45:18, 46:5, 46:7, 46:25, 47:21, 47:22, 48:15, 48:21, 51:21, 52:13, 53:6, 53:8, 53:10, 53:12, 53:15, 53:18, 53:19, 53:21, 54:2, 54:8, 54:10, 55:4, 55:6, 55:11, 55:16, 55:19, 55:24, 58:4, 61:3, 61:24, 62:3, 62:7, 62:11, 62:18, 63:14, 63:15, 63:20, 64:21, 64:23, 65:3, 65:6, 65:23, 66:1, 66:18, 66:19, 66:25, 67:16, 68:11, 68:13, 68:21, 69:8, 69:9, 69:11, 69:16, 70:2, 70:18, 70:20, 71:10, 71:13, 71:16, 71:20, 71:22, 72:1, 72:9, 72:16, 72:18, 74:5, 74:8, 74:10, 74:18, 74:20, 76:4, 76:20, 76:22, 76:23, 77:3, 77:6, 77:8, 77:10, 77:12, 77:20, 78:1, 78:3, 78:4, 78:6,</p>	<p>78:7, 78:9, 78:10, 78:12, 78:18, 79:24, 80:20, 81:2, 81:3, 81:8, 81:10, 81:14, 82:6, 82:9, 84:16, 84:18, 84:21, 84:23, 85:11, 85:12, 85:13, 85:21, 86:1, 86:2, 87:8, 87:15, 88:1, 88:11, 88:12, 88:15, 90:2, 90:7, 90:8, 92:16, 92:17, 92:24, 93:6, 93:9, 93:16, 94:11, 94:16, 95:15, 95:21, 96:16, 97:17, 97:23, 97:25, 98:3, 98:5, 98:13, 99:9, 99:16, 100:8, 100:9, 100:12, 100:19, 100:23, 100:24, 101:1, 101:6, 101:8, 101:13, 101:15, 102:8, 102:9, 102:12, 102:14, 102:20, 103:4, 103:7, 103:10, 103:12, 103:13, 103:19, 103:22, 103:24, 104:5, 104:9, 104:15, 104:19, 104:21, 104:23, 104:25, 105:1, 105:12, 105:13, 105:14, 105:23, 106:8, 107:19, 108:5, 108:23, 108:25, 109:3, 109:8, 109:10, 109:14, 109:15, 110:20, 111:10, 111:14, 111:16, 111:20, 111:24, 111:25, 112:11, 112:15, 112:19, 113:6, 113:21, 114:11, 114:12, 114:13, 114:14, 114:18, 114:21, 115:5, 115:8, 115:13, 115:14, 115:15, 115:25, 116:1, 116:2, 116:22, 117:3, 117:7, 117:20, 118:22, 119:6, 119:23, 119:24, 120:3, 120:10, 120:11, 120:12, 120:14, 120:15, 120:17, 120:21, 121:3, 122:4, 122:7, 122:8, 122:16, 124:15, 124:17, 125:3, 125:4, 126:14, 127:1, 127:10, 127:21, 127:22, 128:6, 128:7, 128:10, 128:11, 128:19, 128:22, 129:1, 129:13, 129:20, 129:23, 130:2, 130:24, 130:25, 131:1, 132:3, 132:25, 133:7, 133:15, 133:18, 134:1, 134:19, 134:24, 135:6, 135:12, 135:17, 136:17, 137:21, 138:9, 138:11, 138:14, 138:18, 138:19, 138:22,</p>
---	--	--	---

<p>139:2, 139:4, 139:13,  139:23, 140:5, 140:16,  140:17, 140:23, 140:24,  140:25, 141:2, 141:4,  141:13  <b>You</b> [3] - 2:10, 8:13,  56:7  <b>you'll</b> [4] - 68:4, 69:6,  69:11, 126:25  <b>you're</b> [47] - 18:15, 21:8,  22:3, 26:3, 34:4, 36:2,  36:10, 38:13, 42:13,  43:11, 53:25, 54:1, 55:5,  65:2, 66:19, 69:15, 77:4,  86:8, 101:3, 104:12,  105:2, 105:13, 108:12,  111:1, 112:21, 112:22,  114:22, 115:11, 115:20,  117:4, 117:14, 119:7,  119:18, 121:13, 125:22,  126:3, 128:12, 133:4,  134:1, 134:2, 134:20,  134:24, 135:20, 138:16,  138:20, 140:20, 141:5  <b>you've</b> [7] - 15:25,  36:16, 38:8, 67:7, 83:6,  102:19, 130:7  <b>young</b> [3] - 58:24, 60:4,  126:13  <b>younger</b> [2] - 63:7, 73:9  <b>your</b> [69] - 6:7, 7:6,  14:17, 15:20, 17:8, 18:5,  18:25, 23:21, 24:7,  34:24, 35:20, 36:2,  37:14, 37:24, 41:22,  45:25, 55:4, 61:3, 63:15,  68:24, 70:24, 72:11,  74:8, 77:9, 86:1, 93:16,  97:17, 97:18, 98:14,  98:17, 101:3, 101:10,  102:10, 109:18, 110:3,  110:5, 111:12, 111:13,  113:6, 113:19, 113:23,  114:1, 114:12, 114:14,  114:15, 114:16, 114:17,  114:18, 114:19, 114:20,  114:21, 114:23, 115:14,  115:22, 119:7, 119:16,  119:23, 123:20, 125:7,  125:20, 128:8, 128:11,  129:6, 139:8, 139:14,  140:25  <b>yourself</b> [2] - 45:10,  116:3  <b>yourselves</b> [1] - 112:20</p>
<b>Z</b>
<p><b>zero</b> [3] - 31:8, 116:20,  124:14</p>