Testimony of John Wonderlich, Policy Director, Sunlight Foundation
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House Energy and Commerce Committee
Subcommittee on Oversight and Investigations
"White House Transparency, Visitor Logs, and Lobbyists"

Chairman Stearns, Ranking Member DeGette, and Members of the Subcommittee, thank you for the opportunity to testify here today.

My name is John Wonderlich, and I am the Policy Director of the Sunlight Foundation, a non-partisan non-profit dedicated to using the power of the Internet to catalyze greater government openness and transparency. We take inspiration from Justice Brandeis's famous adage "Sunlight is said to be the best of disinfectants, electric light the most efficient policeman."

Our work, since our founding in 2006, has helped to illuminate the connection between influence and political power, bringing sunlight to money in politics, lobbying, and the substance of Washington's work, in both Congress and the Executive Branch.

Given our focus, Sunlight was as enthusiastic as anyone when, in September 2009, the White House announced they would begin releasing data from their visitor log system online. Special Counsel Norm Eisen announced the move on the White House blog, laying out an explicit policy for the release of the visitor data, and announcing the settlement of a lawsuit relating to the records.

In the 18 or so months since the policy was first announced, the disclosure of the visitor logs has become a symbol for White House openness, through both media accounts and commentary from administration officials. Releasing information about who visits the White House has been described as both historic and disappointing, and the truth lies somewhere in between. The visitor logs, important as their release is, fall far

short of the standards by which they are often judged. In my testimony today, I would like to illuminate the strengths and limitations of visitor log disclosure, and talk about the kind of disclosure requirements that can make up for their shortcomings – revised lobbying disclosure laws.

A Security System Introduced as a Disclosure System

The system that the White House often describes as a disclosure system was designed as a security system.

Visitors entering the White House compound go through a process designed to vet and track their entry and exit from the grounds. This system generates records managed by the U.S. Secret Service.

For years, those records have been pursued in high-profile FOIA requests by leading journalists and non-profits (including the *Washington Post*, Citizens for Responsibility and Ethics in Washington, Judicial Watch, and MSNBC) seeking to understand who is meeting with top administration officials.

It is those same records that are now released each month, after a four month delay, and with some redactions by the White House. Approximately 100,000 new entries are released each month; this data contains fields defining, among others, the visitors' first and last name, the time and place of entry and exit, the White House visitee, and descriptions of the event attended.

The visitor logs data have proven to be a valuable source for some journalism. Perhaps most notably, my colleague Paul Blumenthal of the Sunlight Foundation wrote a broadly acclaimed piece on the health care negotiations between health care lobbyists and

the White House, which used the visitor logs data to craft a detailed timeline of the dealmaking that would eventually shape the new law.[1]

As much as they've been used to create stories about political influence, though, the visitor logs have also been criticized as falling short of President Obama's pledge to lead the most open administration in history. *Politico*, the *New York Times*, and the Center for Public Integrity have all published stories detailing the limited transparency afforded by the records' release, and comparing the visitor logs against the Obama Administration's transparency rhetoric.

This coverage has pointed out missing information from the visitor logs data. Some visitors are clearly missing from the data, despite their being at the White House. The visitee field often identifies an assistant, rather than the principal holding the meetings. Some of these limitations are artifacts of how the system is designed to function – these fields were not designed to create meaningful disclosure, but security.

Significant Exceptions, Shortfalls

From the time the visitor logs were first released online, the White House was explicit about how the records' release would work. The stated policy lays out broadly defined exceptions to what kind of visitor records are withheld. By and large these exceptions are reasonable; the White House doesn't release personal information like birth dates, social visitors to the first family, or particularly sensitive meetings (like those with Supreme Court nominees).

Of course, these exceptions could all be abused, and the standards the White

1 Many of these articles are available at http://www.opencongress.org/wiki/White_House_WAVES_Visitor_Logs.

House set for itself are already very broad and could be ignored, selectively applied, or discontinued at will. These are the limitations of any self-imposed policy. To ensure continuity through future administrations, and to ensure effective disclosure, Congress should help design well-crafted requirements for disclosing White House visitors, and codify those requirements into law.

Most significantly, the visitor logs only record information for people who access the White House through the WAVES system.[2]

Because the White House often describes visitor logs as an accountability mechanism, their usefulness is evaluated on those terms. And on those terms, they often fail.

There have been numerous reports of Administration officials scheduling meetings in the White House Conference Center (a space apparently not covered by the WAVES system), or holding meetings with lobbyists in coffee shops and restaurants near the White House. In effect, these meetings circumvent disclosure enabled through the visitor logs policy.

This shouldn't be a surprise, however. Information creates political power, and administration officials who regularly avoid lengthy email exchanges will probably also default towards venues that have no accompanying political liability.

Disclosure loopholes should be fixed, but the visitor logs only capture visitors to the White House complex. Visitor log records will probably never encompass off-site meetings, phone calls, or emails. The most serious limitation of the visitor logs is that they *only cover visitors*. For comprehensive disclosure of who is influencing the White

2 There is a lot of detail that I am omitting about how and where these records are captured that I would be pleased to elaborate upon.

House, the visitor logs are not the best tool for the job, even if they are the primary tool at our disposal.

Nevertheless, the White House has good reason to release these records. They provide an unparalleled view of who is visiting the White House, despite their shortcomings. And there's also a good reason that the media is interpreting their value in different terms – how well they capture influence – as our lobbying disclosure laws, which are intended to capture real influence as it occurs, have fallen well short of their purported function – to bring real public scrutiny to lobbying. The media and the public interpret the visitor logs as a failed lobbying disclosure policy, and not as a valuable affirmative release of public records.

Towards Lobbying Disclosure

The policy of releasing the visitor logs is a good one – and Congress should be involved in strengthening and making it permanent. But that policy ultimately cannot live up to our expectations because we treat it as though it is a replacement for lobbying disclosure.

Congress should examine and craft new lobbying disclosure laws that are strong enough to move at the pace of the influence they are intended to expose.[3] The White House visitor logs have been evaluated on these terms, but they are ultimately an insufficient tool for this job. Lobbying disclosure laws should require real-time, online

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3 See the *Real Time Online Lobbying Transparency Act (Revised)*, which was the result of a collaborate effort led by Sunlight to draft model legislation for Congress on reforming lobbying disclosure rules, available at http://publicmarkup.org/bill/real-time-online-lobbying-transparency-act-revised/. Also see the recommendations of the American Bar Association Section on Administrative Law and Regulatory Practice task force report *Lobbying Law in the Spotlight: Challenges and Proposed Improvements*, available at http://bit.ly/jU6lpz. More information on lobbying reform is available at http://sunlightfoundation.com/policy/lobbying/.

disclosure for paid lobbying efforts, and apply to both Congress and the Executive Branch.

While applying disclosure requirements to the Presidency does pose some complex questions, the responsibility will fall to Congress to craft new lobbying disclosure laws. Most urgently, the threshold for who must register as a lobbyist must be dramatically expanded (with the 20 percent loophole removed), and reporting of lobbying activities should be reported online, and in real-time.

Despite their shortcomings, the visitor logs released by the administration have provided a meaningful view of influence within the White House, and perhaps just as importantly, have shown how far we have to go to create meaningful disclosure of influence in Washington. Ultimately, only an engaged Congress can make lobbying disclosure policies that will create a more accountable government, and a more engaged public.

We urge that a more disclosure-friendly version of the visitor logs be codified into law and ask Congress to tackle the thorny but important underlying issue of lobbying disclosure.

Thanks for you the opportunity to testify today.