**Uses of DC Open Government Laws**

**Fritz Mulhauser**

**(Originally compiled August 2019; updated sporadically)**

1. **Some uses over the years**

Here’s a rundown of published uses of public records requests from reporters, lawyers, activists, nonprofits, etc. With links to publications mentioning the records requested/denied/obtained through DC FOIA. Also authors’ contacts listed where known. Open Government Coalition uses including in blogs shown also.

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| --- | --- | --- | --- |
| **Name** | **Email** | **Works for** | **Examples of DC FOIA uses** |
| Martin Austermuhle  | [martin.austermuhle@gmail.com](https://mail.aol.com/webmail-std/en-us/suite) | WAMU | Many requests over the years; former OGC board member. Multiple stories on DC bid papers for Amazon HQ; one in 2018 [here](https://wamu.org/story/18/01/17/found-d-c-s-bid-amazon-hq2-didnt/). |
| Amanda Michelle Gomez |  | City Paper | Emails used as basis of [story](https://washingtoncitypaper.com/article/322277/emails-raise-suspicions-as-to-whether-the-bowser-administration-delayed-and-finessed-covid-19-data-before-moving-into-phase-two/) 9/12/20 exploring concerns that Mayor Bowser staff were manipulating release of Corona virus data.  |
| Justin Wm. Moyer | justin.moyer@washpost.com  | Post | Homeless woman died. Post [December 2019 story](https://www.washingtonpost.com/local/shes-just-one-more-missing-voice-dc-says-117-homeless-people-died-here-this-year/2019/12/20/8dfec686-21b9-11ea-86f3-3b5019d451db_story.html) used FOIA to review all other homeless deaths. |
| Mitch Ryals  | mryals@washingtoncitypaper.com  | City Paper (Loose Lips) | City Paper [story](https://washingtoncitypaper.com/article/308805/d-c-office-of-police-complaints-records-leave-much-to-be-desired/) (September 2020) on Office of Police Complaints denial of FOIA request for complaint records on all officers named in mandatory release (summer 2020) of names of those involved in serious uses of force since body cams started in 2014-15.See below under Washington Post for Ryals involvement in Trayon White video. See [2019 story](https://www.washingtoncitypaper.com/news/city-desk/article/21062003/mpd-officer-in-terrence-sterling-death-is-showing-a-pattern-of-expletives-and-aggressive-behavior) on new complaints against Officer Jordan Palmer (chase car driver in Terrence Sterling pursuit and death); Office of Police Complaints denied records (which we OGC followed up by our own FOIA and showed that was incorrect response by agency). |
| Morgan Baskin | morganbaskin@gmail.com  | Formerly City Paper (housing); then Vice News; back 2020 | [March 2019 story](https://washingtoncitypaper.com/article/181393/dgs-chief-knew-in-2017-that-shelters-were-three-months-behind-schedule-emails-show/); exposed delays by DGS contractors in building new homeless shelters; also [2018 story](https://www.washingtoncitypaper.com/news/housing-complex/article/21009575/construction-debacle-jeopardizes-homeless-shelter-replacement-plan) on similar delays. Super [2019 story](https://www.washingtoncitypaper.com/news/article/21063869/to-escape-court-oversight-dcs-child-welfare-system-is-cutting-corners) on Child & Family Services Agency. |
| [2020 story](https://www.washingtoncitypaper.com/news/coronavirus/article/21122957/dcs-child-protective-services-agency-doesnt-yet-have-protective-equipment-for-its-social-workers) in City Paper on problems in Child & Family Services during virus. FOIA use to get details on delays in obtaining protective gear. |
| Rachel Cohen  | rmc031@gmail.com  | Freelance; City Paper and others | Charter school issues. [2018 story](https://www.washingtoncitypaper.com/news/article/21006459/behind-the-consulting-firm-raking-in-millions-from-dc-charter-schools) on insider-run TenSquare consulting company making money off failing charters; [2018 story](https://www.washingtoncitypaper.com/news/article/21026696/dcs-master-facilities-plan-will-shape-the-citys-balance-between-neighborhood-schools-and-charters) on charters keeping secret the facility survey data required by law for school planning (using records obtained by FOIA by Fritz); [2018 story](https://www.washingtoncitypaper.com/news/city-desk/article/21002438/the-dc-public-charter-school-board-didnt-intervene-in-a-financially-troubled-school) on charter board not acting on fiscal problems of a school and delaying closing. |
| Joshua Kaplan  |  | Freelance; City Paper contributor | January story on DC drug abuse treatment and this in [April](https://www.washingtoncitypaper.com/news/article/21063348/a-city-van-claiming-to-help-heroin-users-went-missing-then-dc-covered-it-up) on city drug abuse treatment van found abandoned |
| Terrence McCoy | Terrence.McCoy@washpost.com  | Washington Post | FOIA-based [story in 2018](https://www.washingtonpost.com/local/social-issues/many-children-have-been-poisoned-by-lead-in-homes-approved-by-dc-housing-inspectors/2018/08/14/5633a144-9b24-11e8-8d5e-c6c594024954_story.html?utm_term=.436673020e3a) on DC Housing Authority failure to inspect for lead paint in apartments rented with government vouchers.  |
| Marina Marraco (Fox 5); Peter Jamison and Peter Hermann (Post) | Marina.Marraco@FoxTV.com; Peter.Jamison@Washpost.com; Peter.Hermann@Washpost.com  | Fox5 and Washington Post | Press forced mayor to acknowledge firing a staffer who had been quietly let go after acting badly while drunk in Wilson Building after hours. Records finally coughed up under FOIA pressure. Marraco initial Tweet [here](https://twitter.com/MarinaMarraco/status/1022572290792452096); Post story [here](https://www.washingtonpost.com/local/dc-politics/employee-of-dc-mayors-office-fired-after-violent-fracas-at-city-hall/2018/07/26/8190a80a-9115-11e8-8322-b5482bf5e0f5_story.html?utm_term=.aa99ab4bcfcb). |
| Paul Wagner | Paul.Wagner@FoxTV.com  | Fox5 TV reporter | Pursued body worn camera video of MPD stops of drivers prosecuted for DWI where video was shown at trial. MPD denied FOIA. We OGC got AG Racine to reverse when we argued records shown in court must be public under other legal rules (requiring “public trials”). See his s[tory in 2016](https://www.fox5dc.com/news/dc-police-turn-over-body-cam-footage-used-in-court-hides-identities-of-cops-and-suspects) on getting only redacted video (before our success getting unredacted video). Wagner has for decades used DC FOIA. Would have a million stories. |
| Will Sommer | will.sommer@thedailybeast.com  | Formerly City Paper (Loose Lips); now Daily Beast | [2014 story](https://www.washingtoncitypaper.com/news/loose-lips/blog/13134868/yes-jack-evans-vandalized-his-own-wikipedia-page) used Council email to show Jack Evans messing with Wikipedia postings and edits unflattering to his 2014 mayoral race; [2015 story](https://www.washingtoncitypaper.com/news/loose-lips/blog/13135400/bowser-administration-courts-pigskins-with-nats-tickets-but-no-snyder-meeting-yet) on Bowser’s behind the scenes flattery and courting of Redskins to return to DC, while publicly demanding name change |
| Jason Cherkis | Email unknown but maybe DM @jasoncherkis | Formerly City Paper; then Huffington Post until laid off | [2011 story](https://www.washingtoncitypaper.com/news/city-desk/blog/13063242/emails-show-d-c-struggling-with-homeless-shelter-capacity) on DC agencies struggling to locate winter housing for homeless. Doubtless more. may recall good items from his DC days.  |
| Jessica Sidman | jsidman@washingtonian.com  | Formerly City Paper; now Washingtonian | [2015 story](https://www.washingtoncitypaper.com/food/blog/20678805/fig-olive-gives-partial-answers-about-food-prepared-at-new-york-commissary) from DC Health Dept records on food prep issues in high end Fig & Olive restaurant  |
| Jonetta Barras | jonetta@jonettarosebarras.com  | Formerly City Paper; now columnist at DCLine | [1995 story](https://www.washingtoncitypaper.com/news/article/13008253/soporific-secrets) exposing Office of Campaign Finance failure to investigate political fundraising committees including Mayor Barry. Recent [opinion piece](https://thedcline.org/2019/04/30/jonetta-rose-barras-are-charter-school-leaders-ignoring-dc-laws/) on charter leaders’ disregard of suicide prevention statute passed by Council, using internal emails obtained by FOIA with devastating effect. |
| Alan Suderman | asuderman@ap.org  | Formerly City Paper (Loose Lips); now at AP | [2012 story](https://www.washingtoncitypaper.com/news/loose-lips/blog/13133539/not-our-problem) on contractors defrauding DC  |
| Valerie Jablow | wolbajenroh@earthlink.net | DC education blogger | [2019 blog post](https://educationdc.net/2019/04/17/what-is-the-plan-for-banneker-high-schools-current-building-or-conflicts-of-interest-and-the-middle-school-program/) on problems of planning for Banneker HS; [2019 blog post](https://educationdc.net/2019/04/08/just-tell-me-who-owns-this/) on search for details of ownership of St Coletta’s school |
| Liz Koenig | elizcarter@gmail.com  | Charter teacher, open gov’t activist | Used FOIA to get records from Charter Board; [posted on Twitter](https://twitter.com/dcteachersunite/status/1089362846079741952); testified throughout 2018-19 on charter transparency based on experiences at her own school; fired from her teaching job. See [2019 City Paper account](https://www.washingtoncitypaper.com/news/city-desk/article/21047643/bridges-public-charter-school-dismisses-wellloved-teacher-who-spoke-out) of her FOIA use and FOIA activism, by Rachel Cohen. |
| Steve Thompson | steve.thompson@washpost.com  | Washington Post | [2019 story](https://www.washingtonpost.com/local/dc-politics/in-business-proposals-dc-council-member-jack-evans-pitched-influence-to-legal-and-lobby-firms/2019/03/01/1f990d50-3aa6-11e9-a06c-3ec8ed509d15_story.html?utm_term=.1581fdc2170f) on Jack Evans’s solicitation of outside work – beginning of his difficulties leading to losing committee chairmanship. Based on FOIA for emails from Council account. Jack Evans’s fall may be the biggest DC FOIA story in recent months.  |
| Alejandra Matos, Emma Brown | Emma.brown@washpost.com  | Washington Post (Matos was an intern; now gone) | DCPS high schools’ records via FOIA were basis for strong [2017 story](https://www.washingtonpost.com/local/education/some-dc-high-schools-reported-only-a-small-fraction-of-suspensions/2017/07/17/045c387e-5762-11e7-ba90-f5875b7d1876_story.html?utm_term=.682427a99168) on false record keeping to hide continuing use of suspension, though against policy.  |
| Fenit Nirappil | Fenit.Nirappil@washpost.com  | Washington Post | [2018 story](https://www.washingtonpost.com/local/dc-politics/what-a-dc-lawmakers-inbox-looks-like-after-saying-the-rothschilds-control-the-climate/2018/04/15/665fd49e-3d90-11e8-974f-aacd97698cef_story.html?utm_term=.4efb608393dc) about Council member Trayon White supporters and critics based on email from Council account via FOIA, after White’s public comments about “Rothchilds controlling the climate.” |
| Amy Phillips | Aphillips@pdsdc.org  | PDS attorney | Sued under FOIA to challenge denial by MPD of records from police office discipline trial board. (Useful in future PDS defense work as officers had testified admitting unlawful actions.) Trial had been entirely public. Case pending. 2019-CA-0004054 |
| April Goggans |  | DC activist, leader of Black Lives Matter | Sued MPD for records of police surveillance since 2015 she said stemmed from her activism. Represented by Georgetown Law clinic faculty, she eventually got some records but lost court case claiming many errors in police response to her requests. Case No. 2017 CA 7926 B. WAMU story [here](https://wamu.org/story/19/02/11/a-black-lives-matter-protester-is-suing-d-c-police-to-prove-shes-being-surveilled/). She has appealed. |
| Washington Post | OGC board member Chad Bowman was attorney for the Post. BowmanChad@ballardspahr.com  |  | Sued successfully under FOIA to get body worn camera video of Council member Trayon White traffic stop. Case No. 18 CA 5576 B. DC denial was upheld on appeal to the mayor on privacy grounds, but Superior Court judge reversed and held in preliminary decision there was strong public interest. DC settled shortly after, releasing video and paying fees. Post never reported a story on it. Mitch Ryals did [here](https://www.washingtoncitypaper.com/news/loose-lips/article/21040882/dc-cant-keep-police-body-camera-footage-of-councilmember-trayon-white-secret-judge-rules). And later made his own FOIA request for the same video. |
| Art Spitzer | artspitzer@gmail.com  | Legal Director, ACLU of DC | Has used FOIA in early stages of exploration in litigation. Getting OSSE on record that they had no instances of injury to preschoolers from dug-involved staff (key fact in successful OAH complaint and hearing challenging random drug testing requirement set by the agency for all preschool staff as part of licensing requirements). Also in stop-and-frisk litigation (using FOIA to get MPD on record they were not collecting data as Council ordered). (Superior Court Case No. 2018 CA 3168 B) |
| ACLU of DC | nmoshiree@acludc.org  | Nassim Moshiree, Policy Director | Uses FOIA for data for policy research. See, for example, 2019 study on MPD arrests by race. Their release [here](https://www.acludc.org/en/racial-disparities-dc-policing-descriptive-evidence-2013-2017); WAMU coverage [here](https://wamu.org/story/19/05/14/aclu-study-finds-d-c-s-black-residents-arrested-at-higher-rate-for-largely-minor-offenses/). |
| Jonathan Levy | jlevy@legalaiddc.org  | McDowell Appellate Advocacy Project Director, Legal Aid Society of DC | Used FOIA to gather facts to prepare litigation, e.g., getting DC agency reports to USDA on program administration showing delays and federal critical responses, to use in initial complaint in suit against DC for delaying SNAP or Food Stamps eligibility processing, causing extended hunger (Case No. 17-CA-1757, U.S. District Court D.C.) |
| Chris Miller |  | Attorney, DC; former Ward 6 ANC commissioner | Got DC DGS records showing great extent of backlog of unremedied ADA violations for accessibility problems in DC schools. Discussed in Andrew Giambrone City Paper [story in 2016](https://www.washingtoncitypaper.com/news/city-desk/blog/20827194/foia-about-40-percent-of-all-dc-public-schools-have-an-accessibility-issue) |
| Fraternal Order of Police, D.C. chapter (MPD police officers’ union) |  |  | For years a while back, union filed dozens of FOIA requests and litigated denials aggressively seeking MPD data of all kinds to show management issues for use in negotiations. See our blog post on the courts’ view of this history [here](https://www.dcogc.org/content/court-appeals-decides-latest-public-records-case-dc-police-union-and-against-police), on the occasion of another FOP victory after trench warfare. When FOP cases grew and grew (and D.C. lost and lost) our OGC did in-house study of this body of FOIA activity some years ago, to see lessons learned. See, for example, Will Sommer’s City Paper [story in 2013](https://www.washingtoncitypaper.com/news/loose-lips/blog/13133907/peace-at-any-cost), of FOP years of FOIA effort to get dirt on MPD funding of Ron Moten’s Peaceoholics program that officers thought was a waste. |
| Kirby Vining  |  | Member of Friends of McMillan Park | Citizens group in Ward 5 wanted emails of Council member McDuffie to see if he had improperly favored developer’s plans for McMillan Reservoir land. FOIA request was denied and that was upheld at Superior Court trial level. Went to Court of Appeals where requestors won and Council gave up the emails. OGC was amicus.  |
| Ivy Ken | ivyken@gwu.edu  | Concerned citizen | Frustrated about school food issues, parent tried via FOIA in 2017 to get contract records specifying what food DCPS was ordering and what it cost. Got redacted records and big runaround of claimed exemptions from DCPS, many of which seemed incorrect. Frustrated customer. We counseled her but never heard further.  |
| Denise Rucker Krepp | @kdrkrepp  | ANC 6B10, Ward 6 commissioner | Originally active using federal FOIA to seek US Attorney prosecution and other crime data in her DC area. (See City Paper [story 2016](https://www.washingtoncitypaper.com/news/city-desk/blog/13070667/hill-east-commissioner-plans-to-sue-doj-over-denied-crime-data-foia-request).) More recently, active in criticizing handling of sexual assault in military, government, and universities. Using DC FOIA seeking data on agencies’ settlements of sexual assault cases brought against government officials that were quietly put away with money payments. Jeffrey Anderson wrote at length in a [District Dig story](https://districtdig.com/2019/03/20/hollow-promise/) just this March of his own efforts to find what Krepp looked for, via FOIA and other means. Krepp also sought via FOIA unsuccessfully to get MPD body worn camera video of officer treatment of juveniles in street stop in late 2018 on Capitol Hill where she is ANC commissioner. Eventually denied as confidential juvenile incident records. But drew attention early for huge MPD estimate of $5,000 cost of redacting the video if they did release it. Hill Rag [reported](https://hillrag.com/2019/02/02/anc-6b-report-11/). |
| Partnership for Civil Justice | mvh@justiceonline.org, cm@justiceonline.org  | Mara Verheyden-Hilliard and Carl Messineo are the two attorneys.  | Active for decades in representing activists (such as Occupy) including using FOIA aggressively to uncover police treatment of clients. Won FOIA case years ago where court required to release its internal policies, called general orders. Lately, multiple FOIA cases including challenging denial of MPD report naming officers using force in anti-Trump demonstrations at 2016 Inaugural, records of city deal with Trump Hotel, and records of contacts of MPD with Project Veritas (conservative undercover video-takers, whose video of Inauguration protesters showed up in criminal prosecutions). This group’s very long history in FOIA use in highly political contexts would make them interesting informants, IMHO. |
| Open the Government | OGC board members Tom Susman and Kevin Goldberg are on OTG board. | Staffer formerly handling the one case I know of has left, Jesse Franzblau. | One DC dive by this national group was request to MPD for plans of DC and federal agencies for handling Trump Inauguration protests. MPD denied, at unwritten and unexplained request of Secret Service, which is not clearly a reason in DC law. But after many months of considering litigation, they appear to have dropped the case. |
| Paul and Gail Casey | (upstate New York) |  | Parents of a young man killed in DC in 2011 by blows in a street fight. They challenged police and prosecutors (who closed the case calling their son responsible and not charging three at the scene who started it) using FOIA requests for police records and civil litigation against the attackers. Mark Seagraves lengthy 2017 NBC story [here](https://www.nbcwashington.com/news/local/Couple-Pursues-Justice-for-Sons-Death-in-a-Fight-Outside-a-DC-McDonalds-422136843.html); Post sympathetic editorial calling for more investigation [here](https://www.washingtonpost.com/opinions/an-army-veterans-death-demands-better-answers/2017/08/04/431d8774-76fd-11e7-8839-ec48ec4cae25_story.html?utm_term=.89a700f83b35).  |
| D.C. Prisoners Rights Project |  | Part of Washington Lawyers Committee; assisted by counsel at Covington & Burling | Attempting to get records on women prisoners as part of study to assess their conditions of confinement in DC and federal prisons, the study team got zero cooperation via DC FOIA, they noted in [2016 report](http://www.washlaw.org/pdf/dc_women_in_prison_report.pdf). |

1. **OGC has used the laws**

DC Open Government Coalition has filed Open Meetings Act complaints resulting in findings of agency noncompliance. Examples:

* United Medical Center secret meeting to end key services (blog posts [here](https://www.dcogc.org/node/4913) and [here](https://www.dcogc.org/node/4919))
* Mayor’s Education Cross-Sector Task Force secret meetings (blog posts [here](https://www.dcogc.org/content/transparency-watch-dc-schools-task-force-meet-two-years-develop-ideas-secret) and [here](https://www.dcogc.org/content/dc-transparency-watch-open-government-office-scores-victory-deputy-mayor-gives-plan-two-year))
* State Superintendent Education School Funding Working Group secret meetings (blog post [here](https://www.dcogc.org/node/4656))
* DC Housing Authority secret meetings (blog post [here](https://www.dcogc.org/content/housing-authority-must-stop-secret-board-meetings-new-findings-dc-open-government-office))
* DC Board of Medicine violation of multiple open meetings rules (blog post [here](https://www.dcogc.org/content/dc-board-medicine-keeping-public-dark-unlawful-closed-sessions-says-open-govt-enforcement))

We have filed FOIA requests, administrative appeals and court actions. Also complaints to the Office of Open Government seeking advisory opinions on FOIA policy topics. Examples:

* Lawsuit successfully challenging denial by DC Council of FOIA requests for members’ emails on personal accounts
* *Amicus* brief in case successfully challenging another incorrect Council FOIA denial (Vining case to overturn “speech and debate” exemption claim for members’ emails) (blog posts [here](https://www.dcogc.org/content/council-can%E2%80%99t-claim-foia-speech-or-debate%E2%80%9D-exemption) and [here](https://www.dcogc.org/node/4866))
* Request for records of deputy mayor’s office showing their work with charter schools to keep secret the data resulting from Council-mandated survey of schools’ buildings. Used by City Paper reporter Rachel Cohen in story.
* Complaint successfully challenging unlawful OCTO email search policy (requiring FOIA requester to provide government employees’ email addresses to be searched) (blog post [here](https://www.dcogc.org/node/4900))
* Complaint successfully challenging unlawful MPD requirement that attorneys using FOIA to request records for client provide copy of retainer
* Complaint successfully challenging DC Inspector General’s over-redaction for FOIA release of his office report on former DCPS Chancellor Kaya Henderson misconduct in bending school admissions rules for bigshots’ children seeking special placements (blog post [here](https://www.dcogc.org/node/4906))
1. **Coalition bog posts on uses of DC laws (elaboration on some of the instances above)**

## [D.C. Public Defender Sues for Records from Public Hearing on Officer Misconduct - That MPD Says Are of No Public Interest](https://www.dcogc.org/node/4994)

## [Transparency Watch: Your D.C. Open Records Laws At Work](https://www.dcogc.org/node/4988) (5 examples of use, 4 from DC FOIA discussed above in table – CFSA, Trayon White, Evans, Barras -- and one WMATA PARP)

## [Right to Know in D.C.: Press Wins One, Activist Loses Another, In Two Court Battles Over D.C. Police Records and the Freedom of Information Act](https://www.dcogc.org/node/4986) (Trayon White and Goggans cases)

## [D.C. Transparency Watch: Is MPD Body-Cam Video Redaction Out of Control?](https://www.dcogc.org/node/4969) (using Krepp request for body cam video of juvenile interrogation incident to discuss redaction policy revealed by high price MPD quoted for redaction they ultimately declined to do)

## [D.C. Transparency Watch: Is Councilmember Trayon White’s 2017 Traffic Stop Just His Own Business? The Washington Post Brings FOIA Suit to Find Out](https://www.dcogc.org/node/4968)

## [School Planning in DC Limited by Data Secrecy](https://www.dcogc.org/node/4952) (discussing Rachel Cohen story that used emails OGC got by FOIA and provided to the reporter; included in table above)

## [DC FOIA In Action: Record Requests Proving Useful In Reporting and Civic Action](https://www.dcogc.org/node/4944) (four examples of FOIA use – all in table above: ACLU stop and frisk litigation based on negative evidence from FOIA request for Council-mandated data, Austermuhle on Amazon HQ2 bid, Cohen on charter school contracts to consultants only somewhat available by FOIA, and Legal Aid Food Stamps lawsuit based on FOIA for delay data)

## [FOIA Follies – Questionable D.C. Denials](https://www.dcogc.org/node/4918) (discussing Austermuhle Amazon bid denials, also Ivy Ken food service FOIA; both in table above)

## [D.C. Transparency News - Open Government Laws at Work](https://www.dcogc.org/node/4950) (eleven brief updates, including three based on DC FOIA – more on Austermuhle Amazon HQ2 bid request, Bowser drunken staffer fired, Terrence McCoy in Post on lead paint scandal; all in table above)

## [FOIA Love: Public Records Laws Helping Our Community](https://www.dcogc.org/node/4904) (three items, two in table above: Post story on schools’ covering up suspension reality, and parents investigating son’s death via FOIA)

## [D.C. Council To Comply With Court of Appeals Decision Overturning Denial of Citizen Request for Records of McMillan Reservoir](https://www.dcogc.org/node/4866) (reporting successful litigation in Vining case to overturn unlawful “speech and debate” FOIA exemption claimed by DC Council—victory with help of Coalition amicus brief and also participation in oral argument by board member Bob Becker)

## [D.C. Transparency Watch: Stonewall Faces D.C. Researchers Studying Treatment of D.C. Women Prisoners Here and in Faraway Confinement](https://www.dcogc.org/content/dc-transparency-watch-stonewall-faces-dc-researchers-studying-treatment-dc-women-prisoners) (discussion of DC Prisoners Project bad experience with FOIA part of their study of DC women incarcerated; included in table above)