



**BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY
GOVERNMENT OF THE DISTRICT OF COLUMBIA**



June 12, 2025

VIA ELECTRONIC MAIL

[REDACTED]

Washington, DC

**RE: Complaint Regarding D.C. Freedom of Information Act Requests and Portal
#OOG-2025-004_M**

Dear Mr. [REDACTED],

On May 21, 2025, you submitted a complaint,¹ to the Office of Open Government (“OOG”) regarding two District of Columbia Freedom of Information (“D.C. FOIA”) (D.C. Official Code § 2-531 *et seq.*) requests made to the Metropolitan Police Department (“MPD”) and the Office of Unified Communications (“OUC”), as well as accessibility difficulties that you encountered with the District’s FOIA portal (the “complaint”). OOG assigned the complaint a tracking number #OOG-2025-004_M. Please advise if you have any accessibility challenges with this document or any communications from OOG and we will attempt to resolve any issue promptly.

It is the public policy of the District of Columbia government (the “District”) “that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.”² To support the District’s public policy, as Director of Open Government, I am authorized to “issue advisory opinions on the implementation of [D.C. FOIA]”³ pursuant to section 205c(d) of the Government Ethics Act of 2011.

I. BACKGROUND

In your email you indicated that you had “submitted a DC FOIA request to MPD on April 28, 2025, regarding a police response at 4000 Massachusetts Avenue NW on April 25,” and that “despite multiple follow-ups, clear articulation of accessibility barriers, and compliance deadlines passing on May 16, I have received no records, no confirmation that a report exists, and no coordinated assistance.” Specifically, you requested that OOG provide a written response regarding specific questions, including “[w]hat specific accountability measures will [be] take[n] to ensure this

¹ Email from [REDACTED]@gmail.com to open.govoffice@dc.gov on May 21, 2025.

² D.C. Official Code § 2-531.

³ Title II of D.C. Law 19-124, effective October 30, 2018 (D.C. Official Code § 1-1162.05c(d)).

mishandling is not repeated?” and “[w]ill [there] be... any formal recommendations, findings, or oversight actions related to this incident?”⁴ These questions are addressed below.

II. DISCUSSION

A. The Current Status of your D.C. FOIA Requests.

The first issue is the status of the D.C. FOIA requests. Though your records requests have been “constructively denied,”⁵ OOG has been informed that responsive records will be provided to you by the agencies. The discussion of the status of your requests follows. You assert that you made a DC FOIA request of MPD on April 28, 2025, relating to records concerning an incident that occurred on April 25, 2025. You also express that as of May 16, 2025, you had not received either responsive records or a determination regarding any records requested.

D.C. Official Code § 2-532(c)(1) states that “a public body, upon request reasonably describing any public record, shall within 15 days (except Saturdays, Sundays, and legal public holidays) of the receipt of any such request either make the requested public record accessible or notify the person making such request of its determination not to make the requested public record or any part thereof accessible and the reasons therefor.” In recent years, submissions of D.C. FOIA requests have greatly increased. The public’s interest in transparency and accountability has intensified with the police force in many jurisdictions. In FY24, MPD received 3204 D.C. FOIA requests, with 888 of those requests “processed in 26 days more.”⁶ Per D.C. Official Code § 2-532(e) “[a]ny failure on the part of a public body to comply with a request...of this section within the time provisions...of this section shall be deemed a denial of the request, and the person making such request shall be deemed to have exhausted his administrative remedies with respect to such request, unless such person chooses to petition the Mayor pursuant to § 2-537 to review the deemed denial of the request.”

In your complaint you ask both “[h]as any report or call-for-service record been located?” and “[i]f not, what exact steps have been taken to search for responsive documents?” OOG did contact MPD and OUC regarding this matter and was informed that responsive records were identified and would be fulfilled to you on or about June 11, 2025. Identifying specific steps taken by those agencies, or requiring dates certain, are beyond the scope of this office’s authority.

In the present case, at the time of your complaint, your requests have gone unfulfilled, and you have received no further response from the agencies to date. This is “deemed a denial of the request” and your remedy is either “petition the Mayor pursuant to § 2-537,”⁷ or, “[i]f the Mayor denies the

⁴ Email of May 21, 2025.

⁵ “Constructive denial” is based upon the use of “constructive” where defined as “[t]hat which is established by the mind of the law in its act of construing facts, conduct, circumstances, or instruments; that which has not the character assigned to it in its own essential nature, but acquires such character in consequence or the way in which it is regarded by a rule or policy of law; hence, inferred, implied, made out by legal interpretation,” [Definition of constructive at TheLaw.com Dictionary](#).

⁶ [Fiscal Year 2024 Individual Agency FOIA Reports](#), 7,11.

⁷ D.C. Official Code § 2-537(a) states “any person denied the right to inspect a public record of a public body may petition the Mayor to review the public record to determine whether it may be withheld from public inspection. Such determination shall be made in writing with a statement of reasons therefor in writing within 10 days (excluding Saturdays, Sundays, and legal holidays) of the submission of the petition.”

petition or does not make a determination within the time limits provided...or if a person is deemed to have exhausted his or her administrative remedies...the person seeking disclosure may institute proceedings for injunctive or declaratory relief in the Superior Court for the District of Columbia.”⁸ In either scenario, “[i]f the Mayor decides that the public record may not be withheld, [the Mayor] shall order the public body to disclose the record immediately. If the public body continues to withhold the record, the person seeking disclosure may bring suit in the Superior Court for the District of Columbia to enjoin the public body from withholding the record and to compel the production of the requested record.”⁹

You have the legal right to an administrative appeal to the Mayor’s Office of Legal Counsel (“MOLC”) (the instructions for doing so are located under “Appeals or Judicial Review of Denials,” [D.C. Government's FOIA Page](#)). You may also bring a civil action against the Government of the District of Columbia to facilitate a judicial review by the Superior Court of the District of Columbia, [Website for the D.C. Superior Court](#).

B. A failure to produce responsive records within the statutory period is a constructive “denial” of a DC FOIA request which, though a violation, is appealable.

The second issue is the timeline of records fulfillment. You stated in your email that “[i]f additional time is needed, what is the precise timeline for producing responsive records?” and that you “expect an exact number of days and justification for the delay.”¹⁰ D.C. FOIA provides for an agency to request an extension in “unusual circumstances...[when] the time limits prescribed...may be extended by written notice to the person making such request setting forth the reasons for extension and expected date for determination” and that “[s]uch extension shall not exceed 10 days (except Saturdays, Sundays, and legal public holidays) for records requested.”¹¹ In the material that you chose to provide, there was no indication that either agency had requested an extension.

Regarding MPD’s processing of your requests, in your subsequent email,¹² you provided email correspondence of May 16, 2025, from MPD’s FOIA Officer which stated to you that “[w]hen there is no citizen complaint number (CCN) provided when requesting records, the process is to refer the requester to the Office of Unified Communications (OUC) to determine if a report exists. I have copied the FOIA Officer for OUC on this email for convenience.” Agencies can establish procedures for requesting records so long as they are not violative of their obligations under the statute or regulations. While OOG recommends working with requestors to establish a timeline for production even after a deadline has passed, D.C. FOIA does not specify a requirement for an agency to communicate a specific timeline on production. There is no requirement for a declaration of either a timeline or the “exact number of days.” As stated prior, where your requests have been constructively denied to date, your legal recourse is an administrative or judicial appeal.

⁸ D.C. Official Code § 2-537(a)(1).

⁹ D.C. Official Code § 2-537(a)(2).

¹⁰ Email of May 21, 2025.

¹¹ D.C. Official Code § 2-532(d)(1).

¹² Email of May 22, 2025, 3:56 p.m.

1. *Your D.C. FOIA requests may not have been fulfilled timely according to the requirements under statutes and regulations.*

The first sub-issue is whether the timeline and process for a determination or production of records meets the statutory and regulatory requirements. As stated above, and agency has fifteen business days to either provide a determination or fulfill a records request.¹³ Here, MPD indicated that it has a process for referring a request “when there is no citizen complaint number (CCN) provided...to (OUC) to determine if a report exists.”¹⁴ You also provided an email from OUC’s FOIA Officer which stated that “in order to determine if reports exist, please make a FOIA request for calls for service data with the Office of Unified Communications (OUC) online via the DC government Public FOIA Portal at <https://myfoia.dc.gov>,” and that “[a]lternatively, you may submit your FOIA request in writing,” where you were further provided with the mailing address of OUC’s FOIA Officer.

The email to you then states that “[c]alls for service data should provide report numbers, specifically a citizen complaint number (CCN). If reports were made, please submit the report numbers to MPD Public Records Office to requests the PD-251s¹⁵ you are seeking.” You were then provided with email and mailing address information. Specifically, it states “[t]o request a PD-251 via email, submit your email request to mpd.public-docs@dc.gov or mail request along with a self-addressed, stamped envelope to...,” followed by the address information.¹⁶ You indicated that you “have received no responsive records, no CCN, and no confirmation of whether an incident report even exists—despite being passed back and forth between MPD and OUC and having flagged the issue early.”¹⁷ Agencies have established protocols in place and process records requests accordingly. (see below)

D.C. Official Code § 2-532(a) states that “[a]ny person has a right to inspect, and at his or her discretion, to copy any public record of a public body, except as otherwise expressly provided by § 2-534, in accordance with reasonable rules that shall be issued by a public body after notice and comment, concerning the time and place of access.” Here, MPD established a process that includes a rule for the request of a PD-251. You stated in your complaint that you “have received no records...no confirmation that a report exists.” To clarify, both agencies described a process for the identification of a CCN and how to obtain a PD-251 with that CCN. While you are correct that you did not receive responsive records within the statutory 15-day period, it appears that you did not follow the procedures (i.e., “rules”) established by the agencies.

In the email that you forwarded from MPD,¹⁸ an explanation of the process was not received until May 16. As this was the end of the statutory 15-day period, you may appeal the constructive denial.

¹³ D.C. Official Code § 2-532(c)(1).

¹⁴ Email of May 22, 2025, referencing MPD email of May 16, 2025.

¹⁵ A “PD-251” is an “Incident/Offense Report (PD-251),” hereinafter referred to as a “PD-251 Report,” per MPD at <https://mpdc.dc.gov/service/request-accident-report-pd-10-or-incidentoffense-report-pd-251>.

¹⁶ Email of May 22, 2025.

¹⁷ *Id.*

¹⁸ Email of May 22, 2025, referencing the May 16 email from MPD to complainant.

2. *D.C. FOIA establishes that agencies may establish rules for D.C. FOIA requests; however, failure to fulfill proper requests is violative and appealable.*

The second sub-issue is whether either the “processes” established by MPD for the PD-251 Report, or obtaining a CCN from OUC, are compliant with D.C. FOIA. As stated above, D.C. Official Code § 2-532(a) states that “[a]ny person has a right to inspect... public record of a public body...in accordance with reasonable rules.”

a. MPD’s Rules for Processing D.C. FOIA Requests

D.C. Official Code § 5-113.06 outlines the records required to be maintained by the Metropolitan Police Department (MPD), such as those related to criminal offenses and release of prisoners, and how they are made available for public review. The section also addresses the public's right to access this information. D.C. Official Code § 5-113.06 specifies the following: “[e]xcept as provided in subsection (c) of this section, the records to be kept by paragraphs (1), (2), and (4) of § 5-113.01 shall be open to public inspection when not in actual use, and this requirement shall be enforceable by mandatory injunction issued by the Superior Court of the District of Columbia on the application of any person.”¹⁹ To comply with these requirements, MPD set forth the process that the public should follow to access these records. This is essentially MPD’s process to facilitate their processing and the public’s receipt of these records.

MPD issues orders that are internal directives, guidelines, and policies issued to govern various aspects of the department's operations, including record-keeping, internal affairs, and how MPD interacts with the public. These orders are often referred to as "General Orders." MPD states on their website²⁰ that “an Incident/Offense Report (PD-251)... is given a six-digit identifying number (often referred to as the CCN),” and “that...to find out the report number, call the station of the police district that responded to the incident.”²¹ Further, it states that “[e]ffective January 1, 2016, the MPD Form, PD-251 Public Incident/Offence Report will be provided to the public via email, in-person and mail-in request. Fees associated with production of a PD-251 are temporarily waived. Email requests will be returned to the requestor. If there are any questions please contact the Public Documents Unit of the Records Division, Corporate Support Bureau at (202) 727-4357.”²² The website goes on to state that to “[r]equest a PD-251 via Email or Mail-In...[which is] Recommended for persons living outside of the District, or who are otherwise unable to come to the office in person...via email, submit your email request to mpd.public-docs@dc.gov or mail request along with a self-addressed, stamped envelope,” followed by the mailing address.²³ Thus, MPD has established a specific rule for the request of a PD-251 Report.

¹⁹ D.C. Official Code § 5–113.06. Records open to public inspection.

²⁰ [Request an Accident Report \(PD-10\) or an Incident/Offense Report \(PD-251\) | mpdc.](#)

²¹ *Id.*

²² *Id.*

²³ *Id.* MPD’s website advises that “[y]our request should include as much of the following information as you have: Full Name; Date of Incident or Offense; Location of Incident; Six Digit Report Number (CCN); Time of Incident. For Mail-In requests, please allow six weeks for processing from the date the request is made. For more information or additional assistance, contact (202) 727-4357.”

MPD has information for requesting various records posted on its website, including the Department's General Order regarding "Freedom of Information."²⁴ The process for obtaining a PD-251 Report, as spelled out on MPD's website and quoted above, does not differentiate between "First Party" requests and "Third Party requests," unlike for obtaining, for example, PD-10 reports²⁵ by third parties, which MPD states "should be submitted through the MPD's FOIA Office."²⁶ Thus, MPD has a process for requesting specific reports and report-types that it distinguishes from a generalized D.C. FOIA request. Here, MPD makes no distinction between any type of requestor for a PD-251, but clarifies that a third-party request for a PD-10 "should be" obtained from "MPD's FOIA Office." MPD has established specific guidelines regarding the fulfillment of various types of records, which according to D.C. Official Code § 2-532(a), they may do.

As you filed a generalized D.C. FOIA request, with limited details, as opposed to requesting a report via the process spelled-out on MPD's website, it may be that D.C. FOIA statutes and regulations, as well as MPD's rules,²⁷ while applicable, may not indicate a failure to comply with D.C. FOIA. The response from MPD of May 16, 2025, states that "[w]hen there is no citizen complaint number (CCN) provided when requesting records, the process is to refer the requester to the Office of Unified Communications (OUC) to determine if a report exists. I have copied the FOIA Officer for OUC on this email for convenience...[c]alls for service data should provide report numbers, specifically a CCN. If a report was generated, you can then submit the report number(s) to MPD Public Records Office."²⁸ As stated prior, if you believe that the procedure as explained by the MPD FOIA Officer does not satisfy requirements under statutory and regulatory requirements, you have the right to make an administrative appeal or seek judicial appeal or injunctive relief from the Superior Court.

b. OUC's Rules for Processing D.C. FOIA Requests

You provided an email response from OUC where the agency instructed:

In order to determine if reports exist, please make a FOIA request for calls for service data with the Office of Unified Communications (OUC) online via the DC government Public FOIA Portal at <https://myfoia.dc.gov>" and "[a]lternatively, you may submit your FOIA request in writing," with the OUC mailing address and email address and phone number provided... [c]alls for service data should provide report numbers, specifically a citizen complaint number (CCN). If reports were made, please submit the report numbers to MPD Public Records Office to request the 251s you are seeking. To request a PD-251 via email, submit your email request to mpd.public-docs@dc.gov or mail request along with a self-addressed stamped envelope to..."

²⁴ GO-204.05, Subject: Freedom of Information Act Requests, Topic Series Number: SPT 204 05, Effective Date: November 16, 2010. Rescinds: GO-SPT-204.05 (Freedom of Information), Effective Date: January 11, 2003; Related to: GO-PER-201.09 (Handling Employee Personnel Records), posted at [D.C. MPD Page for General Order GO-204.05](#).

²⁵ Per MPD, an "Accident Report (PD-10)."

²⁶ Defined by MPD as an "(Involved Party OR Attorney/Attorney Staff/Investigators of Involved Party)," in terms of a "Request an Accident Report (PD-10)."

²⁷ GO-204.05, IV. Rules., C – J.

²⁸ Email of May 22, 2025, referencing the May 16 email from MPD to complainant.

followed by the address of MPD's Public Documents Section.

D.C. FOIA regulations state that records requests "may be made orally or in writing"²⁹ and "[a]lthough oral requests may be honored, a requester may be asked to submit in writing a request for records,"³⁰ while "[a] written request may be mailed, faxed or e-mailed to the agency."³¹ Even where an agency utilizes the D.C. FOIA Portal, a requestor is not required to submit via that website.

As stated, D.C. FOIA allows an agency to promulgate rules regarding implementation of the requirements. However, if you feel that your D.C. FOIA request was constructively denied due to additional requirements as to method(s) of submission³² then, again, you have the right to administrative appeal, judicial review, or both.

C. Users with accessibility challenges due to disability have multiple options for submitting a D.C. FOIA request, although compliance issues regarding government technology is the province of bodies other than OOG.

The third issue is the matter of whether "blind residents can submit FOIA requests independently," as well as "responsibility for resolving the accessibility failures on the DC FOIA portal," and a "timeline for remediation?"³³ In terms of submitting FOIA requests "independently," where I assume that the question is independence from any requirement to utilize the Portal, as stated above, D.C. FOIA regulations allow for multiple options in filing a D.C. FOIA request.

You ask about "resolving the accessibility failures" on the Portal and remediation. Specifically, you indicate that the CAPTCHA audio function on the portal "repeatedly failed to load or function correctly," with "form inputs...[which] also presented usability issues with screen readers, particularly in identifying proper labels and controls."³⁴ and that the Portal has "persistent and well documented accessibility failures."³⁵ The District's Office of Disability Rights (ODR)³⁶ is the lead agency regarding issues of compliance with accessibility and disability matters, including compliance with the Americans with Disabilities Act (ADA), including approval authority for agency's implementation plans for ADA compliance.³⁷ The DC FOIA Portal is overseen by the Office of the Chief Technology Officer (OCTO) which contracts with a private vendor for its operation.³⁸ You copied ODR on your communication to OOG,³⁹ and subsequently an OOG Attorney Advisor spoke with both agencies to

²⁹ 1 DCMR 402.1.

³⁰ 1 DCMR 402.2.

³¹ 1 DCMR 402.3.

³² D.C. Municipal Regulation 1-402.1.

³³ Email of May 21, 2025.

³⁴ Email of May 22, 2025, from complainant to OOG Attorney Advisor which describes, *inter alia*, problems "due to accessibility barriers."

³⁵ Email of May 15, 2025, from complainant to OUC FOIA Officer.

³⁶ D.C. Official Code § 2-1431.03.

³⁷ D.C. Official Code § 2-1431.02. (a)(5).

³⁸ See Council of the District of Columbia, Committee on Public Works and Operations, Budget Oversight Hearing – Office of the Chief Technology Officer, May 2, 2024, with audio and video [Link to D.C. Council Committee Hearing Recording](#), a searchable text transcript [Link to D.C. Council Committee Hearing Transcript](#), and see also [Link to Private Law Firm Site's Post Regarding the D.C. FOIA Portal](#).

³⁹ Email of May 21, 2025, from complainant to OOG.

make them aware of the issues that you raised. ODR is the appropriate agency to address any accessibility and ADA compliance issues, and they are best equipped to work with OCTO and its vendor. My office stands ready to advise and assist these agencies regarding any issues specifically related to D.C. FOIA compliance.

III. CONCLUSION

We regret any difficulties that you experience because of accessibility challenges. I am copying this response to both the Director of ODR and the Chief Technology Officer, so they may take steps to improve the usability and functionality of the portal.

Please do not hesitate to reach out to me at niquelle.allen@dc.gov, Chief Counsel Louis L. Neal at louis.neal@dc.gov, or OOG staff at opengovoffice@dc.gov, if you have any further questions or concerns.

Respectfully,

/s/

Niquelle M. Allen, Esq.
Director of Open Government
Board of Ethics and Government Accountability

cc:

Mathew McCollough, Director, Office of Disability Rights (ODR)
Stephen N. Miller, Chief Technology Officer at the Office of the Chief Technology Officer (OCTO)