



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



VIA ELECTRONIC MAIL

October 6, 2023

Mark Viehmeyer, General Counsel
Metropolitan Police Department
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Washington, D.C. 20001
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**RE: Advisory Opinion, #OOG-2023-003_AO, MPD's Compliance with the
District of Columbia Freedom of Information Act**

Dear Mr. Viehmeyer:

On September 22, 2023, I issued advisory opinion, #OOG-2023-003_AO, concerning the Metropolitan Police Department's ("MPD") compliance with the District of Columbia Freedom of Information Act. The complaint inquired about the denial of an individual's FOIA request concerning a police disciplinary investigation and cited the following text that MPD included in its determination:

"Please note, that while the District of Columbia (DC) Comprehensive Policing and Justice Reform Amendment Act ("Act") is now law in the District of Columbia, the language in section 134 pertaining to the release, by posting, of certain disciplinary records is not yet in effect. Section 301(a) of the Act states: "301. Applicability. (a)(1) Sections 105, 125, 134, and 135, amendatory section 4c in section 138, and section 139 shall apply upon the date of inclusion of their fiscal effect in an approved budget and financial plan. (2) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification. (3)(A) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register...."

The complaint requested that MPD change the language of the justification and notify requesters of the inaccurate language used in its denial to describe sections 134 and 135 of Subtitle X of Title I of the Comprehensive Policing and Justice Reform Amendment Act ("Comprehensive Policing Act"). MPD's response to the OOG addressed the denial language which inaccurately described or referenced sections of the Comprehensive Policing Act. However, MPD declined to follow up with requesters informing them of the inaccurate language.

While I concluded that the inaccurate language used by MPD was not the basis for the denial of the FOIA requests, upon further consideration, I am advising that MPD should

supplement its response to any affected requesters. The supplemental response should include an accurate statement of the law and the current state of the law applicable to sections 134 and 135 of the Comprehensive Policing Act. The requesters should be made aware of the inaccurate language received in the denial letters.

Sincerely,



Niquelle M. Allen, Esq.

Director of Open Government

Board of Ethics and Government Accountability

cc: Katherine Kelley, Assistant General Counsel
Brandy Reaves, FOIA Officer