

## *Give DC Residents Full Access to Information about DC Government Operations NOW!*

October 7, 2020

Dear DC Councilmembers,

We, the undersigned District of Columbia concerned citizens, community leaders, advocacy organizations, journalists, and lawyers, urge you to repeal the amendments to DC's Freedom of Information Act ("FOIA") that were adopted as part of DC's coronavirus emergency legislation. The amendments exclude each day of the Mayor's public health emergency (or any day on which a public body is "closed due to the COVID-19 coronavirus disease") from the 15-day period DC government agencies are generally required to respond to FOIA requests, the 25-day period the Metropolitan Police Department (MPD) is required to respond to requests for body-worn camera recordings (other than those involving officer-involved shootings), and the 10-day period the Mayor is required to respond to appeals of agency denials of FOIA requests. In effect, this permits a DC government agency, including MPD, to completely stop responding to FOIA requests until the public health emergency is over, even if the agency can safely process the request. This places an undue burden on the public's fundamental right to transparency and makes it harder to conduct oversight of agencies' activities at a time when government operations and services are changing drastically.

While the coronavirus pandemic may make it more difficult for the DC government to carry out its responsibilities, it has been six months since the Mayor first issued the public health emergency order, the order has been extended through October 9, 2020, and it will likely be extended further. Based on our experiences interacting with the DC government, many employees have now successfully transitioned to working remotely, and essential workers continue to perform their work in person when it is safe to do so. Moreover, it is our understanding that a considerable portion of DC government records are maintained in electronic form and can be accessed and provided via electronic means. Accordingly, agencies should generally be able to process FOIA requests (and the Mayor's office should generally be able to decide appeals) in a manner that is both safe and timely. Indeed, some DC agencies have provided timely responses to FOIA requests filed during the public health emergency, so we know that it is possible.

We recognize that DC agencies may face unique challenges in responding to FOIA requests for records that cannot be accessed remotely at a time when an on-site review of records could present a significant risk to employee health or safety. In these discrete circumstances, we urge the Council to strike a more appropriate balance between the need for the DC government to protect its employees and FOIA's purpose to ensure citizens have access to "full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Code §2-531. For example, the Council could tailor a solution for agencies in this situation by allowing them to extend the deadline for responding to a FOIA request upon written notice to the requester with the specific health or safety justification.

For all these reasons, the DC Council should act swiftly to restore the public's access to vital information about the functioning of the DC government by repealing the amendments to FOIA that were adopted as part of the emergency legislation and reinstating the established FOIA timeframes for responses by DC government agencies and for appeals decisions by the Mayor.

Sincerely,

ACLU of the District of Columbia

Advocates for Justice and Education

Black House News

Children's Law Center

Council for Court Excellence

Disability Rights DC at University Legal Services

D.C. Tenants' Rights Center

DC Environmental Network

DC KinCare Alliance

DC Open Government Coalition

EmpowerEd

Legal Aid Society of the District of Columbia

Many Languages One Voice (MLOVE)

Network for Victim Recovery of DC

RCM of Washington

Terris, Pravlik & Millian, LLP

TENAC (DC Tenants' Advoacay Coalition)

Washington Lawyers' Committee for Civil Rights and Urban Affairs

Washington Legal Clinic for the Homeless

Demel Baber  
DC Resident  
Journalist

Christopher Bangs  
DC Resident  
Lawyer

Elizabeth Beltran  
DC Resident  
Lawyer

Mikeisha Blackman  
DC Resident

Dixcy Bosley  
DC Resident

Jane Brown  
DC Resident

Michael Byrne  
DC Resident

Curt Campbell  
DC Resident  
Lawyer

Suzie Cambria  
Advocate  
Now more than ever, access to the government is essential.

Radiance Campbell  
DC Resident

Dara Canchester  
DC Resident

Sarah Carr  
DC Resident

Lauren Case  
DC Resident

Jason Cherkis  
DC Resident  
Journalist

Marie Cohen  
DC Resident

Nicole Del Casale  
DC Resident

Sam Daughety  
DC Resident

Tara Dittamo  
Lawyer

Aida Fitzgerald  
DC Resident  
Lawyer

Rebecca Flaherty  
DC Resident

Philip Fornaci  
DC Resident  
Lawyer

Betty Gentle  
DC Resident

Todd Gluckman  
Lawyer

Deborah Golden  
The Law Office of Deborah M. Golden  
Lawyer

Donnequa Grantham  
Lawyer

Christian Greene  
DC Resident

Amber Harding  
Lawyer

Tyler Haas  
DC Resident

The DC government should not use the ongoing health crisis as an excuse to avoid accountability. Transparency is a cornerstone of a representative government, and any material that can be procured in an effective and safe manner should be done so without unnecessary delay.

Allison Hrabar  
DC Resident

Thomas Healy  
DC Resident  
Lawyer

Aaron Hoffman  
DC Resident

Kymerly Holmes  
DC Resident

Valerie Jablow  
DC Resident

Molley Kaiyoorawongs  
DC Resident

Paula Kaplan  
DC Resident  
Lawyer

Katharine Landfield  
DC Resident  
Transparency is fundamental to democracy, even - and especially - during a crisis such as the pandemic.

Mary Levy  
DC Resident  
DC Government agencies could save themselves a lot of FOIA requests if they just posted basic information, especially budget information, without being asked.

Matthew Levy  
DC Resident

Trenise Little  
DC Resident

Michael Livingston  
Journalist

Sean Michael Love  
DC Resident  
Journalist

Megan Macaraeg  
DC Resident

Karen Malovrh  
DC Resident

Lisa Mathews  
DC Resident

Mary McCall  
DC Resident

Stephanie McClellan  
Lawyer

The people of the District deserve transparency and responsiveness from their government to the extent possible during the public health emergency.

Marian Messing  
DC Resident  
Lawyer

Government transparency is essential. The D.C. government shouldn't be shielded from disclosing its activities to the public just because of COVID.

Kathleen Millian  
Lawyer

Marcia Moore  
DC Resident

Sara Mosenkis  
DC Resident

Fritz Mulhauser  
Lawyer

Julie Murray  
DC Resident

Margaret O'Hora  
DC Resident  
Lawyer

Lauren Onkeles-Klein  
DC Resident

Shrouding government in secrecy during a pandemic and in a time of extraordinary resistance to unfettered state power and the harms of structural racism erodes the public's fair in public institutions. As a long-time DC resident and a Ward five community member, I want my government to do better. I want my government to lead in transparency rather than hide from their citizens.

Demi Otukoya  
Advocate

India Patrick  
DC Resident

Carolyn Smith Pravlik  
DC Resident  
Lawyer

Marjorie Rifkin  
DC Resident  
Lawyer

Max Sall  
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Julie Serfass  
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Vanessa Simmons  
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Alayna Smith  
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Laurie Stegman  
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Beth Stekler  
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Jordan Stoner  
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Stefany Thangavelu  
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Robbie Ward  
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Melody Webb  
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Joy Welan  
DC Resident

Suzanne Wells  
DC Resident

Andrew Williams  
DC Resident

Lior Wolf  
DC Resident

Renee Wolforth  
Lawyer

Suzanne Yelen  
DC Resident

Michelle Young  
DC Resident

Eve Zhurbinskiy  
DC Resident

Not only should we restore DC's FOIA deadline to what it was before the pandemic, but we should shorten the response time. Fifteen business days is significantly longer than what most states have as their response time. Even though there is a hiring freeze, the Council and mayor should consider exempting FOIA officers from this freeze so that we can have greater accountability and residents can feel more confident in our government.