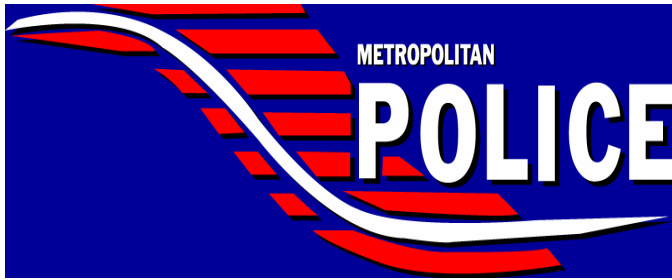


GENERAL ORDER



DISTRICT OF COLUMBIA

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)		

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I. BACKGROUND

The Freedom of Information Act (FOIA) guarantees access to information that is in the public domain. Citizens have a right to know what their public agencies are doing to provide the basic services for which public monies are budgeted. However, access to information is not absolute. Some information, such as criminal intelligence, personnel-related matters, and information gathered pursuant to ongoing investigations must be protected from public disclosure in order to not jeopardize legitimate law enforcement operations. The timely, unobstructed provision of information to which the public is guaranteed access not only complies with District of Columbia (and applicable federal) law, but also builds trust and respect between the community and the Metropolitan Police Department (MPD).

II. POLICY

The policy of the Metropolitan Police Department is to provide information to individuals upon request, pursuant to the provisions of applicable District of

Columbia and federal law while ensuring that legally exempted information is protected from disclosure.

III. DEFINITIONS

For the purpose of this directive, the following terms shall have the meanings designated:

1. Access – Right to inspect and copy any records that can be disclosed to the public.
2. Act – District of Columbia Freedom of Information Act (D.C. Official Code §2-531 *et. seq.*)
3. Member – Sworn or civilian Metropolitan Police Department (MPD) employee or MPD Reserve Corps member.
4. Receipt – Receipt by the FOIA Office of a properly addressed request, as required by the Act. A request improperly addressed (i.e., forwarded to the FOIA Office after having been erroneously addressed to another office or agency) is not considered received in a timely manner until received by the FOIA Office.
5. Record – All books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by the MPD.

IV. RULES

- A. Members shall continue to furnish public records to individuals during their normal and regular performance of official duties, unless disclosure of the records is prohibited by this order.
- B. Members in receipt of a FOIA request shall immediately forward the request through their chain of command to the FOIA Officer, FOIA Office, Strategic Services Bureau.
 1. The FOIA Office shall be responsible for the dissemination of all responses to FOIA requesters.
 2. Members shall refer individuals requesting information on the status of a FOIA request to the FOIA Office.
- C. All FOIA requests shall be made in writing whether by the requester or with the assistance of the FOIA Office.

- D. A request for a record shall reasonably identify the record sought. A request is considered reasonably identified if it contains one (1) of the following:
1. A general description of the subject matter and a reference to the member or unit within the MPD that was either the source of, or is responsible for, maintaining the record;
 2. A reference to a public meeting or the minutes thereof;
 3. A reference to an appropriate date of issuance; or
 4. Other similar information sufficient to enable members to locate the record with a reasonable amount of effort.
- E. If a request does not reasonably identify the record sought, the FOIA Office shall prepare a response denying the request on that basis and shall specify the reasons why the request failed to meet the above listed requirements. The response shall extend to the requester an opportunity to confer with FOIA Office members to reformulate the request in a manner that meets both the requester's needs and the requirements of the FOIA Office.
- F. When a requested record is reasonably identified, the FOIA Office shall, within fifteen (15) days after the date of receipt (excluding Saturdays, Sundays, and legal public holidays), either make the record accessible or notify the requester of the determination not to make the record or any part of it accessible, and the reasons for such action.
- G. When a requested record may be disclosed, the FOIA Office shall notify the requester where and when the record will be available for inspection, or a copy made available, and any applicable fee.
- H. FOIA request denials shall be sent by the FOIA Officer, and shall include:
1. The specific reasons for the denial, including references to the particular exemptions under D.C. Official Code § 2-534 (Exemptions from Disclosure) relied on as authority for the denial.
 2. The name of the public official (s) or employee(s) responsible for the decision to deny the request.
 3. Notification to the requester of any administrative or judicial right to appeal under D.C. Official Code § 2-537 (Administrative appeals).
- I. In unusual circumstances, the fifteen (15) day time limit may be extended by the FOIA Officer with a written notice to the requester, indicating the reason(s) for extension and the expected decision date.

1. The extension shall not exceed (ten) 10 days (excluding Saturdays, Sundays, and legal public holidays).
 2. The term "unusual circumstances" is limited to:
 - a. The need to search for, collect and appropriately examine a voluminous amount of records demanded in a single request; or
 - b. The need for consultation with another agency or another branch, division, unit, within the MPD, having a substantial interest in responding to the request.
 3. The responsible unit shall continue to process the request.
 4. The FOIA Office shall inform the requester of the reason for the delay, the date a decision is expected and the right to treat the delay as a denial and to appeal.
- J. The FOIA Office shall notify a requester when a record cannot be located, is known to have been destroyed, or is otherwise not available.
- K. If a requester does not contact the MPD within thirty (30) days after a letter of response has been sent, the request shall be considered abandoned and no further action will be taken on that particular request.
1. Information gathered as a result of such a request will not be maintained beyond the thirty (30) day period.
 2. Requesters who respond after the thirty (30) day period shall be advised of the MPD policy and that the request must be resubmitted.

V. REGULATIONS

- A. In accordance with D.C. Official Code § 2-536 (Information which must be made public), certain categories of information must be made available to the public and do not require a written request for information including, but not limited to:
1. The names, salaries, rank or title, and dates of employment of all members of the MPD.

NOTE: The information can be located on the District of Columbia Website: www.dc.gov.
 2. General orders, special orders, circulars, and administrative staff manuals and instructions to staff that affect a member of the public.

NOTE: Certain directives are exempt from release under FOIA because the contents of the directive are law enforcement sensitive.

Questions regarding whether a directive may be released should be directed to the Strategic Services Bureau, Policy Development Branch.

3. Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases.
4. Those statements of policy and interpretations of policy, acts, and rules that have been adopted by MPD.
5. Correspondence and materials relating to any regulatory, supervisory or enforcement responsibilities of the MPD, whereby MPD determines or states an opinion upon, or is asked to determine or state an opinion upon, the rights of the District, the public or any private party.
6. Information in or taken from any account, voucher, or contract dealing with the receipt or expenditure of public or other funds.

NOTE: Such information applies only to routine procurement and disbursement accounts, not funds about which disclosure would compromise an investigation.

7. The minutes of all proceedings of all public bodies.
- B. Any reasonably separable portion of a record shall be provided to a requester after deletion of those portions exempt from public disclosure.
- C. In accordance with D.C. Official Code § 2-534, certain types of information shall be withheld from public disclosure including, but not limited to:
1. Trade secrets and commercial or financial information obtained from outside the government, to the extent that disclosure would result in substantial harm to the competitive position of the person from whom the information was obtained.
 2. Information of a personal nature, where public disclosure would constitute a clearly unwarranted invasion of personal privacy.
 3. Investigative records compiled for law enforcement purposes, to the extent that the production of such records would:
 - a. Interfere with enforcement proceedings, Council investigations, or Office of Police Complaints ongoing investigations;
 - b. Deprive a person of a right to a fair trial or an impartial adjudication;
 - c. Constitute an unwarranted invasion of personal privacy;

- d. Disclose the identity of a confidential source and, in the case of a record compiled by a law enforcement authority in the course of a criminal investigation, confidential information that could lead to identification of the confidential source;
 - e. Disclose investigative techniques and procedures not generally known outside the government; and
 - f. Endanger the life or physical safety of law enforcement personnel;
4. Inter or intra-agency memoranda or letters generated or received by staff which would not be available by law to a party other than a public body in litigation with the MPD. However, final decisions and factual information must be released.
 5. Test questions and answers to be used in future employment or promotional examinations, except that previous examinations or answers may be released.
 6. Information specifically exempted from disclosure by statute.

VI. PROCEDURES

A. FOIA Process:

1. Members shall forward all FOIA requests, including email, telephone, verbal or written to the FOIA Officer at 300 Indiana, Avenue, NW, Room 4153, telephone number 202-727-3721, or the FOIA email foia.admin@dc.gov.
2. Members shall not act upon any FOIA request without directions from the FOIA Officer or his/her designee.
3. The FOIA Officer shall coordinate FOIA responses and shall ensure the appropriate commanding officers of elements/units are contacted to obtain information responsive to FOIA requests.
4. Commanding Officers shall:
 - a. Contact the FOIA Officer if they believe the assistance of other units is necessary to respond to a FOIA request.
 - b. Upon receipt of a FOIA request from the FOIA Office, cause an immediate search for the requested records.
 - c. Ensure the final response, any copies of records responsive to the FOIA request, and a completed PD Form 156 (FOIA

Request Processing Form) (Attachment A) are provided, through their chain of command, to the FOIA Officer by the assigned deadline.

- d. Maintain sensitive information in their element and make arrangements with the FOIA Officer to coordinate the release of the information in accordance with D.C. Official Code § 2-534.

NOTE: This will prevent unnecessary duplication of sensitive documents.

B. Fees and Costs

1. Reasonable fees and costs are applicable for services rendered to individuals pursuant to this order.
2. Fees and costs for a records search shall be charged by the FOIA Officer in accordance with applicable law, 1 DCMR § 408 (Fees) and the following fee schedule:
 - a. Searching for records:
 - (1) \$ 4.00 per quarter hour, after 1st hour, by clerical personnel (DS 1 through 8);
 - (2) \$ 7.00 per quarter hour after the 1st hour, by professional personnel (DS 9 through 13); and
 - (3) \$ 10.00 per quarter hour after the 1st hour, by supervisory personnel (DS 14 and above).
 - b. Charges for the initial review of documents, as permitted by applicable law, shall be assessed at the rate provided in Part VI.B.2.a of this order.
 - c. Reproduction fees: \$0.25 a page shall be charged for reproduction copies. Only one (1) copy per page shall be provided.
3. The cost for special services such as computer discs and photos shall be assessed as follows:
 - a. \$10.00 per computer disc; and
 - b. \$4.00 per photo printed on photo paper.

4. The direct cost to MPD of services or materials, other than those described above, may be charged. In such cases, the requester shall be notified by the FOIA Officer of the cost before it is incurred.
5. Search costs shall not be assessed if a requested record cannot be located.
6. Fees must be paid in full prior to release of the requested records.
7. Remittances shall be:
 - a. In the form of a:
 - (1) Cashier's or certified check;
 - (2) Bank draft drawn from a bank in the United States;
 - (3) U.S. postal money order; or
 - (4) Cash deposits (for fees no greater than \$1.00).
 - b. Made payable to the D.C. Treasurer.
 - c. Delivered to the FOIA Office, Room 4153 (300 Indiana Avenue, NW).
8. Advance Deposits
 - a. When the anticipated fee exceeds \$25.00 (exclusive of search costs) the FOIA Officer may require an advance deposit of 50 percent of the anticipated fee, or \$25.00, whichever is greater.
 - b. When a requester has previously failed to pay a fee, an advance deposit of the anticipated full amount shall be required.
 - c. The advance deposit shall be documented on a PD Form 196-A (Payer's Receipt).
 - d. A copy of the paid receipt shall be placed in the Requester File.
 - e. The FOIA Officer, acting on behalf of the Chief of Police and with the approval of the Office of the General Counsel, may waive all or part of any fee where the information primarily benefits the general public rather than the requester according to the following criteria:
 - (1) The requester has made a fee waiver request whether verbally or through written correspondence.

(2) The requester is indigent.

NOTE: Proof of indigent status may be in the form of:

- i. Documented evidence that the requester qualifies for or is currently receiving government assistance;
 - ii. A letter of representation from a non-profit organization specifically organized to represent the poor;
 - iii. An official or unofficial court document indicating an open court case in which the requester is litigating “pro se”; or
 - iv. Any other evidence of the requester’s economic status, including verbal responses to the FOIA Officer’s questions solely to determine whether payment of fees would pose a hardship.
- (3) The requester is interested in the requested information for the benefit of the public good and, if the request is granted, will benefit the public as a whole, as opposed to an individual person or commercial body; or
- (4) The request is made on an emergency basis where the fee payment would substantially interfere with the requester’s access to the documents and/or create delay that would significantly reduce the value of the documents (i.e., upcoming court date).

C. Requester Files

1. The FOIA Officer shall ensure that a copy of all documents pertaining to FOIA requests are maintained in the FOIA Office, alphabetically by requester name, for each calendar year. A jacket, when completed, shall contain:
 - a. The original request;
 - b. Letter(s) to the requester concerning:
 - (1) Receipt of an improperly addressed request;
 - (2) Availability of information;

- (3) Extensions;
 - (4) Delays;
 - (5) Granting the request and a copy of the accompanying documents released to the requester; or
 - (6) Denial of the request, if applicable.
 - c. Memorandum concerning meetings or conversations with the requester for the purpose of adjusting the request;
 - d. Copy of a record, from which certain information has been obliterated, showing the particular deletions;
 - e. PD Form 196-A (Payer's Receipt);
 2. The FOIA Office shall maintain a log by year that includes the following information:
 - a. Control number for each request;
 - b. Date of receipt by the FOIA Office;
 - c. Responsible unit to which the request was forwarded;
 - d. Date forwarded to the responsible unit;
 - e. Date of extension, if any;
 - f. Date the requester is notified of an extension;
 - g. Date returned from the responsible unit;
 - h. Date the record is granted or denied and the reason for denial;
 - i. Number of hours staff devoted to processing the requests for records and the total amount expended by the MPD for processing FOIA requests; and
 - j. Total fees collected.
- D. Procedures for Processing Requests
1. All requests for records shall be sent to the FOIA Office. The FOIA Office member designated to handle requests shall:
 - a. Log in all such requests.

- b. Determine which element or elements are responsible for providing records.
 - c. Forward the request to the commanding officer of the responsible unit.
 2. Upon receipt of information to be provided to a requester, the FOIA Office shall:
 - a. Mail the appropriate correspondence.
 - b. If applicable, store the response securely in a file designated for that purpose until the requestor:
 - (1) Picks up the records;
 - (2) Views and/or copies those he/she wishes to view; or
 - (3) Mails in the payment.
 - c. Place all documents pertaining to the request in the Requester File;
 - d. When the requester responds to pick up the requested records, or to view them and/or makes copies, the FOIA Office member shall:
 - (1) Require the person to produce the notice that was sent in response to his/her request, or another form of proof of identity if the notice is not available; and
 - (2) Process payment for the search and/or duplication of records in the following manner:
 - (a) Complete PD Form 196-A:
 - (b) When the requester intends to copy portions of the record, the FOIA member may, at his/her discretion, allow the requester to review and select those portions the requestor wants copied prior to collecting a search fee. After the duplication fee is tabulated, along with the search fee, the member shall follow the procedure in item (a) above.

- (3) Upon receiving the paid receipt, turn the specified record over to or allow the information to be viewed by the requester; and
- e. For payments made through the mail, the member shall:
- (1) Prepare a PD Form 196-A, attach it to the remittance, and secure both in a locked container until taken for deposit;
 - (2) Deposit fees on the day received with the D.C. Treasurer;
 - (3) Place the paid receipt in the affected Requester File; and
 - (4) Mail the requested information.

E. Appeal Procedures

1. A denial of a request may be appealed to the Mayor or the Superior Court of the District of Columbia. If requester elect to appeal to the Mayor, the appeal must be in writing and contain "Freedom of Information Act Appeal" or "FOIA Appeal" in the subject line of the letter as well on the outside of the envelope.
2. The appeal must include:
 - a. A copy of the original request;
 - b. A copy of a written denial;
 - c. A statement of the circumstances, reasons, and/or arguments advanced in support of disclosure; and
 - d. A daytime telephone number, and e-mail and/or U.S. Mail address at which you can be reached.
3. The appeal must be mailed to: The Mayor's Correspondence Unit, FOIA Appeal, 1350 Pennsylvania Avenue, N.W., Suite 316, Washington, D.C. 20004. Electronic versions of the same information can instead be e-mailed to The Mayor's Correspondence Unit at foia.mayor@dc.gov. Further, a copy of all appeal materials must be forwarded to the MPD Freedom of Information Officer.
4. Failure to follow these administrative steps may result in delay in the processing and commencement of a response to an appeal to the Mayor.

5. All notices of appeal sent from the Mayor's Office shall be delivered to the Office of the General Counsel who shall provide instruction as to how to proceed.
6. The FOIA Office shall maintain a file for each appeal to the Mayor and upon request shall make the file available for review by the public.

F. Annual Report

The FOIA Office shall submit the annual report required by D.C. Official Code § 2-538 through the Chief of Police to the Mayor in accordance with the deadline set by the Executive Office of the Mayor.

VII. CROSS REFERENCE

- A. D.C. Official Code § 2-531 *et seq.* (District of Columbia Freedom of Information Act)
- B. 1 DCMR Chapter 4 (Freedom of Information)

VIII. ATTACHMENT

Attachment A: PD Form 156 (FOIA Request Processing Form)



Cathy L. Lanier
Chief of Police

CLL:PH:MOC:KDB


FOIA REQUEST PROCESSING FORM

METROPOLITAN POLICE DEPARTMENT, WASHINGTON, DC

1. FOIA NUMBER:	2. DATE FOIA REQUEST RECEIVED:	3. DATE RESPONSE PROVIDED TO FOIA OFFICE:
4. NAME OF RESPONDING EMPLOYEE:	5. EMPLOYEE DIVISION/TITLE:	6. GRADE/RANK OF RESPONDING EMPLOYEE:
7. REQUESTOR'S NAME:	8. SUBJECT OF REQUEST:	

9. BRIEF DESCRIPTION OF SEARCH:

10. HOURS EXPENDED (PLEASE ROUND UP TO THE NEAREST QUARTER HOUR):

10A. SEARCH HOURS: _____

Search hours are defined as time spent looking for records to determine whether such records fall within the purview of the FOIA request.

10B. REVIEW HOURS: _____

Review hours are defined as the time spent looking at records to determine whether any exemption applies to the record or any information contained therein. Review time does not include time spent discussing whether a particular exemption should be asserted.

10C. COPY HOURS: _____ 10D. COPY FEES: _____ Pages X \$0.25 = _____

Copy hours are defined as the time spent making photocopies of any responsive documents.

10E. OTHER HOURS: _____ 10F. ACTIVITY: _____

Other hours are defined as time spent processing a FOIA request that does not constitute searching, reviewing, or copying. For "other hours," please describe the activity in item 10F.

The information collected on this form will be used by the FOIA Office to prepare the annual report to the Mayor regarding FOIA requests received by MPD. If you have any questions regarding the completion of this form, please contact the FOIA Office at 202-727-3721.