

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



OFFICE OF THE ATTORNEY GENERAL'S FISCAL YEAR 2018
FREEDOM OF INFORMATION ACT LITIGATION REPORT
(October 1, 2017 through September 30, 2018)

Pursuant to the District of Columbia Freedom of Information Act (“DC FOIA”), this report from the Office of the Attorney General for the District of Columbia (“OAG”) to the Council of the District of Columbia contains the following specified data pertaining to litigation arising under the DC FOIA for the previous fiscal year:

1. The case name and number for each case arising under the DC FOIA;
2. The exemption(s) involved in each case, where applicable;
3. The disposition of the case; and
4. The costs, if any, assessed pursuant to D.C. Official Code § 2-537(c).

D.C. Official Code § 2-538(c) (2001).

CIVIL LITIGATION DIVISION FY 2018 FOIA REPORT

1. a. Case Name/Number: *Kirby Vining v. District of Columbia*, (ANC-5E), Civ. No. 13-8189B
- b. Exemption(s) Claimed: D.C. Code § 2-534(a)(2) (personal privacy); D.C. Code § 2-534(a)(4) (deliberative process)
- c. Disposition of Case: The District did not prevail on its exemption claim. On November 3, 2015, the Court granted Plaintiff’s motion for attorney’s fees and costs and awarded him \$65,241 in fees and costs of \$880.90, for a total of \$66,121.90. Both parties appealed from this judgment on November 30, 2015. On December 20, 2018, the Court of Appeals reversed the fee award and remanded to the trial court to reconsider Plaintiff’s request for fees for the first phase of the litigation and out-of-pocket expenses incurred for legal travel, secretary costs, etc. The District has petitioned for rehearing.

- d. Costs Assessed: \$66,121.90 has been assessed, but the District has petitioned for rehearing, and this number may change.
2. a. Case Name/Number: *James Kane v. District of Columbia*, (ANC-2F), Civ. No. 14-3386B
- b. Exemption(s) Claimed: D.C. Code § 2-534(a)(4), (e) (deliberative process)
- c. Disposition of Case: On July 9, 2015, the Court denied Plaintiff's Second Motion for Summary Judgment and dismissed the case. Plaintiff appealed, and the Court of Appeals affirmed the judgment. Plaintiff subsequently filed a Motion for Costs and Fees, which the Court denied.
- d. Costs Assessed: None.
3. a. Case Name/Number: *Friends of McMillan Park v. District of Columbia*, (DMPED), Civ. No. 16-2373B
- b. Exemption(s) Claimed: D.C. Code § 2-534(a)(4), (e) (deliberative process, consultant corollary, and attorney-client privilege); D.C. Code § 2-534(a)(1) (trade secrets); D.C. Code § 2-534(a)(2) (personal privacy)
- c. Disposition of Case: The District produced an additional 378 documents (1601 pages) on January 13, 2017. The District has filed a motion for summary judgment which the Court granted. Plaintiff appealed. The appeal remains pending.
- d. Costs Assessed: None.
4. a. Case Name/Number: *Calvin Bright v. District of Columbia, et al.*, (MPD), Civ. No. 16-008825B.
- b. Exemptions claimed: D.C. Code § 2-534(a)(2), (a)(3)(C) (personal privacy)
- c. Disposition: The Court granted the District's motion for summary judgment on November 30, 2018.
- d. Costs assessed: None.
5. a. Case Name/Number: *Wallace Mitchell v. District of Columbia, et al.*, (DOC), Civ. No. 17-555B
- b. Exemptions claimed: None.

- c. Disposition: The Court granted the District's motion for summary judgment on January 16, 2018. Plaintiff has appealed.
- d. Costs assessed: None.
6. a. Case Name/Number: *Ronald Robinson v. MPD and Cathy Lanier, Chief*, (MPD), Civ. No. 17-789B
- b. Exemption(s) Claimed: D.C. Code § 2-534(a)(3) (investigatory records).
- c. Disposition: The Court denied the District's motion for summary judgment. The District then produced the requested investigation file, subject to redactions to protect the privacy of individuals involved in the investigation. Plaintiff has objected to those redactions. The District's response to Plaintiff's objections is due on February 1, 2019.
- d. Costs Assessed: None to date.
7. a. Case Name/Number: *Wallace Mitchell v. District of Columbia, et al.*, (DOC), Civ. No. 17-2290B
- b. Exemptions claimed: None.
- c. Disposition: The Court granted the District's motion for summary judgment on May 17, 2018.
- d. Costs assessed: None.
8. a. Case Name/Number: *Widmon Butler v. District of Columbia, et al.*, (MPD), Civ. No. 17-5806B
- b. Exemptions claimed: D.C. Code § 2-534(a)(2) (personal privacy).
- c. Disposition: The District's summary judgment motion is pending.
- d. Costs assessed: None to date.
9. a. Case Name/Number: *April Goggans v. MPD*, (MPD), Civ. No. 17-7926B.
- b. Exemptions claimed: D.C. Code § 2-534(a)(3) (investigatory records)
- c. Disposition: Both parties have motions for summary judgment pending.
- d. Costs assessed: None to date.

10. a. Case Name/Number: *Edge Investments, LLC v. District of Columbia, et al.*, (DCRA), Civ. No. 17-8606B
- b. Exemptions claimed: None.
- c. Disposition: Dispositive motions are due on March 27, 2019.
- d. Costs assessed: None to date.
11. a. Case Name/Number: *WP Company v. District of Columbia*, (MPD), Civ. No. 18-005576B
- b. Exemptions claimed: D.C. Code § 2-534(a)(2) (personal privacy)
- c. Disposition: Open. The Court denied the District's motion to dismiss.
- d. Costs assessed: None to date.
12. a. Case Name/Number: *Wilson v. District of Columbia*, (MPD), Civ. No. 17-8559B
- b. Exemptions claimed: Law enforcement privilege.
- c. Disposition: When the open investigation closed, the video footage was disclosed. The District's motion for summary judgment is pending. Plaintiff's cross-motion for fees is also pending.
- d. Costs assessed: None to date.
13. a. Case Name/Number: *Raoul Hughes v. MPD and Cathy Lanier, Chief*, (MPD), Civ. No. 17-0495B
- b. Exemption(s) Claimed: D.C. Code § 2-534(a)(3) (investigatory records)
- c. Disposition: Open. The Court denied without prejudice the District's motion for summary judgment. The Court granted the District leave to file a renewed motion for summary judgment addressing several specific areas of inquiry regarding whether the District had performed an adequate search. The Court found the District's search for responsive documents had not been sufficiently documented to be adequate. The District will file a renewed motion for summary judgment on February 8, 2019.
- d. Costs Assessed: None to date.
14. a. Case Name/ Number: *Mike Eckel v. Office of the Chief Medical Examiner*, (OCME), Civ. No. 17-7172B

- b. Exemption(s) Claimed: D.C. Code § 2-534(a)(2) (personal privacy); D.C. Code § 2-534(a)(3) (investigatory records); D.C. Code § 2-534(a)(4) (deliberative process)
- c. Disposition: Open. Both parties have motions for summary judgment pending.
- d. Cost Assessed: None to date.
15. a. Case Name/ Number: *National Center for Health Research, et al. v. District of Columbia*, (DCPS, DGS, DPR), Civ. No. 18-5425B
- b. Exemption(s) Claimed: D.C. Code § 2-534(a)(1) (trade secrets); D.C. Code § 2-534(a)(2) (personal privacy); D.C. Code § 2-534(a)(4) (deliberative process)
- c. Disposition: Open. The District's deadline to file its motion for summary judgment is in April 15, 2019.
- d. Cost Assessed: None to date.
16. a. Case Name/ Number: *William Mark Scott v. District of Columbia*, (OCFO), Civ. No. 18-2275 B
- b. Exemption(s) Claimed: D.C. Code § 2-534(a)(3) (investigatory records); D.C. Code § 2-534(a)(4) (deliberative process)
- c. Disposition: Open. On October 16, 2018, the Court denied the District's motion for summary judgment. The Court has not yet ordered the District to produce documents.
- d. Cost Assessed: None to date.

PUBLIC INTEREST DIVISION FY 2018 FOIA REPORT

1. a. Case Name/Number: *DuBose v. District of Columbia*, (DOH), 2018 CA 00378B
- b. Exemptions claimed: None.
- c. Disposition: Open. OAG moved for summary judgment in December 2018.
- d. Costs assessed: None to date.

2. a. Case Name/Number: *Partnership for Civil Justice Fund v. District of Columbia*, 2016 CA 05752B, (MPD), (Trump Hotel FOIA)
- b. Exemptions claimed: D.C. Code § 2-534(a)(2) (personal privacy)
- c. Disposition: Closed.
- d. Costs assessed: Settled attorney's fees and costs for \$38,250.00.
3. a. Case Name/Number: *Partnership for Civil Justice Fund v. District of Columbia*, 2017 CA 01931 B, (MPD), (Inauguration FOIA)
- b. Exemptions claimed: D.C. Code § 2-534(a)(2) (personal privacy), D.C. Code § 2-534(a)(3) (investigatory records), D.C. Code § 2-534(a)(4) (law enforcement privilege)
- c. Disposition: Open. OAG moved for summary judgment in September 2017.
- d. Costs assessed: None to date.
4. a. Case Name/Number: *Partnership for Civil Justice Fund v. District of Columbia*, 2018 CA 01083 B, (MPD), (Project Veritas FOIA)
- b. Exemptions claimed: D.C. Code § 2-534(a)(2) (personal privacy), D.C. Code § 2-534(a)(4) (law enforcement privilege)
- c. Disposition: Open. Parties have negotiated supplemental searches to avoid additional litigation and will engage in settlement of attorney's fees and costs.
- d. Costs assessed: None to date.
5. a. Case Name/Number: *Thorp v. District of Columbia*, (MPD), 2016 CA 02486 B
- b. Exemptions claimed: D.C. Code § 2-534(a)(4) (law enforcement privilege)
- c. Disposition: Open. OAG moved for summary judgment in September 2018.
- d. Costs assessed: None to date.