

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Office of the Attorney General**



February 15, 2012

The Honorable Kwame Brown  
Chairman, Council of the District of Columbia  
John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

The Honorable Muriel Bowser  
Chair, Committee on Government Operations and the Environment  
John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

Re: Lawsuits Filed During Fiscal Year 2011 Pursuant to the District of Columbia Freedom of Information Act

Dear Chairman Brown and Committee Chair Bowser:

Pursuant to the District of Columbia Freedom of Information Act ("DC FOIA"), D.C. Official Code § 2-531 et seq. (2001), as amended, enclosed herewith is a listing of the lawsuits which were filed pursuant to the DC FOIA, during fiscal year 2011 and defended by the Office of the Attorney General for the District of Columbia ("OAG"). I have also included the disposition of those cases which were filed during fiscal year 2010 or earlier but not resolved at the time OAG's fiscal year 2010 report was submitted to the Council of the District of Columbia. To the extent a DC FOIA lawsuit was filed against a public body for which the OAG does not provide legal representation, such a case would not be reflected in this report.

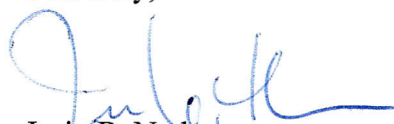
The report covers the period encompassing October 1, 2010 through September 30, 2011, and contains the data responsive to the annual reporting requirements mandated by D.C. Official Code § 2-538(c), including the following:

1. A listing of the number of cases 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).

The Honorable Kwame Brown  
February 15, 2012  
Page 2

If you have any questions or concerns regarding this report, please contact Victor Bonett, Legislative Affairs and FOIA Officer for the Office of the Attorney General for the District of Columbia, 441 4<sup>th</sup> Street, NW, Suite 1100S, Washington, D.C. 20001. Mr. Bonett can be reached by telephone at (202) 724-5562 or by electronic mail at [victor.bonett@dc.gov](mailto:victor.bonett@dc.gov).

Sincerely,



Irvin B. Nathan  
Attorney General  
for the District of Columbia

Enclosure

cc: The Honorable Phil Mendelson  
The Honorable David Catania  
The Honorable Michael A. Brown  
The Honorable Vincent Orange  
The Honorable Jim Graham  
The Honorable Jack Evans  
The Honorable Mary Cheh  
The Honorable Tommy Wells  
The Honorable Yvette Alexander  
The Honorable Marion Barry  
Christopher Murphy, Chief of Staff to the Mayor  
Brian Flowers, General Counsel to the Mayor  
Janene Jackson, Director, Mayor's Office of Policy & Legislative Affairs

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Office of the Attorney General**



**OFFICE OF THE ATTORNEY GENERAL'S FISCAL YEAR 2011**  
**FREEDOM OF INFORMATION ACT LITIGATION REPORT**  
**(October 1, 2010 through September 30, 2011)**

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. A listing of the number of cases 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).

**Disposition of DC FOIA Lawsuits Pending in FY 2010**

At the time OAG filed its FY 2010 FOIA Litigation Report, 26 DC FOIA cases appealing final agency action were pending in the District of Columbia Superior Court and District of Columbia Court of Appeals. The status of those cases is as follows.

1. a. Case Name/Number: Chapin v. District of Columbia (OAG)  
Civ. No. 09-6761, District of Columbia Superior Court
- b. Exemption(s) Claimed: None
- c. Disposition of Case: Dismissed without prejudice
- d. Costs Assessed: None
  
2. a. Case Name/Number: Washington v. District of Columbia (DCPS)  
Civ. No. 10-0741, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) – Personal Privacy  
D.C. Official Code §2-534(a)(4)(2001) – Common Law Privileges  
D.C. Official Code §2-534(a)(6)(2001) –Statutory Exemption
- c. Disposition of Case: Motion pending
- d. Costs Assessed: No fees assessed to date

3. a. Case Name/Number: Johnson v. District of Columbia (DHS)  
Civ. No. 08-6473, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) – Personal Privacy
- c. Disposition of Case: Motions pending
- d. Costs Assessed: No fees assessed to date
  
4. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 05-7011, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) – Personal Privacy
- c. Disposition of Case: Remanded from the D.C. Court of Appeals
- d. Costs Assessed: None to date
  
5. a. Case Name/Number: Loretta Dodson v. District of Columbia (DHCD)  
Civ. No. 10-732 B, District of Columbia Superior Court
- b. Exemption Claimed: D.C. Official Code §2-534(a)(4)(2001) – Common Law Privileges  
D.C. Official Code § 2-534(a)(2) Personal Privacy
- c. Disposition of Case: Judgment for District of Columbia
- d. Costs Assessed: None
  
6. a. Case Name/Number: Ariel King v. District of Columbia (CFSA)  
Civ. No. 10-565 B, District of Columbia Superior Court
- b. Exemption Claimed: D.C. Official Code §2-534(a)(6) (2001) Statutory Exemption
- c. Disposition of Case: Motions pending
- d. Costs Assessed: No fees assessed to date
  
7. a. Case Name/Number: Perry v. Dept. of Mental Health (DMH)  
Civ. No. 08-8922, District of Columbia Superior Court
- b. Exemption(s) Claimed: None
- c. Disposition of Case: Documents produced and case closed on 8/12/09
- d. Costs Assessed: No fees assessed
  
8. a. Case Name/Number: Frankel v. D.C. Office of the Deputy Mayor for Planning and Economic Development (EOM)  
Civ. No. 09-7594 B, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(4)(2001) – Common Law Privileges
- c. Disposition of Case: Remains pending
- d. Costs Assessed: No fees assessed to date
  
9. a. Case Name/Number: Frankel v. D.C. Office of the Deputy Mayor for Planning and Economic Development (EOM)  
Civ. No. 10-312 B, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(4)(2001) – Common Law Privileges
- c. Disposition of Case: Remains pending
- d. Costs Assessed: No fees assessed to date
  
10. a. Case Name/Number: Padou v. District of Columbia (MPD)  
Civ. No. 09-4234, District of Columbia Superior Court

- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) – Personal Privacy
  - c. Disposition of Case: Case dismissed on 1-27-2012
  - d. Costs Assessed: No fees assessed
11. a. Case Name/Number: Prison Legal News v. District of Columbia (DOC)  
Civ. No. 08-4598, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(c)(3)(2001) – Investigative Privilege
  - c. Disposition of Case: Case closed on 12-01-2011
  - d. Costs Assessed: Fees/costs pursuant to Section 2-537(c): \$75,290.00
12. a. Case Name/Number: Johnson v. District of Columbia (DHS)  
Civ. No. 08-6473, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) – Personal Privacy
  - c. Disposition of Case: Motions pending
  - d. Costs Assessed: No fees assessed to date
13. a. Case Name/Number: F.O.P. Labor v. District of Columbia (MPD)  
Civ. No. 10-6564 B, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) – Personal Privacy  
D.C. Official Code §2-534(a)(3)(a)(2001) – Ongoing Criminal Investigation
  - c. Disposition of Case: Settled
  - d. Costs Assessed: \$2,000
14. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 10-5152, District of Columbia Superior Court
- b. Exemptions Claimed: D.C. Official Code §2-534(a)(3)(A)(2001) - Investigatory Records
  - c. Disposition of Case: Motions pending
  - d. Costs Assessed: No fees assessed to date
15. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (OLRCB)  
Civ. No. 08-4866, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) - Personal Privacy  
D.C. Official Code §2-534(a)(4)(2001) - Common Law Privileges  
D.C. Official Code §2-534(a)(6)(2001) - Statutory Exemption
  - c. Disposition of Case: Judgment for the Plaintiff/Motion to enforce pending
  - d. Costs Assessed: Motion for attorney's fees pending
16. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (OPC)  
Civ. No. 08-4867, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) - Personal Privacy  
D.C. Official Code §2-534(a)(4)(2001) - Common Law Privileges  
D.C. Official Code §2-534(a)(6)(2001) - Statutory Exemption
  - c. Disposition of Case: Judgment for the Plaintiff/Motion to enforce pending
  - d. Costs Assessed: Motion for attorney's fees pending
17. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (OCFO)  
Civ. No. 10-3447, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) - Personal Privacy
  - c. Disposition of Case: Judgment for the Plaintiff

- d. Costs Assessed: Settled for \$7,527.85
18. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 09-6775, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001)-Personal Privacy  
D.C. Official Code §2-534(a)(4)(2001)-Common Law Privilege  
D.C. Official Code §2-534(a)(6)(2001)-Statutory Exemption
- c. Disposition of Case: Judgment for the Plaintiff. Motion to enforce pending
- d. Costs Assessed: Motion for attorney's fees pending
19. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 09-6776, District of Columbia Superior Court
- b. Exemption(s) Claimed: None
- c. Disposition of Case: Judgment for the District
- d. Costs Assessed: None
20. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 09-6777, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) - Personal Privacy  
D.C. Official Code §2-534(a)(3)(2001) - Law Enforcement  
D.C. Official Code §2-534(a)(4)(2001) - Common Law Privileges  
D.C. Official Code §2-534(a)(6)(2001) - Statutory Exemption
- c. Disposition of Case: Judgment for the Plaintiff/ Motion to enforce pending
- d. Costs Assessed: Motion for attorney's fees denied
21. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 09-6778, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) - Personal Privacy  
D.C. Official Code §2-534(a)(4)(2001) - Common Law Privileges
- c. Disposition of Case: Judgment for the Plaintiff
- d. Costs Assessed: Motion for attorney's fees pending
22. a. Case Name/Number: McMillan Park Committee v. District of Columbia (DMPED)  
Civ. No. 10-1820, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(1)(2001) - Commercial Information  
D.C. Official Code §2-534(a)(4)(2001) - Common Law Privileges
- c. Disposition of Case: Plaintiff's Motion for Summary Judgment is pending.
- d. Costs Assessed: No motion filed at this time
23. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civil No. 08-5557, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code § 2-534(a)(2)(2001) - Personal Privacy  
D.C. Official Code § 2-534(e)(4)(2001) - Common Law Privileges
- c. Disposition of Case: Motions Pending
- d. Costs Assessed: No fees assessed to date
24. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civil No. 08-8104, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code § 2-534(a)(2)(2001) - Personal Privacy
- c. Disposition of Case: Judgment in favor of Plaintiff; on appeal to D.C. Court of Appeals
- d. Costs Assessed: No fees assessed to date

25. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civil No. 09-0618, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code § 2-534(a)(2)(2001) - Personal Privacy
- c. Disposition of Case: Reversed and remanded from appeal
- d. Costs Assessed: No fees assessed to date
  
26. a. Case Name/Number: Partnership for Civil Justice Fund v. District of Columbia (MPD)  
Civil No. 09-748, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code § 2-534(a)(4)(2001) - Interagency Memoranda  
D.C. Official Code § 2-534(e)(4)(2001) - Common Law Privileges
- c. Disposition of Case: Motions Pending
- d. Costs Assessed: No fees assessed to date

### **DC FOIA Lawsuits filed in Fiscal Year 2011**

During Fiscal Year 2011, 26 lawsuits under the DC FOIA were filed against District of Columbia public bodies:

1. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 10-8160, District of Columbia Superior Court
- b. Exemption(s) Claimed: None
- c. Disposition of Case: Motions pending
- d. Costs Assessed: None
  
2. a. Case Name/Number: Padou v. District of Columbia (Council)  
Civ. No. 11-5174, District of Columbia Superior Court
- b. Exemption(s) Claimed: None
- c. Disposition of Case: Dismissed
- d. Costs Assessed: None, although D.C. paid \$140.00 to plaintiff for filing fee
  
3. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 11-6033, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) – Personal Privacy
- c. Disposition of Case: Motions pending
- d. Costs Assessed: None
  
4. a. Case Name/Number: Gunn v. v. District of Columbia (DOC)  
Civ. No. 11-2224, District of Columbia Superior Court
- b. Exemption(s) Claimed: None
- c. Disposition of Case: Dismissed; motion for reconsideration pending
- d. Costs Assessed: None
  
5. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 11-6031, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) – Personal Privacy  
D.C. Official Code §2-534(a)(4)(2001) – Common Law Privileges  
D.C. Official Code §2-534(a)(3)(A)(2001) – Ongoing Criminal Investigation
- c. Disposition of Case: Motions pending

- d. Costs Assessed: No fees assessed to date
6. a. Case Name/Number: Padou v. District of Columbia (DCRA)  
Civ. No. 11-4254, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) – Personal Privacy  
D.C. Official Code §2-534(a)(4)(2001) – Common Law Privileges
- c. Disposition of Case: Remains pending
- d. Costs Assessed: No fees assessed to date
7. a. Case Name/Number: Westfahl v. District of Columbia (MPD)  
Civ. No. 11-5084, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) – Personal Privacy  
D.C. Official Code §2-534(a)(3)(A)(2001) – Ongoing Criminal Investigation
- c. Disposition of Case: Settled
- d. Costs Assessed: \$2,000
8. a. Case Name/Number: David Frankel v. OPEFM (OPEFM)  
Civ. No. 11-2314, District of Columbia Superior Court
- b. Exemption claimed: None Listed
- c. Disposition of Case: Judgment for Plaintiff
- d. Costs Assessed: \$12,603.97
9. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 10-8159, District of Columbia Superior Court
- b. Exemption Claimed: None Listed
- c. Disposition of Case: Settled for \$900
- d. Costs Assessed: None
10. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No: 10-6565 B, District of Columbia Superior Court
- b. Exemption Claimed: None Listed
- c. Disposition of Case: Settled for \$6,000.00
- d. Costs Assessed: None
11. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 10-6566, District of Columbia Superior Court
- b. Exemption Claimed: D.C. Official Code § 2-534(e)(4)(2001) - Deliberative process privilege
- c. Disposition of Case: Motions pending
- d. Costs Assessed: No fees assessed to date
12. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (OCTO)  
Civ. No. 10-8167 B, District of Columbia Superior Court
- b. Exemption(s) Claimed: None listed
- c. Disposition of Case: Judgment for Plaintiff
- d. Costs Assessed: \$6,000.00
13. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 11-7550 B, District of Columbia Superior Court
- b. Exemption Claimed: D.C. Official Code §2-534(a)(2)(2001) - Personal Privacy



- D.C. Official Code §2-534(a)(3)(A)(2001) - Investigation  
D.C. Official Code §2-534(a)(3)(C)(2001) - Investigation  
2-534(a)(4)(2001) – Common Law privileges
- c. Disposition of Case: Dismissed, but Motion to Reinstate pending  
d. Costs Assessed: No fees assessed to date
14. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 11-9644, District of Columbia Superior Court  
b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(3)(a)(2001) - Ongoing Criminal Investigation  
c. Disposition of Case: Remains pending  
d. Costs Assessed: No fees assessed to date
15. a. Case Name/Number: FOP v. District of Columbia (MPD)  
Civ. No. 11-6029 B, District of Columbia Superior Court  
b. Exemption(s) Claimed: D.C. Official Code §2-534(c)(3)(2001) – Investigative Privilege  
c. Disposition of Case: Motions pending  
d. Costs Assessed: No fees assessed to date
16. a. Case Name/Number: Prepetit v. District of Columbia (DOC)  
Civ. No. 10-7882 B, District of Columbia Superior Court  
b. Exemption(s) Claimed: None  
c. Disposition of Case: Judgment for the District  
d. Costs Assessed: No fees assessed to date
17. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 11-6031, District of Columbia Superior Court  
b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) – Personal Privacy  
D.C. Official Code §2-534(a)(4)(2001) – Common Law Privileges  
D.C. Official Code §2-534(a)(3)(A)(2001) – Ongoing Criminal Investigation  
c. Disposition of Case: Motions pending  
d. Costs Assessed: No fees assessed to date
18. a. Case Name/Number: Padou v. District of Columbia (DCRA)  
Civ. No. 11-4254, District of Columbia Superior Court  
b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(4)(2001) – Common Law Privileges  
c. Disposition of Case: Remains pending  
d. Costs Assessed: No fees assessed to date
19. a. Case Name/Number: Westfahl v. District of Columbia (MPD)  
Civ. No. 11-5084, District of Columbia Superior Court  
b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) – Personal Privacy  
D.C. Official Code §2-534(a)(3)(a)(2001) – Ongoing Criminal Investigation  
c. Disposition of Case: Remains pending  
d. Costs Assessed: No fees assessed to date
20. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 11-7549  
b. Exemptions Claimed: D.C. Official Code § 2-534(a)(2)(2001) – Personal Privacy

- c. Disposition of Case: Open
  - d. Costs Assessed: No fees assessed to date
21. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 10-8401, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) – Personal Privacy  
D.C. Official Code §2-534(a)(4)(2001) – Common Law Privileges
  - c. Disposition of Case: Motions pending
  - d. Costs Assessed: No fees assessed to date
22. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (MPD)  
Civ. No. 11-6983 B, District of Columbia Superior Court
- b. Exemptions Claimed: None
  - c. Disposition: Motions Pending
  - d. Costs Assessed: No fees assessed to date
23. a. Case Name/Number: Bill of Rights Defense Comm. v. District of Columbia (HSEMA)  
Civ. No. 10-8227, District of Columbia Superior Court
- b. Exemption(s) Claimed: None
  - c. Disposition of Case: Voluntary dismissal by Plaintiff
  - d. Costs Assessed: None
24. a. Case Name/Number: Fraternal Order of Police v. District of Columbia  
Civ. No. 11-6983 B, District of Columbia Superior Court
- b. Exemptions Claimed: None
  - c. Disposition of Case: Motions Pending
  - d. Costs Assessed: No fees assessed to date
25. a. Case Name/Number: Fraternal Order of Police v. District of Columbia  
Civ. No. 11-6032, District of Columbia Superior Court
- b. Exemptions Claimed: D.C. Code § 2-534(a)(2)(2001) – Personal Privacy  
D.C. Code § 2-534(a)(4)(2001) – Common Law Privileges
  - c. Disposition of Case: Motions Pending
  - d. Costs Assessed: No fees assessed to date
26. a. Case Name/Number: Fraternal Order of Police v. District of Columbia (EOM)  
Civ. No. 10-8161, District of Columbia Superior Court
- b. Exemption(s) Claimed: D.C. Official Code §2-534(a)(2)(2001) - Personal Privacy  
D.C. Official Code §2-534(a)(3)(2001) - Law Enforcement  
D.C. Official Code §2-534(a)(4)(2001) - Common Law Privileges  
D.C. Official Code §2-534(a)(6)(2001) - Statutory Exemption
  - c. Disposition of Case: Judgment for the Plaintiff
  - d. Costs Assessed: No motion filed at this time