

May 13, 2019

The Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Re: Strike the "Freedom of Information Clarification Amendment Act of 2019" from the Budget Support Act!

Dear Chairman Phil Mendelson,
Councilmember Charles Allen,
Councilmember Anita Bonds,
Councilmember Mary M. Cheh,
Councilmember Jack Evans,
Councilmember Vincent C. Gray,
Councilmember David Grosso,
Councilmember Kenyan McDuffie,
Councilmember Brianne K. Nadeau,
Councilmember Elissa Silverman,
Councilmember Brandon T. Todd,
Councilmember Robert White, Jr.,
and Councilmember Trayon White, Sr:

The undersigned organizations and concerned community members write to urge you to remove the "Freedom of Information Clarification Amendment Act of 2019" from the Budget Support Act that the Council will vote on tomorrow.

We are alarmed by the proposal to significantly alter the FOIA law through such a non-transparent process. Changes of this magnitude merit a full public hearing and markup, by including them in a standalone bill subject to the Council's regular legislative process.

D.C. FOIA and open government laws are critical components of protecting democratic institutions and ensuring government transparency and accountability. In the last few years alone, FOIA requests have helped uncover several instances of significant government misconduct and performance problems, including:

- That D.C. Public Schools were [under-reporting out-of-school suspensions](#) to make it appear that suspensions were declining;
- Revealing Councilmember Jack Evans' use of his Council email address to [solicit private business](#);

- Finding high levels of [lead in the drinking water in public schools](#); and
- That D.C. Police [deployed a Long Range Acoustical Device](#), which can cause permanent hearing loss, to direct crowd flows at the 2017 Women's March

Since learning of the proposed changes to the D.C. FOIA last week, journalists, civil rights organizations, and open government groups have all raised significant concerns about the many ways that these amendments would obstruct the public's access to information about how our government operates.

Still, many other of your constituents have not had a chance to weigh in.

Additionally, it was apparent from the Council's discussion of these amendments at its budget working session on May 8, 2019 that Councilmembers themselves are unclear about both the scope of the amendments and their potential consequences, whether intended or unintended.

Including such sweeping changes as part of the Budget Support Act when they are not germane to the budget, and without proper vetting by both Councilmembers and the public, constitutes an abuse of legislative power and would severely diminish trust in the Council's commitment to open government.

As such, we respectfully request that these changes be removed from the BSA.

Sincerely,

1. ACLU of the District of Columbia
2. Advocates for Justice and Education
3. American Society of News Editors
4. Associated Press Media Editors
5. Association of Research Libraries
6. Black Lives Matter DC
7. Campaign for Accountability
8. Children's Law Center
9. DC Environmental Network
10. DC Fiscal Policy Institute
11. DC for Democracy
12. D.C. Hunger Solutions
13. DC Jobs With Justice
14. DC KinCare Alliance
15. DC Statehood Green Party
16. Defending Rights & Dissent
17. Eduardo Ferrer, Policy Director, Georgetown Juvenile Justice Initiative
18. Empower DC
19. Fair Budget Coalition
20. Human Rights Defense Center

21. James P. Ogilvy, Director of Innocence Project Clinic & Clemency Project, Columbus School of Law (for identification purposes only)
22. Jessica Steinberg, Associate Professor of Law, Director of Prisoner & Reentry Network, GWU Law School
23. Jews United for Justice
24. Justice for Muslims Collective
25. Law 4 Black Lives DC
26. Legal Aid Society of the District of Columbia
27. Legal Counsel for the Elderly
28. Matt Fraidin, Associate Dean of Experiential Education,* Professor of Law, UDC David A. Clarke Law School (for identification purposes only; does not indicate endorsement by University)
29. Open the Government
30. Positive Force DC
31. Public Citizen
32. School Justice Project
33. Sierra Club DC Chapter
34. Stop Police Terror Project DC
35. Southeast Ministry DC
36. SURJ DC
37. Tzedek DC
38. Washington Lawyers' Committee for Civil Rights and Urban Affairs
39. Washington Legal Clinic for the Homeless
40. We Are Family Senior Outreach Network
41. Whitman-Walker Health