



AMERICAN CIVIL LIBERTIES UNION OF THE NATION'S CAPITAL

2010 JUN 11 PM 3:34
MEMBER CHEH

1400 - 20TH STREET NW, SUITE 119, WASHINGTON, DC 20036-5920 / (202) 457-0800

5,000 ACLU-NCA Members Locally; 500,000 ACLU Members Nationwide

PRESIDENT John Wimberly **LEGISLATIVE COUNSEL** Stephen M. Block **LEGAL DIRECTOR** Arthur B. Spitzer **EXECUTIVE DIRECTOR** Johnny Barnes

June 11, 2010
By Facsimile

EXECUTIVE COMMITTEE

Nancy Abramowitz
Katherine S. Bruderrick
Deborah Carlner
Charles Cerf
Donn Cohen
Julie Ferguson Queen
Kathleen Patterson

BOARD OF DIRECTORS

Laila Al-Qatarni
H. Stewart Dunn, Jr.
Ed Esty II
Deborah Fleischaker
Bert Focr
Sharon Bradford Franklin
Bruce Gilchrist
Neal Goldfarb
Marc Granowitter
Richard H. Levi
Michael Mage
Nancy Jane Shestack
Philippa Strum
Helene Toiv
Matthew S. Watson
Patrice Webb
Amanda Zubiate

PRESIDENT'S COMMITTEE CHAIR

Thomas J. Schneider

DEVELOPMENT, OUTREACH & PUBLIC EDUCATION DIRECTOR

Beverly Miller

STAFF ATTORNEYS

Stephen M. Block
Fritz Mulhauser
Donn Cohen

STAFF ATTORNEYS (LAW FELLOWS)

Kaitlin Dunne
Cari Takei

PARALEGAL/ INVESTIGATOR

James Puzo

FINANCE DIRECTOR

Elaine A. Lederman

ADMINISTRATIVE DIRECTOR

Donald M. Haines

The Honorable
Mary M. Cheh, Chairperson
Committee on Government Operations and
the Environment
Council of the District of Columbia
Washington, DC 20004

Re: Bill 18-777, Supplementary Filing

Dear Chairperson Cheh:

The ACLU of the Nation's Capital wishes to address several issues not included in our testimony at the June 7th hearing.

Increasing the Sanction for Willful Violation of FOIA

Section 205(d) would increase the sanction from a \$100 fine to a maximum of six months in jail and a fine not to exceed \$10,000.

The ACLU opposes increasing the sanction. We consider the proposed punishment to be excessive, and likely to discourage persons from seeking employment with the D.C. government.

Adding a Provision for Expedition of Responses

The ACLU believes that the bill should include a provision for expedition of an agency's response to a FOIA request as provided in the Federal FOIA. There will be occasions when such a facility is needed.

Broadening the Reasonable Fees Provision

Section 202(f)(2)(B) concerning fees to be charged for production of records, provides:

Fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or non-commercial scientific institution for scholarly or scientific research, or by a representative of the news media.

The ACLU believes this provision should be broadened to include 501(c)(3) organizations (such as the ACLU) and organizations such as neighborhood associations and ANCs. Since they are not engaged in for-profit activity, there is no reason to exclude them from this provision.

Clarifying Reporting Requirement

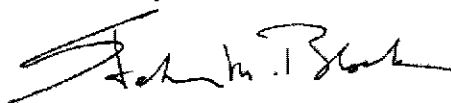
Section 104(f) requires the to-be-established *Open Government Office* to:

Report, before the 1st of February, on its activities, including recommendations for changes in the law and a review of the fees charged by agencies for searching and copying costs, to the Mayor and the Council.

We assume this is an annual and not a one-time requirement. The bill should make this clear.

Please include this letter in the official record for the bill, and thank you for considering our views in this matter.

Sincerely,



Stephen M. Block
Legislative Counsel