

Detroit Board of Police Commissioners
bopc@detroitmi.gov
1301 Third Street
Suite 767-South
Detroit, MI 48226

May 20, 2024

Re: Freedom of Information Act Request A24-02888, Fee Waiver Appeal

Dear Board of Police Commissioners:

On March 20, 2024, on behalf of the Coalition for Police Transparency and Accountability (CPTA), a public interest grassroots coalition of 16 community-based organizations, I sent a FOIA request for the following public records:

“-The final investigator report and Commissioner signature page for all Citizen Complaints closed between January 1, 2024 – February 29, 2024, with appropriate redacting of victim and witness identifying information.”

On May 3, 2024, well after the statutory deadline of April 15, 2024 -- after a self-initiated discretionary 10-day extension -- I received a letter from Monique Smith from the City of Detroit Law Department Freedom of Information Act Section, indicating that, while not denying our request, we will be charged \$868.39 in labor costs for retrieving the public records.

On behalf of the CPTA and its members, I now submit this written appeal to the BOPC, pursuant to §§ 10 and 10a of the Act, MCLA §15.240(1)(a) and 15.240a(1)(a), seeking a waiver of the \$868.39 fee for the review and retrieval of the requested records. As you know, the Michigan Freedom of Information Act Section 15.234(1) provides that, “A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the public body determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public.” CPTA is a grassroots organization which promotes transparency and accountability of our police; thus providing a benefit to the public. As such, waiving the fees for this FOIA request is appropriate.

Per the attached letter from the City of Detroit Law Department, it is my understanding that you have indicated that it will take BOPC personnel more than 33 hours to retrieve two months’ worth of closed Citizen Complaint files, which, after the “discount” for your late response, adds up to \$868.39 in staffing costs to fulfill this request. However, unless BOPC plans to hire additional staff or authorize overtime to have this request fulfilled, no additional staffing cost will be incurred. The BOPC currently has surplus in its 2023-2024 budget as demonstrated on the public BOPC meetings.

- [October 5, 2023 Meeting](#) – July 2023 \$83,355 underspent
- [October 5, 2023 Meeting](#) – August 2023 \$91,815 underspent
- [November 2, 2023 Meeting](#) – September 2023 \$103,221 underspent
- [January 11, 2024 Meeting](#) – November 2023¹ \$85,808 underspent
- [February 15, 2024 Meeting](#) – December 2023 \$118,261 underspent
- [March 7, 2024 Meeting](#) – January 2024 \$56,893 underspent
- [April 4, 2024 Meeting – February 2024 \\$65,295 underspent](#)
- [May 16, 2024 Meeting – March 2024 \\$107,143 underspent](#)

The residents of Detroit, including those who are part of the CPTA, have already paid taxes to fund BOPC and OCI to serve this community. It is eminently reasonable to provide the records requested at no additional cost.

I look forward to your response and I thank you for your prompt attention to this matter.

Very truly yours,

GOODMAN HURWITZ & JAMES, P.C.



Julie H. Hurwitz

JHH:kb
Enclosures
cc:



ACLU of Michigan
 Black Legacy Coalition
 Detroit/Michigan Chapter National Lawyers Guild
 Detroit Council of Elders
 Detroit Justice Center
 Detroit Will Breathe
 East Michigan Environmental Action Council
 Hush House Black Community Museum
 James and Grace Lee Boggs Center to Nurture Community Leadership
 Michigan Coalition for Human Rights
 Michigan Liberation
 Moratorium Now Coalition
 National Conference of Black Lawyers
 Riverwise Magazine
 Wayne County Criminal Defense Bar Association
 We The People of Detroit

¹ The BOPC monthly budget report for October 2023 actuals could not be found on the website.

Julie H. Hurwitz
Goodman Hurwitz & James, P.C.
1394 E. Jefferson Ave.
Detroit, MI 48207
313-567-6170
313-251-6068 (fax)
jhurwitz@goodmanhurwitz.com

Detroit Board of Police
Commissioners
bopc@detroitmi.gov
1301 Third Street
Suite 767-South
Detroit, MI 48226

Office of the Chief
Investigator
oci@detroitmi.gov
900 Merrill Plaisance
Detroit, Michigan 48203

Detroit Law Department
foia@detroitmi.gov
2 Woodward Avenue
Suite 500
Detroit, MI 48226

March 20, 2024

Re: FOIA Request for records of Citizen Complaints closed in January and February 2024

Dear FOIA Coordinator:

This letter is to request the following documents and other items from your agency pursuant to the Michigan Freedom of Information Act, MCLA Section 15.23, et seq., in conjunction with MCLA Section 750.492:

- The final investigator report and Commissioner signature page for **all** Citizen Complaints **closed** between January 1, 2024 – February 29, 2024, with appropriate redacting of victim and witness identifying information.

If for any reason you are unable or unwilling to produce such documents at this time, consider this letter as a final request that such documents be preserved, and not destroyed, for subsequent production pursuant to subpoena, court order or other legal process.

If all or any part of this request is denied, please list the specific exemptions that are being claimed to withhold information. If you determine that some portions of the requested information are exempt, I will expect, as the Act requires, that you will provide us with the non-exempt portions. I reserve the right to appeal any decision to withhold information and expect that you will list the address and office where such an appeal can be sent.

As you may know, the Michigan Freedom of Information Act permits you to reduce or waive all search and/or copying fees when release of the requested information would be "in the public interest" MCLA Section 15.234(1). I believe that this request fits that category and I, therefore,

ask that you waive such fees. If this request is processed under the Privacy Act, however, I expect that no fees will be charged for locating the requested files.

If you have any questions regarding this request, please do not hesitate to contact my office. As provided in the Freedom of Information Act, I expect to receive a reply within five (5) working days.

Thank you for your prompt attention to this matter.

Respectfully,

Julie H. Hurwitz
Goodman Hurwitz & James, P.C.
1394 E. Jefferson Ave.
Detroit, MI 48207
313-567-6170
313-251-6068 (fax)
[*jhurwitz@goodmanhurwitz.com*](mailto:jhurwitz@goodmanhurwitz.com)

On behalf of the Coalition for Police Transparency and Accountability:



ACLU of Michigan
Black Legacy Coalition
Detroit/Michigan Chapter National Lawyers Guild
Detroit Council of Elders
Detroit Justice Center
Detroit Will Breathe
East Michigan Environmental Action Council
Hush House Black Community Museum
James and Grace Lee Boggs Center to Nurture Community Leadership
Michigan Coalition for Human Rights
Michigan Liberation
Moratorium Now Coalition
National Conference of Black Lawyers
Riverwise Magazine
Wayne County Criminal Defense Bar Association
We The People of Detroit

cc: Attorney Katherine Chamblee-Ryan, U.S. Department of Justice



LAW DEPARTMENT

Coleman A. Young Municipal Center
2 Woodward Avenue, Suite 500
Detroit, Michigan 48226-3437

Phone 313-224-4550
Fax 313-224-5505
www.detroitmi.gov

May 3, 2024

Julie H. Hurwitz
Goodman Hurwitz & James, P.C.
1394 E. Jefferson Ave.
Detroit, MI 48207

via email - JHurwitz@goodmanhurwitz.com

**RE: Freedom of Information Act Request A24-02888, Dated March 20, 2024, Concerning
City of Detroit Records Pertaining to Citizen Complaints**

Dear Ms. Hurwitz:

This letter serves as the City of Detroit's response to the above-referenced matter. Your request was received by the City of Detroit Freedom of Information Act Section, via email, on May 3, 2024. Thank you for your patience.

Your letter requests:

“-The final investigator report and Commissioner signature page for all Citizen Complaints closed between January 1, 2024 – February 29, 2024, with appropriate redacting of victim and witness identifying information.”

Please be advised that City of Detroit Board of Police Commissioner (BOPC) personnel indicates that there are approximately 100 files which contain information pertaining to your request. A review and search of each file would have to be conducted to retrieve the records which pertain to your request. BOPC personnel estimates that it will take approximately thirty-three (33) hours to complete said search and scan the responsive records. The hourly rate of the lowest paid BOPC personnel who is capable of such tasks is \$24.52 per hour. Therefore, the BOPC will incur an adjusted estimated labor cost in the amount of Eight Hundred and Sixty-Eight 39/100 Dollars (\$868.39) [33 hours x \$39.23/hr plus fringe benefits reduced by 50% due to delay in response] in order to comply with your request. *Please see attached FOIA Fee Estimate form.*

Accordingly, pursuant to MCL 15.234(8), we require that you provide a **deposit** in the form of a money order or check made payable to the "City of Detroit" in the amount of **Four Hundred and Thirty-Four 19/100 Dollars (\$434.19)** [\$868.39 divided by 2]. Please let me know by **June 21, 2024** as to how you wish to proceed in this matter. Additionally, **include the FOIA request number listed above on the memo line of your check/money order or on a separate note** and forward it to my attention. It is important to note that we do not accept cash. **Additionally, please do not write on the check outside of the memo line as our bank will not process checks with writing outside of the memo line. Failure to comply with these policies will result in your check being returned to you.**

Upon receipt of the payment, the Board of Police Commissioner personnel will search and retrieve the records which you request. Thereafter, the Law Department will commence the review and the separation of the exempt information from the non-exempt information and provide you with a supplemental response letter which outlines what information has been exempted and the actual labor costs associated with your request¹. Due to the large scope of the request, we estimate completing the search

¹ The Law Department labor cost cannot be determined until the records are received from the BOPC. Therefore, it is not included in the estimate.

and retrieval portion will take approximately one (1) month. ***Please note, if we are not in receipt of deposit payment by the above-referenced date, we shall consider your request abandoned and close our file of this request, pursuant to MCL 15.234(14).***

Please note that pursuant to Section 10 and 10a of the Act, MCL 15.240 and 15.240a, a person receiving a written denial of a request or receiving a letter to submit the labor costs may do one of the following:

- 1) Submit a written appeal to the head of the public body denying the request. Such appeal, if submitted, should specifically state the word “appeal” and identify the reason or reasons for reversal of the disclosure denial. MCL 15.240(1)(a) and MCL 15.240a(1)(a); or
- 2) Commence an action in the circuit court to compel the disclosure of the public records within 180 days after the public body’s denial of the request, MCL 15.240(1)(b), or 45 days after the public body’s request for labor costs, MCL 15.240a(1)(b). If a court finds that the information withheld by a public body is not exempt from disclosure, or that the labor costs requested by the public body exceeds the amount permitted, the requesting party may receive the requested record and, at the discretion of the court, reasonable attorney fees and /or cost. MCL 15.240(6) and (7), and MCL 15.240a(6) and (7).

For your information, please note that a public summary of the City of Detroit Freedom of Information Act procedures and guidelines are at www.detroitmi.gov and specifically at <https://detroitmi.gov/document/foia-procedures-and-guidelines> and <https://detroitmi.gov/how-do-i/request-document/foia-freedom-information-act-request>.

Very truly yours,

Monique Smith
Monique Smith
Senior Assistant Corporation Counsel
Freedom of Information Act Section
(313) 237-3012

MS/
Enclosure

File Number: **A24-02888**

Line	warrants Reference	Component	Amount	Subtotal	Total
1	§ 4(2)	Fringe benefit multiplier rate, maximum 50%	34.173%		
2	§ 4(1)(a)	Labor for searching & examining to fulfill request			
3		hourly wage of lowest paid employee capable of work	\$24.52		
4	BOPC	fringe benefit multiplier @ 34.173%	134.2%		
5	Dept.	modified hourly wage = line 3* line 4	\$32.89		
6		number of hours, rounded down to .25 increment			
7		line 5 multiplied by line 6			
8		hourly wage of lowest paid employee capable of work			
9		fringe benefit multiplier @ 34.173%	134.2%		
10	Dept.	modified hourly wage = line 8* line 9			
11		number of hours, rounded down to .25 increment			
12		line 10 multiplied by line 11			
13		Estimated Total - Labor for searching & examining			\$0.00
14	§ 4(1)(b)	Labor for reviewing & identify video redactions			
15		hourly wage of lowest paid employee capable of work	\$39.23		
16		fringe benefit multiplier @ 34.173%	134.2%		
17		modified hourly wage = line 15* line 16	\$52.63		
18		number of hours, rounded down to .25 increment	33		
19		line 17 multiplied by line 18		\$1,736.79	
20		Estimated Total - Labor for reviewing and redacting			\$1,736.79
21	§ 4(1)(b)	Labor for redacting video record			
22		hourly wage of lowest paid employee capable of work			
23		fringe benefit multiplier @ 34.173%	134.2%		
24	Dept.	modified hourly wage = line 22* line 23			
25		Number of hours, rounded down to next increment			
26		line 24 multiplied by line 25			
27		hourly wage of lowest paid employee capable of work			
28		fringe benefit multiplier @ 34.173%	134.2%		
29	Dept.	Rev			
30		Number of hours, rounded down to next increment			
31		line 29 multiplied by line 30			
32		Estimated Total - Labor for redacting			\$0.00
33		Estimated TOTAL Labor costs - sum of lines 13, 20, and 32:			\$1,736.79
34	§ 4(9)	Reduction in labor costs for late written response			
35		number of business days late	10		
36		reduction at 5% / day = 0.05 x line 35	50%		
37		maximum reduction	50%		
38		lesser of line 36 or line 37	50%		
39		Reduced amount = line 38 x line 33			(\$868.40)
40		Estimated Amount Chargeable for Labor Costs, after applicable reduction:			\$868.39

CONTINUED ON NEXT PAGE

warrants		File Number:	A24-02888
40	Estimated Amount Chargeable for Labor Costs, after applicable reduction (copied from page 1):		\$868.39
41	§ 4(1)(d) Estimated cost of paper copies		
42	number of 8½ x 11 or 8½ x 14 sheets		
43	price for 8½ x 11 or 8½ x 14 sheets	\$0.10	
44	line 42 multiplied by line 43		
45	color or other size copies, size: ___ x ___		
46	actual price per page		
47	line 45 multiplied by line 46		
48	color or other size copies, size: ___ x ___		
49	actual price per page		
50	line 48 multiplied by line 49		
51	Total - estimated cost of paper copies		\$0.00
52	§ 4(1)(c) Estimated cost of electronic media		
53	Number of CD's @ \$1.00		
54	Number of Flash Drives		
55	Number of Tapes		
56	Other:		
57	Sum of lines 53 - 56		
58	Total - estimated cost of electronic media		\$0.00
59	Estimated Costs of paper copies and electronic media - sum of lines 51 and 58:		\$0.00
60	§ 4(1)(f) Estimated cost of mailing		\$0.00
61	§ 4(2) Reduction for indigency or qualifying non-profit		
62	Affidavit/information provided: Y/N?		\$0.00
63	Estimated Net Charge after any reductions, but not less than zero - sum of lines 40, 59, 60, and 62:		\$868.39
64	MAXIMUM AMOUNT FOR DEPOSIT - 50% of line 63, but only if line 63 exceeds \$50.00:		\$434.19
65	Sum of deposits, previous payments, other credits:		
66	CREDIT - for deposits and other previous payments:		\$0.00
67	DEPOSIT REQUIRED - Line 64 offset by line 66, but not less than zero:		\$434.19

Include the FOIA request file number listed above on your check/money order. Failure to include the FOIA request number will result in your check being returned.