

**IN THE SUPERIOR COURT  
FOR THE DISTRICT OF COLUMBIA**

**MARISA KABAS**  
c/o Reporters Committee for  
Freedom of the Press  
1156 15th St. NW, Suite 1020  
Washington, DC 20005

Plaintiff,

v.

**THE DISTRICT OF COLUMBIA**  
John Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

Serve:  
Mayor Muriel Bowser  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

and

Office of the Attorney General for the District  
of Columbia  
400 6th Street, N.W.  
Washington, D.C. 20001

Defendant.

Civil Action No. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiff Marisa Kabas, by and through the undersigned counsel, hereby alleges as follows:

1. This is an action under the District of Columbia Freedom of Information Act, D.C. Code § 2-531 *et seq.* (“FOIA”), to compel the production of body camera footage from the District of Columbia Metropolitan Police Department (“MPD”) from its response to an incident on March

17, 2025 at the United States Institute of Peace, 2301 Constitution Ave. NW, Washington, DC 20037.

2. Although Plaintiff submitted her request on March 19, 2025, MPD has not made the requested recording available or notified Kabas of a determination not to make the requested recording available or the reasons therefor, far exceeding its deadline to do so under FOIA. D.C. Code § 2-532(c)(2)(A).

3. MPD's constructive denial and continued withholding is contrary to MPD's statutory obligations under FOIA. Plaintiff accordingly seeks declarative, injunctive, and other appropriate relief.

### **PARTIES**

4. Plaintiff Marisa Kabas is a reporter who publishes her work through TheHandbasket.co. She resides in Brooklyn, New York.

5. The District of Columbia Metropolitan Police Department ("MPD") is a division within the District of Columbia ("the District"). Accordingly, the District is the proper Defendant in this FOIA action. *MPD v. Fraternal Ord. of Police/Metro. Police Dep't Lab. Comm.*, 997 A.2d 65, 75 (D.C. 2010) ("[T]o obtain relief against MPD, one must name the District."). Throughout this Complaint, "the MPD" refers to the District acting through the MPD.

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over this action pursuant to D.C. Code § 2-532(e) and D.C. Code § 2-537(a)(1). Section 2-532(e) provides that "[a]ny failure on the part of a public body to comply with a request . . . within the time provisions . . . of this section shall be deemed a denial of the request, and the person making such request shall be deemed to have exhausted his administrative remedies with respect to such request." Section 2-537(a)(1) provides that "if a person is deemed to have exhausted his or her administrative remedies pursuant to subsection (e)

of § 2- 532, the person seeking disclosure may institute proceedings for injunctive or declaratory relief in the Superior Court for the District of Columbia.”

7. Venue properly lies with this Court as the Defendant is the District, the actions forming the basis of the claim occurred principally within the District, and the agency records at issue are located in the District.

### **FACTS**

8. On March 19, 2025, Ms. Kabas submitted a FOIA request to the MPD via the District’s FOIA portal for body worn camera footage (the “Request”).

9. The Request noted that Ms. Kabas is “a journalist writing about the Department of Government Efficiency entering the US Institute of Peace’s building on Monday. MPD was called by the institute to intervene because of trespassing and arrived on the scene shortly after.” The Request specified that Ms. Kabas sought “MPD’s body cam footage of the incident.”

10. The Request further specified that the date of the occurrence was March 17, 2025 at 5:30 PM, the location was 2301 Constitution Ave. NW, Washington, DC 20037, and that involved parties included employees at the United States Institute of Peace, members of the Department of Government Efficiency, and MPD officers.

11. By email dated March 19, 2025, the MPD acknowledged receipt of the request, assigning it reference number B000777-031925 and indicated that “Pursuant to D.C. Official Code § 2-532, for Body Worn Camera (BWC) footage, there is a 25 business day response time with the possibility of a 15 working day extension from the receipt of the request to respond to the request.”

12. Also on March 19, 2025, Plaintiff received a second email from MPD indicating that Aaron Harden of the MPD’s FOIA Office had been assigned to her Request.

13. As of the filing of this Complaint, Plaintiff has received no further communication from the MPD or the District regarding the Request.

14. As of the filing of this Complaint, MPD has not attempted to invoke a 15 day working extension to respond to the Request.

15. As of the filing of this Complaint, Plaintiff has not received a determination from the MPD regarding the Request.

16. As of the filing of this Complaint, Plaintiff has not received any records from the MPD responsive to the Request.

17. As of the filing of this Complaint, the Request has been pending for approximately 56 working days.

### **CAUSES OF ACTION**

#### **COUNT I: VIOLATION OF FOIA FOR FAILURE TO COMPLY WITH STATUTORY DEADLINES**

18. Plaintiffs repeat, reallege, and incorporate the allegations set forth in the foregoing paragraphs as though fully set forth herein.

19. The MPD is subject to FOIA. D.C. Code § 2-532(a).

20. The requested body camera footage is within the MPD's constructive possession, custody, and/or control.

21. The requested body camera footage is a public record pursuant to FOIA. D.C. Code § 2-539(a)(10); *id.* § 2-502(18).

22. MPD failed to "either make the requested recording accessible or notify the person making such request of its determination not to make the requested recording or any part thereof accessible and the reasons therefor" within 25 days of receipt as required by D.C. Code § 2-532(c)(2)(A).

23. MPD did not invoke the 15 working day extension set forth in D.C. Code § 2-532(d)(1).

24. Even if MPD had invoked the 15 working day extension provided by D.C. Code § 2-532(d)(1), it failed to provide a determination within that time.

25. MPD's failure to make a determination with respect to the Request within FOIA's statutory deadline violates FOIA.

26. Plaintiff has and/or is deemed to have exhausted applicable administrative remedies with respect to the Request. D.C. Code § 2-532(e); *id.* § 2-537(a)(1).

27. Plaintiff is entitled to an order compelling the MPD to disclose the body camera footage sought by the Request.

**COUNT II: VIOLATION OF FOIA  
FOR UNLAWFUL WITHHOLDING OF AGENCY RECORDS**

28. Plaintiffs repeat, reallege, and incorporate the allegations set forth in the foregoing paragraphs as though fully set forth herein.

29. The MPD is subject to FOIA. D.C. Code § 2-532(a).

30. The requested body camera footage is within the MPD's constructive possession, custody, and/or control.

31. The requested body camera footage is a public record pursuant to FOIA. D.C. Code § 2-539(a)(10); *id.* § 2-502(18).

32. The body camera footage sought by the Request does not fall within any statutory exemption.

33. MPD has not released any records or portions thereof in response to the Request.

34. MPD has not cited any exemptions to withhold records or portions thereof that are responsive to the Request.

35. MPD's refusal to disclose the requested body camera footage violates FOIA.

36. Plaintiff has and/or is deemed to have exhausted applicable administrative remedies with respect to the Request. D.C. Code § 2-532(e); *id.* § 2-537(a)(1).

37. Plaintiff is entitled to an order compelling the MPD to disclose the body camera footage sought by the Request.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests this Court:

- (1) order MPD to conduct a search reasonably calculated to identify all records responsive to the Request;
- (2) enjoin MPD from withholding all records or portions thereof responsive to the Request that may not be withheld under FOIA;
- (3) issue a declaration that Plaintiff is entitled to disclosure of the requested records;
- (4) issue a declaration that MPD's failure to provide a timely determination in response to the Request violates its obligations under FOIA;
- (5) award Plaintiff reasonable attorney fees and costs reasonably incurred in this action pursuant to D.C. Code § 2-537(c); and
- (6) grant such other relief as the Court may deem just and proper.

Dated: June 10, 2025

Respectfully submitted,

/s/ Adam A. Marshall

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