

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

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To amend the Independent Personnel Systems Implementation Act of 1980 to clarify the meaning of municipal matter; to amend the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010 to authorize the Attorney General for the District of Columbia (“Attorney General”) to issue subpoenas for the production of documents concerning criminal offenses that the Attorney General has the authority to prosecute, to codify the information required in a subpoena, to prohibit the issuance of a subpoena where the documents sought are available by other means, to provide for the ability to quash or modify a subpoena, to require the Attorney General to maintain a log of all requests for subpoenas, and to require the Attorney General to submit a quarterly report to the Council of all subpoenas that have been requested and issued; and to amend section 23-521(d)(4) of the District of Columbia Official Code to clarify that a search warrant may be sought to obtain information necessary to identify a person who is the victim of a criminal offense.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Attorney General Subpoena Authority Authorization Amendment Act of 2010”.

Sec. 2. Section 3(a) of the Independent Personnel Systems Implementation Act of 1980, effective September 26, 1980 (D.C. Law 3-109; D.C. Official Code § 1-301.21), is amended as follows:

Amend
§ 1-301.21

(a) Designate the existing text as paragraph (1).

(b) A new paragraph (2) is added to read as follows:

“(2) For the purposes of this act, the term “municipal matter” means personnel matters concerning police officers and firefighters of the District of Columbia.”.

Sec. 3. The Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 27, 2009 (D.C. Law 18-160; D.C. Official Code § 1-301.81 *et seq.*), is amended by adding a new section 110 to read as follows:

“Sec. 110. Authority to issue subpoenas for the production of documents.

“(a) Except as provided in subsection (c) of this section, the Attorney General for the District of Columbia shall have the authority to issue subpoenas for the production of documents concerning criminal and delinquent offenses that the Attorney General has the authority to prosecute. The power to issue subpoenas under this section shall not be delegated other than to the Chief Deputy Attorney General, a Deputy Attorney General, or an Assistant Deputy Attorney General.

“(b) Subpoenas issued pursuant to subsection (a) of this section shall contain the following:

“(1) The name of the person from whom documents are requested;

“(2) The person at the Office of the Attorney General to whom the documents shall be provided, and the date and time by which they must be provided;

“(3) A detailed list of the specific documents requested;

“(4) A short, plain statement of the recipient’s rights and the procedure for enforcing and contesting the subpoena; and

“(5) The signature of the Attorney General, Chief Deputy Attorney General, Deputy Attorney General, or Assistant Deputy Attorney General approving the subpoena request and certifying that the documents sought are not available by other means as defined in subsection (c)(2) of this section.

“(c)(1) The Attorney General shall not have the authority to issue a subpoena if:

“(A) An indictment, information, or petition has been filed with the court formally charging the target of the investigation;

“(B) Three business days have elapsed since the underlying offense was committed; or

“(C) Other means are available to obtain the documents sought in the subpoena.

“(2) For the purposes of paragraph (1)(C) of this subsection, documents shall be deemed available by other means if:

“(A) The documents may be sought by means of a grand jury subpoena and are being sought during business hours on a business day;

“(B) The documents have been unsuccessfully sought by means of a grand jury subpoena;

“(C) The documents may be sought, or have been unsuccessfully sought, by means of a search warrant for information falling within the categories listed in D.C. Official Code § 23-521(d); or

“(D) Consent has not been sought for the release of the documents, unless a determination has been made that requesting such consent would threaten or impede the investigation.

“(d) Any person to whom a subpoena has been issued under this section may exercise the privileges enjoyed by all witnesses. A person to whom a subpoena has been issued may

move to quash or modify the subpoena in the Superior Court of the District of Columbia on grounds including:

“(1) The Attorney General failed to follow or satisfy the procedures set forth in this section for issuance of a subpoena;

“(2) The Attorney General lacked the authority to issue the subpoena under subsection (c) of this section; or

“(3) Any other grounds that exist under statute or common law for the quashing or modification of a subpoena.

“(e)(1) The Attorney General shall maintain a log of all requests for subpoenas made pursuant to this section that shall include the following:

“(A) The name of the person who initiated the subpoena request;

“(B) The name of the persons who reviewed and acted on the request;

“(C) A written statement justifying the subpoena request; and

“(D) A written statement explaining why the subpoena request was approved or denied.

“(2) The log produced pursuant to this subsection shall be exempt from disclosure pursuant to section 204 of the Freedom of Information Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-534), as investigatory records that are compiled for law-enforcement purposes, but shall be made available for inspection by the Council upon request.

“(f) The Attorney General shall submit to the Council a quarterly report listing the number of subpoenas requested and issued under this section. The report shall include the following:

“(1) The offenses being investigated;

“(2) Whether the subpoenas were complied with or challenged;

“(3) Whether formal charges were filed; and

“(4) The circumstances that precluded using a grand jury subpoena, search warrant, or other means as provided under subsection (c) of this section to obtain this information.”.

Sec. 4. Section 23-521(d)(4) of the District of Columbia Official Code is amended to read as follows:

**Amend
§ 23-521**

“(4) constitutes evidence of or tends to demonstrate the commission of an offense, the identity of a person participating in the commission of an offense, or the identity of a person who is the victim of a crime.”.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia