

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-037**

January 13, 2020

VIA ELECTRONIC MAIL

Mr. Michael Perloff

RE: FOIA Appeal 2020-037

Dear Mr. Perloff:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”), challenging the failure of the Metropolitan Police Department (“MPD”) to properly respond to your October 30, 2019 FOIA request. In your request, you sought arrest data for marijuana and drug related offenses in the District of Columbia for each calendar year from 2010 to 2018. On November 25, 2019, you appealed to this Office because MPD had not responded to your FOIA request. On December 20, 2019, MPD responded indicating that more time was needed to review the requested information ¹.

Based on the record before us, we conclude that MPD’s failure to timely respond to your request constitutes a constructive denial under DC FOIA. D.C. Official Code § 2-532(e). We accept MPD’s representations that it is attempting to process your request, but we are constrained by the statute’s inflexible response deadlines. We therefore remand this matter to MPD and direct it to promptly disclose to you any non-exempt, responsive data that is has already reviewed, within 5 business days of the date of this decision, and to continue producing responsive data to you on a rolling basis in a demonstrator of its good faith in responding to a public records requests which does not appear to be susceptible of immediate response. You may challenge MPD’s subsequent response by separate appeal to this Office.

This constitutes the final decision of this Office in connection with your FOIA appeal. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Official Code § 2-537.

Respectfully,

Mayor’s Office of Legal Counsel

cc: Teresa Quon Hyden, Assistant General Counsel
MPD (via email)

¹ A copy of MPD’s response to your appeal is attached to this decision.