

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2020-073**

February 4, 2020

VIA ELECTRONIC MAIL

Mr. Marques Banks

RE: FOIA Appeal 2020-073

Dear Mr. Banks:

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”). In your appeal, you assert that the Metropolitan Police Department (“MPD”) improperly withheld records you requested pursuant to DC FOIA.

Background

On September 13, 2019, you submitted a FOIA request to MPD for records relating to a hit and run accident in October 2019. On September 26, 2019, MPD denied your request stating that the records are considered investigatory records for law enforcement purposes and contain information the disclosure of which would constitute an unwarranted invasion of personal privacy. Therefore, MPD asserted that the requested records are exempt from disclosure pursuant to D.C. Official Code § 2-534(a)(2) (“Exemption 2”) and D.C. Official Code § 2-534 (3)A(i) and (a)(3)(C) (“Exemption 3”).

On January 14, 2020, this Office received your appeal challenging MPD’s denial of your request. On January 24, 2020, we received MPD’s response to your appeal.<sup>1</sup> In its response, MPD states that the incident is no longer under investigation. Moreover, MPD has reversed its position on the following: Items 1-5 and 8 as to MPD records, but not as to records in the possession of the Department of Forensic Sciences (“DFS”), 9 and 13-15. MPD also indicates that it possesses no records responsive to Item 7 (should have been numbered as Item 6) as MPD does not employ dash cameras, and records responsive to Items 8, 11 and 12 are in the possession of DFS. MPD indicates that records responsive to Item 10 are in the possession of the Office of the Chief Medical Examiner (“OCME”) and records responsive to Item 16 are in the possession of the Office of Unified Communications (“OUC”). MPD also indicates that there are almost 100 body worn camera (“BWC”) videos that will have to be sent to a vendor for audio and visual redactions. Finally, MPD asserts that there are multiple requests for emails involving different

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<sup>1</sup> A copy of MPD’s response to your appeal is attached.

District and federal agencies and there will be a need for consultation regarding the disclosure of some of the responsive records.

MPD has now further clarified that it is prepared to review its files for records responsive to Items 1 to 16 that are already in MPD's possession. MPD has indicated that it will begin producing the non-exempt responsive records in its possession on a rolling basis.

Based on the forgoing, we remand this matter to MPD, with the directive that it should expedite its review of Items 1 to 16 to determine which records are actually in MPD's possession and produce those records to you or provide you with the DC FOIA exemption that justifies withholding or redacting the records. You remain free to file a new appeal challenging MPD's production of records on a rolling basis in response to your FOIA request.

This constitutes the final decision of this Office with respect to your appeal. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Respectfully,

Mayor's Office of Legal Counsel

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