

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-106**

August 3, 2020

VIA ELECTRONIC MAIL

Ms. Jennifer Cole

RE: FOIA Appeal 2020-106

Dear Ms. Cole:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 (“DC FOIA”). In your appeal, you assert that the Executive Office of the Mayor (“EOM”) failed to properly respond to your FOIA request.

On January 10, 2020, you submitted a request under the DC FOIA to EOM. In your request, you asked for video footage captured by “high definition CCTV footage cameras on U St NW and 9th St NW” during a specified time. On January 30, 2020, EOM informed you that it conducted a search and did not find any records responsive to your request. The office also stated that, given the nature of your request, responsive documents might reside with the District Department of Transportation (“DDOT”) or the Homeland Security and Emergency Management Agency (“HSEMA”). It then closed your DC FOIA request. You filed an appeal on February 7, 2020. In that appeal, you asserted that you submitted a DC FOIA request to the EOM under the assumption that the request would be forwarded to another agency and that EOM erred in searching its own databases for responsive records.

On February 7, 2020, you submitted a duplicate DC FOIA request to the Metropolitan Police Department (“MPD”) for the CCTV footage. MPD sent a response letter on February 10, 2020, informing you that the agency disposed of the CCTV footage after its records retention period elapsed. MPD then closed your request on February 11, 2020. Based on the foregoing, we dismiss your appeal as moot. However, we note this Office’s agreement with the position of EOM that it is under no obligation to forward, to an external agency or outside office, a DC FOIA request for records that the agency does not itself maintain. *See Hardy v. DOD*, No. 99-523, 2001 U.S. Dist. LEXIS 26628 (D. Ariz. Aug. 27, 2001) (holding that an agency that did not maintain requested records was not obligated to forward a FOIA request to another agency).

This constitutes the final decision of this Office. 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. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Alana Burnett, FOIA Officer
EOM (via email)