

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-182**

August 13, 2021

VIA ELECTRONIC MAIL

Mr. Benjamin Douglas

RE: FOIA Appeal 2020-182

Dear Mr. Douglas:

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"), on the grounds that the Metropolitan Police Department ("MPD") improperly responded to your FOIA request.

On April 4, 2019, you initially submitted a request to MPD which asked for five categories of records related to MPD personnel's activities in Israel. On May 16, 2019, you filed an appeal challenging MPD's failure to respond to your request, which was docketed as FOIA Appeal 2019-150. On May 31, 2019, this Office remanded the matter to MPD with the instruction to complete its review of the 13,000 pages of public records which it had identified in its search and produce the reviewed records (not subject to withholding pursuant to an exemption recognized by DC FOIA) on a rolling basis rather than further delaying its response by waiting until it had completed reviewing the entirety of the identified records.

On July 2, 2019, you filed a second appeal, indicating that you had not yet received responsive records. We asked MPD to provide to this Office an explanation of its failure to produce the requested records on a rolling basis. MPD did not respond to this inquiry. On July 19, 2019, in FOIA Appeal 2019-173, we concluded that MPD's failure to timely respond to your request continued to constitute a constructive denial under DC FOIA. D.C. Official Code § 2-532(e). We remanded this matter a second time to MPD to complete its review promptly and disclose to you any non-exempt, responsive records on a rolling basis. Subsequently, MPD produced certain records to you as the first interim release of what would presumably be a rolling production of responsive records in accordance with the instruction on remand.

On September 30, 2019, you appealed a third time noting that MPD had not provided any additional documents following that initial production. MPD neither responded to your September 30, 2019 appeal nor produced any additional responsive records. On January 14, 2020, in FOIA Appeal 2019-240, we concluded that MPD's failure to respond to your request or this Office's inquiry constituted a failure to comply with its FOIA obligations.

Subsequently on April 23, 2020, MPD responded to you informing you that an additional search was conducted and that it located approximately 14,000 emails. With this response, MPD produced a second interim release containing 72 pages of emails, with privacy related redactions, responsive to the first part of your request. Additionally, MPD clarified that: 1) its first interim production provided to you on July 30, 2019 was responsive to the second and fifth part of your request; and 2) it was unable to locate any records responsive to the third and fourth part of your request.

On April 23, 2020, you filed a fourth appeal, noting that MPD's "response only provided 72 pages of documents...and [that] [t]he 15-day time period in D.C Code [§] 2-523(c)(1) has long passed, without excuse or extension."

On January 25, 2021, MPD filed a response to your appeal.¹ In its response, MPD indicated that the agency produced additional records, with privacy related redactions, on April 30, 2020, May 11, 2020, and August 17, 2020. Specifically, MPD provided you with 29 pages of records on May 11th and 15 pages of records on August 30th. The agency also reiterated that: 1) documents produced to you on April 23, 2020, April 30, 2020, May 11, 2020, and August 17, 2020 were responsive to the first part of your request; 2) documents produced to on July 20, 20219 were responsive to the second and fifth part of your request; and 3) it was unable to locate any records responsive to the third and fourth part of your request.

Since your appeal only challenged MPD's failure to respond to your FOIA request and MPD has now provided you with responsive documents, we dismiss your appeal as moot. However, you may file a new appeal if you are dissatisfied with the records produced by the agency.

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,

The 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.