

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-250**

September 12, 2022

VIA ELECTRONIC MAIL

Mr. Winter Owen Calvert

RE: FOIA Appeal 2020-250

Dear Mr. Calvert:

This letter is in response to the administrative appeal that you have submitted to the Mayor pursuant to the District of Columbia Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531, *et seq.* In your appeal, you challenged the response of the D.C. Homeland Security and Management Agency ("HSEMA") to your August 6, 2020 FOIA request, identified as 2020-FOIA-07032, which sought the following:

[A] copy of all records, including emails, faxes, letters, correspondence, criminal complaints, SAR's, investigations, etc., that contain my name - Winter Owen Calvert, Winter Calvert, or Owen Calvert.

On September 24, 2020, HSEMA responded to your request stating that it did not have any responsive records. In your appeal filed with this Office, you have asserted HSEMA is in error because you possess an email dated December 19, 2019, from "Shane Lamond, a Lieutenant in the Intelligence Branch" and "[h]e clearly has my name and some records."

FOIA only requires that, under the circumstances, a search is reasonably calculated to produce the relevant documents. The test is not whether any additional documents might conceivably exist, but whether the government's search for responsive documents was adequate. *Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Speculation, unsupported by any factual evidence, that records exist is not enough to support a finding that full disclosure has not been made. *Marks v. United States (Dep't of Justice)*, 578 F.2d 261 (9th Cir. 1978).

Further, FOIA is agency specific. *See* 1 DCMR § 402 ("A request for a record of an agency may be made orally or in writing and shall be directed to the particular agency."). An agency is required to disclose materials only if they were "retained by a public body." D.C. Code § 2-502(18).

Additional information may be available, by submitting a FOIA request to alternative D.C. agencies, and the requester is encouraged to pursue that process if desired.

Based on the foregoing, we conclude that HSEMA properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. You may challenge any subsequent response received by separate appeal to 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. Official Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Whitney Bowen, HSEMA FOIA Officer (via email only)