

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2021-074**

September 28, 2022

**VIA ELECTRONIC MAIL ONLY**

Mr. Jeffrey Light

RE: FOIA Appeal 2021-074

Dear Mr. Light:

This letter is in response to the administrative appeal that you have submitted on behalf of your client Jason Leopold 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 have challenged the response of the Metropolitan Police Department ("MPD") to the January 16, 2021 FOIA request of Mr. Leopold, identified as 2021-FOIA-02490, which sought the following:

[T]he body worn camera footage of Officer Dallan Haynes of CDU 53 on January 6, 2021. The time period I request is 3 pm to 8 pm. (Date Range for Record Search: From 01/06/2021 To 01/06/2021)

On January 21, 2021, MPD denied Mr. Leopold's because the release of the records would constitute a clearly unwarranted invasion and would therefore be exempt from disclosure under D.C. Code §2-534(a)(2) and (a)(3)(c). Additionally, MPD asserted the documents and body cameral footage are part of an ongoing investigation, the release of which could interfere the direction and pace of the investigation, and would therefore be exempt from disclosure pursuant to D.C. Code §2-534(a)(3)(A)(i).

In your appeal, you have questioned the privacy interest of public officials performing their duties and individuals in a public place at a publicized event. Further, you have asserted MPD has failed to explain how the use of redactions (or blurring) of video images would not resolve any issues for which the exemption contained in D.C. Code §2-534(a)(3)(A)(i) seeks to protect.

Pursuant to D.C. Code § 2-534(a)(3)(A)(i), records compiled for law enforcement purposes that pertain to investigations are exempt from disclosure to the extent the production of the records would interfere with an enforcement proceeding. *See Rural Housing Alliance v. United States Dep't of Agriculture*, 498 F.2d 73, 81 (D.C. Cir. 1974)(records compiled for law enforcement purposes that pertain to an investigation are exempt from disclosure if the focus of the investigation is on acts that could, if proven, result in civil or criminal sanctions). To satisfy D.C. Code § 2-534(a)(3)(A)(i), the records: 1) must have been

compiled for law enforcement purposes; and 2) disclosure of those records would “interfere with enforcement proceedings.” *Bevis v. Department of State*, 801 F.2d 1386, 1388 (D.C.Cir.1986).

Interference with enforcement proceedings is “the release of information in investigatory files prior to the completion of an actual, contemplated enforcement proceeding.” *National Labor Relations Bd. v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232, 98 S.Ct. 2311, 57 L.Ed.2d 159 (1978). “[S]o long as the investigation continues to gather evidence for a possible future criminal case, and that case would be jeopardized by the premature release of the evidence, [the investigatory records exemption] applies.” *Juarez v. Department of Justice*, 518 F.3d 54, 59 (D.C.Cir.2008). While “blanket” or “generic” determinations are generally disfavored, an assertion that the disclosure of a particular kind of investigatory records while a case is pending would generally “interfere with enforcement proceedings” within meaning of Freedom of Information Act exemption for investigatory records compiled for law enforcement purposes are not precluded. *Robbins Tire & Rubber Co.*, supra, 437 U.S. at 236.

Based on MPD’s representation and the publicly available information detailing ongoing proceedings involving the events of January 6, 2021, we hold that MPD may withhold the identified information. As such, the issue as to whether the subject information may be withheld under D.C. Code §2-534(a)(2) and (a)(3)(c) is moot at this time.

This constitutes the final decision of this Office. You may challenge any subsequent response to your request by separate appeal to this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

The Mayor’s Office of Legal Counsel

cc: Brandynn Reaves, MPD FOIA Officer (via email only)