

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-012**

January 27, 2023

VIA ELECTRONIC MAIL ONLY

Mr. Steven Marcus

RE: FOIA Appeal 2022-012

Dear Mr. Marcus:

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 have challenged the response of the Department of Youth Rehabilitation Services ("DYRS") to your DC FOIA request.

Background

On July 9, 2021, you submitted a DC FOIA request to DYRS which sought the following:

[A]ny and all policies, procedures, practices, regulations, rules, memoranda, guidance, and guidelines that contain the terms "gang database," "gang data base," or the term "gang" within three words of "database" or "data base."
[and]

[A]ny correspondence, including electronic correspondence, from January 1, 2017 to the present, between all D.C. Department of Youth Rehabilitation Services employees, supervisors, administrators, members of the leadership team, and any member of the District of Columbia Metropolitan Police Department ("MPD") that contains the terms in the subject, body, or attachment of the correspondence: "gang database," "gang data base," or the term "gang" within three words of "database" or "data base."

On September 8, 2021, you narrowed your request for any correspondence "between all [DYRS] employees...and any member of [MPD]..." to any correspondence between all DYRS employees and 27 specifically identified members of MPD.

On October 29, 2021 you filed an appeal with this office challenging DYRS' failure to timely respond, failure to provide a written response and failure to consider whether there are reasonably segregable portions of the requested records.

DYRS responded to your appeal later that day by providing you with a copy of the responsive documents it located with respect to your request for "...any and all policies, procedures,

practices, regulations, rules, memoranda, guidance, and guidelines...” With respect to your request for “any correspondence...”, DYRS provided you with a copy of the documents that it did not consider exempt from disclosure under DC FOIA. As for the remainder of the documents DYRS identified, it asserted the following:

The documents we cannot share fall under the exemptions outlined in DC Code § 2-534. Specifically, the emails contain confidential juvenile information protected under DC Code § 16-2333 and for which disclosure is not permitted under § 16-2333.01. Thus, the emails are exempt from disclosure under DC Code § 2-534(a)(6).

Furthermore, the remaining emails are exempt from disclosure under DC Code § 2-534(a)(4) as they are inter-agency documents compiled for law-enforcement purposes and are not available to the public. Disclosure would also constitute an unwarranted invasion of personal privacy under DC Code §§ 2-534(a)(2) and (a)(3)(C).

Discussion

Because your appeal, in relevant part, challenged DYRS’ failure to provide a letter of denial as required by D.C. Code § 2-533 containing “specific reasons for the denial”, and DYRS subsequently provided this information, we dismiss this appeal as moot.

While your appeal did provide arguments as to a “telephonic denial” put forth by DYRS, this Office is declining to address those issues at this time given the more formal denial that was subsequently issued. You are free to raise any issues as to DYRS’ formal response in subsequent appeal to this Office.

Conclusion

This constitutes the final decision of this Office. However, you are free to challenge any substantive response received from DYRS by separate appeal to this Office. 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.

Sincerely,

The Mayor’s Office of Legal Counsel

cc: Adam Aljoburi, DYRS Chief of Staff (via email only)