

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-022**

February 1, 2023

VIA ELECTRONIC MAIL ONLY

Brad Heath

RE: FOIA Appeal 2022-022

Dear Mr. Heath:

This letter responds to the administrative appeal that you have submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code §§ 2-531, *et seq.* (“DC FOIA”). In your appeal, you have challenged the response of the Department of Corrections (“DOC”) to your DC FOIA request.

Background

On October 28, 2021, you submitted a DC FOIA request to DOC, identified as 2022-FOIA-00741, which sought the following:

[C]omplete copies of all complaints or grievances about conditions at the D.C. jail made by detainees, their legal representatives or counsel since Jan. 6, 2021. Please also provide me with copies [of] any records memorializing the conclusions of investigations into those complaints.

DOC responded to your request on November 1, 2021 by referring you to its April 26, 2021 response to a similar DC FOIA request, identified as 2021-FOIA-04259. In that matter, which also sought “[a]ny complaints by detainees...since January 6, 2021” and “[a]ny reports, memoranda or other summaries memorializing the conclusions of any investigations...since Jan. 6, 2021”, DOC made the following request,

Please provide the names and the DCDC #s of the individuals whose records you seek, and provide a disclosure authorization executed by each of them. Personal information about individuals in DOC's custody is protected by DOC policy and subject to personal privacy protection, DC Code§ 2-534 a (2). If you do not have these individuals' DCDC#s , you should provide each person's date of birth and social security number. Once these identifiers have been received, we will conduct a search and respond.

In your November 5, 2021 appeal filed with this Office, you have challenged DOC’s contention that it needs detainee names to search for responsive records. Specifically, in citing DOC Policy 4030.1(31)(a), you have asserted,

...grievances must be logged in its JACCS system, and that once each month, a staff member (helpfully known as the Inmate Grievance Procedure Coordinator) is required to print out a copy of the Crystal Report/IGP Complaint Log and provide a copy to the Warden and other employees.

Further, you challenged DOC's contention that any responsive records must be withheld in full to protect personal privacy.

This Office notified DOC of your appeal on November 22, 2021 and requested a response. DOC responded on December 6, 2021 stating that by-way-of its April 26, 2021 correspondence it asked you for specific inmate names to conduct a thorough search and it also advised you that the information requested was protected from disclosure by the personal privacy exemption to DC FOIA as contained in D.C. Code § 2-534(a)(2).

Discussion

It is the public policy of the District of Columbia government that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Code § 2-531. In aid of that policy, FOIA creates the right "to inspect . . . and . . . copy any public record of a public body . . ." D.C. Code § 2-532(a).

The issue in this appeal is whether the request adequately describes the records sought. A request shall reasonably describe the desired records. *See* 1 DCMR § 402.4. Where possible, specific information regarding names, places, events, subjects, dates, files, titles, file designation, or other identifying information shall be supplied. *Id.* A request for a request for "any and all documents" does not describe the records sought with "reasonably sufficient detail." *Dale v. IRS*, 238 F. Supp. 2d 99, 104 (D.D.C. 2002) ("[T]he rationale for this rule is that FOIA was not intended to reduce government agencies to full-time investigators on behalf of requesters." *Assassination Archives & Research Ctr. v. CIA*, 720 F.Supp. 217, 219 (D.D.C.1989).

Where the information supplied by the requester is not sufficient to permit the identification and location of the record by the agency without an unreasonable amount of effort, the requester shall be contacted and asked to supplement the request with the necessary information. 1 DCMR § 402.5. When the Freedom of Information Officer, pursuant to § 402.5, contacts the requester for additional information, the request is deemed received when the Freedom of Information Officer receives the additional information. 1 DCMR § 405.6.

Here, in response to what is viewed as DOC's request for clarification, in conformity with 1 DCMR § 402.5, the record does not contain any evidence that you provided the same or rejected your obligation to do so prior to filing the instant appeal. While your appeal has suggested DOC should have referenced its "Inmate Grievance Procedure Complaint Log"—independently and on its own initiative, to satisfy its own request for clarification—this assertion not only challenges the premise that "FOIA creates only a right of access to records, not a right to personal services", but it also fails to address the issue that your request exceeds the context of

individuals subject to the cited DOC procedures. *Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009). In such an instance, it was reasonable for DOC to ask for clarification.

While FOIA does not require a requester and an agency to consult in good faith, doing so is extremely encouraged. “A FOIA requester and the District entity receiving a request are not—or should not be—in an inherently adversarial relationship.” *Fraternal Order of Police v. District of Columbia*, 139 A.3d 853 (2016).

Conclusion

Based on the foregoing, this appeal is denied. 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 Superior Court in accordance with D.C. Code § 2-537.

Sincerely,

Mayor’s Office of Legal Counsel

cc: Oluwasegun Obebe, DOC FOIA Officer (via email only)