

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-063**

December 20, 2022

VIA ELECTRONIC MAIL ONLY

Ms. Tara L. Tighe

RE: FOIA Appeal 2022-063

Dear Ms. Tighe:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 (“DC FOIA”). In your appeal, you have challenged the response of the Metropolitan Police Department (“MPD”) to the DC FOIA request of Ms. Gabriella Guerrieri.

Background

On January 4, 2022, your firm submitted a DC FOIA request to MPD, identified as 2022-FOIA- 02374, which sought the following:

[A] police report for a client we represent in a Personal Injury lawsuit. I submitting a FOIA request because this client has been unresponsive and extremely hard to reach. We have made several attempts to get in touch with this person but she has not responded. The police report we are looking for is #21046658. (Date Range for Record Search: From 04/12/2021 To 01/04/2022)

On January 5, 2022, MPD provided you with a “non-involved traffic crash report” that was deemed to be responsive to your request. MPD did not provide information identifying the involved parties pursuant to D.C. Code § 2-534(a)(6) which provides for the withholding of “information specifically exempted from disclosure by statute...” Specifically, MPD asserted “D.C. Official Code § 50-1401.01b prohibits the release of personal information from accident reports except in very limited circumstances—none of which apply in this case.” Further, MPD informed you that you may obtain a copy of the “involved party traffic crash report” upon proof of representation and by providing the identification for the involved party.

On January 6, 2022, you filed an appeal with this Office stating you “are in need of the full crash report in order to investigate the incident” and specifically “need the driver’s name, address and insurance information in order to open and investigate a claim.”

Discussion

It is the public policy of the District of Columbia 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, DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” D.C. Code § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. D.C. Code § 2-534.

DC FOIA was modeled on the corresponding federal Freedom of Information Act. *See Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm’n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

D.C. Code § 2-534(a)(6) (“Exemption 6”)

Exemption 6 protects from disclosure:

Information specifically exempted from disclosure by statute (other than [DC FOIA]), provided that such statute:

- (A) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or
- (B) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Under D.C. Code § 50-1401.01b(b), absent any exception which is not applicable here,

[T]he Department of Motor Vehicles (“Department”), the Metropolitan Police Department, and any officer, employee, or contractor affiliated with either department, or any other person or entity shall not knowingly disclose or otherwise make available personal information about an individual obtained by the Department or the Metropolitan Police Department in connection with a motor vehicle record or an accident report.

Personal information includes “an individual’s photograph or image, social security number, driver identification number or identification card number, name, address, telephone number, medical or disability information, and emergency contact information.” D.C. Code § 50-1401.01b(a)(3)(A).

Conclusion

Based on the foregoing, we affirm MPD’s decision and dismiss your appeal. 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 government in Superior Court.

Sincerely,

Mayor's Office of Legal Counsel

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