

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-104**

January 18, 2023

VIA ELECTRONIC MAIL ONLY

Rend Smith

RE: FOIA Appeal 2022-104

Dear Mr. Smith:

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

Background

On September 6, 2021, you submitted a DC FOIA request to MPD, identified as 2021-FOIA-07811, which sought the following:

[A]ll processing notes and records from April 26, 2021 to present regarding or mentioning FOIA Request No.: 2021-FOIA-04673.

MPD responded to your request on February 17, 2022, by providing you with 135 pages of responsive documents that had been redacted pursuant to D.C. Code §§ 2-534(a)(2) and (a)(3)(c) which protect information of a personal nature, the release of which would constitute an unwarranted invasion of personal privacy. Three (3) additional pages were withheld in their entirety, under D.C. Code § 2-534(a)(4), which protects information, *inter alia*, that is protected from disclosure by the deliberative process privilege.

The appeal you have filed did not contain a copy of the responsive documents provided by MPD. On March 24, 2022, this Office asked MPD to provide the justification for the decision not to grant a review of the records requested, a *Vaughn* index of the documents withheld, and a copy of any public record(s) in dispute. As of the date of this decision, a response has not been received.

Although the current record precludes this Office from issuing a viable determination, the appeal, as submitted, also presents a barrier. As the basis for your appeal, you assert:

Freedom of Information Act requests are not confidential and become public record once submitted. MPD redacted more portions of the released records than were necessary, including the names and government domain email addresses of MPD staff

and the names and organizations of some FOIA requesters.

(emphasis added). As submitted, your FOIA request was not limited to requests received by MPD, but sought “all processing notes and records...regarding or mentioning FOIA Request No.: 2021-FOIA-04673...”, said to include, but not be limited to, “[a]ny FOIA request submitted to...” As such, this Office is unable to discern a cognizable basis for your appeal. *See* 1 DCMR § 412.4 (“An appeal to the Mayor shall be in writing and shall include: (a) Statement of the circumstances, reasons or arguments advanced in support of disclosure; (b) Copy of the original request, if any; (c) Copy of any written denial issued under § 407.2; and (d) Daytime telephone number, email address for the requester.”)

Conclusion

Based on the foregoing, this Office does not have sufficient information to address your appeal and as such it 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 government in the Superior Court of the District of Columbia.

Sincerely,

The Mayor’s Office of Legal Counsel

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