

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-152**

January 26, 2023

VIA ELECTRONIC MAIL ONLY

Mr. Darrell Prince

RE: FOIA Appeal 2022-152

Dear Mr. Prince:

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 District of Columbia Public Library (“DCPL”) to your DC FOIA request.

Background

On March 12, 2022, you submitted a DC FOIA request to DCPL, identified as 2022-FOIA-04426, which sought the following:

1. [T]he number of ejections from the DC Public library, and the number of lifetime bans issued against patrons, on a 5 year timeline, because of the closure[;]
2. All [officer] documented use of force 2017-2022 in the DC Public Library system[;]
3. How many cameras are in that room? Where is the footage from the at least two other cameras in that room ? Was it deleted? [;]
4. Since there were clearly other angles of video, lets try, is there any audio recorded in the library, and what has happened to that record[;]
5. [T]he use of force policy from the library police force, specifically on ejections[; and]
6. The names and contact information of the two other people ejected from the library.

On April 28, 2022, DCPL responded to your request by informing you that the agency does not have any responsive records for requests 1-4. You were provided a copy of a document identified

as being responsive to request 5. Further, DCPL advised you that redacted documents responsive to request 6 were provided in response to another DC FOIA request. DCPL also notified you that “FOIA does not require the DCPL to create a document to respond to your request” and “FOIA does not require that DCPL answer inquiries.”

You filed an appeal with this Office on May 18, 2022, questioning DCPL’s determination that it does not have any responsive records for some of the requested items and asking additional questions about DCPL cameras.

Discussion

Under DC FOIA, an agency is required to disclose materials only if they were “retained by a public body.” D.C. Code § 2-502(18).

DC FOIA only requires that, under the circumstances, a search is reasonably calculated to produce the relevant documents. The test is not whether any additional documents might conceivably exist, but whether the government's search for responsive documents was adequate. *Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Speculation, unsupported by any factual evidence, that records exist is not enough to support a finding that full disclosure has not been made. *Marks v. United States (Dep't of Justice)*, 578 F.2d 261 (9th Cir. 1978).

In addition, under DC FOIA, an agency “has no duty either to answer questions unrelated to document requests or to create documents.” *Zemansky v. United States Envtl. Prot. Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). “FOIA creates only a right of access to records, not a right to personal services.” *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

Based on the foregoing, we conclude that DCPL has properly responded to your DC FOIA request and we hereby deny 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 in Superior Court in accordance with D.C. Code § 2-537.

Respectfully,

Mayor’s Office of Legal Counsel

cc: J. Kevin McIntyre, DCPL FOIA Officer (via email only)