

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-166**

November 30, 2022

VIA ELECTRONIC MAIL ONLY

Ms. Alexandra F. Van Dine

RE: FOIA Appeal 2022-
166

Dear Ms. Van Dine:

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

On May 9, 2022, you submitted a DC FOIA request to MPD, identified as 2022-FOIA-06226, which sought the following:

[A]ll records, defined to include all memorialized information in any form (including, but not limited to, notes, documents, photographs, tape recordings, computerized messages), in the custody and control of the Metropolitan Police Department related to the homicide of Francis Irving Warren, which took place on January 19, 2009, near 1123 Congress Street SE.

On May 26, 2022, MPD responded to your request by providing you with a public incident report. Additionally, MPD explained that it was withholding other responsive records for the following reasons:

It was determined the records you are seeking are part of an ongoing criminal proceeding. The release of any records could interfere with the enforcement proceedings by revealing the direction and pace of the investigation. It could lead to attempts to destroy or alter evidence, reveal information about potential witnesses who could then be subjected to intimidation as part of an effort to frustrate future investigative activities, or could place witnesses in danger. For these reasons information about this incident is exempt from disclosure pursuant to D.C. Official Code § 2-534 (a)(2), (a)(3)(A)(i), (a)(3)(B) and (a)(3)(C).

On June 14, 2022, you filed an appeal with this Office asserting “it is unclear to which ‘ongoing criminal proceeding’ MPD refers, as there does not appear to be such a matter,”

“even if there is an undisclosed investigation into the death of Francis Warren occurring at MPD, MPD is not entitled to invoke the enforcement proceedings exception based upon broad assertions about generalized risk or by simply asserting that disclosure will interfere with enforcement proceedings without demonstrating how disclosure will do so,” and “it is unclear who would be deprived of a right to a fair trial or impartial adjudication through the release of these records.” You also noted that “[t]he DC Superior Court dockets for both individuals charged in connection to Mr. Warren’s death—Rashar Smith and Antwon Blades—show that the case status for both individuals is ‘Closed.’”

On July 6, 2022, we notified MPD of your appeal and requested a response. MPD responded on September 27, 2022. In its response, MPD explained that since its initial partial denial, “the investigation was concluded” and on July 26, 2022, you were “provided with records located and deemed responsive to [your] FOIA request.”

Based on MPD representation that the agency has provided you with responsive records after the filing of this appeal, we dismiss this appeal as moot. However, you are free to challenge MPD’s substantive response by separate 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: Brandy Reaves, MPD FOIA Officer (via email only)