

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-181**

February 1, 2023

VIA ELECTRONIC MAIL ONLY

Radi Dennis

RE: FOIA Appeal 2022-181

Dear Ms. Dennis:

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 Metropolitan Police Department (“MPD”) to your DC FOIA request.

Background

On March 29, 2022, you submitted a DC FOIA request to MPD, identified as 2022-FOIA-04910, which sought the following:

[R]ecords of all reported repossessions to the MPD in the last ten years.

You further clarified your request on May 24, 2022 by providing the following:

I am seeking a list of all reported repossessions to the MPD during the period from January 1, 2011 – 3/29/2022 or through the present. In other words, tow companies and others are required to report any repossession of vehicle in the District to the Metropolitan Police Department. I would like the list of all those repossessions reported from 2011 through to the present. Typically it contains the name of the creditor or tow company that repossessed the vehicle, the date and time of the repossession, the location of the repossession and license plate information.

MPD responded to your request on July 12, 2022 by advising you,

A search for the records you are requesting determined, although, there is a requirement for tow companies and others to report any repossessions of vehicles in the District to the Metropolitan Police Department, please be advised, the reported information relates to civil matters and is not intended for MPD to collect and generate data for public distribution. Further, it was determined the information reported by tow companies and others, is stored in a database that is used for law enforcement purposes only. Therefore, this database is not used to retrieve such information to disseminate to the public.

On July 14, 2022, you filed an appeal with this Office asserting MPD's denial "does not present valid reasons for its refusal to provide the requested records." Specifically, you contend there is no exemption for "information relating to civil matters and not intended for MPD to collect and generate for public distribution" or for information "stored in a database that is used for law enforcement purposes only."

We notified MPD of your appeal on July 14, 2022 and requested a response. MPD responded on September 28, 2022 reiterating its prior denial with a citation to D.C. Code § 2-534(a)(3)(E) ("investigatory records compiled for law-enforcement purposes...but only to the extent that the production of such records would...disclose investigative techniques and procedures not generally known outside the government."). Additionally, MPD stated it "does not have the requested records on private tows/repossessions that occur in the District...[and]...would have to go to an outside vendor who would then create a script to generate a report."

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).

DC FOIA was modeled on the corresponding federal Freedom of Information Act. *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)(3)(E) ("Exemption 3(E)")

D.C. Code § 2-534(a)(3)(E) exempts from disclosure "[i]nvestigatory records compiled for law- enforcement purposes... but only to the extent that the production of such records would... (E) disclose investigative techniques and procedures not generally known outside the government...."

MPD has advised this Office that information reported on the towing of vehicles is maintained in a database that is used for law enforcement purposes only. The information you seek is understood to potentially be a subset of this information that MPD cannot easily query. Given vehicles in the District are towed for various reasons including but not limited to safety and security precautions (e.g., Presidential escorts, disaster scenes, hostage situations, industrial accidents, hazardous waste sites, vehicles within restricted parameters), use as evidence in criminal investigations, safekeeping (e.g., the vehicle is suspected stolen, pending verification of its status, the estate of deceased or mentally ill individuals, or in need of preservation due to an inability to safeguard property when no person is available to rightfully take custody), crash investigations, civil forfeiture and other public or government initiatives, this Office accepts

MPD's representation that the disclosure of these records would reveal investigative techniques and procedures not generally known outside of the government.

Conclusion

Based on the foregoing, we affirm MPD's decision. This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Sincerely,

The Mayor's Office of Legal Counsel

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