

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-185**

February 2, 2023

VIA ELECTRONIC MAIL

Mrs. Diane TateWhatley

RE: FOIA Appeal 2022-185

Dear Mrs. TateWhatley:

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”), on the grounds that the Metropolitan Police Department (“MPD”) failed to properly respond to your FOIA request.

On an unknown date, you submitted a DC FOIA request to MPD seeking “all police records for calls to locations between Euclid St NW and Fairmont St NW and 13th St NW and 11th Street NW within PSA 304.” On July 11, 2022, MPD denied your request because the “information is in the custody of Office of Unified Communications (OUC), not MPD.” On July 18, 2022, you filed an appeal with Office explaining that you need the police calls “to document continued criminal activity at a property that is operating without proper licenses.” On July 19, 2022, we notified MPD of your appeal and requested a response. MPD responded on August 29, 2022. In its response, MPD explained that it directed you “to make a FOIA request for calls for service data with the OUC online via the DC government Public FOIA Portal at <https://foia-dc.gov/palMain.aspx>.”

Under the DC FOIA, an agency is required to disclose materials only if they were “retained by a public body.” D.C. Official Code § 2-502(18). An agency is only required to disclose records that are under its control at the time of the request. *DOJ v. Tax Analysts*, 492 U.S. 136, 145 (1989). Here, MPD has explained that another agency maintains the requested records and referred you to the appropriate entity.

Based on the foregoing, we conclude that MPD properly responded to your 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 the Superior Court of the District of Columbia in accordance with D.C. Official Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Brandy Reaves, Assistant General Counsel
MPD (via email)