

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
OFFICE OF THE GENERAL COUNSEL TO THE MAYOR**

Freedom of Information Act Appeal: 2011-01

January 13, 2011

Kyle Prall

Dear Mr. Prall:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (a) (2001) (the “DC FOIA”), dated December 16, 2010 (the “Appeal”).¹ The present action challenges the propriety of the Metropolitan Police Department’s (“MPD”) withholding of records in response to your request for information under FOIA dated December 12, 2010 (“FOIA Request”).

Background

Appellant’s FOIA Request sought the following information:

...Booking Photos/Mugshots on every individual booked into the DC Jail from December 4, 2010 to December 7, 2010 and...the jail/arrest log for the same time period (i.e. the list of people booked into the DC Jail during the time period which includes basic information about the inmate including the name, date of birth, sex, arrest charges, arrest date, etc.), and I would like the jail/arrest log in electronic format.

Email dated December 12, 2010 from Kyle Prall to Natasha Cenatus, FOIA Officer, MPD.

By correspondence dated December 13, 2010, MPD fully responded to Appellant’s FOIA Request (“Response to FOIA Request”). Specifically, with respect to the request for a “jail/arrest log,” MPD directed Appellant to the department’s website, and provided instructions on accessing daily listings of individuals arrested by MPD over the period in question. Regarding Appellant’s request for “Booking Photos/Mugshots on every individual booked into the DC Jail from December 4, 2010 to December 7, 2010,” MPD denied that part of Appellant’s FOIA Request. In its denial, MPD contended that the information requested is part of the personal arrest records for the arrestees in question, and disclosure of such information would “amount to an unwarranted invasion personal privacy” of said individuals under DC Code § 2-534(a)(2).

Appellant has filed this action challenging MPD’s denial of his FOIA Request for photos and jail logs. We forwarded the Appeal to MPD with a request for a response. MPD responded

¹ Talib I. Karim, Esq., Acting Special Counsel with the Office of the General Counsel to the Mayor participated in the preparation of this decision.

to the Appeal in an email dated January 6, 2011 (“Response to FOIA Appeal”). On January 11, 2011, MPD supplemented its Response to the FOIA Request by releasing the requested jail/arrest log, including the name, sex, and date of birth of arrestees over the period in question. The issue remaining is Appellant’s request for “Booking Photos/Mugshots” for DC Jail inmates.

Discussion

It is the public policy of the District of Columbia (the “District”) government 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. Official Code § 2-537 (a) (2001). In aid of that policy, the DC FOIA creates the right “to inspect ... and ... copy any public record of a public body” *Id.* at § 2-532(a). Moreover, in his first full day in office, the District’s Mayor Vincent Gray announced his Administration’s intent to ensure that the DC FOIA be “construed with the view toward ‘expansion of public access and the minimization of costs and time delays to persons requesting information.’” Mayor’s Memorandum 2011-01, Transparency and Open Government Policy. However, to ensure that a party receives accurate information while avoiding undue burdens on limited government resources, DC regulations state that FOIA requests “shall be directed to the particular agency” responsible for the information being sought. D.C. MUN. REGS. (“DCMR”) tit. 1, § 402.1 (2007).

In this case, Appellant seeks “Booking Photos/Mugshots on every individual booked into the DC Jail from December 4, 2010 to December 7, 2010.” Even though MPD has released jail logs requested of Appellant, it appears that the DC Department of Corrections (“DOC”) is the responsible custodian of the “Booking Photos” of DC Jail “inmates,” not MPD. Pursuant to 1 DCMR § 402.1, Appellant must address his FOIA request for these records to DOC’s FOIA Officer.

To expedite Appellant’s access to the information being sought, the name and contact for DOC’s FOIA Officer is provided as follows: Segun Obebe, FOIA/Privacy Officer, Dept. of Corrections, 1923 Vermont Avenue NW, Suite N216-B, Washington, DC 20001, segun.obebe@dc.gov, Phone: (202) 671-2055, Fax: (202) 671-1705.

In conclusion, it is clear the records Appellant seeks fall under the aforementioned provisions of the DCMR and leave no discretion to the deciding official. As such, we do not find it necessary to address the merits of Appellant’s argument. Accordingly, this Appeal is hereby DISMISSED.

If you are dissatisfied with this decision, you are free under the DC FOIA to commence a civil action against the District government in the District of Columbia Superior Court.

Sincerely,

Brian K. Flowers, Esq.
General Counsel to the Mayor

cc: Ron Harris, Esq., MPD