

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2017-01**

October 26, 2016

VIA ELECTRONIC MAIL

Ms. Olivia Hampton

RE: FOIA Appeal 2017-01

Dear Ms. Hampton:

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 challenge the response of the Metropolitan Police Department ("MPD") to a request you submitted on September 12, 2016, for June 2, 2016, body worn camera footage of MPD officers.

This Office notified the MPD of your FOIA appeal on October 13, 2016. On October 17, 2016, the MPD provided this Office with a response to your appeal, stating that in accordance with MPD's retention policy, the videos you requested were deleted on September 7, 2016. This Office accepts MPD's representation that it does not possess the records you seek because the retention period for the videos ended before you submitted your request to MPD.

MPD is not obliged by DC FOIA to disclose documents it does not possess at the time of the request. *See United States DOJ v. Tax Analysts*, 492 U.S. 136, 145 (1989) ("the agency must be in control of the requested materials at the time the FOIA request is made."). Based on the foregoing, we affirm MPD's decision and dismiss your appeal.

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

Respectfully,

Mayor's Office of Legal Counsel

cc: Ronald Harris, Deputy General Counsel, MPD (via email)