

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR**



**Mayor's Office of Legal Counsel**

October 16, 2017

VIA ELECTRONIC MAIL

Benjamin Douglas

RE: FOIA Appeal 2018-001

Dear Mr. Douglas:

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”) improperly denied your September 6, 2017 request for certain records.

This Office contacted MPD on October 3, 2017, and notified the agency of your appeal. MPD responded on October 10, 2017, advising us that it had not denied your request; rather, MPD indicated to you on October 2, 2017, that it was in the process of conducting a search for responsive records.<sup>1</sup> On October 13, 2017, MPD informed us that it expects to provide you with a substantive response to your request this week.

MPD’s October 2, 2017 correspondence to you is confusing in that it although it indicates that MPD “anticipate[s] the need for at least one ten working-day extension,” it also informs you that “you have the right to appeal this letter” to the Mayor. We believe you construed this appeals language as indicating that MPD denied your request.

When an agency improperly withholds public records, the Mayor may order the agency to disclose the record. D.C. Official Code § 2-537. Here, MPD has represented to this Office that a search is underway for records that are responsive to your request, and that it expects to respond to you this week. As a result, we consider your appeal to be moot; provided, that MPD responds to your request by October, 20, 2017.

Your appeal is hereby dismissed, however, the dismissal shall be without prejudice. If you do not receive a response from MPD by October 20, 2017, you may request that we compel MPD to respond. If you receive a response from MPD by October 20, 2017, and you wish to challenge any aspect of this response, you may do so by separate appeal to this Office.

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<sup>1</sup> A copy of MPD’s response is attached.

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)