

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR



Mayor's Office of Legal Counsel

November 14, 2017

VIA ELECTRONIC MAIL

Catherine Tedrow

RE: FOIA Appeal 2018-028

Dear Ms. Tedrow:

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") did not adequately search for records responsive to your request for application and hiring materials.¹

This Office contacted MPD on October 30, 2017, and notified the agency of your appeal. MPD responded on November 6, 2017.² In its response, MPD summarized its initial response to your request. MPD stated further that it directed its Human Resources department to conduct an additional search for responsive records based on the information provided in your appeal. MPD claimed that additional records would be disclosed to you by November 8, 2017; therefore, MPD asserted that it has satisfied your claim that its initial search was inadequate.

MPD has represented to this Office that the results of an additional search should have been disclosed. As a result, we consider your appeal to be moot with respect to the adequacy of MPD's search.³ We note that certain aspects of your FOIA request appear to seek answers to questions rather than request existing records. Under DC FOIA, an agency is not required to create records in response to a FOIA request, only to disclose public records in its possession. *See* D.C. Official Code § 2-502(18).

¹ Your appeal also alleges that MPD engaged in unethical hiring practices; however, this Office's jurisdiction, under D.C. Official Code § 2-537, is limited to whether public records are improperly withheld. As a result, your allegation concerning MPD's hiring practice will not be addressed.

² A copy of MPD's response is attached.

³ MPD stated that portions of its initial response were redacted to protect personal privacy pursuant to D.C. Official Code § 2-534(a)(2); your appeal did not appear to challenge those redactions.

Your appeal is hereby dismissed; however, the dismissal shall be without prejudice. You may challenge MPD's substantive response by separate appeal to this Office.

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)