



GOVERNMENT OF THE DISTRICT OF COLUMBIA
METROPOLITAN POLICE DEPARTMENT

Transmitted via electronic mail

Mr. Adam Marshall
The Reporters Committee for Freedom of the Press
1156 – 15th Street, N.W., Suite 1250
Washington, D.C. 20005

Re: FOIA Request No. 2015-00031

Dear Mr. Marshall:

This is in response to your Freedom of Information Act (FOIA) request dated January 23, 2014. You requested the following records:

1. All BWC recordings that have been categorized as “Retain”, as defined in Special Order 14-09 or Special Order 14-14;

Response: See discussion below.

2. All BWC recordings that have been categorized as “Requires Supervisory Review”, as defined in Special Order 14-09 or Special Order 14-14;

Response: See discussion below.

3. All BWC recordings that have been used for training purposes;

Response: See discussion below.

4. All records indicating which MPD officers were issued BWCs between October 1, 2014, and January 23, 2015;

Response: See attached.

5. All records that reflect activation and/or use of a BWC by an MPD officer between January 1, 2015, and January 8, 2015, including, but not limited to narratives in field contact reports, supplements accompanying incident reports, arrest reports in the Records Management System (RMS), violation citations on PD form 61D, and notices of infraction (NOIs);

Response: As we discussed, we cannot release any documents relating to pending criminal cases. We are attempting to determine if there is a method to

identify closed cases in order to retrieve responsive documents. We will advise you when we have determined how to proceed.

6. All BWC recordings that have been provided to the D.C. Office of Police Complaints;

Response: See discussion below. In addition, to the extent that the body worn camera recordings pertain to ongoing investigations by the D.C. Office of Police Complaints, they are exempt from disclosure under D.C. Official Code § 20534(a)(3)(A)(iii).

7. All BWC recordings that have been offered or admitted as evidence, lodged with a court, or otherwise shown or used in connection with any civil or criminal proceeding;

Response: As you are no doubt aware, decisions regarding whether BWC recordings are offered into evidence rest with the prosecuting attorneys of either the Office of the Attorney General for the District of Columbia or the United States Attorney's Office for the District of Columbia and decisions regarding the admissibility of BWC recordings are made by the presiding judges of either the Superior Court for the District of Columbia or the United States District Court for the District of Columbia. Therefore, the Department does not know what videos if any have been introduced or admitted as evidence in civil or criminal proceedings. However, it is our understanding that a portion of the body worn camera footage was used in the criminal trial of Allen Wells. We are unaware of what portion of the footage was released and what redactions, if any, were made by the United States Attorney's Office to the footage. You may wish to file a FOIA request with the United States Attorney's Office to obtain a copy of the footage released at trial. All or some part of the footage has already been posted on-line at http://www.washingtonpost.com/local/crime/lawyers-see-new-benefit-to-dc-police-body-cameras--as-evidence-for-trials/2015/01/25/c0d89f06-9c11-11e4-bcfb-059ec7a93ddc_story.html

8. All BWC recordings that have been offered or admitted as evidence, or otherwise shown or used in connection with any arbitration and/or mediation proceeding.

Response: The Department has not introduced any videos in arbitration or mediation proceedings.

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As we discussed in our conversation today, the Department is not able to release the body worn camera videos that you have requested because it does not presently have the capability to protect the privacy interests of those persons captured in the videos. Individuals subject to arrest, suspects in the commission of crimes, and victims of and/or witnesses to crimes have privacy interests in their persons, names, and other identifying information. To determine whether such information may be released under FOIA, the individuals' privacy interests must be weighed against the statutory purpose of FOIA, i.e. to shed light on MPD's performance of its duties. In this case, the individuals' privacy interests prevail as the release of their identities will not contribute anything to public understanding of the operations or the performance of

MPD. Therefore, the faces, names, and other identifying information regarding arrestees, suspects, victims, and witnesses are exempt from disclosure as unwarranted invasions of personal privacy under D.C. Official Code §§ 2-534(a)(2) and (a)(3)(C).

In order to protect the privacy of these persons, the Department would have to review and redact their faces, unique scars/tattoos, personalized clothing, Driver's licenses/identification cards, house numbers, as well as their spoken names, Social Security numbers, birth dates, and any other identifying visual image or audio recording. The Department has not yet been able to obtain the necessary resources to perform the necessary redactions. We must therefore deny your request for the body camera footage. However, we will preserve those videos responsive to your request until such time as the Department is able to perform the necessary redactions.

Similarly, the Department cannot release body worn camera videos developed and/or used internally for training purposes. Individuals, including police officers, have a privacy interest in their person. The disclosure of the names and/or faces of the police officers captured in the training videos do not contribute to the public's understanding of how the Department performs its duties. Their release would therefore constitute unwarranted invasions of personal privacy under D.C. Official Code §§ 2-534(a)(2). Again, the Department must deny your request as it is not yet able to make the necessary redactions.


Under D.C. Official Code § 2-537 and 1 D.C.M.R. § 412, you have the right to appeal this letter to the Mayor or to the Superior Court of the District of Columbia. If you elect to appeal to the Mayor, your appeal must be in writing and contain "Freedom of Information Act Appeal" or "FOIA Appeal" in the subject line of the letter as well as on the outside of the envelope. The appeal must include (1) a copy of the original request; (2) a copy of any written denial; (3) a statement of the circumstances, reasons, and/or arguments advanced in support of disclosure; and (4) a daytime telephone number, an e-mail and/or U.S. mailing address at which you can be reached.

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The appeal must be mailed to: The Mayor's Correspondence Unit, FOIA Appeal, 1350 Pennsylvania Avenue, N.W., Suite 316, Washington, D.C. 20004. Electronic versions of the same information can instead be e-mailed to The Mayor's Correspondence Unit at foia.mayor@dc.gov. Further, a copy of all appeal materials must be forwarded to the Freedom of Information Officer of the involved agency, or to the agency head of that agency, if there is no designated Freedom of Information Officer there.

Failure to follow these administrative steps will result in delay in the processing and commencement of a response to your appeal to the Mayor.

Sincerely,



Ronald B. Harris, Esq.

Teresa Quon
Acting FOIA Officer

Attachment
Listing of Officers issued cameras