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OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE

Attorney General Opinion No. 18-IB16

March 12, 2018

VIA U.S. MAIL

Kushal K. Shah
SBI # [Redacted]
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977

RE: FOIA Petition Regarding the City of Wilmington Police Department

Dear Mr. Shah:

We write in response to your correspondence, received on February 22, 2018, alleging that the City of Wilmington Police Department ("WPD") violated Delaware's Freedom of Information Act, 29 *Del. C.* §§ 10001-10007 ("FOIA"). We treat your correspondence as a petition ("Petition") for a determination pursuant to 29 *Del. C.* § 10005(e) regarding whether a violation of FOIA has occurred or is about to occur. We invited WPD to submit a written response to the Petition. We received a response from the City's legal counsel on March 8, 2018. As set forth more fully below, it is our determination that WPD did not violate FOIA as alleged.

In your Petition, you allege that you sent several requests to the WPD pursuant to Delaware's FOIA and received no response. Importantly, you state that you requested answers to three specific questions. In response, the City's legal counsel states that WPD's FOIA Coordinator has reviewed his records and was unable to locate a FOIA request from you. In an effort to assist you, the City's legal counsel provided answers to each of your questions.

Based upon the representations of the FOIA Coordinator and the City's legal counsel, we cannot conclude that WPD violated FOIA. Indeed, even if WPD had received your request, we note that FOIA does not require a public body to answer questions.¹

Very truly yours,


Michelle E. Whalen
Deputy Attorney General

APPROVED BY:


Allison E. Reardon, State Solicitor

cc: Luke Mette, City Solicitor (via email)
William B. Larson, Senior Assistant City Solicitor (via email)

¹ See, e.g. *Del. Op. Att'y Gen.* 17-IB05, 2017 WL 1317847, at *3 (Mar. 10, 2017); *Del. Op. Att'y Gen.* 17-IB04, 2017 WL 1317846, at *2 (Mar. 8, 2017); *Del. Op. Att'y Gen.* 08-IB05, 2008 WL 1727613, at *1 (Feb. 22, 2008); *Del. Op. Att'y Gen.* 00-IB08, 2000 WL 1092967, at *2 (May 24, 2000); *Del. Op. Att'y Gen.* 97-IB06, 1997 WL 606408, at *5 (Mar. 17, 1997).