

December 16, 2022

Chief Angela D. Hertel
c/o Jenrette L. Nowaczynski
U.S. Drug Enforcement Administration
Freedom of Information & Privacy Act Unit
Legal and External Affairs Sub-Unit
8701 Morrissette Drive
Springfield, VA 22152
DEA.FOIA@usdoj.gov

Via electronic communication to Jenrette.L.Nowaczynski@dea.gov and dea.foia@usdoj.gov

Subject: Freedom of Information Act Request No. 20-00008-AP, Appeal No. A-2022-01752

Dear Chief Hertel:

On October 7, 2022, Administrative Appeals Chief Matthew Hurd remanded our Freedom of Information Act (FOIA) request for access to records on suspended, revoked, or surrendered dispenser registrations and related registration reapplications.

Our request includes documents and data related to instances in which a dispenser voluntarily surrendered a registration to dispense controlled substances under 21 U.S.C § 823, as well as:

- For dispensers who have voluntarily surrendered a registration, any application for a new registration, as well as any document indicating approval or denial by DEA of such application, including dates;
- For dispensers who have had their registration revoked, any application for a new registration, as well as any document indicating approval or denial by DEA of such application, including dates; and
- Any document that shows aggregate data on (1) voluntary surrenders or registration revocations, or both; (2) reapplications after such losses of registrations; or (3) the status or outcome of such reapplications.

You informed us on April 26, 2022, that the DEA was able to identify a spreadsheet containing information responsive to our request.

Chief Hurd instructed you to process the responsive records and send them to us, subject to any applicable fees. This letter serves as notice that your response to the remand is overdue. We ask for immediate disclosure of the spreadsheet containing the aggregate data we have requested and any additional responsive records that do not require a national Form 104 search.

Freedom of Information Law requires an agency to respond to a FOIA request within 20 working days of receipt. Disclosure of documents is required to follow promptly thereafter. An agency may be able to extend the response deadline by up to 10 working days, but only in “unusual circumstances” and upon giving written notice to the requester. This right may not be exercised if the agency already exceeded the response deadline.

FOIA provides public access to all federal agency records except for those records that are protected from disclosure by any of nine exemptions or three exclusions. Application of neither Exemption 7(C) nor Exemption 6 is justified because (1) the privacy interest associated with the information is de minimis, and (2) the public interest in disclosure of the requested information outweighs any privacy interest associated with it. Application of Exemption 7(E) is not justified because disclosure would not interfere with enforcement proceedings. Any protected information may be segregated in the record. Furthermore, failure to disclose the information would be inconsistent with the Attorney General’s March 2022 updated FOIA guidelines.

Our right to receive the spreadsheet and any additional responsive records was confirmed by Chief Hurd. We request immediate disclosure of the spreadsheet and any other responsive records that do not require a national Form 104 search.

Sincerely,

A handwritten signature in blue ink that reads "Michael Barnes".

Michael Barnes
Managing Attorney
mbarnes@sequelhl.com