



U.S. Department of Justice
Office of Information Policy
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October 7, 2022

Re: Appeal No. A-2022-01752

Request No. 20-00008-AP

CDT: EAH

VIA: Online Portal

Dear Michael Barnes:

You appealed from the action of Drug Enforcement Administration (DEA) on your remanded Freedom of Information Act (FOIA) request for access to records related to suspended, revoked, or surrendered dispenser registration. I note that your appeal concerns the withholdings asserted by DEA, as well as its determination that searching for Form 104 would be unduly burdensome.

After carefully considering your appeal, and as a result of discussions between DEA personnel and this Office, I am remanding your request, in part, to DEA for further processing of the responsive records. If DEA determines that records are releasable, it will send them to you directly, subject to any applicable fees. You may appeal any future adverse determination made by DEA. If you would like to inquire about the status of this remanded request or to receive an estimated date of completion, please contact DEA directly at (571) 776-2300. I am otherwise affirming DEAs action on the portion of your request in regards to Form 104.

A proper FOIA request for records must reasonably describe the records sought. See 5 U.S.C. § 552(a)(3)(A); see also 28 C.F.R. § 16.3(b)(2021). DEA informed you that your request for records related to the Form 104 would require DEA to conduct an unreasonably burdensome search. I have determined that DEAs response was correct. Your request is not reasonably described because you did not characterize the records sought in such a way that they could be located without searching each individual DEA office. Courts have consistently held that the FOIA does not require agencies to conduct unreasonably burdensome searches for records. See, e.g., Nation Magazine v. U.S. Customs Serv., 71 F.3d 885, 892 (D.C. Cir. 1995).

Please be advised that this Offices decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and

analyzed your appeal, your underlying request, and the action of the DEA in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Offices FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

Matthew W. Hurd

X

Matthew W. Hurd,
Chief, Administrative Appeals Staff