



**U.S. Department of Justice**  
Drug Enforcement Administration  
FOIA and Privacy Act Unit  
8701 Morrissette Drive  
Springfield, Virginia 22152

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April 26, 2022

Case Number: 20-00008-AP

Subject: Documents related to instances in which a dispenser voluntarily surrendered a registration to dispense controlled substances under 21 U.S.C. § 823

Michael Barnes  
Principal Attorney  
Sequel Health Law PLLC  
1455 Pennsylvania Avenue Northwest  
Suite 400  
Washington, D.C. 20004  
*Sent via e-mail:* mbarnes@sequelhl.com; kwatson@sequelhl.com

Dear Michael Barnes:

This letter responds to your Freedom of Information Act/Privacy Act (FOIA/PA) appeal dated December 11, 2019. On April 15, 2020, the Department of Justice, Office of Information Policy remanded your request to DEA for search and processing of records related to instances in which dispensers voluntarily surrendered a registration to dispense controlled substances.

Accordingly, we conducted a search of DEA's Diversion Control Division for records pertaining to the above subject. As a result of our search, we were able to identify a spreadsheet containing information responsive to your request. We have decided to withhold the spreadsheet in full pursuant to exemptions (b)(6), (b)(7)(C), and (b)(7)(E) of the FOIA, 5 U.S.C. § 552. An enclosure with this letter explains these exemptions in more detail.

Lastly, you clarified in your appeal letter that you are also seeking, "Any documents, including but not limited to DEA Form 104, indicating that a dispenser has agreed to voluntarily surrender his or her registration." Please be advised, DEA-104 Forms are maintained by DEA field offices in investigative case files. There are approximately 22 DEA Field Divisions and over 250 domestic offices. Since your description did not limit the search to a specific office or area, a vast majority of DEA offices would be tasked to conduct a search of their respective offices for any Form DEA-104 within the specified time frame. Under the FOIA an agency is not required to research a topic, create records or engage in a far reaching search of every record system to satisfy a FOIA request. As such, this portion of your request is overly broad and burdensome.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison at (571) 776-2300 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. 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; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at (202) 741-5770; toll free at 1-877-684-6448; or facsimile at (202) 741-5769.

If you are not satisfied with DEA's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

If you have any questions regarding this letter, you may contact FOIA/PA Unit representative Jenrette L. Nowaczynski at (571) 776-3044 or via e-mail at [Jenrette.L.Nowaczynski@dea.gov](mailto:Jenrette.L.Nowaczynski@dea.gov).

Sincerely,

Angela D. Hertel, Chief  
Legal and External Affairs Sub-Unit  
Freedom of Information and Privacy Act Unit

**EXPLANATION OF EXEMPTIONS**  
**SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1)(A) Specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such executive order.
- (b)(2) Related solely to the internal personnel rules and practices of an agency.
- (b)(3) Specifically exempted from disclosure by statute (other than section 552b of this title), if that statute-  
(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and (B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.
- (b)(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential.
- (b)(5) Inter-agency or intra-agency memorandums or letters, which would not be available by law to a party other than an agency in litigation with the agency.
- (b)(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
- (b)(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information: (A) could reasonably be expected to interfere with enforcement proceedings; (B) would deprive a person of a right to a fair trial or an impartial adjudication; (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy; (D) could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source; (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or; (F) could reasonably be expected to endanger the life or physical safety of any individual.
- (b)(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.
- (b)(9) Geological and geophysical information and data, including maps, concerning wells.

**SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a**

- (d)(5) Information compiled in reasonable anticipation of a civil action proceeding.
- (j)(2) Material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals.
- (k)(1) Information which is currently and properly classified pursuant to an executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods.
- (k)(2) Non-criminal law enforcement records compiled by any agency, or criminal law enforcement records compiled by a non-principal function criminal law enforcement agency which did not result in loss of a right, benefit, or privilege under federal programs or which would identify a source who provided information contained in the materials under the promise of confidentiality.
- (k)(3) Material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) Required by statute to be maintained and used solely as statistical records.
- (k)(5) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence.
- (k)(6) Testing or examination material used to determine individual qualifications for appointment or promotion in federal government service, the release of which would compromise the testing or examination process.
- (k)(7) Material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.