

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-129**

August 12, 2020

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-129

Dear Mr. Ayele:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 (“DC FOIA”), challenging the Department of Forensic Sciences’ (“DFS”) response to your FOIA request.

On February 24, 2020, you submitted a FOIA request to DFS that asked a series of questions and that referred to requests for information from other agencies. That same day, DFS acknowledged receipt and sought clarification of what records were being sought. On February 25, 2020, you replied to DFS by asking additional questions and failing to specify what DFS records you were seeking. The following day, DFS responded to you by explaining that FOIA creates the right to request documents, not to pose interrogatories, and that DFS intended administratively to close the request.

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records within a reasonable amount of time. More specifically, 1 DCMR § 402.4 states that:

A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency “has no duty either to answer questions unrelated to document requests or to create documents.” *Zemansky v. United States Env'tl. Prot. Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). “FOIA creates only a right of access to records, not a right to personal services.” *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985); *see also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

We agree with DFS that your request did not identify any records that you wanted from that agency. Similarly, your appeal only asks questions and does not identify any error in DFS’s response to you. Based on the foregoing, we conclude that the DFS properly responded to your

FOIA request, and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: Andrea Stempel, Attorney Advisor/FOIA Officer
DFS (via email)