

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-170**

August 26, 2020

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-170

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 response of the Office of Police Complaints (OPC) to your DC FOIA request.

You submitted a DC FOIA request to the Agency, in which you referenced medical marijuana dispensaries located within the District of Columbia and posed several questions regarding the legalization of marijuana. OPC denied your request for records. On April 3, 2020, you filed an appeal with this Office, requesting that we direct OPC to produce records and answer the questions you submitted. On April 21, 2020, OPC responded to your appeal and stated that none of the questions in the document you submitted to the Agency described records.¹ Although some records were described elsewhere in the document, such as applications for medical marijuana dispensaries, the Agency noted that such records were outside the jurisdiction of OPC and would need to be requested from another DC Government agency.

The DC 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).

¹ A copy of the Office of Police Complaint's response to your appeal is attached to this decision.

We agree with OPC that your request did not identify any records that the agency maintains and therefore 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: Alicia J. Yass, Legal Counsel
Office of Police Complaints