

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR



Mayor's Office of Legal Counsel

November 15, 2017

VIA ELECTRONIC MAIL

Mr. Shuntay Brown

RE: FOIA Appeal 2018-35

Dear Mr. Brown:

This letter responds to the eighth administrative appeal you have submitted to the Mayor this year under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). Here, you are challenging the response provided by the Executive Office of the Mayor ("EOM") to your request.

Background

On November 14, 2017, you submitted a request to EOM, which states:

I'm seeking the number of deaths cause by lead poisoning [sic] (bullets & guns) in District of Columbia

On November 14, 2017, EOM denied your request, along with two other requests. In its denial EOM stated:

As the FOIA Officer for EOM, I only have the ability to conduct searches of, and respond to requests for, EOM records. EOM is not in possession of any documents responsive to your request. It is possible that the Department of Consumer and Regulatory Affairs ("DCRA") has responsive documents.

In your single-sentence appeal, you state in pertinent part: "I'm seeking to appeal this decision for the following reasons: . . . the number of death cause by lead bullet was not provided"

This Office did not notify EOM of your appeal, because there is sufficient information in your filing for us to render a decision on the matter.

Your request amounts to an interrogatory (i.e., asking for "the number of deaths cause by lead poisoning [sic] (bullets & guns) in the District of Columbia"). As this Office has explained to you before, DC FOIA does not compel agencies to answer your questions; DC FOIA gives you the right to inspect records. *See* FOIA Appeal 2018-9; FOIA Appeal 2018-10; FOIA Appeal 2018-12; FOIA Appeal 2018-33; FOIA Appeal 2018-34.

Your request does not reasonably describe a record as required by 1 DCMR § 402, and EOM is not obligated to answer your questions. *See Zemansky v. United States Environmental Protection Agency*, 767 F.2d 569, 574 (9th Cir. 1985) (stating an agency “has no duty either to answer questions unrelated to document requests or to create documents.”); *see also* FOIA Appeal 2014-41; FOIA Appeal 2017-36; FOIA Appeal 2017-95. 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).

Because we find that your request does not reasonably describe a record, we need not reach the question of the adequacy of the search.

Conclusion

Based on the foregoing, we affirm EOM’s decision. 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 government in the Superior Court of the District of Columbia in accordance with DC FOIA.

Respectfully,

Mayor’s Office of Legal Counsel

cc: Erika Satterlee, Associate Director, EOM (via email)