



OFFICE *of* GOVERNMENT INFORMATION SERVICES

May 21, 2015 — Sent via email

[REDACTED]

Re: Case No.: 201500492
NG: CM

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

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OGIS
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Dear [REDACTED]:

This responds to your March 9, 2015 request for assistance from the Office of Government Information Services (OGIS), which we received via email. Your request for assistance pertains to your Freedom of Information Act (FOIA) request to the Federal Bureau of Investigation (FBI).

Congress created OGIS to complement existing FOIA practice and procedure; we strive to work in conjunction with the existing request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. OGIS serves as the Federal FOIA Ombudsman and our jurisdiction is limited to assisting with the FOIA process.

I understand that you made a request to the FBI for records related to [REDACTED]. The FBI released responsive records to you, but withheld portions of those records pursuant to FOIA Exemptions 6, 7(C) and 7(E). You appealed that response, particularly in light of the passage of time and the historical value of the records you seek. The Office for Information Policy affirmed the FBI's action on your request. You asked for OGIS's assistance with this matter.

In response to your request, we reached out to the FBI's FOIA Public Liaison, Dennis Argall, to discuss your request. Mr. Argall reiterated the FBI's position on the records you seek. In cases such as this where an agency is firm in its position, there is little for OGIS to do beyond providing more information about the agency's actions.

FOIA Exemptions 6 and 7(C) protect personal privacy interests. FOIA Exemption 6, 5 U.S.C. § 552(b)(6), protects information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." FOIA Exemption 7(C), 5 U.S.C. § 552(b)(7)(C), is limited to information compiled for law enforcement purposes and protects personal information when disclosure "could reasonably be expected to constitute an unwarranted invasion of personal privacy."

In considering withholding records under Exemptions 6 and 7(C), an agency must weigh the interest in public disclosure against an individual's right to privacy. Courts



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have consistently held that the central purpose of FOIA is to allow people to learn about the conduct of agencies, not to discover information about other individuals. The U.S. Supreme Court held that “the statutory purpose [of FOIA] is not fostered by disclosure of information about private citizens that is accumulated in various governmental files but that reveals little or nothing about an agency’s own conduct.” *U.S. Dep’t of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749, 773 (1989).

Some of the protections provided under Exemptions 6 and 7(C) no longer apply after a person’s death. If you have an idea of what the protected names might be, and you know that those individuals are deceased, you may wish to file a new request with proof of their deaths.

FOIA Exemption 7(E), 5 U.S.C. § 552(b)(7)(E), applies to information compiled for law enforcement purposes and authorizes an agency to withhold information that “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.” While the passage of time may render a particular law enforcement technique or procedure less sensitive because it is no longer in use, or has become widely known, or has been superseded by more modern techniques or procedures, information does not simply cease to be protectable under 7(E) when it reaches a certain age. The agency must also consider the law enforcement techniques or procedures described in the record and how disclosure of that information may impede law enforcement efforts. In your case, the FBI found that the information you seek merits continued protection under exemption 7(E).

I hope you find this information useful in understanding why the FBI withheld the material it did in response to your request. At this time, there is no further assistance OGIS can offer. Thank you for bringing this matter to OGIS. We will close your case.

Sincerely,

/s/

Nikki Gramian, Acting Director
Office of Government Information Services (OGIS)

cc: Dennis Argall, FBI FOIA