



OFFICE of GOVERNMENT INFORMATION SERVICES

August 10, 2015 — Sent via email and U.S. mail

[REDACTED]

Re: Case No. 201500898
NG: CM: CL

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

8601 ADELPHI ROAD
OGIS
COLLEGE PARK, MD
20740-6001

web: www.ogis.archives.gov
e-mail: ogis@nara.gov
phone: 202-741-5770
toll-free: 1-877-684-6448
fax: 202-741-5769

Dear [REDACTED]:

This responds to your June 29, 2015 request for assistance from the Office of Government Information Services (OGIS). Your request for assistance concerns your Freedom of Information Act (FOIA) request, [REDACTED], and subsequent appeal, [REDACTED], to the United States Postal Inspection Service (USPIS) for records relating to a [REDACTED].

Congress created OGIS to complement existing FOIA practice and procedure; we strive to work in conjunction with the existing request and appeal process. OGIS's goal is 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 were dissatisfied with USPIS's initial response to your FOIA request and filed an appeal. On appeal, USPIS re-reviewed the 17 pages released to you in part and two pages withheld in full, and determined that the agency properly withheld information under FOIA Exemptions 7(C) and 7(D), 5 U.S.C. §§ 552(b)(7)(C) and 7(D). You dispute this response.

To learn more about USPIS's response to your request and appeal, we contacted Acting FOIA Public Liaison Tammy Warner. Ms. Warner affirmed the agency's action on your request. 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 and the cited exemptions.

While I understand that the information you seek is important to you, not all records are releasable under FOIA. FOIA protects certain categories of information because release of that information would harm government or private interests. These categories are called "exemptions." In your case, USPIS invoked two exemptions to withhold information responsive to your request. I will describe these exemptions below.

As the agency explained in its [REDACTED], 2015 letter responding to your appeal,



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Exemption 7(C) covers records compiled for law enforcement purposes that “could reasonably be expected to constitute an unwarranted invasion of personal privacy” if released.

The government recognizes a strong privacy interest in law enforcement records and courts have agreed that it is generally appropriate to withhold information that identifies third parties in law enforcement records.

Agencies regularly use Exemption 7(C) to withhold references to individuals who are mentioned in law enforcement files, as well as to individuals in whom a law enforcement agency has an investigatory interest. The mere mention of an individual in connection with a law enforcement investigation could invade that individual’s personal privacy if the information became public. In response to your appeal, USPIS explained that it invoked Exemption 7(C) to protect information about third parties described in the records responsive to your request. When an agency considers releasing personal information about individuals (if such records exist) under FOIA, the agency must weigh the public interest in disclosure against an individual’s right to privacy.

Courts have consistently held that the central purpose of FOIA is to allow people to learn about the conduct of the agency and 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). The standard of public interest in records of this type is limited to information that reveals the operations and activities of the government. The *Department of Justice Guide to the Freedom of Information Act* provides an explanation of “public interest” under the Supreme Court case referenced above that states “Under the Reporter’s Committee, the standard of public interest to consider is one specifically limited to the FOIA’s ‘core purpose’ of ‘shedding light on an agency’s performance of its statutory duties.’ Accordingly, information that does not reveal the operations and activities of government does not satisfy the public interest requirements. It may be helpful to know that these third party protections also apply if someone requests from the government records pertaining to *you*.”

Exemption 7(D) broadly protects all information shared with criminal law enforcement agencies by confidential sources in criminal investigations. Unlike some other exemptions, which require a balancing of public and private interests, Exemption 7(D) does not require a balancing test. If a source is confidential, an agency may invoke the exemption regardless of the public interest in disclosure. Exemption 7(D) protects confidential sources from retaliation that could result if information pertaining to their law enforcement activities were disclosed. When a source provides information to a law enforcement agency in the course of a criminal investigation or possible violation of Federal law, then all the information provided by the source may be exempt from disclosure. Exemption 7(D) assists Federal law enforcement agencies in obtaining and maintaining confidential sources and protecting the flow of information to these agencies.

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While I understand that this is not the result for which you hoped, I hope you find this information useful in understanding why USPIS withheld information responsive to your request. Thank you for contacting OGIS; we will now consider this matter closed.

Sincerely,

Nikki Gramian, Acting Director
Office of Government Information Services

cc: Tammy Warner, Acting FOIA Public Liaison, USPIS, via email