



OFFICE of GOVERNMENT INFORMATION SERVICES

January 19, 2016 - Sent via U.S. Mail

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

In Re: Case No.: 201600046
NG: HK

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 October 7, 2015, submission to the Office of Government Information Services (OGIS). Your request for assistance pertains to your records request (FBI FOIA tracking [REDACTED] the Federal Bureau of Investigation (FBI)).

As you are aware, Congress created OGIS to complement existing Freedom of Information Act (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.

You submitted a request for copies of any files about [REDACTED]. In your request to the FBI, you specifically ask that the agency conduct a search of several specific databases in addition to a "cross-reference" search of [REDACTED].

From the background information you submitted, it appears FBI's response to your request informed you that the agency conducted a search of its Central Records System and was unable to identify main file records responsive to your request. You subsequently appealed the FBI's decision to the Office of Information Policy (OIP). OIP upheld the FBI's decision on its search and stated that you may provide additional information for a cross-reference search. In your submission to OGIS, you ask for an explanation of the FBI's response and request assistance with asking the FBI to search for responses and cross-references in several specific databases.

In response to your submission, we contacted the FBI to discuss your request and concern about the agency's search. FBI's FOIA Public Liaison, Mr. Dennis Argall, explained that in response to your request for "cross-reference" search, FBI conducted a subsequent "cross-reference" search and located 8 pages which were reviewed under FOIA and released to you on [REDACTED].



In your submission to OGIS, you explain that you dispute the FBI's and OIP's responses to your request and appeal. Specifically, you assert that you directed the FBI to search its National Name Check Program (NNCP) and its Record/Information Dissemination Section (RIDS), which is the FBI's Freedom of Information Act Unit. The OGIS facilitator working on your case asked Mr. Argall for an explanation of its response concerning FBI's search of the National Name Check Program. Mr. Argall declined to provide a response, other than stating that all of the records responsive to your FOIA request(s) have been provided to you.

With regard to the RIDS database, Mr. Argall explained that their FOIA database is used for logging FOIA and Privacy Act requests. While the agency did not see any reason to do a search of its FOIA/PA database, in response to our inquiry, Mr. Argall conducted a search of its FOIA/PA database and found there were other FOIA requests logged in your name, all of which had been responded to previously.

Finally, with regard to the FBI's action to neither confirm nor deny the existence of records that would reveal your name on any watch list under FOIA Exemption 7(E), 5 U.S.C. § 552(b)(7)(E), this exemption authorizes an agency to withhold information compiled for law enforcement purposes 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." In the case of watch lists, confirmation that an individual is or is not included on such a list may reveal information that could assist a terrorist organization in circumventing the law by determining which of its members are likely to be questioned or detained. Federal courts have consistently held that records pertaining to terrorism watch lists are appropriately withheld under Exemption 7(E). The FBI routinely informs all FOIA requesters that it can neither confirm nor deny that their names are on a watch list. As OIP informed you in its September 25, 2015 response to your appeal, the FBI's response is standard and you should not take it as an indication that watch list records pertaining to you do or do not exist.

In our role as FOIA ombudsman, we observe FOIA best practices and offer feedback to requesters and agencies. If you make a future request for records about [REDACTED] you may wish to provide information as to why you believe that the agency may have records [REDACTED]; this information can help an agency determine the correct program office to search. It is also helpful to include a daytime telephone number or an email address so that the agency can more easily contact you to discuss your request.

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

Sincerely,

/S/

JAMES V.M.L. HOLZER
Director

cc: Dennis Argall, FOIA Public Liaison, Federal Bureau of Investigation

We appreciate your feedback. Please visit <https://www.surveymonkey.com/s/OGIS> to take a brief anonymous survey on the service you received from OGIS.