



OFFICE *of* GOVERNMENT INFORMATION SERVICES

February 2, 2016 - Sent via e-mail

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

In Re: Case No.: 2015-01048
NG: HK

Dear [REDACTED]:

This responds to your August 5, 2015, request for assistance to the Office of Government Information Services (OGIS). Your request for assistance pertains to your records request ([REDACTED]) to the Department of Justice (DOJ), Executive Office for United States Attorneys (EOUSA) and appeal to the DOJ Office of Information and Policy. I apologize for the length of time it took to respond to your request for assistance. It took our office significantly longer than expected to receive information related to your request from the EOUSA.

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.

In a letter included with your submission to OGIS and in subsequent discussions with our office, you asked for OGIS' assistance in helping you obtain trial exhibits containing [REDACTED]. You stated that you are the administrator of the estate of [REDACTED] need the records for a case you have pending in the [REDACTED].

On [REDACTED], EOUSA released 773 pages to you in full, withheld 255 pages in part pursuant to Exemptions 5, 6, and 7(C) of the FOIA, 5 U.S.C. § 552(b)(5), (b)(6) and (b)(7)(C), and referred the remaining responsive documents to the Federal Bureau of Investigation (FBI). The specific documents you are seeking and asked for OGIS' assistance in obtaining concern the [REDACTED].



In working cases such as yours, an OGIS facilitator will first reach out to the agency to discuss how it handled the request and appeal. In your case, we contacted EOUSA to learn more about your case.

EOUSA informed our office that the documents EOUSA withheld in full contain part of the criminal file pertaining to the Defendant and were stored under a Privacy Act System of Records. The Privacy Act, 5 U.S.C. § 552a, allows United States citizens or lawfully admitted permanent residents to gain access to name-retrievable information that is maintained on themselves in a system of records, unless such information is exempt from disclosure.

The records withheld in full pertain to the Defendant's prosecution and therefore, the records cannot be released in response to your request without a release from the defendant or unless the FOIA requires disclosure. EOUSA explained that although you are the [REDACTED] [REDACTED] is deceased, the information pertains to Defendant, [REDACTED] and is therefore being withheld under Exemptions 6 and 7(C) of the FOIA. EOUSA also explained that certain records consisting of the prosecution work papers were withheld in full under FOIA Exemption 5.

OGIS followed up with EOUSA and explained you are mostly interested in [REDACTED] [REDACTED] and asked if any of the information withheld in full are [REDACTED]. EOUSA explained that the specific records you are inquiring about, namely [REDACTED] [REDACTED], were referred to the FBI for review as the FBI collected those records during its investigation of your client's death.

We contacted the FBI to inquire as to the status of their review and the FBI informed us that the records are in their queue to be processed and the review will be completed within the next six months. In addition, if you would like to check on the status of the review, the FBI informed us that your FOIA tracking number for the referred medical records at the FBI is [REDACTED].

I hope you find this information useful in understanding why EOUSA 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: Donna Preston, FOIA Public Liaison, Executive Office of United States Attorneys
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.