



OFFICE *of* GOVERNMENT INFORMATION SERVICES

February 25, 2016—Sent via U.S. mail

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

Re: Case No.: 201600194
NG: CM

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 request for assistance from the Office of Government Information Services (OGIS), which we received on November 17, 2015 via U.S. mail. We apologize for our delay in responding to your request for assistance.

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 your case, you made a request to the Federal Bureau of Investigation (FBI) for [REDACTED]. The FBI neither confirmed nor denied the existence of such records, explaining that without the consent of those individuals or proof of their death, the individuals' privacy interests outweighed public interest in the release of any responsive records, should they exist. In making this decision, the FBI cited FOIA Exemptions 6 and 7(C), 5 U.S.C. § 552(b)(6) and (b)(7)(C). You appealed this request, and the Office of Information Policy (OIP) upheld the FBI's action on your request. You dispute this response, particularly in light of your assertion that one of the individuals named in your request, [REDACTED], is deceased. You ask for OGIS's assistance with this matter.

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." As the FBI's letter to you explains, in your case, Exemptions 6 and 7(C) are protecting the fact of whether or not the agency has records responsive to your request.



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When making release determinations pursuant to Exemptions 6 and 7(C), an agency must weigh the public interest 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 agencies, not to discover information about other individuals. The 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).

As the FBI's letter explains, Exemptions 6 and 7(C) may no longer apply in situations in which a requester provides the consent of the named third party or proof of the individual's death. In your submission to OGIS, you assert that while [REDACTED] is deceased, [REDACTED] you cannot obtain proof of her death. As a courtesy to you, we have enclosed a copy of a funeral home obituary that is available online. Please note that OGIS staff cannot confirm that this obituary is for the same individual that you describe in your letter; we note that your submission states that [REDACTED], while the obituary lists this individual's birthdate as [REDACTED]. If you believe that this obituary relates to the same individual mentioned in your request to the FBI, you may wish to resubmit your request with a copy of this obituary.

I hope that this information about your request is useful to you. Thank you for contacting OGIS; we will now consider this matter closed.

Sincerely,

/s/

JAMES V.M.L. HOLZER

Director

cc: FBI FOIA

Enclosure