



OFFICE *of* GOVERNMENT INFORMATION SERVICES

March 29, 2016—Sent via email

[REDACTED]  
[REDACTED]

Re: Case No.: 201600448  
NG: KG

NATIONAL  
ARCHIVES  
*and* RECORDS  
ADMINISTRATION

8601 ADELPHI ROAD  
OGIS  
COLLEGE PARK, MD  
20740-6001

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Dear [REDACTED]:

This responds to your request for assistance from the Office of Government Information Services (OGIS), which we received on January 28, 2016 via email. Your request for assistance pertains to your records request to the Federal Bureau of Investigation (FBI).

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.

We carefully reviewed your submission and discussed the FBI's "no records" response and the FBI's action to neither confirm nor deny the existence of records that would confirm or deny your placement on a government watch list under FOIA Exemption 7(E), 5 U.S.C. § 552(b)(7)(E), with FBI FOIA Public Liaison Dennis J. Argall. I note that in response to your appeal, [REDACTED] the Department of Justice's Office of Information Policy (OIP) affirmed the FBI's response to your request. As it relates to the FBI's no records response, Mr. Argall explained that the FBI conducted a search of its Central Records System using your name (and variation of your name) as a search term and did not find any records.

Please know that Federal courts have long settled that in regard to a search for documents, the crucial issue is whether an agency conducted an adequate search for a document, not whether a document *might* exist. An adequate search is conducted when the search is reasonably calculated to uncover all relevant documents. See *Weisberg v. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983).

It is not clear from your submission to OGIS why you believe the FBI may have records about you. It may be helpful to know that in the United States, both the Federal government and the states have authority to investigate or prosecute criminal offenses. The Federal government and each state have their own criminal statutes, court systems, prosecutors, and law enforcement agencies. The FBI is a Federal investigative agency that investigates violations of Federal law. It does not investigate matters that fall within the jurisdiction of



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state and local law enforcement authorities, nor is it a repository for all records that are created, maintained, and used by state and local enforcement authorities.

We also reviewed the copies of police reports you enclosed with your submissions from the state Pennsylvania. When a case is investigated by a state or a local Criminal Investigation Division (CID), then records would be maintained by that state and local investigative division.

State freedom of information laws grant access to state and local government records; the Federal FOIA does not apply to state or local agencies. You may wish to submit a public records request to the appropriate state or local agency or agencies within state of Pennsylvania for the records you seek if you have not done so already. For your reference, we are enclosing a copy of the State of Pennsylvania's Right to know web page that provides contact information for submission of a state Freedom of Information request.

With regard to the FBI neither confirming nor denying the existence of your name on any watch lists, please know that the FBI routinely informs all FOIA requesters that it can neither confirm nor deny that their names are on a watch list.

In neither confirming nor denying that your name is on any government watchlist the FBI cited FOIA Exemption 7(E). Exemption 7(E) 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).

As OIP informed you in its final response to your appeal, the FBI's response is standard and should not be taken as an indication that watch list records pertaining to you do or do not exist.

I hope you find this information useful. 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/

JAMES V.M.L. HOLZER  
Director

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