



OFFICE of GOVERNMENT INFORMATION SERVICES

September 5, 2014— Sent via U.S. mail

NATIONAL  
ARCHIVES  
and RECORDS  
ADMINISTRATION

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[REDACTED]

Re: Case No.: 201300784  
MN: NG: CL

Dear [REDACTED]:

This responds to your August 15, 2013 request for assistance from the Office of Government Information Services (OGIS), which we received on August 26, 2013 via U.S. mail. Your request for assistance pertains to your Freedom of Information Act (FOIA) request, No. [REDACTED] to the Executive Office for Unites States Attorneys (EOUSA) and subsequent appeal, No. [REDACTED] to the Department of Justice's Office of Information Policy (OIP) for access to records concerning [REDACTED].

Congress created OGIS to complement existing 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 its jurisdiction is limited to assisting with the FOIA process.

We carefully reviewed the correspondence you submitted to our office. You appealed EOUSA's response to your request and limited your appeal to the portion of your request concerning [REDACTED]. OIP responded to your appeal on July 31, 2013, informing you that it affirmed EOUSA's response on partly modified grounds. OIP's letter said that absent [REDACTED] consent, proof of death, official acknowledgement of an investigation, or an overriding public interest, EOUSA properly refused to either confirm or deny the existence of records responsive to your request under FOIA exemption 7(C), 5 U.S.C. § 552 (b)(7)(C).

In your letter to OGIS, you explained the importance of the records you seek, particularly as they relate to your own conviction. In response to your submission, we contacted EOUSA to discuss your request and the agency's response. EOUSA Attorney Vinay Jolly confirmed that the agency is firm in its position on the records you seek. I am glad to

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provide you with more information on EOUSA's response to your request.

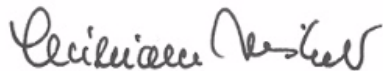
When an agency responds to a FOIA request by neither confirming nor denying the existence of responsive records, this is known as the "Glomar" response. A "Glomar" response is proper when to admit that records even exist would reveal a fact that is exempt under FOIA. In your case, the existence or nonexistence of responsive records pertaining to [REDACTED] is exempt from disclosure under FOIA Exemption 7(C).

Exemption 7(C) protects law enforcement information the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy." In the case of the records you seek, EOUSA determined, and OIP affirmed, that confirming or denying the existence of law enforcement records concerning [REDACTED] could reasonably be expected to invade his privacy.

OIP's letter informs you that you may be able to overcome the privacy interest protected by Exemption 7(C) if [REDACTED] provides his consent to the release of information; you provide proof of his death; there is an official acknowledgment by the U.S. Government of an investigation; or you show a public interest that overrides a personal privacy interest. You included in your submission an article about [REDACTED] that appeared in a newspaper; please know that a report by a news organization generally does not equate to confirmation of information by a government official. If you can provide EOUSA with proof of an official acknowledgement of a Federal investigation into [REDACTED], you may wish to submit that information to EOUSA with a new 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. I understand that this is not the response for which you hoped, but I hope you find this information useful in understanding why EOUSA responded to your request as it did. Thank you for contacting OGIS; we will now consider this matter closed.

Sincerely,



Miriam Nisbet, Director  
Office of Government Information Services

cc: Donna Preston, Executive Office for United States Attorneys (EOUSA), FOIA Public Liaison, via email