



OFFICE of GOVERNMENT INFORMATION SERVICES

December 16, 2014— Sent via email

[REDACTED]

Re: Case No.: 201400558
NG: KM

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

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OGIS
COLLEGE PARK, MD
20740-6001

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e-mail: ogis@nara.gov

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Dear [REDACTED]

This responds to your June 2, 2014 request for assistance from the Office of Government Information Services (OGIS). Your request for assistance pertains to your Freedom of Information Act (FOIA) request, No. [REDACTED] to the Federal Bureau of Investigation (FBI) seeking access to [REDACTED].

Congress created OGIS to serve as the Federal FOIA Ombudsman and our jurisdiction is limited to assisting with the FOIA process.

OGIS:

- Advocates for neither the requester nor the agency, but for the FOIA process to work as intended
- Provides mediation services to help resolve disputes between FOIA requesters and Federal agencies
- Strives to work in conjunction with the existing request and appeal process
- May become involved at any point in the FOIA administrative process

OGIS does not:

- Compel agencies to release documents
- Enforce FOIA
- Process requests or review appeals
- Provide assistance outside the realm of FOIA
- Make determinations or dictate resolutions to disputes

OGIS Facilitator Kirsten Mitchell carefully reviewed the correspondence pertaining to your request and discussed your case with FBI FOIA Public Liaison Dennis J. Argall, Assistant Chief of the FBI's Records Information Dissemination Section; Matthew Hurd, Attorney Advisor at the Department of Justice's Office of Information Policy (OIP); and your attorney, [REDACTED].

Ms. Mitchell also reviewed correspondence pertaining to your previous similar requests to the FBI, No. [REDACTED] and No. [REDACTED] which you informed OGIS resulted in the release of [REDACTED]. You question why the FBI informed you that the agency had no responsive records pertaining to [REDACTED] when the agency previously released records [REDACTED] in response to FOIA requests.



NATIONAL
ARCHIVES

[REDACTED]
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I note that the Department of Justice's Office of Information Policy (OIP), in response to Appeal No. [REDACTED], affirmed the FBI's response that it found no records responsive to your request regarding [REDACTED].

We learned that although the February 5, 2014 response letter informed you that the FBI searched its Central Records System index, the agency actually searched the Criminal, Cyber, Response, and Services Branch for information responsive to your request. (The letter appears to use standard language that the FBI uses in many of its responses.) You may wish to submit a new FOIA request to the FBI specifically asking the agency to search [REDACTED] its Data Intercept Technology Unit and its Finance Division. The FBI's Finance Division is responsible for the overall coordination and administration of the FBI's budgetary and fiscal matter, financial planning, voucher and payroll matters, and property and procurement activities. The more specific you are about what you seek, the better able an agency is to search for records responsive to your request.

Mr. Hurd informed OGIS that just because the FBI found records [REDACTED] does not mean that the agency will find records [REDACTED].

In your request for OGIS assistance, you note that the online The Daily Dot reported on [REDACTED]
[REDACTED]

Please know that information reported in the media may not be releasable under FOIA, and does not automatically act as a waiver of an agency's ability to withhold the information under FOIA. Regarding information reported by The Daily Dot, please know that in order for the information to be released under FOIA, the information must have been officially disclosed, not obtained through a source or other means, and such that an authoritative government official released the information publicly. Furthermore, Federal courts have consistently ruled that prior public disclosure must "match" the exempt information being sought.

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 hope that this information about your request is useful to you.

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,

Nikki Gramian, Acting Director
Office of Government Information Services (OGIS)

cc: Dennis J. Argall, FOIA Public Liaison, FBI, via email
Matthew Hurd, Attorney Advisor, OIP, via email
[REDACTED]

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.