



OFFICE of GOVERNMENT INFORMATION SERVICES

June 24, 2015 - Sent via U.S. mail



Re: Case No. 201500791
NG: CM: CL

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

Dear [REDACTED]:

8601 ADELPHI ROAD
OGIS
COLLEGE PARK, MD
20740-6001

This responds to your May 28, 2015 letter to the Office of Government Information Services (OGIS), which we received via U.S. mail. Your request for assistance concerns your Freedom of Information Act (FOIA) request to the Federal Bureau of Prisons (BOP).

web: www.ogis.archives.gov
e-mail: ogis@nara.gov
phone: 202-741-5770
toll-free: 1-877-684-6448
fax: 202-741-5769

Congress created OGIS to complement existing FOIA practice and procedure and we strive to work in conjunction with the existing request and appeal process. OGIS's goal, whenever practical, is to allow 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.

You contacted OGIS regarding your request, No. [REDACTED], to BOP for access to a recording of a telephone conversation between you and your attorney, [REDACTED], on or about [REDACTED]. BOP denied your request, stating that without the written consent of the parties involved in the conversation (in your case, [REDACTED]), BOP could not release the recorded conversation. You disputed BOP's response to your request and submitted an appeal, No. [REDACTED], to the Department of Justice Office of Information Policy (OIP). In response to your appeal, OIP affirmed BOP's action on your request on modified grounds. OIP determined that BOP properly withheld the telephone recording in full under FOIA Exemptions 6 and 7(C), 5 U.S.C. §§ 552(b)(6) and 7(C). You dispute this response.



NATIONAL
ARCHIVES

To learn more about BOP's response to your request and appeal, we contacted BOP FOIA Public Liaison C. Darnell Stroble and OIP Attorney-Advisor Matthew W. Hurd. Mr. Stroble and Mr. Hurd confirmed that BOP's action on your request was proper.

In situations like this when an agency is firm in its position, there is little OGIS can do

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beyond providing more information regarding the agency's response and explaining the FOIA exemptions the agency cited in response to a request.

FOIA Exemptions 6 and 7(C) protect personal privacy interests. FOIA Exemption 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) 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.”

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).

In our discussion with Mr. Hurd regarding BOP’s response to your request, he cited to judicial precedent concerning this exact situation. For your reference, I am enclosing the case law opinion Mr. Hurd cited, *Galen Pendergrass v. United States Department of Justice*, Civil Action No. 04-112 (D. D.C.).

I hope you find this information useful in understanding BOP’s action on your request. At this time, OGIS can offer no further assistance. Thank you for bringing this matter to OGIS. We will close your case.

Sincerely,

/s/

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

Enclosure

cc: Matthew W. Hurd, Attorney-Advisor, OIP
C. Darnell Stroble, FOIA Public Liaison, BOP