



OFFICE *of* GOVERNMENT INFORMATION SERVICES

July 17, 2015 — Sent via email

[REDACTED]
[REDACTED]

Re: Case No.: 201500693
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 May 4, 2015 request for assistance from the Office of Government Information Services (OGIS), which we received via email. Your request for assistance pertains to your Freedom of Information Act (FOIA) request to the Federal Bureau of Investigation (FBI).

As you are aware, 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 our jurisdiction is limited to assisting with the FOIA process.

In your submission to OGIS, you explained that you made a request to the FBI for [REDACTED] informant file, which you submitted along with a privacy waiver from [REDACTED]. The FBI responded to your request, informing you that the records you seek are exempt from release pursuant to FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). You appealed that response, explaining that while [REDACTED] provided information related to an ongoing FBI investigation, [REDACTED] is no longer assisting the Bureau. Considering this, you challenge the FBI's assertion that the records you seek could interfere with that ongoing investigation. The Department of Justice Office of Information Policy (OIP) affirmed the FBI's action on your request. You dispute this response.

We contacted the FBI to share your concerns about the agency's response. The FBI responded that it cannot discuss pending investigations. The agency also noted that OIP recently denied your request and affirmed the FBI's response after a de novo review of the matter.

As you are surely aware, Exemption 7(A) is temporal in nature and not intended to "endlessly protect material simply because it is in an investigatory file," according to the Department of Justice Guide to the Freedom of Information Act. (http://www.justice.gov/oip/foia_guide09/exemption7a.pdf)



July 17, 2015

Page 2 of 2

Courts have ruled that Exemption 7(A) remains applicable throughout long-term law enforcement investigations or proceedings. The FBI has advised OGIS that if a requester wishes to inquire whether 7(A) still applies to the records he/she seeks, he/she may file another FOIA request for those records at a future time. Please be aware that once 7(A)'s protections are lifted and the agency is able to process your request, other FOIA exemptions may apply to those records.

When we discussed your dispute, you raised the issue of [REDACTED]. I discussed this matter with Mr. Argall, who explained the FOIA exempts pending law enforcement investigations from release. However, assuming *arguendo* that [REDACTED] is somehow related to the pending [REDACTED] investigation, Mr. Argall confirmed that Exemption 7(A) would still protect any material that is related to that investigation.

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. Thank you for contacting OGIS; we will now consider this matter closed.

Sincerely,

/s/

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

cc: Dennis Argall, FBI FOIA

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.