



OFFICE of GOVERNMENT INFORMATION SERVICES

September 15, 2015—Sent via U.S. mail



Re: Case No.: 201500877
NG: CM

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

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Dear [REDACTED]:

This responds to your June 16, 2015 request for assistance from the Office of Government Information Services (OGIS), which we received on via U.S. mail. Your request for assistance pertains to your Freedom of Information Act (FOIA) request to the Federal Bureau of Prisons (BOP).

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.

You contacted OGIS regarding a request you submitted for the names and salaries of the staff members of Federal Prison Camp [REDACTED]. I understand that although your request was initially denied, your request was subsequently remanded to BOP by the Office of Information Policy (OIP). BOP released three pages to you, with portions withheld pursuant to FOIA Exemptions 6 and 7(C), 5 U.S.C. §§ 552(b)(6) and (7)(C). You appealed that response, and OIP affirmed that response in part, additionally citing FOIA Exemption 7(F), 5 U.S.C. § 552(b)(7)(F), as an applicable withholding statute. You dispute this response, explaining that you believe that these exemptions do not apply to the information you seek.

In response to your submission, we contacted OIP to inquire about the agency's response to your appeal. OIP affirmed its response to your appeal, noting that it added Exemption 7(F) to the withholding statutes to protect personally identifiable information about BOP employees whose names were not released. 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 and the exemptions applied.

As you explained in your correspondence, the Office of Personnel Management (OPM) issued a regulation that authorizes the disclosure of certain information about government employees, which includes the employees' names, present and past position titles, occupational series, present and past grades and some additional information. See 5 C.F.R. § 293.311 (copy attached).



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However, in 2009, OPM also issued guidance that this type of information is not required to be released for a number of occupational series. One of those occupational series that OPM has exempted from the release requirements of its regulation is that of correctional officers. I have attached a copy of that OPM guidance for your reference. Also *See, Long v. OPM*, 692 F.3d 185 (2nd Cir. 2012).

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).

FOIA Exemption 7(F) applies to information compiled for law enforcement purposes that “could reasonably be expected to endanger the life or physical safety of any individual.” Courts have extended Exemption 7(F)’s protections to include information about inmates, law enforcement officers, confidential sources and third parties. Courts have given federal agencies broad latitude to withhold information under Exemption 7(F) when there is reasonable cause to believe that disclosure of the information would risk physical harm to any individual.

I hope you find this information useful in understanding why BOP withheld the material it did in response to your request. 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: Matthew Hurd, OIP