



OFFICE of GOVERNMENT INFORMATION SERVICES

October 6, 2015—Sent via U.S. Mail



Re: Case No.: 201501098  
NG: CM: CL

Dear [REDACTED]:

This responds to your August 12, 2015, request for assistance from the Office of Government Information Services (OGIS). Your request for assistance pertains to your records request, No. [REDACTED], to the Federal Bureau of Investigation (FBI) and subsequent appeal, No. AP-[REDACTED], to the Department of Justice's Office of Information Policy (OIP) for access to records concerning yourself.

Congress created OGIS to complement existing Freedom of Information Act (FOIA) practice and procedure; we strive to work in conjunction with the existing request and appeal process. Our goal is 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.

As you may know, when an individual requests access to his or her own records, it is most often, but not always, considered a Privacy Act, or first-party, request. Federal agencies will process requests under both FOIA and the Privacy Act of 1974 in order to provide requesters with the fullest degree of access available.

Privacy Act matters fall outside the scope of our office's mission as the FOIA Ombudsman. However, many Privacy Act requests overlap with FOIA; therefore, OGIS provides ombuds services, including providing information about the process and the status of requests, to individuals requesting their own records. OGIS does not have a statutory role in reviewing policies, procedures and compliance with the Privacy Act as we do with FOIA.

We carefully reviewed your submission and discussed it with the FBI's FOIA Public Liaison, Dennis J. Argall. I understand that the FBI informed you that it found no main file records responsive to your request. On appeal, OIP affirmed the FBI's response to your request. You dispute this response.

NATIONAL  
ARCHIVES  
and RECORDS  
ADMINISTRATION

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OGIS  
COLLEGE PARK, MD  
20740-6001

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October 6, 2015

Page 2 of 3

The FBI indexes the names of any individuals, organizations, or items the Bureau considers of investigative or administrative interest. The main file refers to the entity that is the main subject of an FBI investigation. Mr. Argall explained that when the FBI receives a request for records, it analyzes the request to identify key terms that it can use to search for responsive records. In your case, Mr. Argall explained that the FBI searched its main files for all variations of your name, [REDACTED].

Regarding the FBI's response to your request, please know that Federal courts have long settled that in regard to a search for documents, the crucial issue is whether an agency conducted an adequate search for a document, not whether a document *might* exist. An adequate search is conducted when the search is reasonably calculated to uncover all relevant documents. *See Weisberg v. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983).

In our discussion with Mr. Argall, he noted that you have submitted requests for records about yourself to the FBI since [REDACTED] with the same result, the Bureau cannot locate records concerning you in its main files. As you may know, the FBI's mission includes investigating violations of certain Federal statutes and collecting evidence in legal cases in which the United States is or may be an interested party. Your submission to OGIS notes that you believe that the FBI created records about you in [REDACTED]. If you were involved with matters that fall under the FBI's purview, it is possible that you are mentioned in the main file of another person. You may wish to submit another records request for cross-references with enough information to enable the FBI to ensure with certainty that the cross-references are identifiable to the subject of your request. The information may include the following:

- The specific circumstances in which the subject may have had contact with the FBI;
- The date(s) of such contact;
- The location(s) of such contact;
- The subject of the investigation's full name and any prior names or aliases he/she used;
- His/her Social Security number, date of birth, place of birth, and home address;
- Names of his/her associates, the mention of whom might help in identifying responsive records; and
- Any references to him/her in the media, such as in books or articles or on websites.

The date(s) and location(s) of any contact with the FBI or a specific crime would be most useful in trying to locate records pertaining to you in another main file.

Finally, please know that Federal agencies do not retain records forever. All Federal records fall into one of two categories: *permanent* or *temporary*. Under the Federal Records Act, each agency must have "records schedules" (also referred to as record control schedules, record disposition schedules, or disposition authorities) that identify agency records as either temporary or permanent and prescribe how records within that agency are organized and stored. All records schedules must be approved by the National Archives and Records Administration (NARA).

A records schedule provides mandatory instructions for the disposition of the records (including the transfer of permanent records to NARA and the destruction of temporary records) when the

October 6, 2015

Page 3 of 3

agency no longer needs them. For your reference, I enclosed an example of an FBI records schedule.

Given the age of the records you seek, it is possible that FBI records that may have been responsive to your request were destroyed in compliance with a records schedule or transferred to NARA. If you have not done so already, you may wish to visit NARA's website at <http://www.archives.gov/research/investigations/fbi/> to learn more about the FBI records in NARA's archival holdings.

In your submission to OGIS, you wrote that a man named [REDACTED] from OIP called you on July 15, 2015 to discuss OIP's pending response to your appeal. OGIS staff discussed this matter with OIP Senior Attorney Matthew W. Hurd, who explained that his colleague spoke with you on or around July 15, 2015 to inform you that you would receive OIP's response to your appeal shortly if you had not received it already. Mr. Hurd re-iterated OIP's affirmation of the FBI's response to your request.

I hope you find this information useful. At this time we can offer you no further assistance with this issue. Thank you for bringing this matter to OGIS; we consider your case closed.

Sincerely,

Nikki Gramian /s/ for

JAMES V.M.L. HOLZER  
Director

cc: Dennis J. Argall, FOIA Public Liaison, Federal Bureau of Investigation, via email

Enclosure