



OFFICE of GOVERNMENT INFORMATION SERVICES

November 19, 2015—Sent via email

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: Case No.: 201501262
NG: CM: AB

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

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OGIS
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Dear [REDACTED]

This responds to your September 28, 2015, request for assistance from the Office of Government Information Services (OGIS). Your request for assistance pertains to your attempt to obtain records from the Federal Bureau of Investigation (FBI) regarding [REDACTED].

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.

We carefully reviewed the material you submitted, and appreciate having the opportunity to speak to you about your request on October 20, 2015 and November 13, 2015. We also discussed your request with the FBI's FOIA Public Liaison, Dennis J. Argall.

In 2002, in response to a FOIA request made by your lawyer, the FBI provided you with copies of records concerning [REDACTED]. The FBI withheld portions of these records citing FOIA Exemption 7(C), which protects personal privacy interests in law enforcement records. You appealed the FBI's decision to redact information from these documents to the Office of Information Policy (OIP) at the Department of Justice. OIP affirmed the FBI's action on your request, and noted that [REDACTED] is not the subject of the [REDACTED] main file, but is mentioned one time in a file on a different individual or organization.

In May 2015, you filed a request with the FBI seeking unredacted copies of the FBI's records concerning [REDACTED]. The FBI responded in August, informing you that it conducted a search of its Central Records System indices and located no records concerning [REDACTED]. You appealed the FBI's decision to OIP, which affirmed the FBI's response to your request.



In our discussion with Mr. Argall, he explained that the FBI, like all Federal agencies, creates, maintains, and obtains records as it carries out its responsibilities. As it does so, the Bureau organizes these records into case files which are indexed in the FBI's Central Records System (CRS). The CRS encompasses the centralized records of FBI Headquarters, field offices, and legal attaché offices. The records maintained in the FBI's CRS consist of administrative, applicant, criminal, personnel and other files compiled for law enforcement purposes.

Additionally, access to the CRS is afforded by the General Indices, which are arranged in alphabetical order. The General Indices consist of various subject matters which are searched either manually or through the automated indices. The entries in the General Indices fall into two categories:

(a) "Main entry"- A "main" entry carries the name of an individual, organization, activity or the like, which the *main subject* of a file is maintained in the system.

(b) "Reference entries" - Reference entries, sometimes called "cross-references" are generally only a mere mention or reference to an individual, organization, etc., which is located in the body of an investigative or administrative file of another individual, organization, or event.

Mr. Argall explained that when the FBI received your request, it analyzed the request to identify key terms that the Bureau could use to search for responsive records. In your case, Mr. Argall explained that the FBI searched its main files for all variations of [REDACTED]. However, the unit was not able to find any records (main files) under [REDACTED]. For this reason, FBI issued a "no records" response for 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).

Since [REDACTED], is not the subject of the FBI's main file, you may wish to submit another records request for cross-references. To make a request for cross-references—defined as a mention of a subject in the main file of another person, place, or event—you need to provide information in your request that allows the FBI to ensure with certainty that any records it locates are related to [REDACTED], and not related to someone else with a similar name. This information may include the following:

- The specific circumstances in which the subject of your request had contact with the FBI (Since [REDACTED] was a victim of a crime, you need to provide information about the circumstance of [REDACTED] death);
- The date(s) of such contact (for this bullet, you need to provide the date of [REDACTED] death);
- The location(s) of such contact (for this bullet, please provide any relevant information about the location of the crime);
- The full name (first, middle, and last name) as well as any prior names or aliases used by the subject of your request (for this bullet, please provide [REDACTED] full name and any known aliases [REDACTED]);
- Social Security number, date of birth, place of birth, and home address of the subject of your request (Please provide [REDACTED] Social Security Number, date of birth, place of birth and [REDACTED] home address at the time of the crime);
- Names of associates of the subject of your request the mention of whom might aid in the identification of responsive records;

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- Other references of the subject of your request in media, such as books, articles, websites, etc (If you have any news articles about [REDACTED], please also provide that information for FBI's consideration).

Please note that the FBI may not be able to identify responsive cross-references despite the additional information you provide.

If you have not done so already, you may also wish to file a FOIA requests for access to records from any local or county police departments that participated in the investigation [REDACTED].

We also asked Mr. Argall about the type of information the FBI withheld from the records it sent you in 2002. Mr. Argall informed us that he cannot tell us anything about the withheld information because the FBI does not have copies of its FOIA case files from 2002. Please know that federal agencies do not maintain records indefinitely and that records related to FOIA requests and appeals are destroyed between 2-6 years after the agency responds, depending on the nature of the response.

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

Sincerely,

/S/

Dr. James V.M.L.Holzer, Director
Office of Government Information Services

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