



OFFICE *of* GOVERNMENT INFORMATION SERVICES

December 17, 2015—Sent via U.S. mail

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

Re: Case No.: 201600084
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 request for assistance from the Office of Government Information Services (OGIS), which we received on October 20, 2015 via U.S. mail. Your request for assistance pertains to your Freedom of Information Act (FOIA) request to the Department of Justice Office of Professional Responsibility (OPR).

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 case, you made a request to OPR for records related to [REDACTED]. OPR responded to your request by neither confirming nor denying the existence of responsive records pursuant to FOIA Exemptions 6 and 7(C), 5 U.S.C. § 552(b)(6) and (b)(7)(C). You appealed that response, and the Office of Information Policy affirmed OPR's action on your request. You requested OGIS's assistance with this matter, asserting that OPR's refusal to produce records is unlawful.

It is important to understand that OPR's response does not deny responsive records; rather, it refuses to confirm or deny the existence of responsive records. When an agency responds to a FOIA request by neither confirming nor denying the existence of responsive records, this is known as a "Glomar" response. A Glomar response is proper when to admit that records even exist would reveal a fact that is exempt under FOIA. In your case, the existence or nonexistence of responsive records is withheld pursuant to FOIA Exemptions 6 and 7(C).

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



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information compiled for law enforcement purposes and protects personal information when disclosure “could reasonably be expected to constitute an unwarranted invasion of personal privacy.”

For your information, a Glomar response is not proper when an official of the agency has publicly and officially acknowledged a fact that would establish a basis for concluding that records about a subject exist (or existed). If you have such an acknowledgment, you may wish to submit it to the agency with a new records request. However, a report by a news organization does not equate to confirmation of information or a fact by a government official.

I hope you find this information useful in understanding why OPR responded to your request as it did. 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