



OFFICE *of* GOVERNMENT INFORMATION SERVICES

February 24, 2016 - Sent via U.S. mail

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

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

Re: Case No.: 201600252
NG: HK

Dear [REDACTED]:

This responds to your December 7, 2015, request for assistance to the Office of Government Information Services (OGIS). You asked for assistance with your records request to the Department of Homeland Security (DHS) Office of Inspector General (OIG).

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. 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 submitted a request for information about a recent investigation [REDACTED]. In response to your request, OIG searched the DHS-OIG investigative database and identified 127 pages of records responsive to your request. The records were maintained in a system of records and OIG withheld the records pursuant to 5 U.S.C. 552a(j)(2) and (k)(2).

The records you requested were also processed pursuant to the FOIA affording you the greatest degree of access authorized by both laws. Based on that review, OIG released 52 pages in full and 75 pages in part.

OIG redacted names and identifying information of third parties pursuant to Exemptions 6 and 7(C) of the FOIA, 5 U.S.C. 552 (b)(6) and (b)(7)(C). You dispute OIG's response and contacted OGIS for assistance. Specifically, you are requesting a full report of the investigation, along with the names of all the individuals that decided to voluntarily participate in the investigation.



OGIS contacted OIG to learn more about your request and the agency's response. OIG informed OGIS that upon further review of the records released in response to your request, they determined that additional information may also be released. OIG is conducting an additional review and processing the information and will issue a supplemental response to you once the review is complete.

In your email to OGIS, you state you have "a direct legal right to know everything about entire context of the report and individuals that provided voluntary allegations and statements [REDACTED] . . . I have a legal right to question all the individuals that provided voluntary allegations and statements, otherwise the statements are hearsay and the finding of that investigation should be properly closed and dismissed." It may be helpful to know that FOIA provides for disclosure of many agency records. At the same time Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communication, and certain law enforcement activities.

Hence, OIG informed OGIS that they are firm in their decision to withhold third party information. Without providing the third parties' consent, proof of death, or an overriding public interest, OIG would not release the names of the individuals who were questioned by OIG investigators or those who voluntarily participated in the investigation. OIG explained the release of the third parties' name and identifying information in [REDACTED] investigation would constitute an unwarranted invasion of the personal privacy of those third parties.

The personal privacy Exemptions OIG cited were FOIA Exemption 6 and (7)(C). 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."

In considering withholding records under Exemptions 6 and 7(C), an agency must weigh the interest in public disclosure 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 U.S. 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).

Here, OIG withheld the third party names and identifiable information in the investigative records after determining that the information would shed little light on agency operations. Thus, in each instance where information was withheld under Exemptions 6 and 7(C), OIG determined that individual privacy rights outweighed the public interest in disclosure. According to the information OIG provided to OGIS, releasing the names and identifying information of third parties referenced in the investigative records could subject those individuals to unauthorized inquiries and harassment which could constitute a clearly unwarranted invasion of their personal

privacy. It may be helpful to know that OIG protects your identity much the same way were it to receive a request for your records from anyone other than you.

I hope you find this information useful in understanding why the OIG responded to your request as it did. At this time, there is no further assistance OGIS can offer and we will close your case. Thank you for bringing this matter to OGIS.

Sincerely,

/S/

JAMES V.M.L. HOLZER
Director

cc: [REDACTED], Supervisory FOIA/PA Disclosure Specialist, DHS OIG

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.