



OFFICE *of* GOVERNMENT INFORMATION SERVICES

February 25, 2016 - Sent via e-mail

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

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In Re: Case No.: 201600233
NG: HK

Dear [REDACTED]:

This responds to your December 1, 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). Thank you for your interest in OGIS.

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.

Your [REDACTED] submitted a request to OIG for the entire file, including video footage, of an incident on [REDACTED]

As stated in your request for assistance, OIG denied that request, stating that the information requested is being withheld pursuant to Exemption 7(A) of the FOIA, 5 U.S.C. § 552(b)(7)(A), as the production of the records, compiled for law enforcement purposes, could reasonably be expected to interfere with enforcement proceedings. [REDACTED] appealed this determination and has yet to receive a response to that appeal. You contacted OGIS to ask for assistance in finding out what documents would be produced and obtain an estimated date of completion.

In response to your submission, OGIS staff contacted OIG to discuss your request and the agency's response. OIG informed OGIS that a response to [REDACTED] appeal was provided on [REDACTED], in which the initial FOIA request was remanded for further processing. Additionally, in response to a recent inquiry by two of your colleagues, [REDACTED], OIG notified your colleagues that there were roughly 25 complex requests ahead of yours in the queue.



OIG also explained that they have some of the records responsive to your request, including a report of investigation (ROI), a portion of which they anticipate releasing this month. OIG explained that they continue to search for remaining records and will release the records on a rolling basis.

In addition, OIG informed OIGS that they exchanged emails with [REDACTED] on January 21, 2016. [REDACTED] explained that he was most interested in first receiving a video responsive to his request. In response, OIG replied that they would focus on conducting a search for the responsive video. Given the nature of the video however, OIG advised it would likely need to be referred to another DHS component for processing and a direct response to [REDACTED].

On [REDACTED], OIG issued an interim response letter to your law firm explaining that they located the requested video and referred it to the U.S. Customs and Border Protection (CBP) for processing and direct response to [REDACTED]. OIG explained that the referral was made in accordance with DHS regulations, which require DHS entities to determine whether another entity is better able to determine whether records are exempt from disclosure under the FOIA, and if so, then the record must be referred to the other entity. 6 C.F.R. § 5.4(c)(2). CBP is the source of the video and therefore the appropriate entity to make this determination.

OIG informed OIGS that they remain on track to release another interim response this month, and are preparing another interim release of the records.

I hope you find this information useful. At this time, there is no further assistance OIGS can offer and we will close your case. Thank you for bringing this matter to OIGS.

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 OIGS.