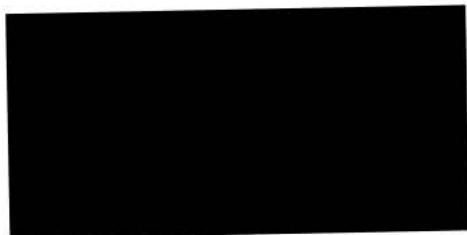




OFFICE of GOVERNMENT INFORMATION SERVICES

March 3, 2016 - Sent via U.S. Mail



In Re: Case No.: 201600292
NG: CM: HK

Dear

This responds to your December 2, 2015, request for assistance to the Office of Government Information Services (OGIS). Your request for assistance pertains to your records request to the Department of Justice Office of Inspector General (OIG) and the Department of Homeland Security's U.S. Immigration and Customs Enforcement (ICE). 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 request to OIG was for OIG responded to your request by releasing two responsive documents with certain information withheld pursuant to Exemptions 6 and 7(C) of the FOIA, 5 U.S.C. § 552(b)(6) and (b)(7)(C). You appealed OIG's response, and the Office of Information Policy (OIP) affirmed OIG's action on your request. You asked for OGIS's assistance with this matter.

OGIS staff contacted OIG to discuss your request and the agency's response. Regarding the information withheld pursuant to FOIA Exemptions 6 and 7(C), OIG affirmed the agency's position on the withholdings. OIG informed OGIS that the names of lower level employees were withheld from the responsive documents pursuant to Exemptions 6 and 7(C) of the FOIA.

Exemption 6 of the FOIA 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." Exemption 7(C) of the FOIA protects law enforcement information the disclosure of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. When making release determinations pursuant to Exemption 6, an agency must weigh

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the public interest 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 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). In your case, OIG weighed the privacy interests of the lower level employees whose names were mentioned in the responsive records against the public interest in disclosure and determined that the names should be withheld.

Regarding OIG's search for responsive records, the agency informed OGIS that it searched its files for the name [REDACTED]. 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. *Weisberg v. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). The reasonableness of an agency's search can depend on whether the agency properly determined where responsive records were likely to be found, and searched those locations, or whether the agency improperly limited its search to certain record systems or otherwise failed to explain how and why the particular search at issue was conducted.

We note that in its response to your appeal, OIP informed you that your appeal sought additional records that you did not originally request. As OIP states in its letter to you, you may not, on appeal, expand the scope of your initial request, which was limited to records concerning yourself. As OIP explained, a new FOIA request needs to be submitted for records you did not originally request.

Your request to ICE

You also submitted a request to ICE for records about [REDACTED], but you have not yet received a response to your request. OGIS reached out to ICE to discuss the status of your request. In response to our inquiry, ICE FOIA informed OGIS that the agency is currently reviewing responsive records. Because requests are processed on a first in first out basis, ICE expects to complete your request within 2-3 weeks.

I hope you find this information useful. 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,

[REDACTED]
JAMES V.M.L. HOLZER
Director

cc: [REDACTED], Government Information Specialist, DOJ OIG
cc: [REDACTED], FOIA Specialist, ICE

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.