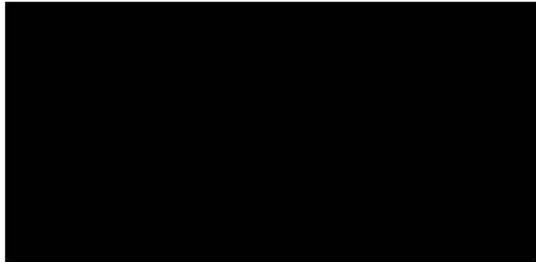




OFFICE of GOVERNMENT INFORMATION SERVICES

March 18, 2016 - Sent via U.S. mail

NATIONAL ARCHIVES and RECORDS ADMINISTRATION



In Re: Case No.: 201600389  
NG: CM: HK

8601 ADELPHI ROAD  
OGIS  
COLLEGE PARK, MD  
20740-6001

Dear [Redacted]

web: [www.ogis.archives.gov](http://www.ogis.archives.gov)  
e-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
phone: 202-741-5770  
toll-free: 1-877-684-6448  
fax: 202-741-5769

This responds to your January 12, 2016 request for assistance to the Office of Government Information Services (OGIS), pertaining to your Freedom of Information Act (FOIA) request to the Federal Bureau of Investigation (FBI). Thank you for contacting OGIS.

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.

We carefully reviewed your submission of information, and we understand that you



[Redacted] FBI withheld the responsive documents pursuant to FOIA Exemption 7A, 5 U.S.C. § 552 (b)(7)(A), and on appeal, the Department of Justice, Office of Information Policy (OIP) affirmed the FBI's action on your request. You dispute this response.



NATIONAL ARCHIVES

In response to your submission, we contacted FBI to discuss your request. FBI FOIA staff explained that any request submitted to the FBI that seeks information that could reasonably be expected to interfere with a law enforcement investigation or proceeding is withheld in full. FBI explained the records relating to your request are part of an active investigative file. Accordingly, they are exempt from disclosure pursuant to FOIA Exemption 7A at this time.

Exemption 7(A) of the FOIA protects records pertaining to a pending or prospective law enforcement investigation or proceeding when release of information could “reasonably be expected to interfere” with that investigation or enforcement proceeding. Courts have recognized the specific harm of disclosing law enforcement records, including the premature release of witness statements and potential documentary evidence in not only pending criminal investigations, but also with civil cases and in administrative enforcement proceedings. Thus, in situations where an investigation is ongoing or enforcement proceedings are pending or active, the courts consistently allow agencies to withhold records under Exemption 7(A).

Exemption 7(A) is temporal in nature and not intended to “endlessly protect material simply because it is in an investigatory file,” according to the Department of Justice Guide to the Freedom of Information Act.

(<http://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/exemption7a.pdf>). OGIS staff inquired whether the relevant investigation is still ongoing; FBI FOIA staff declined to provide any information about the investigation pursuant to FBI policy. However, FBI informed OGIS that, should you have a continuing interest in this information, you may submit a new request to determine if the investigation is closed. Please be aware that once FOIA Exemption 7(A) is no longer applicable, other exemptions may apply to the requested records.

I hope you find this information useful in understanding why FBI 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,

A black rectangular redaction box covering the signature of James V.M.L. Holzer.

JAMES V.M.L. HOLZER  
Director

cc: Dennis Argall, FOIA Public Liaison, FBI

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.