



OFFICE *of* GOVERNMENT INFORMATION SERVICES

April 29, 2016 - Sent via e-mail

[REDACTED]  
[REDACTED]

In Re: Case No.: 201600543  
NG: HK

NATIONAL  
ARCHIVES  
*and* RECORDS  
ADMINISTRATION

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OGIS  
COLLEGE PARK, MD  
20740-6001

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Dear [REDACTED]:

This responds to your February 23, 2016 request for assistance to the Office of Government Information Services (OGIS), pertaining to your Freedom of Information Act (FOIA) request on behalf of your client, [REDACTED], to the National Records Center (NRC), part of U.S. Citizenship and Immigration Services (USCIS). Thank you for contacting 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.

We carefully reviewed your submission of information, and we understand that you requested [REDACTED] entire naturalization file. In response to your request, NRC located 88 pages responsive to your request. NRC released 78 pages in their entirety, and three pages in part with information withheld from disclosure pursuant to Exemptions 7(C) and 7(E) of the FOIA, 5 U.S.C. §§ 552 (b)(7)(C) and (b)(7)(E), and Exemptions (j)(2) and (k)(2) of the Privacy Act, 5 U.S.C. §§ 552a (j)(2) and (k)(2). Additionally, NRC referred seven pages to the U.S. Department of State for a direct response to you.

On behalf of your client, you appealed and USCIS's appeals office affirmed the decision of the NRC. You contacted OGIS for assistance. Specifically, you asked OGIS for assistance in obtaining the information withheld under exemption 7(E) of the FOIA and (k)(2) of the Privacy Act. You stated that your client is not under criminal investigation and you assert that these exemptions were improperly invoked.



In response to your submission, OGIS contacted USCIS FOIA to discuss your request and the decision to withhold information from disclosure pursuant to Exemptions 7(E) of the FOIA and (k)(2) of the Privacy Act.

USCIS FOIA staff informed OGIS that the agency is firm in its position to withhold this information. In situations like this, when an agency is firm in its position, there is little for OGIS to do beyond providing more information regarding the agency's response and exemptions cited.

When an individual requests access to his or her own records, it is most often, but not always, considered a Privacy Act, or first-party, request. Privacy Act matters are outside the scope of our office's mission as the Freedom of Information Act (FOIA) Ombudsman. However, many Privacy Act requests overlap with FOIA; therefore, OGIS provides ombuds services, including providing information about the process and the status of requests, to individuals requesting their own records. OGIS does not have a statutory role in reviewing policies, procedures and compliance with the Privacy Act as we do with FOIA

In response to our inquiry, USCIS informed OGIS that your case was processed under both FOIA and the Privacy Act. Since your records were exempt under Privacy Act Exemption (k)(2), the records were then reviewed under FOIA to provide you and your client with the greatest degree of access authorized under the law.

Privacy Act Exemption (k)(2) protects material compiled for criminal investigative law enforcement purposes, by a non-principal function criminal law enforcement entity, and material compiled for other investigative law enforcement purposes, by any agency.

In conjunction with Privacy Act Exemption (k)(2), USCIS informed OGIS that the information you requested was also withheld under Exemption 7(E) of the FOIA, which is the companion FOIA Exemption to (k)(2) of the Privacy Act.

FOIA Exemption 7(E) applies to information compiled for law enforcement purposes and authorizes an agency to withhold information that "would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law." The D.C. Circuit has held that "an agency may seek to block the disclosure of internal agency materials relating to guidelines, techniques, sources, and procedures for law enforcement investigations," as they are protected by Exemption 7. *Tax Analysts v. I.R.S.*, 294 F.3d 71, 79 (D.C. Cir. 2002) (emphasis added).

USCIS withheld information used to protect the law enforcement system check results under both FOIA Exemption 7(E) and Privacy Act Exemption (k)(2). The information protected describes a law enforcement technique used in investigatory matters, which, if disclosed, could reasonably be expected to risk circumvention of the law.

I hope you find this information useful in understanding why USCIS 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], Associate Center Director, FOIA Quality Assurance and Customer Service,  
USCIS

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.