



OFFICE of GOVERNMENT INFORMATION SERVICES

June 6, 2016—Sent via U.S. mail

[REDACTED]  
[REDACTED]  
[REDACTED]

Re: Case No.: 201600743  
NG: HK: CM

NATIONAL  
ARCHIVES  
and RECORDS  
ADMINISTRATION

8601 ADELPHI ROAD  
OGIS  
COLLEGE PARK, MD  
20740-6001

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

Dear [REDACTED]:

This responds to your request for assistance from the Office of Government Information Services (OGIS), which we received on April 8, 2016 via U.S. mail. Your request for assistance pertains to your Freedom of Information Act (FOIA) request to the Federal Bureau of Prisons (BOP).

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.

OGIS provides mediation services to resolve disputes between FOIA requesters and Federal agencies. After opening a case, OGIS gathers information from the requester and the agency to learn more about the nature of the dispute. This process helps us gather necessary background information, assess whether the issues are appropriate for mediation, and determine the willingness of the parties to engage in our services. As part of our information gathering, OGIS carefully reviewed your submission of information.

It appears that you made a request to BOP for a list of [REDACTED]. BOP denied your request in full, citing FOIA Exemptions 6, 7(C) and 7(F). You appealed that response, and the Department of Justice Office of Information Policy (OIP) remanded your request to BOP for the release of information about high-level BOP officials; OIP otherwise affirmed BOP's decision to withhold the names of lower-level [REDACTED] employees pursuant to FOIA Exemptions 6 and 7(C). You seek OGIS's assistance with this matter.

The Office of Personnel Management (OPM) has issued a regulation that authorizes the disclosure of certain information about government employees, which includes the employees' names, present and past position titles, occupational series, present and past grades and some additional information. *See* 5 C.F.R. § 293.311.



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However, in 2009, OPM also issued guidance that this type of information is not required to be released for a number of occupational series. One of those occupational series that OPM has exempted from the release requirements of its regulation is that of [REDACTED]. I have attached a copy of that OPM guidance for your reference. Also, see *Long v. Office of Pers. Mgmt.* 692 F.3d 185 (2d Cir. 2012).

FOIA Exemptions 6 and 7(C) protect personal privacy interests. FOIA Exemption 6, 5 U.S.C. § 552(b)(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), 5 U.S.C. § 552(b)(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.”

When making release determinations pursuant to FOIA Exemptions 6 and 7(C), an agency must weigh 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).

While some information about individual Federal employees is considered public, courts have agreed that some Federal employees, specifically those who may have a greater interest in protecting their privacy due to the nature of their employment, do not “waive all privacy interests.” Further, courts agree that lower-level Federal employees have a more significant privacy interest than those in leadership positions.

OGIS staff also contacted BOP FOIA staff to inquire about the status of your remanded request. According to BOP, your request is in process and the agency expects to respond to you within 30 days.

I hope that this information about your request is useful to you. Thank you for contacting OGIS; we will now consider this matter closed.

Sincerely,

/s/

NIKKI GRAMIAN  
Acting Director

Enclosure

cc: BOP FOIA staff

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.