



OFFICE of GOVERNMENT INFORMATION SERVICES

June 23, 2016—Sent via email

██████████
██████████

Re: Case No.: 201600801
NG: CM

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION
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OGIS

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Dear ██████████:

This responds to your submission to the Office of Government Information Services (OGIS), which we received by email on April 27, 2016. Your request for assistance pertains to your concerns about the Federal Bureau of Investigation (FBI).

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. Our goal is 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 the material you submitted, and we note that the majority of your submission relates to your belief that ██████████. Because OGIS's mandate is limited to assisting with the FOIA process, we cannot address concerns about actions taken by an agency outside of that process. However, your submission did contain copies of correspondence related to a request you submitted to the FBI for records about ██████████. The FBI responded to your request by informing you that it conducted a search of its Central Records System indices and located no records ██████████. You appealed that response, and the Department of Justice Office of Information Policy responded to your appeal (██████████) by affirming the FBI's action on your request. We are happy to provide you with more information about the FOIA-related aspects of your submission.

In working cases similar to yours, the FBI has explained to OGIS that, like all Federal agencies, it creates, maintains, and obtains records as it carries out its responsibilities. As it does so, the Bureau organizes these records into case files which are indexed in the FBI's Central Records System (CRS). The CRS encompasses the centralized records of FBI Headquarters, field offices, and legal attaché offices. The records maintained in the FBI's CRS consist of administrative, applicant, criminal, personnel and other files compiled for law enforcement purposes.



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Access to the CRS is afforded by the General Indices, which are arranged in alphabetical order. The General Indices consist of various subjects which are searched either manually or through the automated indices. The entries in the General Indices fall into two categories: (1) a "main" entry, which carries the name of an individual, organization, activity or the like, in which the *main subject* of a file is maintained in the system; or (2) "Reference" entries, sometimes called "cross-references," which are generally only a mention of or reference to an individual or organization which is located in the body of an investigative or administrative file of another individual, organization, or event.

The FBI's November 16, 2015 response to you indicates that the agency searched its main file for your name, but it was not able to find any responsive records (main files). For this reason, FBI issued a "no records" response to your request. Please know that 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. See *Weisberg v. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983).

While the FBI was unable to locate any main file records related to you, if you believe that [REDACTED] may be mentioned in the file of another subject, you may wish to submit another records request for cross-references. To make a request for cross-references—defined as a mention of a subject in the main file of another person, place, or event—you need to provide information in your request that allows the FBI to ensure with certainty that any records it locates are related to [REDACTED] and not related to someone else with a similar name. This information may include the following:

- The specific circumstances in which [REDACTED] had contact with the FBI;
- The date(s) of such contact;
- The location(s) of such contact;
- [REDACTED] full name (first, middle, and last name) as well as any prior names or aliases;
- [REDACTED] Social Security number, date of birth, place of birth, and home address;
- Names of [REDACTED] associates, the mention of whom might aid in the identification of responsive records;
- Other references to [REDACTED] in media, such as books, articles, websites, etc.

Please note that the FBI may not be able to identify responsive cross-references despite the additional information you provide.

With regard to the FBI neither confirming nor denying the existence of [REDACTED] on any watch lists, please know that the FBI routinely informs all FOIA requesters that it can neither confirm nor deny that their subjects' names are on a watch list. As OIP informed you in its February 8, 2016 response to your appeal, the FBI's response is standard and should not be taken as an indication that watch list records pertaining to [REDACTED] do or do not exist.

In neither confirming nor denying that [REDACTED] is on a watch list, the FBI cited FOIA Exemption 7(E), 5 U.S.C. § 552(b)(7)(E). Exemption 7(E) authorizes an agency to withhold information compiled for law enforcement purposes 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." In the case of watch lists, confirmation that an individual is or

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is not included on such a list may reveal information that could assist a terrorist organization in circumventing the law by determining which of its members are likely to be questioned or detained. Federal courts have consistently held that records pertaining to terrorism watch lists are appropriately withheld under Exemption 7(E).

I hope you find this information useful. At this time OGIS can offer you no further assistance with this issue. Thank you for bringing this matter to OGIS; we consider your case closed.

Sincerely,

/s/

NIKKI GRAMIAN
Acting Director

cc: FBI FOIA