



OFFICE of GOVERNMENT INFORMATION SERVICES

December 9, 2015 —Sent via U.S. mail

[REDACTED]

Re: Case No.: 201501141  
NG: CM: CL

Dear [REDACTED]:

This responds to your August 24, 2015, request for assistance from the Office of Government Information Services (OGIS). Your request for assistance pertains to your request, No. 1 [REDACTED], to the Federal Bureau of Investigation (FBI) and subsequent appeals, Nos. [REDACTED] and [REDACTED], to the Department of Justice (DOJ) Office of Information Policy (OIP) for access to records concerning yourself. We apologize for our delay in responding to your request.

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 process.

As you may know, 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. Federal agencies will process requests under both FOIA and the Privacy Act of 1974 in order to provide requesters with the fullest degree of access available.

Privacy Act matters fall outside the scope of our office's mission as the 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.

On [REDACTED], the FBI responded to your request, informing you that the Bureau found no main files under your name. You disputed FBI's response to your request and submitted two appeals. On [REDACTED], OIP responded to Appeal No. [REDACTED], informing you that it affirmed the FBI's action on your request. OIP further noted that you may wish to

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



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submit records requests directly to the [REDACTED] [REDACTED] components, or the [REDACTED] if you seek records those agencies maintain. You contacted OGIS because you dispute DOJ's actions on your request and appeals.

We carefully reviewed your submission and discussed it with the FBI's FOIA Public Liaison, Dennis J. Argall. Mr. Argall explained that, like all Federal agencies, the FBI creates, maintains, and obtains records as it carries out its responsibilities. In doing so, the Bureau organizes these records into case files which are indexed in the FBI's Central Records System (CRS). The CRS includes the centralized records of FBI Headquarters, field offices, and legal attaché offices. The records maintained in CRS consist of administrative, applicant, criminal, personnel and other files compiled for law enforcement purposes.

Additionally, access to the CRS is afforded by the General Indices, which are arranged in alphabetical order. The General Indices consist of various subject matters which Bureau staff search either manually or through the automated indices. The entries in the General Indices fall into two categories:

**(a) Main entry:** A "main" entry carries the name of an individual, organization, or activity contained in CRS. A main file name thus refers to an individual, organization or activity that is the subject of an FBI investigation.

**(b) Reference entry:** Reference entries, sometimes called "cross-references," generally mention or reference an individual, organization, etc., located in another main entry file.

Mr. Argall explained that when the FBI received your request, it analyzed the request to identify key terms that the Bureau could use to search for responsive records. In your case, Mr. Argall explained that the FBI searched its main files for all variations of your name, [REDACTED]. However the unit was not able to find any records (main files) under your name. For this reason, FBI issued a "no records" response for 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).

From your submission to OGIS, it is not clear to us why you believe FBI may have records about you. In a letter you sent to FBI, you expressed concerns over [REDACTED] and asked the FBI to produce its own records as well as information from agencies including [REDACTED] and [REDACTED]. OIP's letter explained that FBI did not locate any records about you. It is important to know that FBI is **not** a repository for **all** investigative records that are created, maintained, and used by other agencies (such as [REDACTED] or [REDACTED]). For this reason, if you believe other agencies may have records about you, then you must submit a FOIA request directly to those agencies in order to obtain their records. Attached, for your reference, are copies of [REDACTED] and [REDACTED] contact information.

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In the alternative, if you believe another person, event or organization's FBI main file references you, you may wish to submit another records request to FBI and request a "cross-reference" search. When submitting a request for a cross-reference search, you must include enough information to enable the FBI to ensure with certainty that the cross-references are identifiable to you. The attached printout from FBI's website describes the type of information the FBI needs to conduct cross-reference searches.

Finally, I will address the FBI's action to neither confirm nor deny the existence of records that would reveal your name on any watch list under 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 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). The FBI routinely informs all FOIA requesters that it can neither confirm nor deny that their names are on a watch list. As OIP informed you in its August 8, 2015 response to your appeal, the FBI's response is standard and you should not take it as an indication that watch list records pertaining to you do or do not exist.

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,

Nikki Gramian for /s/

JAMES V.M.L. HOLZER  
Director

Enclosures (4)

cc: Dennis J. Argall, FOIA Public Liaison, Federal Bureau of Investigation, via email



## FBI Records: Freedom of Information/Privacy Act

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### Requesting FBI Records

FBI records can be requested through both the Freedom of Information Act (FOIA) and the Privacy Act. Please read this page carefully to ensure you are making the correct request.

#### Freedom of Information Act (FOIA) Request

The Freedom of Information Act allows any person—except fugitives, federal agencies, and foreign intelligence agencies—to request information about organizations, businesses, investigations, historical events, incidents, groups, or deceased persons.

To submit a Freedom of Information Act request, use one of the following options:

**Option 1:** Submit your request using the Sample FOIA Request Letter. The form includes instructions.

**Note: you cannot use the eFOIA Form to submit a Privacy Act Request about yourself or another living person. Please use the U.S. Department of Justice Certification of Identity Form DOJ-361. If you have any questions about this process before submitting your FOIA request, please e-mail foipaquestions@ic.fbi.gov.**

**Option 2:** Mail, fax, or e-mail your submission to:

Federal Bureau of Investigation  
Attn: FOI/PA Request  
Record/Information Dissemination Section  
170 Marcel Drive  
Winchester, VA 22602-4843  
Fax: (540) 868-4391/4997  
E-mail: foiparequest@ic.fbi.gov

**Option 3:** Submit your request using eFOIA

#### Letter and e-mail format:

- Provide your complete name and mailing address. Telephone, fax, and e-mail addresses are optional.
- Provide any identifying data that will help us locate information—for example, the subject's complete name, aliases, date and place of birth, social security number, former addresses, or localities.
- If you are interested in records pertaining to a particular incident, please describe it in detail.

#### Another living person:

- If your request is for information about another living person, that information is usually not disclosed unless you have obtained the person's written consent or unless public disclosure is authorized by law. Requests for information about another living person should be accompanied by evidence of the subject's consent. Please use U.S. Department of Justice Certification of Identity Form DOJ-361 and complete the section identified as: Authorization to Release Information to Another Person. You may submit an attachment listing additional information that may aid in locating responsive records. **Please place your name and contact information on the attachment.**

#### A deceased individual:

- If your request is for information concerning a deceased individual, you must provide proof of death. Acceptable forms of proof of death include: obituaries, death certificates, recognized sources that can be documented, written media, *Who's Who in America*, an FBI file that indicates a person is deceased, date of birth is 100 years or greater, or Social Security Death Index page.

State how much you are willing to pay for duplication fees if any are assessed. Refer to the **U.S. Department of Justice FOIA Reference Guide**.

#### For more information:

- Overview of the Freedom of Information Act
- Freedom of Information Act Exemptions
- Freedom of Information Act/Privacy Act Terms

#### Privacy Act Request

### FOIA Index

#### FOIA Home

#### Contact Us

#### Records Available Now

- Hot Topics
- FBI FOIA Library (The Vault)
- Alphabetical List
- Check Status of Your FOI/PA Request

#### Records Available by Request

- Overview
- Sample FOIA Request Letter
- U.S. Department of Justice Form 361, Certification of Identity (pdf)

#### What Happens After Making a Request

- How Long It Takes to Receive Information
- What You Will Receive
- Appeals

#### Understanding FBI Records

- FBI Privacy Act Systems
- Privacy Impact Assessments

#### Prepublication Review Office

#### Resources

- Code of Federal Regulations for FOIA
- U.S. Department of Justice FOIA website
- U.S. Department of Justice Reference Guide
- U.S. Department of Justice Privacy & Civil Liberties website

The Privacy Act allows U.S. citizens and lawfully admitted aliens to request information on themselves or another living person.

If you are requesting information about **yourself**, you must use one of the following options:

**Option 1:** Use the **U.S. Department of Justice Certification of Identity Form DOJ-361**. You may submit an attachment listing additional information that may aid in locating responsive records. **Please place your name and contact information on the attachment.**

**Option 2:** Following the instructions in **U.S. Department of Justice Certification of Identity Form DOJ-361**, submit a letter to the FBI, sign your request, and have it notarized or state, "Under penalty of perjury, I hereby declare that I am the person named above and I understand that any falsification of this statement is punishable under the provisions of Title 18, United States Code (U.S.C.), Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years, or both; and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of Title 5, U. S. C., Section 552a(i)(3) as a misdemeanor and by a fine of not more than \$5,000." If you have any questions about this process before submitting your FOIPA request, please e-mail foipaquestions@ic.fbi.gov.

Mail, fax, or e-mail this letter to the following:

Federal Bureau of Investigation  
Attn: FOIPA Request  
Record/Information Dissemination Section  
170 Marcel Drive  
Winchester, VA 22602-4843  
Fax: (540) 868-4391/4997  
E-mail (scanned copy): foiparequest@ic.fbi.gov

**For more information:**

- Overviews of the Privacy Act
- Privacy Act Exemptions
- Freedom of Information Act/Privacy Act Terms

#### Identity History Summary Check

If you are requesting a copy, want to challenge, or are just checking on the status of a request regarding an Identity History Summary Check, please contact the FBI's Criminal Justice Services Division (CJIS), Clarksburg, West Virginia at 304-625-5590 or 2000.

**(Note: Please do not submit a Freedom of Information Act/Privacy Request to the FBI's Record/Information Dissemination Section (RIDS) if you are requesting an Identity History Summary Check. Access the CJIS link below and follow the instructions to request an Identity History Summary Check.)**

An Identity History Summary Check—often referred to as a criminal history record, a police background clearance, police/good conduct certificate, or a "rap sheet"—is a listing of certain information taken from fingerprint submissions retained by the FBI in connection with arrests and, in some instances, federal employment, naturalization, or military service. It can also be used to satisfy a requirement to live, work, or travel in a foreign country, for employment or licensing within the U.S., or adopting a child in the U.S. or internationally. It may relate to a denial of a firearms purchase. The process of responding to an Identity History Summary Check is generally known as a criminal background check.

Requesters may access the application instructions and necessary forms at <http://www.fbi.gov/about-us/cjis/identity-history-summary-checks>. When writing to CJIS please use the following address:

FBI CJIS Division – Summary Request  
1000 Custer Hollow Road  
Clarksburg, WV 26306

#### What Happens Next

To learn what information you will receive, how long it takes, and how to file an appeal, see What Happens After Making a Request.

#### 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 is sufficient to enable the FBI to ensure with certainty that the cross-references are identifiable to the subject of your request. This information may include the following:

- The specific circumstances in which the subject of your request had contact with the FBI;
- The date(s) of such contact;
- The location(s) of such contact;
- The full name (first, middle, and last name) as well as any prior names or aliases used by the subject of your request;
- Social Security number, date of birth, place of birth, and home address of the subject of your request;
- Names of associates of the subject of your request the mention of whom might aid in the

identification of responsive records; and < identification of responsive records

- Other references of the subject of your request 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.

**For more information:**

If you have any questions about preparing or submitting FOIA or Privacy Act requests, call our FOIA Requestor Service Center at (540) 868-1535 to hear helpful recorded information. For information on expedited processing and fee waivers, see the **U.S. Department of Justice FOIA Reference Guide**.

Also see the following websites:

- U.S. Department of Justice FOIA website
- U.S. Department of Justice Privacy and Civil Liberties website
- A Citizen's Guide on Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records (pdf)

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