



OFFICE of GOVERNMENT INFORMATION SERVICES

February 10, 2016—Sent via U.S. mail

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: Case No.: 201600201
NG: CM

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

8601 ADELPHI ROAD
OGIS
COLLEGE PARK, MD
20740-6001

web: www.ogis.archives.gov
e-mail: 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 November 20, 2015 via U.S. mail. Your request for assistance pertains to your Freedom of Information Act (FOIA) request to the Federal Bureau of Investigations (FBI).

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 made a request to the FBI for records [REDACTED]. The FBI responded to your request [REDACTED] by informing you that the records you seek are withheld in full pursuant to FOIA exemption 7(A), 5 U.S.C. § 552(b)(7)(A). You appealed that response, and the Department of Justice Office of Information Policy (OIP) affirmed the FBI's response to your request. You ask for OGIS's assistance with this matter.

As the FBI's letter responding to your request explains, FOIA Exemption 7(A) protects law enforcement 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 pending criminal cases, civil cases and in administrative enforcement proceedings.

It may be useful to know that 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*. However, courts have ruled that Exemption 7(A) remains applicable throughout long-term law enforcement investigations or enforcement proceedings. Considering this, you may



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wish to make another request in the future to see if the records you seek are still exempt pursuant to FOIA Exemption 7(A); however, please be aware that once Exemption 7(A)'s protections are lifted, other FOIA exemptions may apply.

In cases such as this where an agency is firm in its position, there is little for OGIS to do beyond providing more information about the agency's actions. 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/

JAMES V.M.L. HOLZER
Director

cc: FBI FOIA