



OFFICE of GOVERNMENT INFORMATION SERVICES

May 15, 2015 - Sent via email and U.S. mail



Re: Case No. 201400432
NG: CM: CL

Dear [REDACTED]:

This is in further response to your April 8, 2014, request for assistance to the Office of Government Information Services (OGIS) regarding your records request to U.S. Citizenship and Immigration Services (USCIS) on behalf of your client, [REDACTED]. I apologize for the 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. 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.

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 falls 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], USCIS responded to your records request. USCIS's letter explained that the agency identified 208 pages responsive to your request. The agency released 151 pages in full, 14 pages in part and withheld one (1) page in full under FOIA Exemptions 5, 7(C), and 7(E), 5 U.S.C. §§ 552(b)(5), (b)(7)(C), and (b)(7)(E). During USCIS's processing of your request, USCIS identified 42 pages that originated with U.S. Immigration and Customs Enforcement (ICE). USCIS referred the documents to ICE for consideration and a direct response to you. You appealed USCIS's decision to withhold information contained in the referenced 15 pages (14 pages in part and 1 page withheld in full). By a letter dated [REDACTED], USCIS affirmed its initial action on your request.

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By a letter dated [REDACTED], ICE acknowledged the referral it received from USCIS. ICE reviewed the documents and released 42 pages to you in part with portions withheld under FOIA Exemptions 6, 5, 7(C), and 7(E). You appealed ICE's decision to withhold information contained in the 42 pages. By a letter dated [REDACTED] ICE affirmed its initial action on your request. You contacted OGIS because you "believe that records exist about [REDACTED] because ICE withheld 42 pages in part in the FOIA results received from ICE on January 21, 2014, which were dated [REDACTED]." Because USCIS and ICE provided you with an explanation of the exemptions the agency invoked, I will not explain the FOIA exemptions in this letter.

OGIS Facilitator Christa Lemelin contacted USCIS FOIA staff regarding the agency's response to your request. Based on conversations between OGIS and USCIS, USCIS reviewed the 14 pages it produced in part and concluded that two pages previously withheld in part under Exemption 5 can be released in full. USCIS released these two pages, the front and back of a form I-696, Legalization/SAW Examinations Worksheet, to you. With regard to the remaining 12 pages, USCIS explained that the pages contain grand jury and law enforcement privacy information. These pages were partially withheld citing FOIA Exemptions 7(C) and 7(E). USCIS explained that the citation of Exemption 7(E) was not necessary and should be disregarded. USCIS explained that the information previously withheld, though, was done so properly under Exemption 7(C).

Ms. Lemelin also contacted ICE FOIA Staff regarding the agency's response to the referred records. Based on conversations between OGIS and ICE, ICE conducted an additional review of the 42 pages of records referred by USCIS and decided to disclose additional information in ICE's discretion. By a letter dated [REDACTED], ICE informed you that changes have been made to the exemptions applied on page 17 and additional information has been un-redacted on pages 18 and 20. With regard to all remaining withholdings contained in the documents, ICE determined that they are properly applied under FOIA exemptions 5, 6, 7(C), and 7(E).

I hope you find this information useful. Thank you for contacting OGIS; we will now consider this matter closed.

Sincerely,

/s/

Nikki Gramian, Acting Director
Office of Government Information Services

cc: Rhea S. Arledge, Associate Legal Advisor, U.S. Immigration and Customs Enforcement
Jill Eggleston, FOIA Public Liaison, U.S. Citizenship and Immigration Services