



OFFICE of GOVERNMENT INFORMATION SERVICES

May 2, 2016 - Sent via e-mail

[REDACTED]
[REDACTED]

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

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In Re: Case No.: 201600595
NG: HK

Dear [REDACTED]:

This responds to your March 6, 2016, request for assistance that you submitted to the Office of Government Information Services (OGIS), pertaining to your Freedom of Information Act (FOIA) request to the Central Intelligence Agency (CIA). Thank you for contacting OGIS.

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.

We carefully reviewed your request for assistance, and understand you submitted a request for records related to [REDACTED]. You separated your request into three distinct parts based on the type of record sought. While the CIA responded to parts one and three of your request, it informed you that part two of your request is overly broad despite your attempt to clarify it. Further, the CIA informed you by letter on [REDACTED], that their response to item two is not appealable per the Code of Federal Regulations (CFR). 32 C.F.R. 1900.42, which states that a right of administrative appeal exists whenever access to any requested record or any portion thereof is denied, no records are located in response to a request, or a request for a fee waiver is denied. The CIA stated that a decision that a request would require an unreasonably burdensome search is not appealable.

You reached out to OGIS for assistance, specifically with regard to the search that CIA conducted for documents responsive to part two of your request. In response to your submission, OGIS contacted CIA to discuss its search. CIA informed OGIS that the agency is firm in its position that a search for the records you seek would be unreasonably burdensome. In cases where an agency is firm in its position, there is little for OGIS to do beyond providing more information about the agency's actions.



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CIA also informed OGIS that you did not file an appeal to the agency's response. CIA's regulation states that appeals of decisions must be received within 45 days of the date of the Agency's initial decision. Because it has been more than 45 days since the initial decision, you may no longer file an appeal. However, you may submit a new request for documents responsive to part two. In submitting your new request for part two, CIA informed OGIS that you must provide additional information allowing the agency to perform a search for the documents.

The CIA encourages all requesters to be as specific as possible in describing the records they are seeking by including the date or date range, the title of the record (if known), the type of record (such as memorandum or report), the specific event or action to which the record refers, and the subject matter. Requests for electronic communications such as email should, at a minimum, attempt to specify a sender, recipient, date range, and subject or keyword. The CIA's FOIA Public Liaison informed us, as it currently stands, your request for any agency correspondence with specific individuals is too broad and burdensome and, according to CIA, would require a search of the email records of all agency staff. As explained by the CIA, one way for the agency to be able to search its electronic communications is by identifying a sender/recipient with keywords to be used for the search on the those individuals' emails. You may want to think which office within the CIA's organization would be most likely dealing with the subject of your request. Once you have identified an office, then you may want to identify key employees by "title" within that unit since you don't have names of those employees. For example, if you think that the records you received may have involved the CIA's Office of Counsel, you may craft your request seeking the *Counsel* or his *deputy's* emails (within a date range) and identify keywords for the agency to be able to conduct a search for those individuals' emails.

I hope you find this information useful in understanding why CIA responded to your request as it did. At this time, there is no further assistance OGIS can offer and we will close your case. Thank you for bringing this matter to OGIS.

Sincerely,

/s/

JAMES V.M.L. HOLZER
Director

cc: FOIA Public Liaison, CIA

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.