



## OFFICE of GOVERNMENT INFORMATION SERVICES

April 27, 2012 – sent via email

Mr. Nate Jones  
[foiadesk@gwu.edu](mailto:foiadesk@gwu.edu)

In Re: Case No. 201200336  
MN: KF: KM

NATIONAL  
ARCHIVES  
and RECORDS  
ADMINISTRATION

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COLLEGE PARK, MD  
20740-6001

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Dear Mr. Jones:

This responds to your request for assistance, dated February 24, 2012, which the Office of Government Information Services (OGIS) received on that date. Your request pertains to your May 5, 2009, Freedom of Information Act (FOIA) request to the George H.W. Bush Presidential Library for a folder titled “Reports to the President—War Scare Report 1990,” OA/ID box number CF01830-020. Your request is no. 2009-0546-MR. Specifically, you asked OGIS about whether the Library could decline to identify the name of the agency or agencies to which a document has been referred under its FOIA regulations.

As you may know, both OGIS and the Department of Justice’s Office of Information Policy (OIP) urge referring agencies to identify the receiving agency or agencies and provide the requester with contact information for a FOIA professional at the receiving agency, allowing the requester to track the referral. (See, OGIS blog post

<http://blogs.archives.gov/foiablog/2011/05/11/ogistance-what%e2%80%99s-up-with-referrals-these-days/> and OIP’s guidance, “Referrals, Consultations, and Coordination: Procedures for Processing Records When Another Agency or Entity Has an Interest in Them,” December 5, 2011, <http://www.justice.gov/oip/foiapost/2011foiapost42.html>)

However, in exceptional circumstances, when a referral pertains to the involvement of an intelligence community agency and the involvement of that agency is itself classified, the name of the agency may be withheld under Executive Order 13526 regarding Classified National Security Information. (See, E.O. No. 13526, § 3.6(b), 3 C.F.R. 298 (2009), <http://www.gpo.gov/fdsys/pkg/FR-2010-01-05/pdf/E9-31418.pdf>). Your case involves a classified document and, as such, appears to fall into these exceptional circumstances.

We discussed your case with Zachary Roberts, Mandatory Review Archivist with the George H.W. Bush Presidential Library, who continues to periodically check in on the referral. Mr. Roberts advised that the Library received a third FOIA request for the information you seek access to on October 31, 2011. Mr. Roberts also told us that on October 31, 2012, your request becomes eligible for a Mandatory Declassification Review appeal under Information Security Oversight Office (ISOO) regulations. We urge you to visit the ISOO website at <http://www.archives.gov/isoo/> and/or call ISOO at 202-357-5250 to learn more about that process.

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Regarding your March 20, 2012 request to the National Archives for a copy of any and all referrals memos for the above-referenced request, Deputy FOIA Officer Jay Olin responded on April 3, 2012. If you are dissatisfied with the agency's response to that request, no. NGC12-114, OGIS urges you to appeal by May 8, 2012 (35 calendar days from April 3, 2012), to preserve your rights under the statute. OGIS strives to allow, whenever practical, the requester to exhaust his or her remedies within an agency, including the appeal process.

I hope you find this information useful. Your case is now closed. If you wish to contact us again, please refer to case no. 201200336.

Sincerely,

A handwritten signature in black ink, appearing to read "Miriam Nisbet". The signature is fluid and cursive, with a large initial "M" and a stylized "N".

Miriam Nisbet, Director  
Office of Government Information Services (OGIS)

Cc: Zachary Roberts, Mandatory Review Archivist  
George H.W. Bush Presidential Library