

## Jim Chelmowski

---

**From:** OGIS <OGIS@nara.gov>  
**Sent:** Friday, November 13, 2015 10:29 AM  
**To:** OGIS  
**Cc:** ogis@nara.gov; jchelmowski@comcast.net  
**Subject:** Case# 201600177

Dear Mr. Jim Chelmowski:

### **Case# 201600177**

Thank you for contacting the Office of Government Information Services (OGIS).

Your request for assistance, which we received on November 12, 2015, via e-mail, will be assigned to an OGIS Facilitator who will contact you accordingly.

For tracking purposes, we have assigned your request for assistance the case number listed above. Please cite this case number in all communications to our office regarding this matter.

Thank you,

The Office of Government Information Services

On Thursday, November 12, 2015 at 2:29:39 PM UTC-5, Jim Chelmowski wrote:

November 12, 2015

The U.S. National Archives and Records Administration  
Office of Government Information Services  
8601 Adelphi Road - OGIS  
College Park, MD 20740-6001  
Sent by email: ogis@nara.gov

To Office of Government Information Services,

**RE: Request for OGIS Assistance with FOIA Information Requests**

Part of the Open Government Act of 2007, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and the Federal Agencies as non-exclusive alternative to litigation. Using the OGIS service does not affect my right to pursue litigation.

Freedom of Information Act requires 5 U.S.C. § 552 produce or identify ALL records responsive to the FOIA request. **September 11, 2015 FOIA requests FCC-2015-000768 and FCC-2015-000769** per website FOIAonline.gov both FOIA requests were closed by the FCC on September 17, 2015 with FCC's final disposition "Partial grant/partial denial". Nowhere on the FCC FOIA response state any records were denied only this statement "If you consider this a denial of your FOIA, you may seek review...."

An FOIA appeal for both FOIA requests was filed on September 30, 2015 and the FCC Federal Agency response was on October 20, 2015 include about 9 more pages responsive (that appear should have been in the 9/17/15 FOIA responses before closing the FOIA) these two FOIA requests, FCC still claim the notes, determination, etc for closing the FCC informal complaint 11-C00292341-1 which the FCC closed in only approximately 99 minutes after receipt of AT&T Response to Notice of Informal Complaint was still withheld apparently to FOIA exemptions. A similar type of record notes, determination for the FCC informal complaint 11-C00325771-1 was responsive provided and not withheld. It seems totally impossible that FCC notes and determination for one informal complaint is FOIA exempt and another is not. The request for these records withheld were detailed multiple times in the FOIA requests, a phone call with FCC, a fax to the FCC and the FOIA appeal.

Apparently ignored from my appeal dated September 30, 2015, in responding to a FOIA request, a government agency is required to accurately state the reason for denying or partially denying the FOIA request 5 U.S.C. § 552(a)(6)(A)(i). The FOIA places the burden on the government agency to disclose records requested under the FOIA, unless the agency can demonstrate that one of nine statutory exemptions justifies withholding the documents 5 U.S.C. §§ 552(a)(6)(A)(i), (b)(1)-(9). The FCC has confirmed existence of FCC FOIA requested records withheld in other FCC documents however will not identify the withheld records and reason with proper FOIA exemption. No appeal response statements addressed any of the arguments and/or questions contained in the appeal.

The FOIA request was for ALL FCC databases any and ALL FCC internal records (communications) and ALL FCC external records (communications to and from FCC including with AT&T, AT&T Mobility, LLC, etc.) with any relations or references to two informal complaints in 2011 including records to current including but not limited to specific 2013 records FCC confirmed in official FCC documents.

In an appeal which were required in the FOIA initial request withheld and not disclosing specific records, requestor identified with dates of these records and Agency records proving these records exist within the Agency. Agency instead of the required burden of proof these and ALL responsive records to the FOIA asked in the Appeal and required by FOIA state "I hope this response provides you with the information you need."

A FOIA requestor has the rights to a Vaughn Index detailing withheld records and the Agency's reason why each partially or totally withheld record meets one of the nine FOIA exemptions.

Pursuant to the Open Government Act of 2007, the OGIS can avoid the time and cost by judicial review of the United States Federal Court.

Sincerely



James Chelmowski  
6650 N Northwest Hwy #300  
Chicago, IL 60631  
[jchelmowski@comcast.net](mailto:jchelmowski@comcast.net)