



United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
Washington, DC 20240

MAR 3 0 2021

VIA EMAIL TO: MKNAGLE@PIPESTEMLAW.COM

Mary Nagle
Pipestem Law, P.C.
401 S. Boston Ave., Suite 2200
Tulsa, Oklahoma 74103

**NOTICE OF WITHHOLD OF
RECORDS**

Dear Mary Nagle:

Your request for records relating to the death of Braven Jarell Glenn was forwarded from the BIA Crow Agency Superintendent's Office in Crow Agency, Montana to the BIA-Office of Justice Services (OJS), District 5 Office in Billings, Montana on March 4, 2021. We are processing your request for records under the Freedom of Information Act (FOIA) and have assigned your request **FOIA Control# DOI-BIA-2021-003004** for processing. You have asked for records from the BIA/OJS, as well as records from the Crow Tribal Police Department we may have in our possession.

After a search for the records, we identified a 2-page Supplementary Report, a second 2-page Supplementary Report, a 2-page Serious Incident Report, and a 1-page General Report responsive to your request. After review of the records, we are withholding the records under FOIA Exemption 7(A).

Exemption 7 – Exemption 7 protects from disclosure “records or information compiled for law enforcement purposes” if the records fall within one or more of six specific bases for withholding set forth in subparts (A) through (F). 5 U.S.C. § 552(b).

Exemption 7(A) – Exemption 7(A) protects law enforcement records if their release could reasonably be expected to interfere with a pending or prospective law enforcement proceeding. For the records being withheld under 7(A), we have determined they are law enforcement records describing events, evidence, persons of interest, and witnesses in an incident that currently remains under investigation. Disclosing the records at this time would allow interested parties to assess the strengths and weaknesses of the evidence, and determine the progress, status, direction, or limits of the open case. Disclosing the records could also allow interested parties or suspects to elude detection, create defenses, or suppress, fabricate, or tamper with evidence, and could also expose actual or prospective witnesses to undue influence or retaliation, deter their cooperation, and/or create the potential for other interference with them.

Please be advised that Exemption 7(A) is generally temporal in nature; therefore, you may submit a new FOIA request for the records at a later time. As guidance however, please note that Exemption 7(A) may remain invoked so long as the law enforcement proceeding involved remains pending, or if it remains fairly regarded as prospective. In the event the investigation becomes closed and a new FOIA request is submitted, portions of the documents could be withheld under Exemptions 6 and 7(C) of the FOIA.

In closing, we reasonably foresee that disclosure of the records would harm an interest protected by one or more of the nine exemptions to the FOIA's general rule of disclosure.

This determination was made by Special Agent in Charge, Lenora Nioce, and Program Analyst, Donna FallsDown, in consultation with Bryan Wilson, Acting Field Solicitor, Office of the Solicitor, 2021 4th Ave. North, Suite 112, Billings, Montana, 59101.

The fee for providing these documents is less than \$50 and is not being charged in accordance with 43 C.F.R. 2.49 (a)(1).

Appeal Rights – You may appeal this response to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal no later than 90 workdays from the date of this letter. Appeals arriving or delivered after 5 p.m. Eastern time, Monday through Friday, will be deemed received on the next workday.

Your appeal must be made in writing. You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL". You must include an explanation of why you believe the BIA/OJS's response is in error. You must also include with your appeal copies of all correspondence between you and the BIA/OJS concerning your FOIA request, including your original FOIA request and the BIA/OJS's response. Failure to include with your appeal all correspondence between you and the BIA/OJS will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification. The contact information for your appeal is below:

Department of the Interior, Office of the Solicitor
1849 C Street, N.W.
MS-6556 MIB
Washington, D.C. 20240
Att: FOIA/Privacy Act Appeals Office
Telephone: (202) 208-5339 Fax: (202) 208-6677 Email: FOIA.Appeals@sol.doi.gov

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. See 5 U.S.C. 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue

litigation, nor will it affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road – OGIS
College Park, MD 20740-6001
Email: ogis@nara.gov Website: <https://ogis.archives.gov> Phone: 202-741-5770
Fax: 202-741-5769 Toll-free: 1-877-684-6448

You may also seek dispute resolution services from our Acting IA FOIA Public Liaison, Heather Garcia, at 202-208-3135, or via email at foia@bia.gov. Written correspondence may be sent to Ms. Garcia at the following: U.S. Department of the Interior, 1849 C Street, NW, MS-4658-MIB, Washington, D.C. 20240.

If you have any questions about our response to your request, you may contact Donna FallsDown at 406-657-5961, by fax at 406-657-5930, by email at donna.fallsdown@bia.gov, or by mail to Donna's attention at the following address:

Department of the Interior
BIA-Office of Justice Services
2021 4th Ave. North, Room 406
Billings, MT 59101

Thank you.

Sincerely,



FOR Lenora Nioce
Special Agent in Charge
BIA-OJS-DV