

September 15, 2015

Mr. Michael LaVergne  
Information and Privacy Coordinator  
Central Intelligence Agency  
Washington, D.C. 20505

SEP 23 2015

**Attention: FOIA Appeal/Agency Release Panel**

Dear Administrator:

This is an appeal under the Freedom of Information Act, 5 U.S.C. § 552.

**Background:**

On August 3, 2015, I submitted a FOIA request to the Central Intelligence Agency (copy attached) which was received in the office of the Information and Privacy Coordinator on August 18, 2015. By letter dated September 3, 2015, I received your final response. (copy attached) My request was assigned CIA FOIA reference number: F-2015-02398.

**Background:**

I requested the CIA furnish to me, in their entirety, the personnel file, and any and all other documents related to the following person: **James Harold Nichols, DPOB: 26 July, 1899, Grundy Center, Iowa. Date of Death: 19 February, 1960, Spokane, WA.**

James Harold Nichols worked for the Office of Strategic Services (OSS) during World War Two and continued to work for its successor agency, the CIA until approximately 1949 or 1950. Nichols's personnel file **is not** listed among the 23,000 personnel records of OSS released several years ago by the CIA to the National Archives and Record Administration (NARA). I have been advised by senior archivists at NARA that many employment/personnel records of former OSS employees who transitioned to the CIA were not part of that general release and are still held by the CIA.

Your response letter dated September 3, 2015 is ambiguous and confusing. Your letter states in paragraph one: "Our processing included a search for records that would reveal an openly acknowledged Agency affiliation existing up to and including the date the Agency started its search and did locate any responsive records."

Can you please clarify the preceding paragraph; especially the nebulous term "openly acknowledged?" Does your above response mean the CIA searched for all records of James Harold Nichols and did not find any record of Nichols being employed as a permanent hire or contractor by the OSS as well as the Central Intelligence Agency? **If your response means a conclusive search of both the OSS and the CIA, files was conducted, and the results were negative, then please notify me of that fact by email or in writing and disregard the following appeal. If that is not the case, and the CIA maintains a file or an index listing of James Harold Nichols, please accept the following appeal.**

**Appeal:**

The information I have requested is clearly releasable under FOIA and is not protected by any of the Act's nine exemptions. Therefore, I appeal your denial of my request which you have cited under FOIA exemptions (b)(1) and (b)(3).

James Harold Nichols died in 1960. He left no heirs, had no children, and was not married. His records are not covered by any provisions of the Privacy Act of 1974 or its later revisions.

If Mr. Nichols was involved in any matters associated within the purview of Section 6 of the CIA Act of 1949, involving security of foreign intelligence activities of the United States or national security, those activities would now be considered obsolete, archaic, historical, and would have no bearing on current national security interests, diplomacy, nor would they be protecting any current intelligence sources. Therefore, exemption under (b)(1) of the FOIA is not applicable. All intelligence sources that related to the period of James Harold Nichols employment in the 1940's are now deceased. All known electronic or technical intelligence sources utilized in the 1940's are widely known, have been published, and outdated. The methods of intelligence collection utilized by the OSS and the early CIA in the 1940's, which was mostly HUMINT, cannot be an adequate defense for withholding records in 2015 under exemptions (b)(1) or (b)(3) of the FOIA.

Collection methods utilized in the 1940's are no longer unique. They are known to the general public, the press, and foreign intelligence agencies. Early OSS and CIA intelligence collection methods have no useful value to foreign governments and espionage agencies. If that were the case, the personnel record of the OSS's original Director, William Donavon, his staff, and other early operatives of the OSS and CIA would still be classified. There should be no distinction between the personnel file of William Donavon and that of James Harold Nichols. If the files of James Harold Nichols exist, and in the unlikely event those files are still a national security issue, I am certain those concerned words and sentences can be adequately redacted to protect national security.

Release of many similar personnel files have been made in the past by the CIA. Therefore,

no harm to the CIA, the general public, or to the Federal Government's national security interests would occur by releasing the files associated with James Harold Nichols.

This matter of James Harold Nichols occupation and activities in the 1940's is of extreme importance to my research. I trust that upon re-consideration, you will reverse the decision denying me access to this material and grant my original request. However, if you deny this appeal, I intend to initiate a lawsuit to compel disclosure. I have made this request in the capacity of a scholar and historical researcher. This matter is of timely value to me. I would appreciate that you expedite my appeal in every way possible. In any case, I will expect to receive your decision within 20 business days, as required by the statute.

Thank you for your assistance.

(b)(6)

[Redacted signature area]

Leslie G. Kinney

(b)(6)

[Redacted signature area]

Attachment



Washington, D.C. 20505

3 September 2015

Ms. Leslie G. Kinney



Reference: F-2015-02398

Dear Ms. Kinney:

This is a final response to your 3 August 2015 Freedom of Information Act (FOIA) request, received in the office of the Information and Privacy Coordinator on 18 August 2015, for **the personnel file and any other documents about James Harold Nichols, who "worked for the Office of Strategic Services (OSS) during World War Two."** We accepted and processed your request in accordance with the FOIA, 5 U.S.C. § 552, as amended, and the CIA Information Act, 50 U.S.C. § 3141, as amended. Our processing included a search for records that would reveal an openly acknowledged Agency affiliation existing up to and including the date the Agency started its search and did not locate any responsive records.

With respect to any other records, in accordance with section 3.6(a) of Executive Order 13526, the CIA can neither confirm nor deny the existence or nonexistence of records responsive to your request. The fact of the existence or nonexistence of requested records is currently and properly classified and is intelligence sources and methods information that is protected from disclosure by Section 6 of the CIA Act of 1949, as amended, and Section 102A(i)(1) of the National Security Act of 1947, as amended. Therefore, your request is denied pursuant to FOIA exemptions (b)(1) and (b)(3). An explanation of exemptions is enclosed for your review and retention.

As the CIA Information and Privacy Coordinator, I am the official responsible for this determination. You have the right to appeal this response to the Agency Release Panel, in my care, within 45 days from the date of this letter. Please include the basis of your appeal.

For your information, we maintain a copy of the roster of OSS personnel. We checked the listing for Mr. Nichols' name, and it did not appear on the roster.

Sincerely,

A handwritten signature in cursive script that reads "Michael Lavergne".

Michael Lavergne  
Information and Privacy Coordinator

Enclosure

August 3, 2015

Information and Privacy Coordinator  
Central Intelligence Agency  
Washington, D.C. 20505

Dear CIA FOIA Officer:

This is a request under the general provisions of 5 USC 552, the Freedom of Information Act in conjunction with the Privacy Act, U.S C 552a. It is requested the CIA furnish to me in their entirety, the personnel file, and any and all other documents related to the following person:

**James Harold Nichols**  
**DPOB: 26 July, 1899, Grundy Center, Iowa**  
**Date of Death: 19 February, 1960, Spokane, WA**

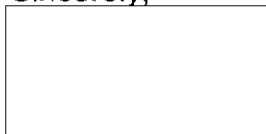
James Harold Nichols worked for the Office of Strategic Services (OSS) during World War Two. Nichols's personnel file is not listed among the 23,000, OSS personnel records released several years ago by the National Archives and Record Administration (NARA). I have been advised by senior archivists at NARA that many employment/personnel records of former OSS employees were not part of the general release at that time and are still held by the CIA.

If any of the requested material is deemed by you to be exempt from disclosure under the FOIA Act, I request a specific statement of the portion or portions deleted or withheld, a full statement of the reasons for the denial of access and specific citations of statutory authority for the denial.

Please do not hesitate to telephone or email me with any questions or comments you might have concerning this request. Thank you for your consideration of this request.

Sincerely,

(b)(6)



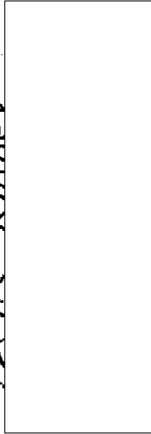
Leslie G. Kinney

(b)(6)



(b)(6)

FROM: *Leslie Kinney*



TO: *Information and Privacy Coordinator  
Central Intelligence Agency  
Washington, D.C. 20505*

Hand Overed

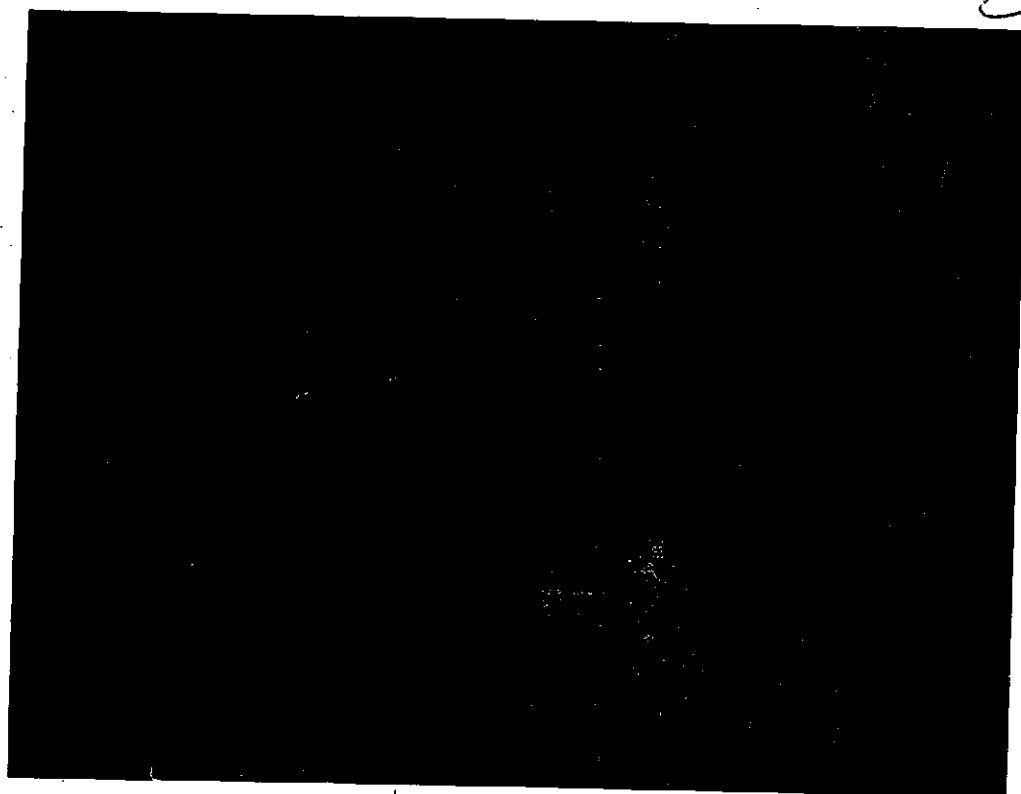
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