

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ELECTRONIC FRONTIER FOUNDATION,)	
)	Civil Action No. 07-00403 (TFH)
Plaintiff,)	
)	
v.)	
)	
DEPARTMENT OF JUSTICE,)	
)	
Defendant.)	
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**STATEMENT OF MATERIAL FACTS
AS TO WHICH THERE IS NO GENUINE ISSUE**

As required by Local Rule 7.1(h), and in support of the Motion for Summary Judgment filed on behalf the Department of Justice (“DOJ” or “Department”), the Department hereby makes the following statement of material facts as to which there is no genuine issue.

1. On January 17, 2007, the Attorney General, in a letter to Senate Judiciary Chairman Patrick Leahy, and Ranking Minority Judiciary Member Arlen Specter, announced that on January 10, 2007, the Foreign Intelligence Surveillance Court (“FISC”) had issued orders authorizing the United States Government to collect foreign intelligence by targeting for collection international communications into or out of the United States where there is probable cause to believe that one of the communicants is a member or agent of al Qaeda or an associated terrorist organization. See Declaration of Matthew G. Olsen (“Olsen Decl.”) ¶ 4 & Ex. A.

2. That same day, Presidential Spokesperson Tony Snow discussed the orders in a White House press briefing. See <http://www.whitehouse.gov/news/releases/2007/01/20070117-5.html>.

3. By letter dated January 23, 2007 addressed to the Department’s Office of Intelligence Policy and Review (“OIPR”), plaintiff Electronic Frontier Foundation (“EFF”) sought “copies of all

Foreign Intelligence Surveillance Court ('FISC') orders referenced by the Attorney General in his letter to [Senators] Leahy and Specter, and all FISC rules and guidelines associated with such orders and/or referenced by Mr. Snow in the January 17 press briefing." Olsen Decl. ¶ 5 & Ex. B.

4. OIPR received EFF's request on January 23, 2007, and acknowledged receipt by letter dated January 26, 2007. Olsen Decl. ¶ 6 & Ex. C.

5. EFF also requested expedited processing of its FOIA request, and DOJ granted the request for expedited treatment. See Olsen Decl. Ex. D.

6. Upon receiving EFF's request, OIPR initiated a search for responsive documents. Olsen Decl. ¶ 7.

7. Because EFF's request was relatively narrow, and sought documents recently referenced in public statements by high-level government officials, responsible persons within OIPR were asked to locate the responsive documents, and did so. Olsen Decl. ¶¶ 7-8.

8. By letter dated March 9, 2007, OIPR responded to EFF's request, advising that it had located responsive documents, but that the responsive materials was being withheld pursuant to the Exemptions provided for in FOIA. See Olsen Decl. ¶¶ 9-10 & Ex. D.

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