

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

ELECTRONIC FRONTIER FOUNDATION,	)	
	)	
Plaintiff,	)	Civil Action No. 07-00403 (TFH)
	)	
v.	)	
	)	
U.S. DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	
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**DECLARATION OF MATTHEW G. OLSEN**

I, Matthew G. Olsen, do hereby state and declare as follows:

1. I am the Deputy Assistant Attorney General, National Security Division of the United States Department of Justice ("DOJ" or "Department") and oversee the operations of the Office of Intelligence Policy and Review ("OIPR"). In this capacity, I manage all operations within OIPR, including Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, administration.

2. I make the statements herein on the basis of personal knowledge, as well as on information acquired by me in the course of performing my official duties and on the advice of counsel.

3. OIPR provides legal advice to the Attorney General and the United States intelligence agencies on questions of law and procedure that relate to United States intelligence activities. OIPR performs review functions of certain intelligence activities, and prepares and presents applications for electronic surveillance, physical search, the installation and use of pen registers and trap and trace devices, and access to certain tangible things, to the United States Foreign Intelligence Surveillance Court ("FISC").

## **ELECTRONIC FRONTIER FOUNDATION'S FOIA REQUEST**

4. On January 17, 2007, the Attorney General, by letter to Senate Judiciary Chairman Patrick Leahy and Ranking Senate Judiciary Member Arlen Specter, announced that on January 10, 2007, a judge of the FISC had issued orders authorizing the Government to target for foreign intelligence 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. A copy of this letter is attached as Exhibit A.

5. By letter dated January 23, 2007, the Electronic Frontier Foundation ("EFF") requested access under FOIA to "all Foreign Intelligence Surveillance Court ('FISC') orders referenced by the Attorney General in his letter to Sens. Leahy and Specter, and all FISC rules and guidelines associated with such orders and/or referenced by Mr. [Tony] Snow in the January 17 press briefing." A copy of EFF's FOIA request is attached as Exhibit B.

6. OIPR received EFF's request on January 23, 2007, and acknowledged this receipt by letter dated January 26, 2007. See Exhibit C. The EFF also requested expedited processing of its FOIA request, and DOJ granted the request for expedited treatment. Accordingly, OIPR reviewed EFF's request ahead of others routinely processed on a first-in, first-out basis.

## **OIPR'S SEARCH AND RESPONSE**

7. After receiving EFF's FOIA request, OIPR initiated a search for responsive documents. OIPR maintains three general categories of records: operations records relating to proceedings before the FISC under the Foreign Intelligence Surveillance Act ("FISA"), including applications for authority to conduct electronic surveillance, physical searches, and other operational matters; litigation records; and policy records, including congressional inquiries and reports. Because EFF's FOIA request was relatively narrow and sought documents that had been recently

referenced in public statements by high-level administration officials, those persons within OIPR with responsibilities for the matters related to EFF's request were asked to locate the responsive documents.

8. As a result of my duties, I am familiar with the documents sought by EFF's request, and am confident that OIPR's search retrieved all documents that are responsive to this request.

9. On March 9, 2007, OIPR responded to EFF's FOIA request and advised that it had located two responsive documents. See Exhibit D. In doing so, OIPR intended to indicate that it had located two documents or categories of documents that were responsive to EFF's request. The number and volume of the FISC orders referenced in the Attorney General's January 17, 2007, letter are classified and cannot be further discussed in an unclassified setting. See infra ¶ 22.

10. OIPR's March 9, 2007, letter also advised EFF that the responsive documents were being withheld in their entirety pursuant to FOIA's exemption provisions. 5 U.S.C. § 552(b).

### **EXPLANATION OF WITHHELD MATERIAL**

11. The material withheld by OIPR in response to EFF's FOIA request consists of orders signed by the FISC and procedures that regulate the acquisition, retention and dissemination of information about United States persons, including persons who are not the targets of FISA collection.

12. The purpose of this declaration is to describe the justifications for withholding the responsive material under FOIA. Specifically, the material responsive to EFF's request is properly withheld under Exemption 1, 5 U.S.C. § 552(b)(1), Exemption 3, 5 U.S.C. § 552(b)(3), and Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). These provisions set forth exemptions from disclosure which protect the following: records that are currently and properly classified, 5 U.S.C. § 552(b)(1); records that are protected from disclosure under some other statute, 5 U.S.C. § 552(b)(3); and

records that are compiled for law enforcement purposes where disclosure could reasonably be expected to interfere with enforcement proceedings. 5 U.S.C. § 552(b)(7)(A).

### **Exemption 1**

13. Exemption 1 of the FOIA protects from disclosure national security information that has been properly classified in accordance with the substantive and procedural requirements of an executive order. Inherent in Congress' enactment of Exemption 1 is a balancing of interests and a decision to elevate national security concerns over the public's interest in certain government information. Section 1.4 of Executive Order 12958, as amended, which governs here, lists the categories of information that must be considered for classification. Paragraph (c) of Section 1.4 identifies "intelligence activities (including special activities), intelligence sources or methods, or cryptology."

14. The responsive material is classified under paragraph (c) of Section 1.4 of Executive Order 12958, as amended. At my request, a person with original classification authority within OIPR reviewed the documents and confirmed their current and proper classification. Specifically, these materials are classified at the SECRET or TOP SECRET level, which means that their unauthorized disclosure could reasonably be expected to cause serious damage or exceptionally grave damage, respectively, to the national security of the United States. See Executive Order 12958, as amended. In addition, some of this material is designated as "Sensitive Compartmented Information" or "SCI," which means that it is subject to special access and handling requirements necessary to maintain its strict confidentiality and prevent its unauthorized disclosure.

15. The FISC conducts its proceedings under rigorous security procedures. In particular, FISA specifies that the record of proceedings before the FISC "including applications made and orders granted, shall be maintained under security measures established by the Chief Justice in

consultation with the Attorney General and the Director of [National] Intelligence.” 50 U.S.C. § 1803(c). It further provides that persons rendering assistance under the Act do so “in such a manner as will protect its secrecy.” 50 U.S.C. § 1803(a)(3); see also FISA Ct. R. P. 3 (FISC must comply with § 1803(c) and Executive Order 12958 governing classification of national security information). In enacting FISA, Congress recognized that proceedings before the FISC were to be conducted in the strictest secrecy if the confidentiality of United States intelligence sources and methods was to be protected.

16. Ordinarily, OIPR’s practice is to refuse to confirm or deny the existence of records pertaining to FISA operations because it is impossible to do either without revealing classified information. To disclose that orders either exist or do not exist, or that certain targets have been identified for surveillance or not, or that certain surveillance methods or procedures are authorized or not, would allow terrorists intent on causing harm to the United States to determine where U.S. intelligence efforts were focused and to identify “safe harbors” where communications about their plans could be conducted in relative safety.

17. In this case, the Attorney General was authorized to make public several general facts. See Exhibit A. Those included that new FISC orders had been issued, and that the orders authorized the Government to target 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. Id.

18. The number and content of these orders, including information on methods, means, sources, and targets of authorized surveillance, and their accompanying procedures remains highly classified. Unauthorized disclosure of these documents would provide material assistance to those who would seek to penetrate, detect, prevent, or damage the intelligence efforts of the United States,

including efforts to counter international terrorism. Indeed, to disclose the methods, means, sources, or targets of intelligence collection, or the procedures relating to the acquisition, retention, or dissemination of intelligence information, is to provide terrorists with a roadmap for how to avoid surveillance or to manipulate it. The resulting loss of accurate intelligence would have devastating consequences for the national security of the United States.

19. Moreover, each technique authorized under FISA is a flexible and covert tool employed by the Government against the changing tradecraft of national security threats. Hostile intelligence services and international terrorist groups taking aim at the United States are sensitive to information that points to certain categories of targets or certain types of methods or means of surveillance. The classified documents withheld under Exemption 1 would, if publicly disclosed, cause serious or exceptionally grave damage to our national security by giving our adversaries a window into U.S. intelligence collection activities and, thus, enabling them to conduct their counterintelligence or international terrorist activities against us more securely.

20. Similarly, the disclosure of any information that would tend to confirm or deny whether any individual has been the target of communications surveillance or that any individual has been identified as a source of foreign intelligence would disclose specifically, and in a more general sense, who is and is not being targeted – thus, compromising that collection and providing our adversaries clues about those who may or may not be using secure communications. Confirming a target's identity would immediately disrupt the flow of accurate intelligence because the target would undoubtedly take steps to evade detection and manipulate the information received. Denying that any particular individual is targeted may alert our adversaries about potential gaps in our surveillance.

21. The only viable way to protect the integrity of intelligence collection, accordingly,

is to protect from disclosure all information concerning the methods or means of surveillance or whether someone has been targeted or subject to intelligence collection, including the materials identified by OIPR as responsive to EFF's FOIA request. To do otherwise would result in the frequent, routine exposure of intelligence information, causing serious or exceptionally grave damage to the national security of the United States.

22. The highly classified nature of the materials sought by EFF prevents further explanation in an unclassified setting of their content or volume, or of the serious or exceptionally grave damage that would be done to national security if these documents are ordered to be disclosed. Should further information be required, it can be presented to the Court in a classified declaration intended for the Court's in camera, ex parte review.

### **Exemption 3**

23. Exemption 3 of the FOIA provides that FOIA does not require the disclosure of information that is specifically exempted from disclosure by statute, as long as the relevant statute requiring the information to be withheld from the public leaves no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of matters that should be withheld. 5 U.S.C. § 552(b)(3).

24. Applicable to this case is Section 102A(i)(1) of the Intelligence Reform and Terrorist Prevention Act of 2004, 50 U.S.C. § 403-1(i)(1), which directs that the Director of National Intelligence "shall protect intelligence sources and methods from unauthorized disclosure."

25. In the course of preparing this declaration, DOJ has consulted with the Office of the Director of National Intelligence, which has confirmed that disclosure of the information responsive to EFF's request would divulge "intelligence sources and methods," and that such disclosure is not authorized under Section 102A(i)(1).

### **Exemption 7(A)**

26. Exemption 7(A) authorizes the withholding of materials compiled for law enforcement purposes if their disclosure could reasonably be expected to interfere with law enforcement proceedings.

27. The withheld documents satisfy the threshold requirement of 5 U.S.C. § 552(b)(7) because they are records compiled for law enforcement purposes. The core mission of the Department of Justice is to enforce the laws of the United States and to investigate, prosecute and defend all suits in which the United States is a party. The Office of Intelligence Policy & Review, National Security Division, is responsible for combating terrorism and other threats to national security through the effective use of FISA. This statutory authority enables the Government to obtain vital intelligence to detect and prevent terrorist attacks against the United States. Accordingly, there can be no question that the collection of intelligence is part of a concentrated effort to detect and prevent suspected illegal acts of terrorism. OIPR not only has the statutory authority to compile these records, but to compile these records in the course of fulfilling its law enforcement functions.

28. Moreover, disclosure of the records could reasonably be expected to interfere with law enforcement proceedings. See 5 U.S.C. § 552(b)(7)(A). The Department of Justice is currently investigating and/or prosecuting various terrorism-related cases nation-wide. To the extent that FISA collection activity can lawfully facilitate these investigative and prosecutorial efforts, public disclosure of the requested documents would both hinder and impair the government's ability to investigate or litigate these cases.

29. For example, the disclosure of information pertaining to the scope and focus of intelligence collection activity would defeat the important interests protected by Exemption 7(A) by

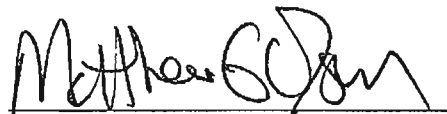


prematurely identifying potential targets or revealing the nature of the government's interest in certain individuals or groups. Such information would allow terrorists to better evade ongoing investigations and more easily formulate or revise counter measures.

30. Similarly, disclosure of details concerning the manner in which surveillance is conducted or the procedures governing the Government's collection of intelligence would provide a "blue print" of the Department's law enforcement activities, and allow terrorists to attempt to evade justice or manipulate the information collected by the Government. Disclosure of such a "blue print" of OIPR's intelligence activities would allow adversaries to use the information to make reasonable predictions about the future course of counterintelligence activities, and to take steps to undermine pending and prospective counter-terrorism investigations.

31. Thus, the release of the responsive documents would seriously undermine OIPR's effectiveness in discharging its statutorily mandated duties and could result in the very harms to law enforcement proceedings that Exemption 7(A) is designed to protect.

I declare under penalty of perjury that the foregoing is true and correct.



Matthew G. Olsen  
Deputy Assistant Attorney General  
National Security Division

Executed on this 11<sup>th</sup> day of May, 2007.

# **EXHIBIT A**



**The Attorney General**  
Washington, D.C.

January 17, 2007

The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

The Honorable Arlen Specter  
Ranking Minority Member  
Committee of the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Chairman Leahy and Senator Specter:

I am writing to inform you that on January 10, 2007, a Judge of the Foreign Intelligence Surveillance Court issued orders authorizing the Government to target 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. As a result of these orders, any electronic surveillance that was occurring as part of the Terrorist Surveillance Program will now be conducted subject to the approval of the Foreign Intelligence Surveillance Court.

In the spring of 2005—well before the first press account disclosing the existence of the Terrorist Surveillance Program—the Administration began exploring options for seeking such FISA Court approval. Any court authorization had to ensure that the Intelligence Community would have the speed and agility necessary to protect the Nation from al Qaeda—the very speed and agility that was offered by the Terrorist Surveillance Program. These orders are innovative, they are complex, and it took considerable time and work for the Government to develop the approach that was proposed to the Court and for the Judge on the FISC to consider and approve these orders.

The President is committed to using all lawful tools to protect our Nation from the terrorist threat, including making maximum use of the authorities provided by FISA and taking full advantage of developments in the law. Although, as we have previously explained, the Terrorist Surveillance Program fully complies with the law, the orders the Government has obtained will allow the necessary speed and agility while providing substantial advantages. Accordingly, under these circumstances, the President has

Letter to Chairman Leahy and Senator Specter  
January 17, 2007  
Page 2

determined not to reauthorize the Terrorist Surveillance Program when the current authorization expires.

The Intelligence Committees have been briefed on the highly classified details of these orders. In addition, I have directed Steve Bradbury, Acting Assistant Attorney General for the Office of Legal Counsel, and Ken Wainstein, Assistant Attorney General for National Security, to provide a classified briefing to you on the details of these orders.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Gonzales", written in a cursive style.

Alberto R. Gonzales  
Attorney General

cc: The Honorable John D. Rockefeller, IV  
The Honorable Christopher Bond  
The Honorable Sylvester Reyes  
The Honorable Peter Hoekstra  
The Honorable John Conyers, Jr.  
The Honorable Lamar S. Smith

# EXHIBIT B



**Electronic Frontier Foundation**  
Protecting Rights and Promoting Freedom on the Electronic Frontier

January 23, 2007

**BY FACSIMILE -- (202) 305-4211**

GayLa D. Sessoms, FOIA Coordinator  
Office of Intelligence Policy and Review  
Department of Justice  
Room 6150  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001

RECEIVED  
DEPT. OF JUSTICE

JAN 23 PM 5:55

1-20

**Re: FOIA Request & Request for Expedited Processing**

Dear Ms. Sessoms:

This letter constitutes a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. It is submitted on behalf of the Electronic Frontier Foundation ("EFF") and Tash Hepting, Gregory Hicks, Carolyn Jewel, and Erik Knutzen, the named plaintiffs in *Hepting v. AT&T Corp.*, No. 3:06-cv-00672-VRW (N.D. Cal. filed Jan. 30, 2006), a class action lawsuit currently pending before the U.S. District Court for the Northern District of California.

In a letter to Sens. Patrick Leahy and Arlen Specter dated January 17, 2007, the Attorney General wrote, *inter alia*,

I am writing to inform you that on January 10, 2007, a Judge of the Foreign Intelligence Surveillance Court issued orders authorizing the Government to target 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. As a result of these orders, any electronic surveillance that was occurring as part of the Terrorist Surveillance Program will now be conducted subject to approval of the Foreign Intelligence Surveillance Court.

At a press briefing on January 17, 2007, White House Press Secretary Tony Snow discussed the orders described in the Attorney General's letter. Mr. Snow said, *inter alia*, that "[t]he FISA Court has published the rules under which such [surveillance] activities may be conducted," that "the Foreign Intelligence Surveillance Court has put together its guidelines and its rules [governing the conduct of such surveillance]," and that the Administration's electronic surveillance activities will "continue[] under the rules that have been laid out by the court." Press Briefing by Tony Snow, Jan. 17, 2007 (<http://www.whitehouse.gov/news/releases/2007/01/20070117-5.html>).

On behalf of EFF and the *Hepting* plaintiffs, we request copies of all Foreign Intelligence Surveillance Court (FISC) orders referenced by the Attorney General in his letter to Sens. 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.

#### Request for Expedited Processing

Pursuant to 28 CFR § 16.5(d)(iii), we request expedited processing of this FOIA request because any delay in disclosure of the requested material will result in "[t]he loss of substantial due process rights." In *Hepting*, EFF is currently representing a class of AT&T customers in litigation against the company for diverting their private communications content and disclosing their private communications records to the National Security Agency ("NSA") without a search warrant, court order, or other lawful authorization, alleging violations of federal and state statutes and the First and Fourth Amendments. EFF also serves as co-chair of the plaintiffs' executive committee in a pending multidistrict litigation ("MDL") case, *In re National Security Agency Telecommunications Records Litigation*, No. M-06-cv-01791-VRW (N.D. Cal. filed Aug. 14, 2006).

The Government, which has intervened in *Hepting* and similar cases, has already indicated that it will move to have another lawsuit related to the NSA surveillance program dismissed as moot based upon assertions that the NSA program has now been authorized by the FISC. See Adam Liptak, *White House Shifting Tactics in Spy Cases*, New York Times, Jan. 19, 2007, available at <http://www.nytimes.com/2007/01/19/washington/19legal.html> ("The announcement about the surveillance program came two weeks before a federal appeals court in Cincinnati was to hear the first appellate argument about the lawfulness of the program. Government lawyers now say that case is moot . . ."); see also Letter from DOJ to U.S. Court of Appeals for the Sixth Circuit, January 17, 2007 (attached hereto) (alerting the court to the changes in the NSA program and indicating that it would shortly be briefing the court on how these new developments effect the case). The Attorney General, in a January 19 interview on the PBS NewsHour, left no doubt that the Government intends to seek the dismissal of suits seeking injunctive relief "to stop the program from going forward under the president's authority." U.S. "No Less Safe" After Spy Policy Change, Gonzales Says, PBS NewsHour, transcript available at [http://www.pbs.org/newshour/bb/law/jan-june07/gonzales\\_01-19.html](http://www.pbs.org/newshour/bb/law/jan-june07/gonzales_01-19.html).

It is thus likely the Government will move to dismiss as moot those claims in the *Hepting* lawsuit that seek relief against future disclosures of communications and records by AT&T to the NSA, arguing that the FISC's recent actions have rendered that conduct lawful. On January 11, 2007, the Government made an *ex parte*, in camera filing with the U.S. district court in which *Hepting* and the other MDL cases are pending; the Government subsequently described its filing as "concern[ing] the Foreign Intelligence Surveillance Court orders that were publicly announced" on January 17, 2007. Notice by the United States of Attorney General's Letter to Congress (attached hereto). EFF, the *Hepting* plaintiffs, and the other MDL plaintiffs do not have access to this filing by the

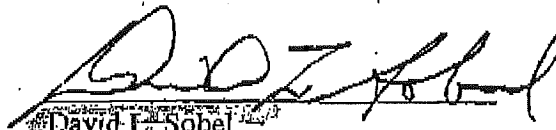
Government. It is thus clear that EFF and the plaintiffs it represents in *Hepting* will suffer a "loss of substantial due process rights" if they are denied access to the FISC orders, rules and guidelines we seek through this request.

Under penalty of perjury, we hereby affirm that the foregoing is true and correct to the best of our knowledge and belief.

As the FOIA and applicable Department regulations require, we will anticipate your response to our request for expedited processing of this FOIA request within ten (10) calendar days. Should you have any questions concerning our request, please feel free to contact us at (202) 797-9009.

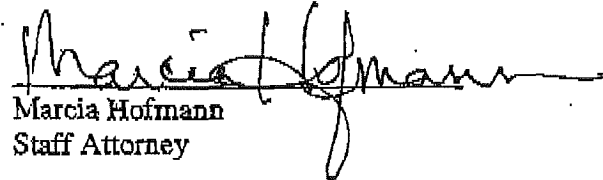
Thank you for your consideration.

Sincerely,



David L. Sobel

Senior Counsel



Marcia Hofmann

Staff Attorney

attachments



# EXHIBIT C

# COPY

**U.S. Department of Justice**

National Security Division

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*Washington, D.C. 20530*

JAN 26 2007

David L. Sobel  
Electronic Frontier Foundation  
1875 Connecticut Avenue, NW, Suite 650  
Washington, DC 20009

Re: FOIA/PA # 07-020

Dear Mr. Sobel:

This is to acknowledge receipt of your letter dated January 23, 2007, requesting access to (1) "all Foreign Intelligence Surveillance Court ("FISC") orders referenced by the Attorney General in his letter to Sens. Leahy and Specter" and (2) "all FISC rules and guidelines associated with such orders and/or referenced by Mr. Snow in the January 17, 2007 press briefing." Your Freedom of Information Act request was received by this office on January 23, 2007.

Our policy is to process FOIA requests on a first-in, first-out basis. However, since you requested expedited processing of your FOIA request it is under consideration and you will be notified. If you have any questions concerning your request, feel free to — contact me on (202) 353-3092. Thank you in advance for your continuing patience.

Sincerely,



Theresa Crosland  
FOIA Public Liaison

# EXHIBIT D

**U.S. Department of Justice**

National Security Division

**FILE COPY***Washington, D.C. 20530***MAR 9 2007**

David L. Sobel  
Electronic Frontier Foundation  
1875 Connecticut Ave., NW  
Suite 650  
Washington DC, 20009

Re: FOIA/PA #07-20

Dear Mr. Sobel:

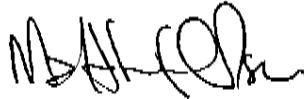
This responds to your January 23, 2007, Freedom of Information Act (FOIA) request for access to "all Foreign Intelligence Surveillance Court ("FISC") orders referenced by the Attorney General in his letter to Sens. Leahy and Specter, and all FISC rules and guidelines associated with such orders and/or referenced by Mr. Snow in the January 17 press briefing." You also requested expedited processing of your FOIA request, and we have granted your request for expedited treatment. Accordingly, your request was reviewed ahead of others routinely processed on a first-in, first-out basis.

The Office of Intelligence Policy and Review (OIPR), which is now a part of the Department's new National Security Division, provides advice to the Attorney General and United States intelligence agencies regarding questions of law and policy that relate to United States intelligence activities; performs review functions of certain intelligence activities; and prepares and presents applications for electronic surveillance and physical search to the United States Foreign Intelligence Surveillance Court pursuant to the Foreign Intelligence Surveillance Act.

In response to your request, this office conducted a search of its files and located two documents that are responsive to your request. However, these documents have been withheld in their entirety pursuant to Exemptions 1, 5, 6, and 7(C) of the FOIA, 5 U.S.C. 552 (b)(1), (5) (b)(6), and (b)(7)(C). Exemption 1 pertains to national security information which is properly classified pursuant to Executive Order 12958, as amended. The information protected by this Exemption is currently classified because its disclosure could reasonably be expected to cause damage to the national security. Exemption 5 pertains to certain inter- and intra-agency communications protected by the attorney work product and deliberative process privileges. Exemptions 6 and 7(C) pertain to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties. Since the release of this properly classified information would risk damage to national security interests by impeding the effectiveness of intelligence activities, none of the information being withheld is appropriate for discretionary disclosure.

If you are not satisfied with this response you may administratively appeal by writing to the Director, Office of Information and Privacy, United States Department of Justice, 1425 New York Avenue, NW, Suite 11050, Washington, D.C. 20530-0001, within sixty days from the date of this letter. Both the letter and envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in black ink, appearing to read 'M. G. Olsen', written over a horizontal line.

Matthew G. Olsen  
Acting Deputy Assistant Attorney General