

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

_____)	
ELECTRONIC FRONTIER)	
FOUNDATION,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 12-1441-ABJ
)	
)	
DEPARTMENT OF JUSTICE,)	
)	
Defendant.)	
_____)	

DEFENDANT’S STATUS REPORT

Defendant, the Department of Justice (“Department”), by and through undersigned counsel, hereby responds to the Court’s Order of October 2, 2012:

1. By letter dated July 26, 2012, the Electronic Frontier Foundation (“Plaintiff”) submitted a Freedom of Information Act (“FOIA”) request to the National Security Division (“NSD”) of the Department of Justice seeking:

- (1) Any written opinion or order . . . in which “the Foreign Intelligence Surveillance Court held that some collection carried out pursuant to Section 702 minimization procedures used by the government was unreasonable under the Fourth Amendment”;
- (2) Any written opinion or order . . . reflecting or concerning a FISC determination that “the government’s implementation of Section 702 of FISA has sometimes circumvented the spirit of the law”; and
- (3) Any briefing provided to the Senate Select Committee on Intelligence or the House Permanent Select Commission on Intelligence concerning FISC opinions or orders described in items (1) and (2) above.

Complaint for Injunctive Relief (“Compl.”) ¶ 12. The submission also requested expedited processing and a waiver of search, review, and reproduction fees associated with the request. Compl. ¶¶ 13-14.

2. By letter dated August 13, 2012, the NSD acknowledged receipt of Plaintiff’s FOIA request. The letter also explained that NSD’s policy “is to process FOIA requests on a first-in, first-out basis” and that, consistent with that policy, “every effort w[ould] be made to respond to [Plaintiff’s] request as quickly as possible.” In a subsequent communication, the NSD granted Plaintiff’s fee waiver request but denied its request for expedited processing because Plaintiff failed to demonstrate a “compelling need.”

3. The NSD is processing Plaintiff’s request and expects to complete that processing by December 5, 2012, at which time the NSD will produce any responsive, non-exempt information to Plaintiff.

4. In the event that information is withheld pursuant to FOIA exemptions or otherwise, the NSD anticipates filing a dispositive motion in support of any such withholdings. The NSD, at this time, is unable to propose a date by which the agency will move for summary judgment and respectfully requests the opportunity to submit a proposed briefing schedule after the processing of Plaintiff’s FOIA request is completed.

5. Undersigned counsel contacted Plaintiff’s counsel David Sobel prior to filing this Status Report to discuss the schedule proposed herein. He indicated that he will not oppose the December 5, 2012 deadline for the government to complete processing Plaintiff’s request and to produce on that date any responsive, non-exempt information.

Date: October 31, 2012

Respectfully submitted,

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JOHN R. TYLER
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/s/ Jacqueline Coleman Snead
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