

The James Madison Project
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9 February 2009

Melanie Ann Pustay
Director
Office of Information and Privacy
U.S. Department of Justice
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Re: MDR Request – FISA Warrants

Dear Ms. Pustay:

This is a request on behalf of the James Madison Project (“JMP”) pursuant to the provisions of Executive Orders 12958 and 13292 for Mandatory Declassification Review of:

- a) **Any and all requests for Foreign Intelligence Surveillance Act (“FISA”) warrants submitted to the Attorney General (“AG”) or the National Security Division (“NSD”) of the Department of Justice (“DOJ”), including all documents and affidavits included as exhibits in such warrant requests and all transcripts of testimony provided by federal agents in furtherance of such warrant requests;**
- b) **Any and all correspondence and emails between the AG’s office, the NSD, the Federal Bureau of Investigation (“FBI”), the Office of the Secretary of Defense (“OSD”), the Central Intelligence Agency (“CIA”), the National Security Agency (“NSA”), or the Foreign Intelligence Surveillance Court (“FISC”) regarding such warrant requests;**
- c) **Any and all transcripts of FISC hearings on such warrant requests that are in the DOJ’s possession; and**

“Knowledge will forever govern ignorance, and a people who mean to be their own Governors, must arm themselves with the power knowledge gives.”

James Madison, 1822

- d) **Any and all copies of FISC rulings, decisions, briefs, or orders regarding such warrant requests that are in the DOJ's possession.**

To the best of our knowledge, these documents are held by the FBI, the AG's office, and the NSD, but this should not be considered an exhaustive list.

Even discounting the NSA's controversial Terrorist Surveillance Program, recent years have seen considerable public debate over the FISA and the role of the FISC. Through the end of 2004, the FISC approved 18,761 warrants, and rejected only five. It approved 2,072, in 2005, and 2,181 in 2006, rejecting none. In 2002, the FISC accused the FBI and DOJ of supplying "erroneous information" in more than 75 affidavits. Disclosure of responsive records pertaining to requests submitted to the AG for FISA warrants along with records regarding the ultimate fate of those requests would illuminate the standards by which these requests are evaluated at every level of review.

We do not authorize the DOJ to assess any charges to us for the processing of this request without seeking our prior explicit authorization.

We request that any documents or records produced in response to this request be provided in electronic (soft-copy) form wherever possible. Acceptable formats are .pdf, .jpg, .gif, .tif. Please provide soft-copy records by email or on a CD if email is not feasible.

Your cooperation in this matter would be appreciated. If you wish to discuss this request, please do not hesitate to contact my Director of FOIA Operations Kel McClanahan at Kel@JamesMadisonProject.org or 301-728-5908.

Please respond to this request by email to Kel@JamesMadisonProject.org or by fax to 240-681-2189.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark S. Zaid for". The signature is fluid and cursive.

Mark S. Zaid
Executive Director

MSZ/km

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