



**U.S. Department of Justice**

Office of Information and Privacy

Telephone: (202) 514-3642

Washington, D.C. 20530

MAR - 8 2006

Ms. Marcia Hofmann  
Electronic Privacy Information Center, Inc.  
1718 Connecticut Avenue, NW  
Suite 200  
Washington, DC 20009

Re: AG/06-R0238  
OLP/06-R0237  
MAP:KDC:APM

Dear Ms. Hofmann:

This responds to your Freedom of Information Act (FOIA) requests dated December 16, 2005 seeking records dated from September 11, 2001 to the present relating to the National Security Agency (NSA) surveillance program. This response is being made on behalf of the Offices of the Attorney General and Legal Policy. Please be advised that this response also addresses records that were referred to this Office by the Office of Legal Counsel (OLC).

We have completed our records searches for the Offices of the Attorney General and Legal Policy. I have determined that fifteen documents, totaling eighty-five pages, are appropriate for release without excision and copies are enclosed. Additionally, two documents, totaling two pages, are appropriate for release with excisions made pursuant to Exemption 6 of the FOIA, 5 U.S.C. § 552(b)(6). Forty-six documents, totaling ninety-nine pages, are being withheld in full pursuant to Exemption 5. Finally, we located a one-page electronic mail (e-mail) that originated with the Office of Intelligence Policy and Review (OIPR) and we are withholding it in full on behalf of OIPR pursuant to Exemption 5. For your information, e-mail messages are counted and processed as individual documents. Exemption 5 pertains to certain inter- and intra-agency communications protected by the deliberative process, attorney-client, attorney work-product, and presidential communications privileges. Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of a third party. None of the withheld information is appropriate for discretionary release.

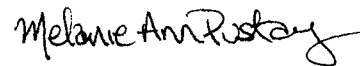
We also located the December 22, 2005 letter from Mr. William Moschella that is attached as an exhibit to your complaint. As such, it is not included in this release package.

Please be advised that we have referred certain documents to the Office of Legal Counsel as well as to the Criminal and Civil Divisions for processing and direct response to you.

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Although I am aware that your request is the subject of ongoing litigation and that appeals are not ordinarily acted on in such situations, I am required by statute and regulation to inform you that you have the right to file an administrative appeal.

Sincerely,

A handwritten signature in black ink that reads "Melanie Ann Pustay". The signature is written in a cursive style with a large, looping initial 'M'.

Melanie Ann Pustay  
Deputy Director