

VIA E-MAIL

March 6, 2017

Arnetta Mallory
FOIA Initiatives Coordinator
Room 10702
600 E Street, NW
Washington, DC 20530-0001

Dear Ms. Mallory,

This letter constitutes a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the Department of Justice National Security Division (“NSD”).

EPIC seeks any § 1804 FISA applications for wiretapping in Trump Tower in the possession of the National Security Division.

The NSD, which was created in 2006 to consolidate the Justice Department’s national security operations, is responsible for coordinating and facilitating national security investigations. In particular, the Office of Intelligence represents the government before the Foreign Intelligence Surveillance Court (“FISC”). As a result of the NSD’s role in making filings with the FISC, it follows that any FISA application seeking to conduct electronic surveillance or other FISA-authorized searches of Donald J. Trump, his associates, or facilities within Trump Tower would be held by NSD.

Documents Requested

1. All applications made pursuant to 50 U.S.C. § 1804 where the facilities or places at which the electronic surveillance was directed included facilities located in Trump Tower, 725 5th Avenue, New York, NY 10022;

Request for Expedited Processing

EPIC is entitled to expedited processing of this request. 5 U.S.C. § 552(a)(6)(E)(v)(II); 28 C.F.R. § 16.5(e)(1)(ii). There is there is an “urgency to inform the public about an actual or alleged federal government activity,” and the request is “made by a person who is primarily engaged in disseminating information.” § 16.5(e)(1)(ii).

First, there is an “urgency to inform the public about an actual or alleged federal government activity.” § 16.5(e)(1)(ii). The President of the United States has charged that former

President Obama “had [his] ‘wires tapped’ in Trump Tower. . . .”¹ Second, EPIC is an organization “primarily engaged in disseminating information.” § 16.5(e)(1)(ii). As the Court explained in *EPIC v. Dep’t of Def.*, “EPIC satisfies the definition of ‘representative of the news media’” entitling it to preferred fee status under FOIA. 241 F. Supp. 2d 5, 15 (D.D.C. 2003).

In submitting this request for expedited processing, I certify that this explanation is true and correct to the best of my knowledge and belief. § 16.5(e)(3); § 552(a)(6)(E)(vi).

Request for “News Media” Fee Status and Fee Waiver

EPIC is a “representative of the news media” for fee classification purposes. *EPIC v. Dep’t of Def.*, 241 F. Supp. 2d 5 (D.D.C. 2003). Based on EPIC’s status as a “news media” requester, EPIC is entitled to receive the requested record with only duplication fees assessed. 5 U.S.C. § 552(a)(4)(A)(ii)(II). *See also* 28 C.F.R. § 16.10(c).

Further, any duplication fees should also be waived because “disclosure of the requested information is in the public interest because it is likely to contribute to the public understanding of the operations or activities of the government” and “is not primarily in the commercial interest” of EPIC, the requester. 28 C.F.R. § 16.10(k)(2); 5 U.S.C. § 552(a)(4)(A)(iii). EPIC’s request satisfies this standard based on DOJ’s considerations for granting a fee waiver.

For these reasons, a fee waiver should be granted.

Conclusion

Thank you for your consideration of this request. I anticipate your determination within ten calendar days. 5 U.S.C. § 552(a)(6)(E)(ii)(I); 28 C.F.R. § 16.5(e)(4).

For questions regarding this request I can be contacted at 202-483-1140 x111 or FOIA@epic.org.

Respectfully submitted,

Eleni Kyriakides
Eleni Kyriakides
EPIC Fellow

¹ @realDonaldTrump, Twitter (Mar. 4, 2017, 6:35 AM), <https://twitter.com/realDonaldTrump/status/837989835818287106>.