

JUDGE WILL REVIEW DOJ'S WITHHOLDING OF MORE SECTION 215 ORDERS

Citing the significant public interest and past overclassification, the judge in EFF's side of the Section 215 FOIA has ordered DOJ to cough up 5 (actually, I believe it is 6) orders, so she can review them in camera to see whether the government should release them.

The orders – with my speculation about what they are – are:

FISC opinion dated 8/20/2008 (6 pages)

I wrote about this opinion here. Two days before the order, the government submitted information on how it correlates different phone selectors for further chaining, which leads me to believe that's the topic of the opinion. The government doesn't want to release it because it is still using this "method," which leads me to believe it would offer some insight on what it means that the automatic queries approved in 2012 and the connection-based chaining envisioned under the reformed program.

(2) FISC order dated 10/31/2006 (19 pages);

I believe this is actually two orders, one of 15 and one of 4 pages. If these pertain to the phone dragnet, one might pertain to compensation, another might either deal with violations the program was already experiencing (the next primary order imposed new regular reviews).

But it's just as likely that these orders approve bulk collection for something else – perhaps financial records, for example.

(5) FISC orders dated 12/16/2005 (16 pages)

(3) FISC orders dated 2/17/2006 (17 pages)

(4) FISC orders dated 2/24/2006 (8 pages)

Given the timing (I've retained Judge Yvonne Gonzales Rogers' numbering but adjusted order to match timing), I suspect these deal with the illegal wiretapping program. After all the first of these three orders was approved the day after the program was disclosed, during the period when PATRIOT Authority was extended after an true extension was filibustered.

Mind you, these are not supposed to deal with bulk collection. It may be they dealt with extending existing programs, providing feedback about what would not be acceptable bulk collection, or simply smaller orders affecting the most important part of the production.

As a reminder, there are 3 other known dragnet orders – from during the period when FISC was working through the violations in 2009 – the government didn't even disclose to EFF. I wrote about those here.