

DID THE GOVERNMENT COMPLY WITH FISC REQUIREMENT OF NOTICE ON APPELLATE DECISION

I'm prepping a post on how all the various deadlines over the next several weeks will work together. So I've been reviewing the instructions James Boasberg laid out in the most recent dragnet order, which he signed on February 26.

First, Boasberg reminded the government – which had turned in its homework late in February – that FISC gets a week to consider any application. That means they need the next application by May 22.

Remember, the House breaks for Memorial Day on May 21 (that is, they're not scheduled to be in session on May 22) and the Senate breaks on May 22.

The government will almost certainly have to submit a new dragnet order by May 22. That's because USA F-ReDux allows bulk collection to continue for 6 months as it sets up PRISM-lite for provider compliance. But as I understand it, the new dragnet order has to happen under USA F-ReDux, not PATRIOT.

That may shave one day off the legislative schedule.

More interesting is Boasberg's order that if any of the three appellate court reviewing the dragnet issues an opinion "prior to the expiration of this Order, the government is directed to inform the Court promptly if the government's implementation of this Order has changed as a result of such opinion(s)."

Now, in actuality, the government might only have to send a short note saying, "the Second Circuit

ruled, told us this is unlawful, but also did not issue an injunction because Congress is about to act on it." But they have to send some kind of notice, per this order.

Did they?