

Ms. Elizabeth Farris  
Supervisory Paralegal  
Office of Legal Counsel  
Room 5515  
950 Pennsylvania Ave., N.W.  
U.S. Department of Justice  
Washington, D.C. 20530-2038

**Re: Freedom of Information Act Request**

Dear Ms. Farris:

This letter constitutes a request under the Freedom of Information Act, 5 U.S.C. §552 (“FOIA”), and is submitted by the undersigned individuals who are concerned about the Bush Administration’s reported decision to undertake a massive program of spying on American citizens in apparent violation of the law and the Constitution.

President Bush stated on December 19 that his legal authority to have the National Security Agency conduct such spying derives from his inherent constitutional powers and from the congressional authorization for the use of military force in Afghanistan. Of course, these assertions made no sense, in view of the express statutory provisions of the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. §§1801 et seq. that flatly prohibit any such spying without a court order. It is the duty of your Office to advise the President on precisely such questions relating to his constitutional and statutory authority. The American people certainly have a right to know whether the President has knowingly acted in blatant violation of the law or believed he was acting within the law based on advice of your office.

- We therefore request all documents in the possession, custody or control of the Office of Legal Counsel, prepared on or after January 20, 2001, referring, relating to or discussing the authority of the President of the United States to authorize any agency of the U.S. Government, including but not limited to the National Security Agency, to conduct electronic surveillance of a United States person, as defined in FISA, 50 U.S.C. §1801(i), or where there is a substantial likelihood that the surveillance will acquire the contents of a communication to which such a United States person is a party, without obtaining a court order as required by FISA.

We urge you, in considering this request, to forego invoking Exemption 5 to FOIA allowing the government to withhold documents based on deliberative process or attorney-client privilege. In these exceptional circumstances, where the President of the United States may have acted in gross disregard of the law and the Constitution, the stakes for the American people are too high for the Bush Administration and the Department of Justice to hide behind legal privileges as an excuse for withholding these documents.

