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**Folder Title:** EPIC (Electronic Privacy Information Center) v. OHS (Office of Homeland Security) - FOIA (Freedom of Information Act) Suit

copy to  
Brett Kavanaugh

BK - you  
free to talk  
to DOJ at 3:30  
today via phone  
re: this?  
- Mivalley

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*cc: B. Kavanaugh  
 B. Powell  
 — JHW  
 1-27-03*

Date: January 24, 2003

For: Anthony Coppolino

Facsimile Number: 202-616-8460

*alternativ*

Company: US Department of Justice

Main Number: 202-514-4782

*616-*

From: Paul Wolfson

*8470*

COMMENTS:

Entry of appearance and discovery requests in EPIC v. OHS.

We are beginning to send a communication of 16 pages (including this cover sheet). If transmission is interrupted or of poor quality, please notify us immediately by telephone at (202) 663-6712.

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AO 158 (Rev. 6/98 DC) - APPEARANCE

# United States District Court for the District of Columbia

Electronic Privacy Information Center

vs.

APPEARANCE

Office of Homeland Security, et al.

CASE NUMBER: 02-CV-620 (CKK)

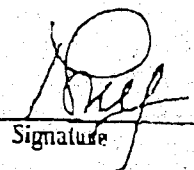
To the Clerk of this court and, all parties of record:

Enter my appearance as counsel in this case for

ELECTRONIC PRIVACY INFORMATION CENTER

January 24, 2003  
Date

D.C. Bar No. 414759  
BAR IDENTIFICATION NO.



Paul R.Q. Wolfson  
Print Name

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City State Zip Code

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

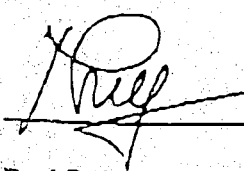
ELECTRONIC PRIVACY INFORMATION CENTER, )  
 )  
 Plaintiff )  
 )  
 v. )  
 )  
 OFFICE OF HOMELAND SECURITY, et al., )  
 )  
 Defendants. )

No. 02-CV-620 (CKK)  
Judge Kollar-Kotelly

CERTIFICATE OF SERVICE

I hereby certify that a copy of the APPEARANCE of Paul R.Q. Wolfson has been served by facsimile and first-class mail this 24th day of January, 2003, upon the following counsel:

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Attorney for Plaintiff

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ELECTRONIC PRIVACY INFORMATION CENTER, )  
 )  
 Plaintiff )  
 )  
 v. )  
 )  
 OFFICE OF HOMELAND SECURITY, et al., )  
 )  
 Defendants. )

No. 02-CV-620 (CKK)  
Judge Kollar-Kotelly

PLAINTIFF'S INTERROGATORIES TO DEFENDANTS

Definitions: In these interrogatories, "homeland security" shall refer to all subject matters within the jurisdiction of the Office of Homeland Security (OHS) and the Homeland Security Council (HSC) pursuant to Executive Order No. 13,228, including but not limited to border and transportation security; emergency preparedness and response; chemical, biological, radiological, and nuclear countermeasures; and information analysis and infrastructure protection. In addition, "OHS" shall refer to the Office of Homeland Security; "HSC" shall refer to the Homeland Security Council; "HSC committees" shall include the HSC, the HSC Principals Committee, the HSC Deputies Committee, all of the HSC Policy Coordination Committees, and any other committees or working groups of the HSC.

1. Identify all guidelines, instructions, or directives concerning homeland security that the OHS or OHS staff has issued to any other officials or agencies of the United States government. If any such guideline, instruction, or directive has been issued by OHS or OHS staff, state in each case whether, before that guideline, instruction, or directive was issued, it was reviewed and officially approved by the President, the HSC, or any of the HSC committees, and state when and by whom it was reviewed and approved.

2. Identify every occasion on which federal agencies or officials have been instructed by any entity within the Executive Office of the President (including the OHS, OHS staff, the HSC, or any of the HSC committees) to obtain OHS or OHS staff approval before pursuing any policy or activity relating to homeland security, and state whether and when such approval by OHS or OHS staff was sought and obtained.

3. (a) Identify every occasion on which OHS personnel, including Director Ridge, have instructed or informed federal, state, or local government officials or personnel that a particular event has, or has not, received National Security Special Event Status. (b) For each occasion on which a particular event has been considered by OHS for National Security Special Event Status -- specifically including but not limited to the 2002 and 2003 Super Bowls and the 2002 Kentucky Derby -- state whether the decision to designate or not designate the event as a National Security Special Event was made by OHS personnel, including Director Ridge, or by some other person or entity, and provide the name of the person or entity that made the designation decision. (c) For each designation decision identified in response to interrogatory 3(b), if that decision was made by OHS or Director Ridge, state whether the question whether to designate the event as a National Security Special Event was reviewed either before or after that decision by the President, the HSC, or any of the HSC Committees, and whether the decision of OHS or Director Ridge was approved, disapproved, or modified by the President, the HSC, or any of the HSC Committees. (d) For each designation decision identified in response to interrogatory 3(b), if the decision was made by a person, entity, or agency outside OHS, state whether it was made pursuant to criteria, guidelines, or directives issued by or received from OHS, including Director Ridge. (e) For the 2002 Kentucky Derby, state whether pilots who wished to fly over Churchill Downs during the weekend of the Derby were required to register

with OHS or its staff, identify the person or entity who made the decision to require such registration by pilots with OHS, and state whether that decision was made pursuant to instructions, guidelines, directives, or criteria from OHS or its staff, including Director Ridge.

4. State whether and when OHS has received any plans or reports from agencies or interagency task forces or working groups, specifically including the Container Working Group, concerning recommendations for border security and container security, and identify the actions that OHS has taken in response to such plans or reports, including whether OHS has provided directions or instructions to any agency or interagency task force or working group on the implementation of improvements for border security and container security.

5. For the Smart Border Declaration, signed in December 2001 between Canadian Foreign Minister Manley and Director Ridge, (a) state whether the decision to enter into that Declaration was made by Director Ridge or by some other person or entity, and if so, by whom; and (b) identify the actions that OHS has taken to implement the Smart Border Declaration, including any directions, guidelines, or criteria OHS has provided to other federal agencies concerning the implementation of the Declaration.

6. State whether and when OHS has received any plans or reports from agencies or interagency task forces or working groups concerning recommendations for adoption and implementation of a Biological Threat Assessment and biological defense system, and identify the actions that OHS has taken in response to such plans or reports, including whether OHS has provided directions or instructions to any agency or interagency task force or working group on the implementation of a biological threat assessment or biological defense system.

7. State whether and when OHS has reviewed budget requests submitted to the Executive Office of the President, including the Office of Management and Budget, from other



agencies or entities for homeland security, and state any occasion on which OHS approved, disapproved, or modified these budget requests before they were submitted to the Congress.

8. From the creation of OHS to the present, provide the total number of persons that have served on the staff of the OHS (whether or not serving full-time, and whether or not serving on detail from another government agency or another part of the Executive Office of the President); identify the departments or branches of the OHS and its staff; provide the number of persons that have served on the staff of each such department or branch; and provide the breakdown of the functions of those employees.

9. Identify any personnel of the OHS who have been officially required to report regularly and directly to the HSC or any of the HSC committees.

10. If any person on the OHS staff also served formally in a staff or supportive position to the HSC or any of the HSC committees, identify that person and his or her supervisor(s) on the HSC or HSC committee, and explain how that person divided his or her time between his or her OHS staff functions and his or her HSC staff functions.

11. Identify each of the following persons within the OHS or its staff (from the creation of OHS to the present): the Deputy Assistant to the President for Homeland Security; the Deputy Homeland Security Advisor; the Deputy Director of the OHS; the Executive Secretary of the OHS; the Senior Director-Public Liaison; the Senior Director-Intergovernmental Affairs; the Senior Director-Communications; the Senior Director-Administration and Support; the Senior Director, R&D; the Senior Director-Policy and Plans; the Senior Director-Protection and Prevention; the Senior Director-Response and Recovery; Director, Office of Homeland Coordination Center; and Director, Threat Coordination Center.

12. Identify every occasion on which the following entities met formally from the creation of OHS to the present: the HSC; the HSC Principals Committee; the HSC Deputies Committee; and each of the HSC Policy Coordination Committees.

13. Identify every occasion on which any meeting identified in response to interrogatory no. 12 resulted in the issuance of a directive from the HSC or any of its committees directly to the OHS or its staff; the nature of any such directive; and any action taken by OHS or its staff in response to any such directive.

14. Identify every other occasion on which the President, the HSC or any of the HSC committees issued any directive directly to the OHS or its staff; the nature of any such directive; and any action taken by OHS or its staff in response to any such directive.

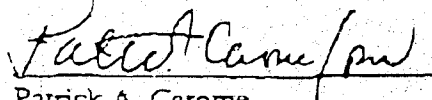
15. Identify every occasion on which the OHS or its staff has requested the formal approval of the President, the HSC, or any of the HSC committees of any initiative regarding homeland security; and describe the action taken by the President, the HSC, or the HSC committee in response.

16. State whether any records (or copies of records) that were within the custody or control of the OHS, HSC, or any of the HSC committees at the time that plaintiff's FOIA request of March 20, 2002, was received by the government, or since that time, and would be responsive to that FOIA request of March 20, 2002 (whether or not the OHS, HSC, or any of the HSC committees is an "agency" subject to the FOIA, and whether or not such records would be exempt from disclosure under the FOIA) have been transferred to the custody or control of the new Department of Homeland Security.

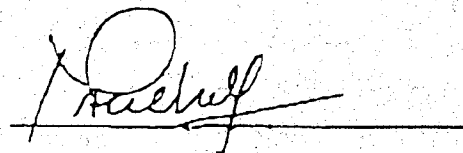
17. If any records or copies of records identified in response to interrogatory no. 16 have been transferred to the custody of the Department of Homeland Security, identify the date

of creation of the record, the author or authors of the record, and the recipient or recipients of the record; state whether any exemption from the FOIA is claimed for any such record or part of any such record; and identify the specific exemption relied upon.

18. Designate three persons to testify at depositions concerning the operations of OHS and its relation to other federal agencies (including but not limited to the new Department of Homeland Security), the HSC, and the HSC committees, as well as the answers to interrogatories no. 1-17, above, and identify the job title and functions of those persons.

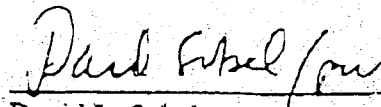


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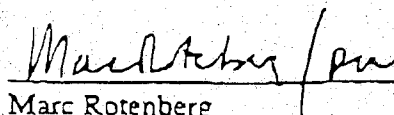


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Attorneys for Plaintiff

January 24, 2003

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ELECTRONIC PRIVACY INFORMATION CENTER, )

Plaintiff )

v. )

OFFICE OF HOMELAND SECURITY, et al., )

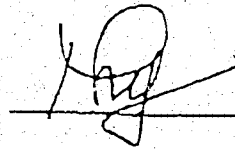
Defendants. )

No. 02-CV-620 (CKK)  
Judge Kollar-Kotelly

CERTIFICATE OF SERVICE

I hereby certify that a copy of the PLAINTIFF'S INTERROGATORIES TO  
DEFENDANT has been served by facsimile and first-class mail this 24th day of January, 2003,  
upon the following counsel:

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Attorney for Plaintiff

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PLAINTIFF'S REQUESTS FOR PRODUCTION OF DOCUMENTS

Definitions: In these requests for production of documents, "interrogatory" and "interrogatories" refer to the interrogatories served herewith, "homeland security" shall refer to all subject matters within the jurisdiction of the Office of Homeland Security (OHS) and the Homeland Security Council (HSC) pursuant to Executive Order No. 13,228, including but not limited to border and transportation security; emergency preparedness and response; chemical, biological, radiological, and nuclear countermeasures; and information analysis and infrastructure protection. In addition, "OHS" shall refer to the Office of Homeland Security; "HSC" shall refer to the Homeland Security Council; "HSC committees" shall include the HSC, the HSC Principals Committee, the HSC Deputies Committee, all of the HSC Policy Coordination Committees, and any other committees or working groups of the HSC.

1. Produce a copy of all OHS guidelines, instructions, or directives responsive to Interrogatory No. 1, and a copy of documentary evidence of official approval of such guidelines, instructions, or directives, as referred to in Interrogatory No. 1.
2. Produce a copy of all written instructions by any entity within the Executive Office of the President (including OHS, the HSC, or any of the HSC Committees) to any other

federal official or agency, requiring OHS or OHS staff approval before pursuing any policy or activity relating to homeland security, and any documentary evidence of OHS approval or disapproval of such policies or activities, as referred to in Interrogatory No. 2.

3. (a) Produce a copy of documentary evidence of designation or nondesignation by OHS personnel, including Director Ridge, of events as receiving National Security Special Event Status, as referred to in Interrogatory No. 3 (specifically including but not limited to the 2002 Super Bowl, the 2003 Super Bowl, and the 2002 Kentucky Derby). (b) Produce a copy of documentary evidence of review of any OHS decision to designate or not designate such events as National Security Special Event Status by the President, the HSC, or any of the HSC Committees.

4. Produce a copy of documents evidencing OHS review, approval, or disapproval of any plans or reports from agencies or interagency task forces or working groups, referred to in Interrogatory No. 4, and a copy of OHS directions or instructions to any agency or interagency task force or working group concerning the implementation of recommendations in such plans or reports.

5. Produce a copy of documents evidencing OHS or HSC decision(s) to enter into the Smart Border Declaration, referred to in Interrogatory No. 5, and a copy of directions, guidelines, or criteria that OHS or HSC has provided to other federal agencies concerning the implementation of the Declaration.

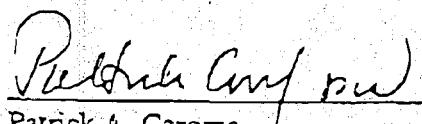
6. Produce a copy of documents evidencing OHS or HSC review of agency or interagency recommendations for adoption and implementation of a Biological Threat Assessment and biological defense system, referred to in Interrogatory No. 6, and OHS or HSC

directions or instructions to any agency or interagency task force or working group on the implementation of a biological threat assessment or biological defense system.

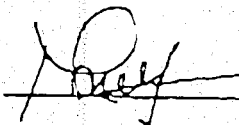
7. Produce a copy of documents evidencing OHS review of budget requests submitted to the Executive Office of the President, including the Office of Management and Budget, from other agencies or entities for homeland security, and OHS approval, disapproval, or modification of these budget requests before they were submitted to the Congress, as referred to in Interrogatory No. 7.

8. Produce a copy of any directive issued from the HSC or any of its committees directly to the OHS or its staff (other than Director Ridge), as referred to in Interrogatories No. 13 and 14.

9. Produce a copy of any organizational charts documenting the organization of OHS and/or its relation to the HSC and the HSC Committees.



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Attorneys for Plaintiff

January 24, 2003

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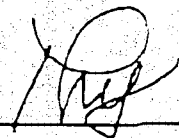
ELECTRONIC PRIVACY INFORMATION CENTER, )  
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