

VIA FOIAONLINE AND FASCIMILE (2 pages – FAX: 202-514-1009; PH: 202-514-FOIA)

April 3, 2017

Laurie Day, Initial Request Staff Chief
Office of Information Policy
Department of Justice
1425 New York Avenue, N.W., Suite 11050
Washington, DC 20530-0001

Dear Ms. Day,

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 (“DOJ”).

As detailed below, EPIC seeks records relating to the meeting between Attorney General Jeff Sessions and European Union Commissioner Věra Jourová on March 29, 2017.

Documents Requested

All records regarding the meeting between Attorney General Jeff Sessions and European Union Commissioner Věra Jourová on March 29, 2017, including memos, briefing papers, emails, and talking points.

Expedited Processing

EPIC’s FOIA request should be granted expedited processing. A FOIA request warrants expedited processing when (1) it is made by “a person primarily engaged in disseminating information” and (2) it pertains to a matter about which there is an “urgency to inform the public about an actual or alleged federal government activity.”¹ This request satisfies both requirements.

First, EPIC is “primarily engaged in disseminating information.”²

Second, there is an “urgency to inform the public” about the discussions between Attorney General Sessions and Commissioner Jourová. Attorney General Sessions has recently stated that law enforcement must be able to “overcome encryption” under lawful authority.³

¹ 5 U.S.C. § 552(a)(6)(E)(v)(II) (2008); *Al-Fayed v. CIA*, 254 F.3d 300, 306 (D.C. Cir. 2001).

² *American Civil Liberties Union v. Department of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (“[T]he Court concludes that EPIC is indeed “primarily engaged in disseminating information” for the purposes of expediting the request.”).

³ Nomination of Jeff Sessions to be Attorney General of the United States, Questions for the Record 38 (Jan. 17, 2017), <https://www.judiciary.senate.gov/imo/media/doc/Sessions%20Responses%20to%20Leahy%20QFRs.pdf>; Catherine Stupp, *EU To Propose New Rules Targeting Encrypted Apps in June*, EURACTIV.com, Mar. 29, 2017,

During the meeting in Washington, DC the two reportedly discussed “a proposal [on] how to ‘solve this problem’” of encryption.⁴ A proposal on encryption policy may be taken up at a June 2017 meeting between the United States and the European Union.

Strong encryption is the cornerstone of the modern internet economy and is critical to preserving human rights and information security around the world.⁵ Expedient processing is necessary to preserve the public’s right to meaningfully participate in a critical policy issue that could directly impact their ability to send confidential messages, engage in secure financial transactions, and safely make use of devices connected to the Internet.

Request for “News Media” Fee Status and Fee Waiver

EPIC is a “representative of the news media” for fee classification purposes.⁶ Based on EPIC’s status as a “news media” requester, EPIC is thus entitled to receive the requested records without being assessed search or review fees.⁷

In addition, any duplication fees should be waved. Disclosure of the requested information “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest” of EPIC.⁸ Here, the requested communications between Attorney General Sessions and Commissioner Jourová clearly concern “the operations or activities of the government.” Further, the disclosure of those communications “is likely to contribute significantly to public understanding of the operations or activities of the government” by offering unfiltered insight into potential collaboration between the U.S. and E.U. to weaken encryption. Lastly, because the requested communications would be of interest to all consumers and commercial firms who rely on a secure internet, this request “is not primarily in the commercial interest” of EPIC.

Conclusion

Thank you for your consideration of this request. I will anticipate your within ten calendar days.⁹ For questions regarding this request I can be contacted at 202-483-1140 x104 or FOIA@epic.org.

Respectfully Submitted,

James T. Graves

James T. Graves
EPIC Law and Technology Fellow

<https://www.euractiv.com/section/data-protection/news/eu-to-propose-new-rules-on-police-access-to-encrypted-data-in-june/>.

⁴ Amir Nasr (@amir_anasr), Twitter, (Mar. 31, 2017, 8:41 AM), https://twitter.com/amir_anasr/status/847836290234163200.

⁵ See generally, EPIC, *Cryptography Policy*, <https://epic.org/crypto/>.

⁶ *EPIC v. Department of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003).

⁷ 5 U.S.C. § 552(a)(4)(A)(ii)(II).

⁸ § 552(a)(4)(A)(iii); 28 C.F.R. § 16.10(k)(1).

⁹ See 5 U.S.C. § 552(a)(6)(E)(ii)(I).