

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**CITIZENS FOR RESPONSIBILITY
AND ETHICS IN WASHINGTON,**

Plaintiff,

v.

**EXECUTIVE OFFICE OF THE
PRESIDENT, et al.,**

Defendants.

Civil Action 07-01707 (HHK)

**THE NATIONAL SECURITY
ARCHIVE,**

Plaintiff,

v.

**EXECUTIVE OFFICE OF THE
PRESIDENT, et al.,**

Defendants.

Civil Action 07-01577 (HHK)

ORDER

On January 15, 2009, Magistrate Judge John M. Facciola issued a series of orders [#104] following his resolution of an emergency motion for a status hearing [#98] that this judge referred to him. In addition to ordering defendants to comply with an order issued by this court on January 14, 2009 [#102], the Magistrate Judge ordered defendants to search all agencies and subdivisions of the Executive Office of the President (“EOP”), irrespective of whether defendants contend any such agency or subdivision is subject to the Presidential Records Act, and to preserve any records found in a specific way. On January 16, 2009, defendants submitted LCvR 72.2(b) objections to the Magistrate Judge’s orders, objecting to the Magistrate Judge’s

decision on two primary grounds [#111]. First, defendants argue that the Federal Records Act does not authorize relief that would require non-party EOP components governed by the Presidential Records Act to search and preserve records as ordered by the Magistrate Judge. Second, defendants contend that the Magistrate Judge lacked jurisdiction to enter additional injunctive relief rather than issuing a Report and Recommendation for this court's review pursuant to LCvR 72.3. The court appreciates that the Magistrate Judge felt the need to act quickly given the impending presidential transition, but acknowledges defendants' second objection and believes that defendants may be correct in this regard. Consequently, the court deems the Magistrate Judge's order [#104] to be a report and recommendation pursuant to LCvR 72.3(a) and adopts it pursuant to LCvR 72.3(c).

Accordingly, it is this __ day of January 2009, hereby

ORDERED that the Magistrate Judge's order [#104] shall be deemed a Report and Recommendation pursuant to LCvR 72.3(a); and further

ORDERED that the court adopts the Magistrate Judge's Report and Recommendation [#104] pursuant to LCvR 72.3(c).

Henry H. Kennedy, Jr.
United States District Judge