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From: Friday, October 19, 2001 4:01 PM
Sent: Comfort, Nancy (AHRQ); Posman, Harry (AOA); Armstrong, Lynn (CDC); Jackson, Lee J (HCFA); Dorsey, Betty B (FDA); Merrill, Steven (HRSA); Cornell, Susan (OD); Christian, Darlene (PSC); Kretschmaier, Roselyn (PSC); El-Hinnawy, Pat (OD)
To: Davis, Jeffrey (HHS/OS); Eckert, Robert (HHS/OS); Blackwell, Maggie (HHS/OS); Wharton, Frances (HHS/OS); Rogers, Jo-Alice (HHS/OS)
Cc: Attorney General's Memorandum on the Freedom of Information Act
Subject:

On October 12, 2001, Attorney General John Ashcroft signed a memorandum to the Heads of All Federal Departments and Agencies. A copy of the memorandum and a transmittal from the Office of Information and Privacy, DOJ, are posted on the FOIA POST page of the DOJ website, www.usdoj.gov/oip/foiapist/mainpage.htm. The memorandum recognizes both the citizen's right to know and the Government's need to safeguard national security, enhance law enforcement effectiveness, protect sensitive business information, protect personal privacy, and protect the decision making process. Please note that agencies are especially encouraged to give careful thought to the impact of discretionary releases on the privileges that FOIA exemptions are designed to protect. The memorandum also establishes "a sound legal basis" and "an unwarranted risk of adverse impact on the ability of other agencies to protect other important records" as the standards which the Justice Department will use to determine whether to defend an agency's denial in litigation.

Both on the FOIA POST website and in a meeting held by OIP on October 18th, agencies are reminded that information regarding threat assessments, strategic materials stockpiling, and other information necessary for counter-terrorism activities which may not meet the deliberative process requirements of exemption (b)(5), may well be protected under the "high (b)(2)" exemption. Be sure to read the material referenced in the next to last paragraph of the OIP comments following the text of the Attorney General's memorandum.

A hard copy of this E-mail and of the Attorney General's memorandum will follow shortly.

Ross