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**Pepe, Margaret G**

**From:** Smith, Frederick Jr  
**Sent:** Wednesday, October 17, 2001 8:28 AM  
**To:** IPS-All-Classified-Users-DL  
**Subject:** Attorney General Reno's "Foreseeable Harm" Standard

RELEASED IN FULL

***This message is for all reviewers and senior reviewers***

At Tuesday's refresher training session, I stated that the "foreseeable harm" standard enunciated by Attorney General Reno in her October 4, 1993 memorandum was still in effect. Under that standard, DOJ would not defend agency withholdings of information unless disclosure would result in "foreseeable harm," even though the material might technically qualify for exemption.

We have just received a copy of a memorandum from Attorney General Ashcroft described as issued October 12. The Ashcroft memorandum specifically "supersedes" the Reno 1993 memorandum and replaces it with a "sound legal basis" standard for defending FOIA withholdings by agencies. One focus of the Ashcroft memorandum is the need to protect material covered by exemption 5 which was the subject of discretionary disclosure encouraged by the Reno memorandum.

I am sure guidance will be forthcoming from Nick Murphy and John Schnitker in the near future.