

Exhibit 1

Electronic Frontier Foundation v. Department of Justice, No. 06-1708 (CKK)

Plaintiff's Opposition to Defendant's Motion for an *Open America* Stay

responsive to EFF's request. He later adjusted the number to 20,000 potentially responsive pages.

5. Mr. Shaver characterized the records in broad terms such as "e-mails," "conference papers," "procedure and policy write-ups," and "certification and accreditation data," among other categories.

6. Mr. Shaver asked whether EFF would be willing to narrow its August 11, 2006 request by removing any of the specified categories of documents from the scope of the request.

7. I suggested that the parties seek to narrow or prioritize the request in some manner other than by dismissing broad categories of documents from the scope of the request. Mr. Shaver said that other forms of narrowing would require review of the documents, and would be impracticable until a later date.

8. I declined the FBI's invitation to narrow EFF's request because the number of potentially responsive pages was so indefinite, and because I was unwilling to remove broad categories of documents from the scope of the request without a better understanding of their content.

9. Plaintiff's decision not to narrow the scope of the request was informed partly by my prior dealings with the FBI in FOIA matters, which have shown that an uncertain estimate of "potentially responsive" pages is likely to change drastically once the pages are reviewed.

10. Plaintiff remains open to discussing ways to narrow the scope or prioritize the release of material at issue once the amount and substance of the responsive records are clearly defined.

11. The purpose of Plaintiff's FOIA request would be defeated if Plaintiff blindly agreed to remove potentially important records from the scope of the request without an informed understanding of their content or even number.

Under penalty of perjury, I hereby affirm that the foregoing is true and correct to the best of my knowledge and belief.

3/14/06
DATE

Marcia Hofmann
MARCIA HOFMANN