

CREWSING FOR A BRUISING: THE NSA RESPONDS TO EOP

Three days ago, Saturday March 22, we discussed the hard driving charge being mounted in DC District Court by the National Security Archive and CREW in relation to the ~~destroyed~~ missing White House emails. In that post and discussion we dissected the Administration (EOP) brief in objection to the Order To Show Cause determination, and the affidavit of Theresa Payton filed in support thereof; and man did did you guys bring the analysis and tech savvy to the show. What kind of host would I be if I were to deny you the latest developments in the case? A couple of hours ago I received another communique from Melanie Fuchs, the attorney for the NSA. Without further adieu, and as Paul Harvey would say, and, now, for the rest of the story.

In light of your continuing interest in the White House e-mail case, I am sending you the National Security Archive's reply in response to the Executive Office of the President's filing last Friday. That filing, which was made in response to Magistrate Judge Facciola's show cause order, opposed forensic copying of the EOP workstations. The Archive's response, which includes the declaration of Al Lakhani, Managing Director at Alvarez & Marsal Dispute Analysis and Forensic Services LLC, describes the significant risk that the emergency recovery backups tapes maintained by the EOP are not adequate for recovery of the missing White House e-mails from 2003-2005. Further, the response notes the lack of any support for the EOP's assertion that forensic copying would be costly and burdensome, provides actual estimates of

the cost of forensic copying, and points out several steps EOP could take to protect sources of missing e-mails including preserv ing external storage media (external hard drives, CDs, DVDs, paper copies, etc).

Here is the NSA Reply Pleading Re: OSC. Here is the Affidavit of Al Lakhani, the CREW/NSA expert witness. I think you all will like these documents a little better than the corresponding set filed by the Administration. I want to get this post up, so I will engage in further analysis along with you in the comments.