

2024 ASAP
FOIA-Privacy Act Workshop
Pittsburgh, PA

“Updates from the Courts”

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Procedural Issues

“Reading Room” Records

Campaign for Accountability v. DOJ, No. 16-1068,
2024 WL 1701640 (D.D.C. Apr. 19, 2024),
appeal pending, No. 24-5163 (D.C. Cir.)



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Procedural Issues

Reasonable Description

Sherven v. CIA, No. 23-466, 2023 WL 8649897
(W.D. Wis. Dec. 14, 2023)

Definition of a “Record”/Reasonable Segmentation

Ulis v. FBI, No. 23-636, 2023 WL 8620632
(D.D.C. Dec. 13, 2023)

Inst. for Energy Research v. FERC, No. 22-3414,
2024 WL 1091791 (D.D.C. Mar. 13, 2024)



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Procedural Issues

Agency Control

Cox v. DOJ, No. 22-1202, 2024 WL 3642871
(2d Cir. Aug. 5, 2024),



Record Creation

ACLU Immigrants' Rights Project v. ICE, 58 F.4th 643
(2nd Cir. 2023)

Rutila v. Dep't of Transp., 72 F.4th 692 (5th Cir. 2023)

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Procedural Issues

Search Adequacy

Yim v. NIH, No. 23-1601, 2023 WL 6783500
(3d Cir. Oct. 13, 2023) (*per curiam*), *cert. denied*,
No. 23-965 (U.S. Apr. 29, 2024)



Segregability

Phillips v. DHS, No. 19-0928, 2024 WL 1239704
(D.D.C. Mar. 22, 2024)

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Exemption 1

Foreseeable Harm

James Madison Project v. ODNI, No. 22-0647,
2024 WL 1299336 (D.D.C. Mar. 26, 2024)



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Exemption 4

Commercial

Citizens for Responsibility & Ethics in Wash. v. DOJ,
No. 19-3626, 2024 WL 1406550 (D.D.C. Mar. 31, 2024)



Confidential Foreseeable Harm/Trade Secret

AMA Sys., LLC v. Food & Drug Admin., No. 23-0489,
2024 WL 712465 (D. Md. Feb. 21, 2024)



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Exemption 5

Consultant Corollary / Threshold

Am. Oversight v. HHS, 101 F.4th 909 (D.C. Cir. 2024)



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Exemption 5

Deliberative Process / Foreseeable Harm

Vanda Pharmaceuticals, Inc. v. FDA, No. 22-0938,
2023 WL 2645714 (D.D.C. Mar. 27, 2023)



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Exemption 5

Attorney-Client Privilege

Ams. for Prosperity Found. v. CMS, No. 21-2021,
2024 WL 578955 (D.D.C. Feb. 13, 2024)

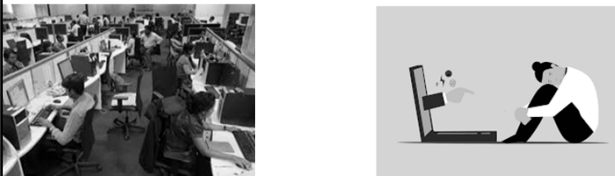


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Exemption 6

Transition Team Records

Insider, Inc. v. GSA, 92 F.4th 1131 (D.C. Cir. 2024)



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Exemption 7(A)

Third-Party Investigations

Zaid v. DOJ, 66 F.4th 697 (4th Cir. 2024)



Outdate Information

N.Y. Times Co. v. FBI, No. 22-2590, 2023 WL 5098071
(S.D.N.Y. Aug. 9, 2023)

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Exemption 7(E)

*Protecting Aerial Surveillance
Foreseeable Harm Test Inapplicable*

Gunowners of Am., Inc. v. FBI, No. 22-3379,
2024 WL 195829 (D.D.C. Jan. 18, 2024)