

**Updates from the Courts:
Developments in
FOIA Case Law**

ASAP FOIA/Privacy Act Training Workshop


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Procedural Issues


- Reasonable Description / Request Validity
Am. Ctr. for Law & Justice v. Dep't of Homeland Sec.,
573 F. Supp. 3d 78 (D.D.C. 2021)
- Definition of a "Record" / "Policy-and Practice Claims"
Cause of Action Inst. v. Dep't of Justice,
999 F.3d 696 (D.C. Cir. 2021)



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Procedural Issues – Agency Control

- Behar v. Dep't of Homeland Sec.*,
39 F.4th 81 (2d Cir. 2022)
- Cause of Action Inst. v.
Office of Mgmt. & Budget*,
10 F.4th 849 (D.C. Cir. 2021)



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Procedural Issues (continued)


Processing Rates in Litigation
White v. Dep't of Justice,
 16 F.4th 539 (7th Cir. 2021)

Fee Questions
Pfeiffer v. Dep't of Energy, No. 20-2924
 2022 WL 2304069 (D.D.C. June 27, 2022)

Waiver of FOIA Rights
Barnes v. Fed. Bureau of Investigation
 35 F.4th 828 (D.C. Cir. 2022)

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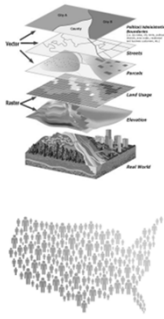
Exemption 1
Am. Civil Liberties Union v. Cent. Intelligence Agency,
 24 F.4th 863 (2d Cir. 2022)



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Exemption 3

- *Telematch, Inc. v. Dep't of Agric.*, No. 20-5378,
 2022 WL 3330101 (D.C. Cir. Aug. 12, 2022)
- *Fair Lines Am. Found. v. Dep't of Commerce*,
 No. 21-1361, 2022 WL 3042188 (D.D.C. Aug. 2, 2022)



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Exemption 3
(continued)

- *Ctr. for Investigative Reporting v. Dep't of Justice*, 14 F.4th 916 (9th Cir. 2021)
- *Everytown for Gun Safety Support Fund v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 984 F.3d 30 (2d Cir. 2020)



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Exemption 4

- *Seife v. Food & Drug Admin.*, No. 20-4072, 2022 WL 3130147 (2d Cir. 2022)
- *WP Co. v. Small Bus. Admin.*, 575 F. Supp. 3d 114 (D.D.C. 2021)

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Exemption 5 –
Consultant Corollary

- *Rojas v. Fed. Aviation Admin.*, 989 F.3d 666 (9th Cir. 2021)
- *Jobe v. Nat'l Transp. Safety Bd.*, 1 F.4th 396 (5th Cir. 2021)
- *Am. Oversight v. Dep't of Transp.*, No. 18-1272, 2022 WL 103306 (D.D.C. Jan. 11, 2022)



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Exemption 5 – Deliberative-Process Privilege

- *Citizens for Responsibility & Ethics in Wash. v. Dep't of Justice*, 2022 WL 3569241 (D.C. Cir. Aug. 19, 2022)
- *Transgender Law Ctr. v. Immigration & Customs Enf't*, No. 20-17416, 2022 WL 3592186 (9th Cir. Aug. 19, 2022)
- *Judicial Watch, Inc. v. Dep't of Justice*, 20 F.4th 49 (D.C. Cir. 2021)

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Exemption 5 – Foreseeable Harm

- *Reporters Comm. for Freedom of the Press v. Fed. Bureau of Investigation*, 3 F.4th 350 (D.C. Cir. 2021)



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Exemption 6

- *Transgender Law Ctr. v. Immigration & Customs Enf't*, No. 20-17416, 2022 WL 3592186 (9th Cir. Aug. 19, 2022)
- *Hammond v. Dep't of Def.*, No. 16-421, 2022 WL 6049886 (D.D.C. Dec. 21, 2021)



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Exemption 7(C)

- *McWatters v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, No. 20-1092, 2022 WL 990689 (D.D.C. Aug. 15, 2022)
- *Elec. Privacy Info. Ctr. v. Dep't of Justice*, 18 F.4th (D.C. Cir. 2021)



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Exemption 7(E)

- *Xanthopoulos v. Internal Revenue Serv.*, 35 F.4th 1135 (8th Cir. 2022)
- *Reporters Comm. for Freedom of the Press v. Fed. Bureau of Investigation*, 548 F. Supp. 3d 185 (D.D.C. 2021)



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