

Updates from the Courts: Developments in FOIA Case Law

American Society of Access Professionals
FOIA-Privacy Act Training Workshop

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Minneapolis, Minnesota

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Procedural Issues

- Reasonable Description / Request Validity / “Unduly Burdensome” Processing

Ctr. for Immigration Studies v. U.S. Citizenship & Immigration Servs.,
628 F. Supp. 3d 266 (D.D.C. 2022)

Anand v. Dep’t of Health & Human Servs.,
No. 21-1635, 2023 WL 3600140 (D.D.C. May 23, 2023)

Judicial Watch, Inc. v. Dep’t of Health & Human Servs.,
No. 22-3153, 2023 WL 315588 (D.D.C. Jan. 19, 2023)



Procedural Issues (continued)

- *Glomar* Responses

Judicial Watch, Inv. v. Dep't of Justice, No. 22-5209,
2023 WL 4397354 (D.C. Cir. July 7, 2023) (unpublished)

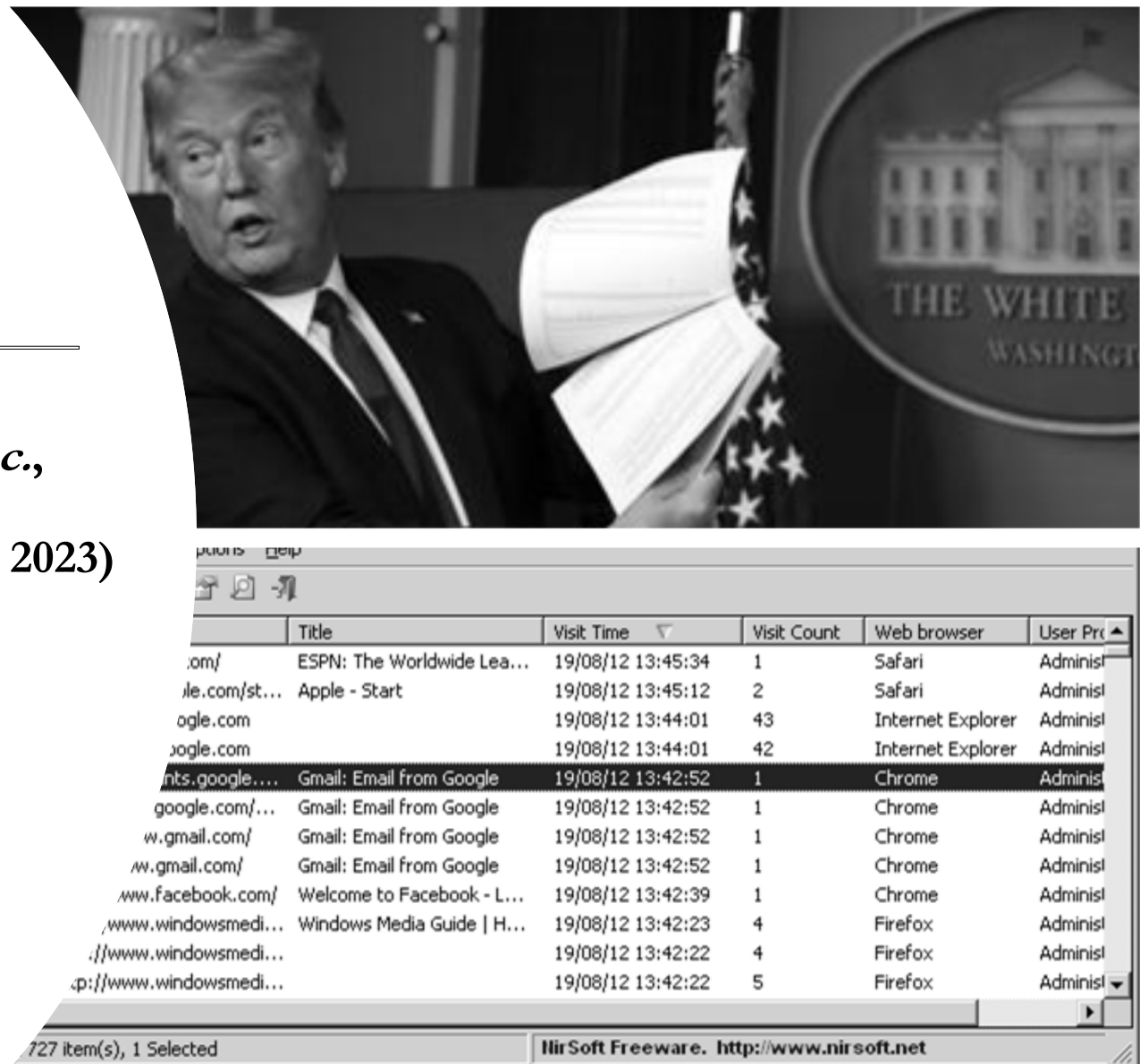
- Redirecting Requests

Am. Civil Liberties Union v. Dep't of Homeland Sec.,
No. 20-3204, 2023 WL 2733721 (D.D.C. Mar. 31, 2023)



Procedural Issues – Agency Control

- *Behar v. Dep't of Homeland Sec.*, 39 F.4th 81 (2d Cir. 2022), *cert. denied*, No. 22-578 (U.S. May 1, 2023)
- *Cause of Action Inst. v. Nat'l Oceanic & Atmospheric Admin.*, No. 19-1927, 2023 WL 3619345 (D.D.C. May 24, 2023)



Procedural Issues (continued)

Responsiveness Review

NBC 7 San Diego v. Dep't of Homeland Sec.,
No. 19-1149, 2022 WL 17820557 (D.D.C. Dec. 20, 2022)

Record Creation

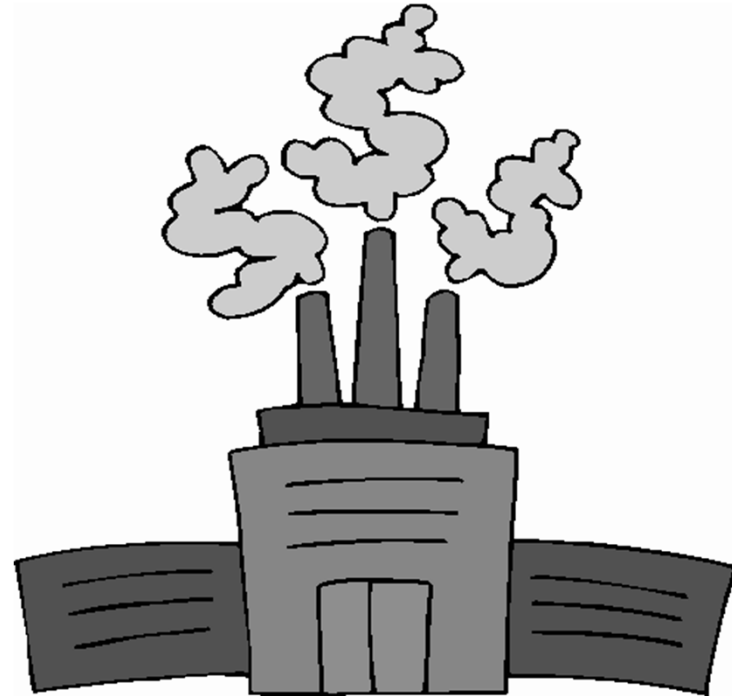
*Am. Civil Liberties Union Immigrants' Rights Project v.
Immigration & Customs Enf't*, 58 F.4th 643
(2d Cir. 2023)

Litigation Negotiation

*Nat'l Ass'n of Minority Veterans v. Dep't of Veterans
Affairs*, No. 21-1298, 2022 WL 17082841
(D.D.C. Nov. 18, 2022)

Exemption 4

- *Seife v. Food & Drug Admin.*, 43 F.4th 231 (2d Cir. 2022)
- *Citizens for Responsibility & Ethics in Wash. v. Dep't of Justice*, 58 F.4th 1255 (D.C. Cir. 2023)



Exemption 5 – Consultant Corollary

- *Georgia v. Dep't of Justice*, No. 21-3138, 2023 WL 2116375 (D.D.C. Feb. 20, 2023), *appeal filed*, No. 23-5083 (D.C. Cir. Apr. 24, 2023)
- *Am. Oversight v. Dep't of Transp.*, No. 18-1272, 2022 WL 103306 (D.D.C. Jan. 11, 2022)



Exemption 5 – Deliberative-Process Privilege

- *Citizens for Responsibility & Ethics in Wash. v. Dep't of Justice*, 45 F.4th 963 (D.C. Cir. 2022)
- *Transgender Law Ctr. v. Immigration & Customs Enf't*, 46 F.4th 771 (9th Cir. 2022)
- *Nat'l Pub. Radio v. Dep't of Homeland Sec.*, No. 20-2468 2022 WL 4534730 (D.D.C. Sept. 28, 2022)

Exemption 5 – Foreseeable Harm

- *Rocky Mountain Wild, Inc. v. U.S. Forest Serv.*, 56 F.4th 913 (10th Cir. 2022)



Exemption 6

- *Transgender Law Ctr. v. Immigration & Customs Enf't*, 46 F.4th 771 (9th Cir. 2022)
- *Wash. Post Co. LLC v. Dep't of Def.*, 626 F. Supp. 3d 69 (D.D.C. 2022)

NAME EXTENSION
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DOMAIN NAME



Medical record

Exemption 7(C)

- *McWatters v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, No. 20-1092, 2022 WL 3355798 (D.D.C. Aug. 15, 2022)
- *BuzzFeed, Inc. v. Dep't of Justice*, No. 21-5733, 2022 WL 2223124 (S.D.N.Y. June 21, 2022)

