

IV. EXEMPTION 3 STATUTES

| STATUTE | TYPE OF INFORMATION WITHHELD | CASE CITATIONS | NUMBER OF TIMES RELIED UPON PER COMPONENT | TOTAL NUMBER OF TIMES RELIED UPON BY AGENCY |
|------------------------|---|--|---|---|
| 5 U.S.C. app. § 107(a) | Financial disclosure information pertaining to certain government employees | <p><i>Meyerhoff v. EPA</i>, 958 F.2d 1498, 1500-02 (9th Cir. 1992)</p> <p><i>Concepcion v. FBI</i>, 606 F. Supp. 2d 14, 33 (D.D.C. 2009), <i>renewed motion for summary judgment granted in part on other grounds</i>, 699 F. Supp. 2d 106 (D.D.C. 2010)</p> | EOUSA - 84 | 84 |
| 5 U.S.C. § 574 | Dispute resolution communications | None | ENRD – 2 | 2 |
| 10 U.S.C. § 130b | Personally identifiable information pertaining to members of the armed forces assigned to "routinely deployable unit[s]" and certain employees of DOD and DHS | <p><i>Hiken v. DOD</i>, 521 F. Supp. 2d 1047, 1062 (N.D. Cal. 2007)</p> <p><i>O'Keefe v. DOD</i>, 463 F. Supp. 2d 317, 325 (E.D.N.Y. 2006)</p> <p><i>Windel v. United States</i>, No. A02-306, 2005 WL 846206, at *2 (D. Alaska Apr. 11, 2005)</p> | FBI - 1 | 1 |
| 10 U.S.C. § 130c | Certain "sensitive information of foreign governments" and certain international organizations | <p><i>Nat'l Inst. of Military Justice v. DOD</i>, 404 F. Supp. 2d 325, 335-37 (D.D.C. 2005), <i>aff'd on other grounds</i>, 512 F.3d 677 (D.C. Cir. 2008)</p> <p><i>ACLU v. DOD</i>, 389 F. Supp. 2d 547, 554 (S.D.N.Y. 2005)</p> <p><i>Gerstein v. DOD</i>, No. 03-5193, slip op. at 8 (N.D. Ca. Dec. 21, 2004)</p> | OLC - 1 | 1 |
| 10 U.S.C. § 424 | Organization or any function of, and certain information pertaining to, employees of the Defense Intelligence Agency, the National Reconnaissance Office, and the National Geospatial-Intelligence Agency | <p><i>Physicians for Human Rights v. DOD</i>, No. RDB-08-273, 2011 WL 1495942, at *7 (D.D.C. Apr. 19, 2011)</p> <p><i>Miller v. DOJ</i>, 562 F. Supp. 2d 82, 112 (D.D.C. 2008)</p> <p><i>Wickwire Gavin, P.C. v. Def. Intelligence Agency</i>, 330 F. Supp. 2d 592, 602 (E.D. Va. 2004)</p> | FBI - 2 | 2 |

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| 10 U.S.C. § 2305(g) | Certain contractor proposals that are not set forth or incorporated into the contract | <i>Margolin v. NASA</i> , No. 09-CV-00421-LRH-VPC, 2011 WL 1303221, at *6 (D. Nev. Mar. 31, 2011) <i>Chesterfield Assocs., Inc. v. U.S. Coast Guard</i> , No. 08-CV-4674, 2009 WL 1406994, at *1-2 (E.D.N.Y. May 19, 2009) | EOUSA - 3 | 3 |
| 15 U.S.C. § 18a(h) | Information submitted in connection with the premerger notification provisions of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 | <i>Lieberman v. FTC</i> , 771 F.2d 32, 39 n.14 (2d Cir. 1985) (dictum) | Antitrust - 6 | 6 |
| 15 U.S.C. § 1314(g) | "Any documentary material, answers to written interrogatories, or transcripts of oral testimony" provided pursuant to any demand issued under chapter 34 of title 15 of the United States Code | <i>Motion Picture Ass'n of Am. v. DOJ</i> , No. 80 Civ. 6612, slip op. at 1 (S.D.N.Y. Oct. 6, 1981) | Antitrust - 6 | 6 |
| 15 U.S.C. § 4305(d) | Information submitted under the National Cooperative Research and Production Act of 1993 | None | Antitrust - 1 | 1 |
| 18 U.S.C. §§ 2510-20 | Wiretap requests and the contents of any wire, oral, or electronic communication obtained through wiretaps | <i>Mendoza v. DEA</i> , No. 07-5006, 2007 U.S. App. LEXIS 22175, at *2 (D.C. Cir. Sept. 14, 2007) (per curiam) <i>Payne v. DOJ</i> , No. 96-30840, slip op. at 5-6 (5th Cir. July 11, 1997) <i>Lam Lek Chong v. DEA</i> , 929 F.2d 729, 733 (D.C. Cir. 1991) | Criminal - 3 DEA - 49 FBI - 77 | 129 |
| 18 U.S.C. § 3123(d) | Certain court "order[s] authorizing or approving the installation and use of a pen register or a trap and trace device"; information pertaining to "the existence of the pen register or trap and trace device or the existence of the investigation" | <i>Jennings v. FBI</i> , No 03-1651, slip op. at 11-12 (D.D.C. May 6, 2004) <i>Riley v. FBI</i> , No. 00-2378, 2002 U.S. Dist. LEXIS 2632, at *5-6 (D.D.C. Feb. 11, 2002) <i>Manna v. DOJ</i> , 815 F. Supp. 798, 812 (D.N.J. 1993), <i>aff'd on other grounds</i> , 51 F.3d 1158 (3d Cir. 1995) | EOUSA - 8 FBI - 27 | 35 |

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| 18 U.S.C. § 3153 | Information regarding pre-trial services | None | EOUSA - 5 | 5 |
| 18 U.S.C. § 3509(d) | Certain records containing identifying information pertaining to children involved in criminal proceedings | <i>Tampico v. EOUSA</i> , No. 04-2285, slip op. at 8 (D.D.C. Apr. 29, 2005) | EOUSA - 3 | 3 |
| 18 U.S.C. § 3521(b)(1)(g) | "[T]he identity or location of the person relocated or protected, or any other matter concerning the person or the program after weighing [various factors]," subject to certain exceptions | <i>Bonadonna v. DOJ</i> , No. 09-40011-RWZ, 2010 WL 745790, at *1 (D. Mass. Feb. 22, 2010) | BOP - 48 FBI - 1 USMS - 9 | 58 |
| 18 U.S.C. § 5038 | Juvenile arrest records | None | EOUSA - 1 FBI - 4 | 5 |
| 26 U.S.C. §§ 6103, 6105 | Certain tax return information and certain tax convention information | <i>Church of Scientology v. IRS</i> , 484 U.S. 9, 15 (1987) (26 U.S.C. § 6103) <i>Pac. Fisheries, Inc. v. IRS</i> , No. 09-35618, 2010 WL 3611645, at *2 (9th Cir. September 15, 2010) (unpublished disposition) <i>Tax Analysts v. IRS</i> , 217 F. Supp. 2d 23, 27-29 (D.D.C. 2002) (26 U.S.C. § 6105) | ATF - 5 FBI - 16 Tax - 7 USPC - 1 | 29 |
| 31 U.S.C. § 5319 | Reports pertaining to monetary instrument transactions filed under subchapter II of chapter 53 of title 31 and records of those reports | <i>Hulstein v. DEA</i> , No. 10-4112, 2011 U.S. Dist. LEXIS 25788, at *7-8 (N.D. Iowa Mar. 11, 2011) <i>Berger v. IRS</i> , 487 F. Supp. 2d 482, 496-97 (D.N.J. 2007), <i>aff'd on other grounds</i> , 288 F. App'x 829 (3d Cir. 2008) <i>Sciba v. Bd. of Governors of the Fed. Reserve Sys.</i> , No. 04-1011, 2005 WL 3201206, at *6 (D.D.C. Nov. 4, 2005) | FBI - 23 USMS - 1 | 24 |
| 41 U.S.C. § 253b(m)(1) | Certain contractor proposals that have not been set forth or incorporated by reference into the contract | <i>Margolin v. NASA</i> , No. 09-CV-00421-LRH-VPC, 2011 WL 1303221, at *6 (D. Nev. Mar. 31, 2011) <i>Hornbostel v. U.S. Dep't of the Interior</i> , 305 F. Supp. 2d 21, 30 (D.D.C. 2003), <i>summary affirmance granted</i> , No. 03-5257, 2004 WL | EOUSA - 3 | 3 |

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| 41 U.S.C. § 423(a)(1) | Contractor bid or proposal information; source selection information prior to contract award | 1900562 (D.C. Cir. Aug. 25, 2004) <i>Legal & Safety Employer Research, Inc. v. U.S. Dep't of the Army</i> , No. Civ. S001748, 2001 WL 34098652, at *3-4 (E.D. Cal. May 4, 2001) (dictum) | USMS - 1 | 1 |
| 41 U.S.C. § 4702 | Certain contractor proposals that have not been set forth or incorporated by reference into the contract | None | JMD - 3 | 3 |
| 42 U.S.C. § 2000g-2(b) | Community Relations Service confidentiality information | None | CRS - 2 | 2 |
| 42 U.S.C. § 3789g | Data received by the Bureau of Justice Statistics and used only for statistical or research purposes | None | OJP - 5 | 5 |
| 50 U.S.C. § 402 note | Intelligence-related information | <i>Houghton v. NSA</i> , No. 09-4440, 2010 WL 1784058, at *3 (3d Cir. May 5, 2010) (per curiam) <i>Larson v. Dep't of State</i> , 565 F.3d 857, 868-69 (D.C. Cir. 2009) <i>Founding Church of Scientology v. NSA</i> , 610 F.2d 824, 827-28 (D.C. Cir. 1979) <i>Roman v. NSA</i> , No. 07-CV-4502, 2009 WL 303686, at *5-6 (E.D.N.Y. Feb. 9, 2009), <i>summary affirmance granted</i> , 354 F. App'x. 591 (2d Cir. 2009) | FBI - 1 OLC - 2 | 3 |
| 50 U.S.C. § 403g | Intelligence sources and methods; certain information pertaining to Agency employees, specifically: "the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency" | <i>Larson v. Dep't of State</i> , 565 F. 3d 857, 865 n.2 (D.C. Cir. 2009) <i>Berman v. CIA</i> , 501 F.3d 1136, 1137-38, 1140 (9th Cir. 2007) <i>Makky v. Chertoff</i> , 489 F. Supp. 2d 421, 442 (D.N.J. 2007), <i>aff'd on other grounds</i> , 541 F. 3d 205 (3d Cir. 2008) | FBI - 88 OLC - 1 | 89 |

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| 50 U.S.C. § 403-1(i)(1) | Intelligence sources and methods | <i>CIA v. Sims</i> , 471 U.S. 159, 167 (1985) <i>Berman v. CIA</i> , 501 F.3d 1136, 1137-38, 1140 (9th Cir. 2007) <i>Wolf v. CIA</i> , 473 F.3d 370, 378, 380 (D.C. Cir. 2007) | FBI - 81 OLC - 2 | 83 |
| 50 U.S.C. § 1806(b) | Electronic surveillance information acquired pursuant to subchapter I of chapter 36 of title 50 | None | FBI - 1 | 1 |
| Fed. R. Crim. P. 6(e), enacted by Act of July 30, 1977, Pub. L. No. 95-78, 91 Stat. 319 | Certain records pertaining to grand jury proceedings | <i>Sussman v. USMS</i> , 494 F.3d 1106, 1113 (D.C. Cir. 2007) <i>Fund for Constitutional Gov't v. Nat'l Archives & Records Serv.</i> , 656 F.2d 856, 867-68 (D.C. Cir. 1981) <i>Durham v. U.S. Atty. Gen.</i> , No. 06-843, 2008 WL 620744, at *2 (E.D. Tex. Mar. 3, 2008) <i>Cozen O'Connor v. U.S. Dep't of Treasury</i> , 570 F. Supp. 2d 749, 776 (E.D. Pa. 2008) | Office of the AG - 1 Antitrust - 3 ATF - 5 Criminal - 12 Civil Rights - 1 DEA - 54 EOUSA - 311 FBI - 446 NSD - 7 USMS - 1 | 841 |
| Pub. L. No. 99-93, 99 Stat. 405 | Records pertaining to the arbitration of claims before the Iran-United States Claims Tribunal | None | FCSC - 1 | 1 |
| Pub. L. No. 100-161, 121 Stat. 1844, 1903-04 (2007) | Certain firearms database information | <i>City of Chicago v. U.S. Dep't of the Treasury</i> , 423 F.3d 777, 781-82 (7th Cir. 2005) | ATF - 207 FBI - 1 | 208 |

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