Recent Significant FOIA Decisions

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Procedural Issues

Electronic reading rooms – question of enforceability
Procedural Issues

Contractor’s records as agency records under Open Government Act if for “purposes of records management”
Procedural Issues

Can FOIA rights be waived in a plea agreement?
Procedural Issues

Scoping information in a responsive record

From: Wolzinger, Gretchen M. (TAX)
Sent: Thursday, May 22, 2014 4:17 PM
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Subject: RE: [Blank]

Non-Responsive
Procedural Issues

Adequate search: agency must search all, not just most, locations likely to contain responsive documents.
Procedural Issues
Blogger as a “representative of the news media”
Procedural Issues

Fee waiver determination based on content and traffic of requester’s website
Procedural Issues

Consultation with Office of Government Information Services after adverse determination insufficient to exhaust administrative remedies
Exemption 1

Protecting identity of, and price paid to, IT company that hacked into iPhone of San Bernardino terrorists on behalf of FBI
Exemption 4

Judicial action where submitters didn’t respond to notice, and what happens when submitters didn’t receive notice or didn’t respond due to error or oversight
Exemption 5

Even though criminal prosecution documents given to and received from a foreign prosecutor may satisfy “consultant corollary” or “common interest privilege” they are not inter- or intra-agency records.
Exemption 5
Protecting litigation policy book
Exemption 6

No protection for identities of Army personnel in Clean Water Act records where names are not in list format and there is a public interest in disclosure.
Exemption 7

Determining whether records are compiled for law enforcement purposes
Exemption 7(C)

Finding protecting identities of released unauthorized immigrants’ privacy interest outweighs public interest in effects of government’s release decisions.
Exemption 7(E)
Protecting civil law enforcement agency’s IT vulnerabilities study
Exemption 9

Water wells qualify as wells under Exemption 9