the interests of effective law enforce-
ment, it is appropriate to retain all in-
formation that may aid in establishing
patterns of criminal activity. More-
over, it would impede any investigative
process, whether civil or criminal, if it
were necessary to assure the relevance,
accuracy, timeliness and completeness
of all information obtained.

(5) From subsection (e)(2) because in
a law enforcement investigation the re-
quirement that information be col-
lected to the greatest extent possible
from the subject individual would
present a serious impediment to law
enforcement in that the subject of the
investigation would be informed of the
existence of the investigation and may
therefore be able to avoid detection,
apprehension, or legal obligations or
duties.

(6) From subsection (e)(3) because to
comply with the requirements of this
subsection during the course of an in-
vestigation could impede the informa-
tion gathering process, thus hampering
the investigation.

(7) From subsection (g) because this
system of records is exempt from the
access and amendment provisions of
subsection (d) pursuant to subsections
(j)(2), (k)(1), (k)(2) and (k)(5) of the Pri-
vacy Act.

[Order No. 57–91, 56 FR 58305, Nov. 19, 1991]

§ 16.73 Exemption of Office of Legal
Policy System—limited access.

(a) The following system of records is exempt from 5 U.S.C 552a (d)(1), (2), (3)
and (4); (e)(1) and (2), (e)(4)(G) and (H),
(e)(5); and (g):

(1) Freedom of Information and Pri-
vacy Appeals Index (JUSTICE/OLP–
001).

These exemptions apply only to the ex-
tent that information in this system is sub-
ject to exemption pursuant to 5
U.S.C. 552a(j)(2), (k)(2) and (k)(5).

(b) Exemptions from the particular
subsections are justified for the fol-
lowing reasons:

(1) From subsections (d)(1), (2), (3),
and (4) to the extent that information
in this record system relates to official
Federal investigations and matters of
law enforcement. Individual access to
these records might compromise ongo-
ing investigations, reveal confidential
informants or constitute unwarranted
invasions of the personal privacy of
third parties who are involved in a cer-
tain investigation. Amendment of the
records would interfere with ongoing
criminal law enforcement proceedings
and impose an impossible administra-
tive burden by requiring criminal in-
vestigations to be continuously re-
investigated.

(2) From subsections (e)(1) and (5) be-
cause in the course of law enforcement
investigations, information may occa-
sionally be obtained or introduced the
accuracy of which is unclear or which
is not strictly relevant or necessary to
a specific investigation. In the inter-
ests of effective law enforcement, it is
appropriate to retain all information
that may aid in establishing patterns
of criminal activity. Moreover, it
would impede the specific investiga-
tive process if it were necessary to assure
the relevance, accuracy, timeliness,
and completeness of all information
obtained.

(3) From subsection (e)(2) because in
a law enforcement investigation the re-
quirement that information be col-
lected to the greatest extent possible
from the subject individual would
present a serious impediment to law
enforcement in that the subject of the
investigation would be informed of the
existence of the investigation and
would therefore be able to avoid detec-
tion, apprehension, or legal obligations
or duties.

(4) From subsections (e)(4)(G) and (H)
because this system is exempt from the
access provisions of subsection (d) pur-
suant to subsections (j) and (k) of the
Privacy Act.

(5) From subsection (g) because this
system is exempt from the access pro-
visions of subsection (d) pursuant to
subsections (j) and (k) of the Privacy
Act.

(c) The following system of records is
exempt from 5 U.S.C. 552a(d)(1) and
(e)(1):

(1) U.S. Judges Records System (JUS-
TICE/OLP–002).

These exemptions apply to the extent
that information in this system is sub-
ject to exemption pursuant to 5 U.S.C.
552a(k)(5).
(d) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (d)(1) because many persons are contracted who, without an assurance of anonymity, refuse to provide information concerning a candidate for a judgeship. Access could reveal the identity of the source of the information and constitute a breach of the promised confidentiality on the part of the Department. Such breaches ultimately would restrict the free flow of information vital to the determination of a candidate’s qualifications and suitability.

(2) From subsection (e)(1) because in the collection of information for investigative and evaluative purposes, it is impossible to determine advance what exact information may be of assistance in determining the qualifications and suitability of a candidate. Information which may seem irrelevant, when combined with other seemingly irrelevant information, can on occasion provide a composite picture of a candidate which assists in determining whether that candidate should be nominated for appointment.

(e) The following system of records is exempt from U.S.C. 552a(c) (3) and (4); (d); (e)(1), (2) and (3), (e)(4)(G) and (H) (e)(5); and (g):


These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), and (k)(5).

(f) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because making available to a record subject the accounting of disclosures from records concerning him/her would reveal investigative interest on the part of the Department as well as the recipient agency. This would permit record subjects to impede the investigation, e.g., destroy evidence, intimidate potential witnesses, or flee the area to avoid inquiries or apprehension by law enforcement personnel.

(2) From subsection (c)(4) because this system is exempt from the access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act.

(3) From subsection (d) because the records contained in this system relate to official Federal investigations. Individual access to these records might compromise ongoing investigations, reveal confidential informants, or constitute unwarranted invasions of the personal privacy of third parties who are involved in a certain investigation. Amendment of records would interfere with ongoing criminal law enforcement proceedings and impose an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

(4) From subsections (e)(1) and (5) because in the course of law enforcement investigations, information may occasionally be obtained or introduced the accuracy of which is unclear or which is not strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information since it may aid in establishing patterns of criminal activity. Moreover, it would impede the specific investigation process if it were necessary to assure the relevance, accuracy, timeliness and completeness of all information obtained.

(5) From subsections (e)(2) because in a law enforcement investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be informed of the existence of the investigation and would therefore be able to avoid detection, apprehension, or legal obligations and duties.

(6) From subsection (e)(3) because to comply with the requirements of this subsection during the course of an investigation could impede the information gathering process, thus hampering the investigation.

(7) From subsections (e)(4) (G) and (H) because this system is exempt from the access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act.

(8) From subsection (g) because this system is exempt from the access and amendment provisions of subsection (d)
pursuant to subsections (j) and (k) of the Privacy Act.

(g) The following system of records is exempt from 5 U.S.C. 552a (c)(3) and (4); (d); (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5); and (g):

(1) Declassification Review System (JUSTICE/OLP-004).

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552(j)(2), (k)(1), (k)(2), and (k)(5).

(h) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because making available to a record subject the accounting of disclosures from records concerning him/her would reveal investigative interest on the part of the Department of Justice as well as the recipient agency. This would permit record subjects to impede the investigation e.g., destroy evidence, intimidate potential witnesses, or flee the area to avoid inquiries or apprehension by law enforcement personnel.

(2) From subsection (c)(4) because this system is exempt from the access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act.

(3) From subsection (d) to the extent that information in this record system relates to official Federal investigations and matters of law enforcement and/or is properly classified pursuant to E.O. 12356. Individual access to these records might compromise ongoing investigations, reveal confidential sources or constitute unwarranted invasions of the personal privacy of third parties who are involved in a certain investigation, or jeopardize national security or foreign policy interests. Amendment of the records would interfere with ongoing criminal law enforcement proceedings and impose an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

(4) From subsections (e) (1) and (5) because in the course of law enforcement investigations, information may occasionally be obtained or introduced that is not strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information which may aid in establishing patterns of criminal activity. Moreover, it would impede the specific investigative process if it were necessary to assure the relevance, accuracy, timeliness, and completeness of all information obtained.

(5) From subsection (e)(2) because in a law enforcement investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be informed of the existence of the investigation and would therefore be able to avoid detection, apprehension, or legal obligations or duties.

(6) From subsection (e)(3) because to comply with the requirements of this subsection during the course of an investigation could impede the information gathering process, thus hampering the investigation.

(7) From subsections (e)(4) (G) and (H), and (g) because this system is exempt from the access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act.


§ 16.74 Exemption of National Security Division Systems—limited access.

(a) The following system of records is exempted from subsections (c)(3) and (4); (d); (e)(1), (2), (3), (4)(G), (H) and (I), (5) and (6); (f); (g); and (h) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (2) and (5): Foreign Intelligence and Counterintelligence Records System (JUSTICE/NSD-001). These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (2), and (5).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) Subsection (c)(3). To provide the target of a surveillance or collection activity with the disclosure accounting records concerning him or her would