

(Suggested Amendment to S. 2543)

In Camera Inspection and First Exemption (II, B)

On page 3, line 9, insert after "(B)" the designation "(i)", and in line 19, after the word "exemptions" add the following: "except exemptions (1) and (3)".

On page 3, between lines 21 and 22, add the following provision:

"(ii) In deciding whether a document is covered by exemptions (1) and (3) in subsection (b) of this section, a court may request affidavits and other information other than the [classified] document itself and to be submitted on this issue. If the court is unable to resolve the issue on this basis, it may review the contested document in camera. Upon completion of that review, the court, if it tentatively determines the classification of such document or the decision that such document requires protection pursuant to statute to be clearly erroneous or arbitrary and capricious, shall order the agency to explain ex parte either by oral testimony, further affidavits, or other means, the basis for such classification or decision.

If the court then determines that the classification of such document or the decision that such document requires protection by statute to be unauthorized under the criteria established by a statute or order referred to in exemptions (1) and (3), it may order the document released to the plaintiff.

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:	EXTENSION	NO.
OLC 7D35	6136	DATE 15 April 1974

TO: (Officer designation, room number, and building)	DATE		OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
	RECEIVED	FORWARDED		

1. [Redacted]
OGC

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[Redacted]

Attached is draft of my suggested changes to Justice's suggested changes.

My added language is underlined and omission is in brackets.

[Redacted]
Assistant Legislative Counsel

STATINTL

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