

# CIA Told It Must Justify Secrecy on Glomar Data

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The U.S. Court of Appeals here ruled yesterday that the Central Intelligence Agency, is subject to the Freedom of Information Act and must justify publicly its refusal to disclose whether it had contacts with U.S. reporters regarding the Glomar Explorer project.

In a 2-to-1 unsigned decision, the court said the CIA must "submit a public justification, which is as detailed as is possible, for refusing to confirm or deny the existence of the requested records."

It said the CIA still might block disclosure of contacts, if any, with reporters on national security grounds, but must justify doing so with more than the two secret affidavits, which are not part of the court record available to the public.

The dissenting judge, George S. McKinnon, said the CIA is not subject to the law's disclosure requirements because another law requires the CIA director to protect intelligence sources and methods.

The case arose when Harriet A. Phillippi, then a reporter for Rolling Stone magazine, asked the CIA to turn over documents related to alleged CIA contacts with reporters. Phillippi, who now works for WTHR-TV in Indianapolis, cited the law and said it requires the CIA to turn over the records unless they fall under a specific exemption.

The CIA allegedly sought to persuade reporters not to write stories about the then-secret Glomar Explorer, which recovered part of a So-

viet submarine sunk in the Pacific. The ship was built by the company owned by the late billionaire Howard R. Hughes, and it is estimated that the CIA paid more than \$300 million for it.

The CIA said it would not acknowledge whether any of the records Phillippi sought existed. The agency said any records that might reveal a CIA connection to the Glomar Explorer are classified and exempt from disclosure.

Affidavits labeled "secret" and "top secret" were examined by the trial judge in the case in his chambers. Phillippi's lawyers were not allowed to look at the affidavits. The lower-court judge then ruled in favor of the CIA, holding it did not have to admit possession or nonpossession of the records she sought.