

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF COLUMBIA

HAROLD WEISBERG )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 77-1997  
 )  
 CENTRAL INTELLIGENCE AGENCY, et al., )  
 )  
 Defendants.)

SUPPLEMENTAL AFFIDAVIT OF ROY R. BANNER

State of Maryland )  
 ) ss:  
 County of Anne Arundel )

FILED

JUL 19 1978

JAMES F. DAVEY, Clerk

Roy R. Banner, being duly sworn, deposes and says:

1. I am the Chief, Policy Staff, of the National Security Agency (NSA). As Chief, Policy Staff, I am responsible for processing all initial requests made pursuant to the Freedom of Information Act (FOIA) for NSA records. This affidavit supplements my affidavit of May 16, 1978, filed herein, regarding the withholding from release to the plaintiff of twenty-two documents originated by NSA. The twenty-two NSA documents had been located by the Central Intelligence Agency (CIA) in connection with an appeal from that agency's response to a request on June 11, 1976 by Mr. Weisberg's attorney on his behalf for records pertaining to Dr. Martin Luther King, Jr., records pertaining to the assassination of Dr. King or to James Earl Ray or any alleged or suspected accomplice or associate in the assassination, collections of published material on the assassination or records pertaining to such published materials.

2. By a letter dated May 19, 1978, the CIA notified NSA that five more documents originated by NSA had been located by the CIA

in connection with the plaintiff's appeal from that agency's response to the June 11, 1976 FOIA request and with this civil action. None of these five documents, the existence of which was not known to me when I executed my affidavit on May 16, 1978, is a duplicate of any of the twenty-two documents then reviewed by me and determined to be exempt under 5 U.S.C. § 552 (b) (1) and 5 U.S.C. § 552 (b) (3) from release under the FOIA.

3. These five additional NSA records located by the CIA and sought in this civil action were acquired, like the twenty-two others, in the course of conducting lawful signals intelligence activities. I personally reviewed today each of these five additional records. All five are like the twenty-two others in all material respects. All are classified in their entirety to protect intelligence sources and methods. Each portion of each record when originated was classified TOP SECRET in accordance with established classification categories (E.O. 10501, Section 1) is appropriately marked and is exempt from automatic declassification or downgrading (E.O. 10501, Section 4 (a) (1), as amended; E.O. 11652, Section 5 (B)). Each portion continues to require classification pursuant to E.O. 11652, Section 1, because of the damage its unauthorized disclosure would reasonably be expected to cause to communications intelligence activities of the United States Government. Each record was marked with its appropriate classification and has continued to be so marked. I, therefore, determined that the records are exempt under 5 U.S.C. § 552 (b) (1) from release under the FOIA. In addition, for the same reasons as those contained in paragraph 8 of my affidavit of May 16, 1978, all five of these additional records are exempt under 5 U.S.C. § 552 (b) (3) from release under the FOIA because each portion of each record is protected from disclosure by Section 6 of Public Law 86-36, by 18 U.S.C. § 798, and by Section 102 (d) (3) of the

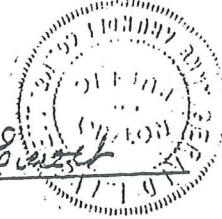
National Security Act of 1947. For the reasons set out in paragraphs 5, 6 and 9 of my May 16, 1978 affidavit, disclosure of these records or of further information about them would compromise intelligence sources and methods.

*Roy R. Banner*

ROY R. BANNER  
Chief, Policy Staff  
National Security Agency

Subscribed and sworn before me  
this 10<sup>th</sup> day of July 1978.

*Sherald S. Givens*  
NOTARY PUBLIC



My commission expires July 1 1982