

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SERBIAN EASTERN ORTHODOX DIOCESE)
FOR THE UNITED STATES OF AMERICA)
AND CANADA,)

Plaintiff,)

v.)

NATIONAL SECURITY AGENCY et al.,)

Defendants.)

Civil Action No. 78-03

√
FILED

JUL 13 1978

MEMORANDUM ORDER JAMES F. DAVEY, Clerk

By this Freedom of Information Act (FOIA) action plaintiff Church seeks all records maintained by defendant National Security Agency which in any manner whatsoever relate to the Church. Defendants have refused to produce any records responsive to the request, and have filed a motion for summary judgment with supporting affidavit, and effectively seek a declaration by this Court that its records are statutorily protected from disclosure under the FOIA. Specifically, defendants rely on exemption 1 and 3 of the FOIA, 5 U.S.C. § 552(b).

Upon consideration of the pleadings filed in this action, and having concluded that there are no genuine issues of material fact in dispute, it is the opinion of this Court that defendants' motion for summary judgment should be granted.

Defendants need not disclose material "specifically exempted from disclosure by statute ... provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld; ..."
5 U.S.C. § 552(B)(3).

APPENDIX K
Civil Action No. 77-1997

Section 6 of Public Law 86-36 specifically provides that


[n]othing in this Act or any other law. . . shall be construed to require the disclosure of the organization or any function of the National Security Agency, of any information with respect to the activities thereof, or of the names, titles, salaries, or number of persons employed by such agency. 50 U.S.C.A. § 402 note. (emphasis added)

We cannot conceive of any clearer expression of Congressional intent to protect material from disclosure, and thereby achieve the protection of exemption 3. Founding Church of Scientology of Washington, Inc. v. National Security Agency, 434 F. Supp. 632, 633 (D.D.C. 1977) (Smith, J.); Kruh v. General Services Administration, 421 F. Supp. 965, 967 (E.D. N.Y. 1976).

It is therefore by the Court this 12th day of June, 1978,

ORDERED, that defendants' motion for summary judgment be, and hereby is, granted; and it is further

ORDERED, that this action is dismissed.



John H. Pratt
United States District Judge