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CIA Ordered To Justify Glomar Secrecy

WASHINGTON (UPI) — A federal appeals court ruled that the Central Intelligence Agency (CIA) 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 2-1 unsigned decision, the U. S. Court of Appeals for Washington 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 agency 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 reporter Harriet A. Phillippi asked the CIA to turn over documents related to alleged agency contacts with reporters. She 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, a giant ship which recovered part of a Soviet submarine sunk in the Pacific. It was built by the company owned by the late billionaire Howard Hughes, and it is estimated the CIA paid more than $300 million for it.

The CIA said it would not acknowledge whether any of the records Miss Phillippi sought existed. The agency said any records that might reveal a 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. Miss 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.