



NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755

Serial: N 9085

6 APR 1977

Mr. Harold Weisberg
Route 12
Frederick, MD 21701

Dear Mr. Weisberg:

1. This responds to your letter, postmarked 7 March 1977 and received here 9 March 1977, in which you appeal the results of the search procedures conducted by this Agency for any information that this Agency maintains on you. In addition, you appeal the denial by the National Security Agency (NSA) Information Officer of portions of a document which was sent to you on 3 March 1977.

2. With respect to your allegations of improprieties concerning this Agency's search procedures, the NSA Information Officer ordered a thorough search of this Agency's records on two separate occasions in response to requests made by you on 16 January 1977 and 8 February 1977. On each occasion, the NSA Information Officer replied to you that the searches produced no information relating to your requests for information concerning you. Title 5 U.S.C. 552 as amended by Public Law 93-502, Department of Defense (DoD) Directive 5400.7, Enclosure 5, Paragraph G, and Chapter XXII of the Code of Federal Regulations, Part 2200.4 all provide for appeals of denials of access to records. They do not provide for an appeal in the case of a search which locates no records of the kind requested and results in a response to that effect. However, I have reviewed the procedures used by NSA in conducting its searches pursuant to requests under the Freedom of Information Act as amended, and have evaluated these procedures in view of the reasons for renewed search cited by you. I have determined that a proper review was made of all records of this Agency which reasonably could be expected to have any possible reference to information concerning you. I therefore confirm the NSA Information Officer's determination in response to each request that we have no information concerning you in this Agency's records.

3. With respect to that portion of your appeal concerning information which was deleted from a 21 year old document located by the FBI and sent to you on 3 March 1977, I have reviewed the NSA Information Officer's reasons for denial to you of this information, the information which was denied to you, and your reasons for appeal of this denial. Based upon these examinations, the following response is provided to you:

a. I have determined that the name and title of the individual who prepared the 1956 memorandum was properly withheld in conformance with Section 6 of Public Law 86-36, which provides that no law shall be construed to require disclosure of the organization or any function of the NSA, or any information with respect to the activities thereof, or the names, titles, salaries, or number of the persons employed by such agency. As release of this information is exempt pursuant to Title 5 U.S.C. 552(b)(3) which provides that information is exempted from public disclosure when any statute exempts such disclosure, I find adequate grounds upon which to exempt this information by virtue of Section 6 of Public Law 86-36. This is consistent with Title 5 U.S.C. 552, as it was precisely 5 U.S.C. 552 and other portions of the U.S. Code requiring release of information which Congress had in mind when enacting Section 6 of Public Law 86-36. Thus, I find, after considering your contentions, that the NSA Information Officer properly concluded that this information is exempt from disclosure under Title 5 U.S.C. 552 (b)(3) as it is exempt from public disclosure by Public Law 86-36, and I therefore affirm his denial of your request for release of this information on these grounds.

b. I have also determined that the remainder of the information deleted from the memorandum was properly withheld pursuant to Title 5 U.S.C. 552(b)(7)(C). These items pertain to persons other than you and, although they are described as your associates, the release of further information about them would constitute an unwarranted invasion of their privacy proscribed by the Act. The Attorney General's Memorandum on the 1974 Amendments to the Freedom of Information Act stipulates "The individuals whose interests are protected by clause (C) clearly include the subject of the investigation and 'any [other] person mentioned in the requested file.' (120 Cong. Rec. S9330 (May 30, 1974) (Senator Hart))." (A.G's 1974 Amndts. Memo. 16.). As release of this information is exempt pursuant to Title 5 U.S.C. 552(b)(7)(C) since disclosure would be an unwarranted invasion of the privacy, and not in the interests, of the individuals concerned, I find adequate grounds upon which to exempt this information. Thus, I find, after considering your contentions, that the NSA Information Officer properly concluded that this information is exempt from disclosure under Title 5 U.S.C. 552(b)(7)(C), and I therefore affirm his denial of your request for release of this information on these grounds.

c. You also argue that "...we haven't even bothered to claim even a frivolous exemption for the other withholding." I assume that you are referring to the deletion of the items

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on the top and bottom of the copy of the memorandum sent to you. Deleted from the top and bottom were security classification markings that are no longer applicable.

4. As your appeal is denied in its entirety you are hereby advised of your rights under 5 U.S.C. 552 as amended by Public Law 93-502 to obtain judicial relief. You may seek an order from a United States District Court in the district in which you reside, in which you have your principal place of business, or in which this Agency's records are situated (U.S. District Court, District of Maryland), or in the District of Columbia, for the production of any Agency records which you consider to have been improperly withheld by this Agency. Section 2 of Public Law 93-502 sets out your rights in this matter with respect to such judicial action.

Sincerely,



WILLIAM H. JENKINS
Freedom of Information
Appeal Authority