IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

CITIZENS AGAINST UFO SECRECY, Plaintiff,	)	
v.	)	Civil Action No. 80-1562
NATIONAL SECURITY AGENCY, Defendant.	)	

MEMORANDUM AND ORDER

This Freedom of Information Act case is before the Court on defendant's motion for summary judgment. Plaintiff is seeking all documents in defendant's possession relating to UFOs and UFO phenomena. Defendant has provided some material but has withheld other material pursuant to various FOIA exemptions, see 5 U.S.C. § 552(b) (1976). The bulk of the material withheld consists of communications intelligence reports, which defendant asserts are protected by Exemptions 1 and 3 of the Freedom of Information Act. Four documents at issue are not communications intelligence reports; defendant has withheld one of these documents in its entirety, and portions of three others, pursuant to these exemptions, and exemptions 5 and 6.

The Court first carefully reviewed the public affidavit of National Security Agency official Eugene Yeates and then, after receiving plaintiff's opposition, examined personally a top secret affidavit from Yeates, submitted by defendant in camera. The public affidavit provides a general statement of the defendant's position that is strongly bolstered by the extremely detailed, 21-page in camera filing. On the basis of these affidavits, the Court finds that the claimed exemptions have been properly and conscientiously applied.

The communications intelligence reports clearly relate to the most sensitive activities of the defendant and thus fall squarely within the protection of Public Law 86-36, 73 Stat. 63 (1959). The in camera affidavit provides the

kind of detail approved in Hayden & Fonda v. National Security Agency, 608 F.2d 1381, 1389-91 (D.C. Cir. 1979), cert. denied, 48 U.S.L.W. 3730 (U.S., May 12, 1980). The Court finds that release of this material could seriously jeopardize the work of the agency and the security of the United States. Under the standards set forth in Hayden & Fonda, the claim of Section (b)(3) exemption must be granted in its entirety. No consideration needs to be given the additional claim for protection under Exemption 1. The standards of Public Law 86-36 have been met.

The Court also finds that the affidavits support nondisclosure for the four documents that are not intelligence reports. Defendant has provided plaintiff with much of the contents of these documents and also has provided a description of both the documents and the deletions. The various claims under Exemptions 1, 3, 5 and 6 as to these documents are proper. The withheld portions either are not responsive to plaintiff's request or are properly exempted.

Throughout the Court's review of this material, the Court has been aware of the public interest in the issue of UFOs and the need to balance that interest against the agency's need for secrecy. The in camera affidavit presents factual considerations which aided the Court in determining that the public interest in disclosure is far outweighed by the sensitive nature of the materials and the obvious effect on national security their release may well entail.

The Court has been mindful of the Court of Appeals' view on in camera review of documents in FOIA cases, see Allen v. CIA, No. 80-1380 (D.C. Cir., filed Nov. 12, 1980), but the Court finds in its discretion that the public and in camera affidavits submitted here are amply sufficient to make such review of the documents unnecessary.

For the foregoing reasons, defendant's motion for summary judgment is granted. The case is dismissed.

SO ORDERED.

Edward B. Gurfein
UNITED STATES DISTRICT JUDGE

November 18, 1980.