

WHETHER THE DISTRICT COURT ACTED
IMPROPERLY BY GRANTING NSA A
TOTAL EXEMPTION FROM THE DISCLOS-
URE REQUIREMENTS OF THE FREEDOM
OF INFORMATION ACT

The District Court accepted without question NSA's overbroad claim of exemption from the provisions of the FOIA. Such immunity violates the legislative intent of the Congress and virtually emasculates the discretionary power vested in the District Court.

In this case NSA inflates its already wide umbrella against disclosure³ to the point where it has become exempt from the provisions of the FOIA.

3. See Kruh v. General Services Administration, 421 F. Supp. 965 (E.D.N.Y., 1967), Hayden and Fonda v. National Security Agency, 197 U.S. App. D.C., 608 F.2d 1381 (1979), cert. denied, 48 U.S.L.W. 3730 (May 13, 1980), and Serbian Eastern Orthodox Diocese, etc. v. National Security Agency, Civil Action No. 78-03 (D.D.C., July 13, 1978) Mem. Order.

Though NSA admits that the UFO relate content of the withheld documents is "non-sensitive," it uncompromisingly refuses to release any of this information. According to NSA:

"...publication of the contents of the documents at issue would disclose information since only information about an intercepted communication concerns an NSA activity, and is thus exempt from disclosure under Public Law 86-36(b)(3)." NSA Brief In Support Of The Motion For Summary Judgement (emphasis added).

The provisions of Public Law 86-36 provides that:

"Nothing in this Act or any law shall be construed to require the disclosure of the organization or any function of the National Security Agency, or any information with respect to the activities thereof...." Public Law 86-36 Section 6.

NSA's expansive claims were accepted by both the District Court and by the District of Columbia Court of Appeals. Yet in other circuits the question is seen in a different way. In Weberman v. National Security Agency, 490 F.Supp.