



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

Serial: N9297

18 AUG 1982

Mr. Steve Weingarten
432 S. Alhambra Avenue
Monterey Park, CA 91754

Dear Mr. Weingarten:

Your Freedom of Information Act request of 15 December 1981, addressed to the Federal Bureau of Investigation (FBI), was referred to the National Security Agency/Central Security Service (NSA/CSS) and received by this office on 13 August 1982. The FBI referred your letter to the NSA/CSS because in their search, pursuant to your request, they located three documents originated by this Agency concerning Ruben Salazar.

The documents mentioned in the FBI letter of referral have been reviewed in accordance with Department of Defense (DoD) Directive 5400.7.

We cannot provide you access to, or release a copy of, the information because it is classified and therefore exempt from access or release pursuant to 5 U.S.C. 552(b)(1), which provides that the Freedom of Information Act does not apply to matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order. The information is currently and properly classified in accordance with the criteria for classification in Section 1-3 of Executive Order 12356, and paragraph 2-202 of Department of Defense Regulation 5200.1-R. The information has been reviewed for possible declassification or downgrading according to the provisions of Sections 3-3 and 3-4 of Executive Order 12356 and Chapter III of DoD Regulation 5200.1-R and found to be properly excluded from declassification or downgrading.

In addition, this Agency is authorized by law to protect certain information concerning its activities. Title 5 U.S.C. 552(b)(3) exempts matters that are specifically exempted from disclosure by statute. The applicable statutes in this case are 18 U.S.C. 798, 50 U.S.C. 402 note (Public Law 86-36), and 50 U.S.C. 403(d)(3). Enclosure 6 of DoD Directive 5400.7 specifically recognizes this exemption.

No portion of the information is reasonably segregable.

Since your request has been denied, you are hereby advised of this Agency's appeal procedures.

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18 AUC 1982

Any person denied access to information may, within 45 days after notification of the denial, file an appeal to the NSA/CSS Freedom of Information Act Appeal Authority. The appeal shall be in writing addressed to the NSA/CSS FOIA Appeal Authority, National Security Agency, Fort George G. Meade, MD 20755. The appeal shall reference the initial denial of access and shall contain, in sufficient detail and particularity, the grounds upon which the requester believes release of the information is required. The NSA/CSS Appeal Authority shall respond to the appeal within 20 working days after receipt.

Sincerely,



WENDELL B. WHITE

Deputy Director of Policy

August 30, 1982

NSA/CSS FOIA Appeal Authority
National Security Agency
Fort Meade, MD, 20755

Dear Sir:

This is an appeal pursuant to subsection (a) (6) of the Freedom of Information Act, as amended (5 U.S.C. 552).

On 18 August 1982 I received a letter from Wendell B. White, Deputy Director of Policy for the NSA/CSS, informing me that three documents referred to his attention for evaluation by the FBI were being withheld in their entirety. These documents were in FBI files and were originally from the NSA/CSS. Mr. White claims that they were reviewed for declassification or downgrading, but were determined to be properly classified under current guidelines.

I believe this information is important to the public debate concerning the life and death of the subject of the withheld documents, Ruben Salazar, a Los Angeles Times journalist who was killed covering an anti-war march in Los Angeles on August 29, 1970. Mr. Salazar has become, since his death, an important figure in the Hispanic community. I am currently working on a biography of Mr. Salazar, and this information is necessary for documentation.

As you know, section 3-303 of Executive Order 12065 states that, in order to withhold information, a senior agency official must "determine whether the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure." In this case, the importance of the information requested outweighs such possible damage.

In addition, since my initial request was to the FBI, and I was unaware that the NSA/CSS also possesses records concerning Mr. Salazar, and that these records might include other documents besides the three already reviewed by Mr. White, I request the disclosure of all NSA/CSS records in this matter.

If you choose instead to continue to withhold some or all of the material which was denied in the initial review by your agency, I ask that you give me an index of such material, together with justification for the denial of each item still withheld.

I am enclosing a copy of Mr. White's correspondence.

Sincerely,



Steve Weingarten
432 S. Alhambra Av.
Monterey Park, CA, 91754
Phone: 213-288-1109



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

Serial: N9324

7 SEP 1982

Mr. Steve Weingarten
432 S. Alhambra Avenue
Monterey Park, CA 91754

Dear Mr. Weingarten:

This is in response to your Freedom of Information Act request of 30 August 1982 in which you request all information this Agency may have concerning Mr. Ruben Salazar.

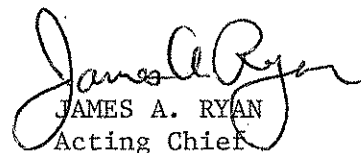
In processing your request, we will conduct an Agency-wide search of our files.

We estimate that the manpower and computer search costs involved in this search will be approximately \$250.00. Our policy is to request advance payment of one-half the estimated cost, as well as an agreement to pay the balance, prior to initiating the search.

Please be advised that your agreeing to incur these fees will not necessarily result in the disclosure to you of any information that might be retrieved pursuant to your request, if any such information exists. Our experience has been that certain information retrieved in such a search is likely to be classified or otherwise exempt from release. Moreover, to the extent that the information may reveal functions or activities of the National Security Agency it is also protected from disclosure by Public Law 86-36. Accordingly, such information would be exempt under the Freedom of Information Act (5 U.S.C. 552).

We are, therefore, suspending processing of your request pending receipt of your certified check or money order made payable to the Treasurer of the United States in the amount of \$125.00, which is one-half the estimated cost mentioned above, and your agreement to incur the above search fees. After we complete our search, we will inform you of the actual cost of that search and request the balance due prior to informing you of the results of our search.

Sincerely,


JAMES A. RYAN
Acting Chief

Information Affairs Division



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

Serial: N9297A
30 September 1982

Mr. Steve Weingarten
432 S. Alhambra Avenue
Monterey Park, CA 91754

Dear Mr. Weingarten:

This replies to your 30 August 1982 appeal of the National Security Agency's (NSA) refusal to release to you NSA originated documents discovered by the Federal Bureau of Investigation's (FBI) search for records pursuant to your Freedom of Information Act (FOIA) request for documents related to Ruben Salazar. In deciding your appeal I reviewed your original FOIA request and your letter of appeal, the NSA refusal to release the subject documents and the three foreign intelligence documents which are the subject of this appeal. After conducting this review I have determined that release of these reports was properly denied.

Executive Order 12356 replaced Executive Order 12065, effective 1 August 1982 and Department of Defense (DoD) Regulation 5200.1-R was revised to implement the new Executive Order. The reports being withheld from you have been reviewed in accordance with these new classification guidelines. With respect to the classification assigned to the information being withheld, I have concluded that the information meets the criteria for classification in Section 1.3 of Executive Order 12356 and in paragraph 2-202 of DoD Regulation 5200.1-R and that it is properly classified in its entirety within the categories provided in Section 1.1 of Executive Order 12356 and in Chapter I, Section 5, of DoD Regulation 5200.1-R. The information has been reviewed for possible declassification or downgrading, according to the provisions of Section 3.1 and 3.4 of Executive Order 12356 and of Chapter III of DoD Regulation 5200.1-R, and found to be currently and properly classified and therefore excluded from declassification or downgrading. Although the balancing provision contained in Executive Order 12065 is not present in Executive Order 12356, it is my judgment that the likelihood of damage to our national security interest resulting from disclosure of these reports would outweigh the public interest in disclosure. The determination that the reports are exempt from release under 5 U.S.C. 552(b)(1) is appropriate.

The withheld materials are also exempt from disclosure pursuant to 5 U.S.C. §552(b)(3), which permits withholding of matters specifically exempted from disclosure by statute. The applicable statutory provisions are Section 6 of the National Security Agency Act of 1959, (Public Law 86-36) which provides that no law shall be construed to require the disclosure of the organization, personnel, functions or activities of the National Security Agency; 18 U.S.C. §798 which prohibits the release of information concerning classified communications intelligence activities except to those persons authorized to receive such information; and 50 U.S.C. §403(d)(3) which protects information pertaining to intelligence sources and methods. The information being withheld is protected by each of these statutes. Chapter III of DoD Directive 5400.7-R (32 C.F.R. §286.31 (1981)) specifically recognizes 18 U.S.C. §798 and Public Law 86-36 as Exemption 3 statutes.

The records located in response to your request are foreign intelligence reports derived from the intercept of foreign communications. Release of any portion of these documents could reveal specific information regarding communications intelligence which would either be classified or protected by the various statutes discussed above. Any further identification or indexing of these reports would, likewise, reveal information properly classified or protected by the statutes discussed above.

In your letter of appeal you requested disclosure of all NSA/CSS records concerning Mr. Salazar. The Office of Policy has been informed of this request and will respond to you directly.

As your appeal is denied, you are hereby advised of your rights under 5 U.S.C. §552 to seek judicial review of this determination. You may seek an order from the 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. 5 U.S.C. §552(a)(4)(B) sets out your rights in this matter with respect to such judicial action.

Sincerely,


GEORGE R. COTTER

Acting Freedom of Information Act/Privacy Act
Appeals Authority