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Federal Court Supports CIA On 1974 Knopf Book

A federal court has ruled against an organization that sought to force the Central Intelligence Agency to reveal material it had deleted from the 1974 bestseller, "The CIA and the Cult of Intelligence" (*Knopf*). The book, by John Marks and Victor Marchetti, was the first in a series on the CIA that brought the agency into contention with authors over disclosure of alleged CIA secrets.

The Center for National Security Studies had sought the information in a move under the 1978 Freedom of Information Act, but the CIA refused and the CNSS filed suit. The CNSS contended that many of the 168 excised items that were represented by blank spaces in the book already were public, and that the CIA had failed to show why the rest of them should not be.

U.S. District Court Judge Oliver Gasch said in his April 28 ruling that to force the CIA to "show that the information classified when the manuscript was first presented to the CIA has not been the subject of subsequent public disclosures . . . would put on the CIA the impossible burden of proving a negative."

At the beginning of the dispute, the CIA originally had wanted 339 deletions, but negotiations with the authors reduced that to 168, and the CIA subsequently declassified 27. The court ruling itself disclosed one of the items that had been removed but had not been declassified even though the information had long been in the public domain.

In his written opinion in favor of the CIA, Gasch said, "Deletion number 171 concerns the alleged location in a friendly country of a NSA [National Security Agency] facility used to intercept communications from the Middle East and Africa."

Gasch then addressed CNSS tions that the information had been publicly available before the book was published. The 23-page court ruling cited CNSS references to congressional hearings and news articles that placed the facility at Sidi Yahia in Morocco. Gasch then said, "Aside from the fact that most of these disclosures antedated the Marchetti and Marks book, these and plaintiffs' other examples of public disclosures simply do not rise to the level of declassification by official disclosure."

Morton Halperin, an American Civil Liberties Union Lawyer who also is director of the CNSS, was an employee of the National Security Council when Knopf and the authors sued to get release of the 168 deletions. At that time Halperin appeared for the government as an expert witness on national security matters.

Halperin had offered a sealed affidavit in the CNSS case to present his views on the justifiability of the 1974 deletions. Gasch refused to accept the affidavit. He said there was no suggestion in the case that the government officials who reviewed the deletions "were unqualified to do so or were careless in their assessments."

CNSS attorneys indicated they would appeal the decision. H.F.