



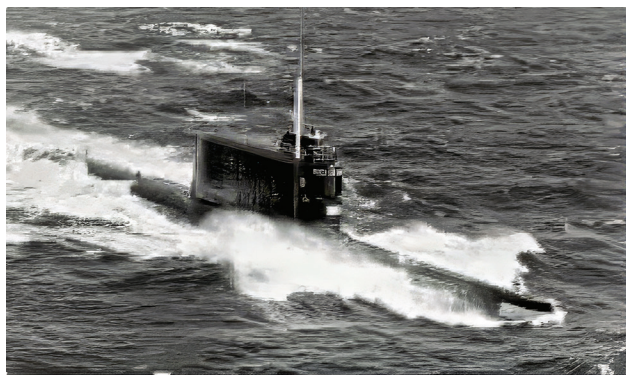
When Intelligence Made a Difference

<<< COLD WAR >>>

The Glomar Explorer Program and Public Release

By M. Todd Bennett

Intelligence historians still don't know, some fifty years later, exactly whether the *Hughes Glomar Explorer* (HGE) made a difference collection-wise, because it's unclear what the ship's claw hauled up. The *Explorer* was intended to recover K-129, a Soviet



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submarine that sank in the Pacific Ocean in 1968, approximately 1,560 nautical miles northwest of Pearl Harbor, Hawaii. The Golf II-class sub itself was not particularly valuable. Diesel-powered, it had been superseded by two (going on three) generations of Yankee – and Delta-class nuclear-powered subs since its 1959 launch.

But the wreckage held “unique intelligence value” in the eyes of the United States Intelligence Board (USIB), the panel of senior officials that set the intelligence community's requirements. That is, it contained data available nowhere else on subjects critical to U.S. national security, including a nuclear-armed missile and cryptographic gear. Recovery of the code materials, in particular, would represent “a major milestone,” the USIB determined. Soviet codes were highly advanced, and authorities probably changed

them as soon as the *Golf* went missing. But obtaining a working cipher machine, along with information specifying how it functioned, could allow American cryptanalysts to break encrypted Soviet traffic, something they had yet to do, despite years of trying. Reading the Soviet Navy's mail, as it were, could help American watchers track Soviet submarines, monitor Soviet naval procedures, and predict Soviet military behavior more generally. “Crypto” was “the driving factor” behind the sub-raising effort, recalled former National Security Agency (NSA) director Admiral Bobby Ray Inman.¹

What military capabilities did the Soviet Union have? How did the Soviets intend to use them against the United States and its allies? These were among the essential questions facing American intelligence agencies at the time. The K-129 *Golf* held answers. Its secrets promised to give the United States an edge in the underwater Cold War, a hidden but important battlespace where each superpower raced to develop countermeasures against the other's ever quieter, ever deadlier submarine fleets. In 1970, the USIB placed “highest priority” on recovering the sub, a determination that took the salvage project, codenamed AZORIAN, off the drawing board and into production.

From a technical standpoint, lifting a two-thousand-ton submarine from a depth of more than 16,500 feet presented a daunting challenge. No one had ever raised something so heavy from such great depth, let alone in secret. Many experts believed that it could not be done, that the mission was impossible. Initial CIA figures estimated the probability of success at just 10 percent.²

Yet August 1974 found the *Explorer*, ostensibly a deep-ocean mining vessel owned by industrialist Howard Hughes, in the North Pacific positioned directly above the *Golf*, three miles down. Below deck, a claw-like capture vehicle grabbed and slowly raised the targeted section of the submarine toward the water's surface: one thousand feet, two thousand

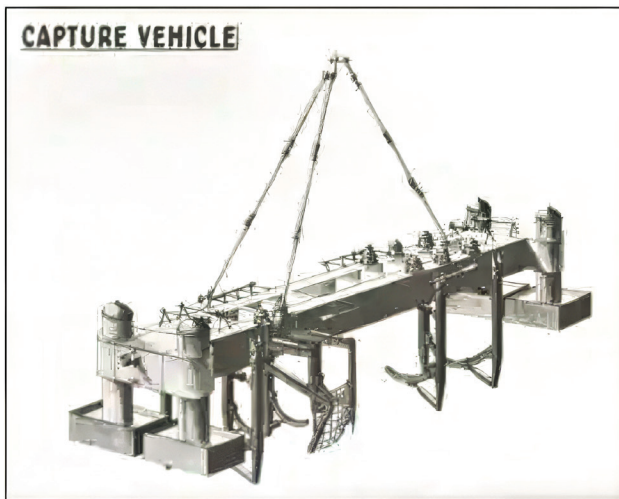
1. For the USIB assessment, see William Colby to Henry Kissinger, memo, May 23, 1974, and John T. Hughes to Colby, May 2, 1974, attachment, doc. 185, in *Foreign Relations of the United States* [hereafter FRUS], 1969-1976, vol. 35, *National Security Policy, 1973-1976*, ed. M. Todd Bennett, Washington, DC: U.S. Government Printing Office, 2014. Emphasis in originals. Admiral Bobby Ray Inman interview, Nov. 16, 2016, Austin, TX.

2. “Project AZORIAN: The Story of the *Hughes Glomar Explorer*,” *Studies in Intelligence*, Vol. 22, no. 3, 1978, pp. 11-2. For the underwater Cold War, see John Piña Craven. *The Silent War: The Cold War Beneath the Sea*, New York: Simon and Schuster, 2001; Sherry Sontag and Christopher Drew. *Blind Man's Bluff: The Untold Story of American Submarine Espionage*, New York: Harper, 1998; and W. Craig Reed. *Red November: Inside the Secret U.S.-Soviet Submarine War*, New York: Harper, 2011.



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feet, four thousand, eight; nearly halfway up. Then crewmembers felt a jolt. Some of the claw's tines had failed, allowing part of the sub to fall back to the ocean floor. Disappointed, operators reeled in their catch, such as it was.

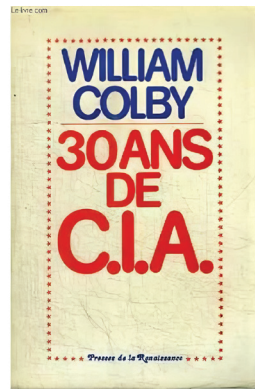


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What did the *Explorer's* claw hold on to? The answer was not clear even to experienced intelligence officers who peered into the ship's well. Once the seawater was pumped out, all they could see was a dark, twisted mass. "It wasn't a pretty sight," recalled deputy mission director David Sharp. "It was so mangled that it was difficult to identify the features. To me it was just a gray mass of metal that bore very little resemblance to a submarine. It was impossible for me to say, 'Oh, there's a torpedo tube,' or 'Over there's the mount for the deck guns.'"³

3. David H. Sharp. *The CIA's Greatest Covert Operation: Inside the Daring Mission to Recover a Nuclear-Armed Soviet Sub*, Lawrence: University Press of Kansas, 2012, pp. 225-6.

Former CIA director William Colby provided some clarification in the French edition of his memoirs, published beyond the reach of CIA censors in 1978. The *Explorer*, he wrote, brought "to the surface only the forepart, about one-third [of the target], while the aft fell to the bottom of the sea with its nuclear missiles, its guidance apparatus, its transmission equipment, its codes, in other words with all the things the CIA had hoped to gain through this unprecedented operation."⁴



News outlets tried to fill in the gaps. Some reported that exploitation teams recovered certain items, including nuclear-tipped torpedoes and a journal that detailed Soviet cryptographic codes and nuclear systems.⁵ Others reported that the mission was fully successful. Citing intelligence sources on the "fringe of the CIA," the *Washington Post* reported that the *Explorer* retrieved the entire 324-foot-long submarine, its missiles, warheads, and codes included. "It was all one hell of a success," a U.S. official told *Time* magazine.⁶

A U.S. appeals court weighing a 1981 Freedom of Information Act (FOIA) case went even further. Maybe the *Glomar Explorer* was neither a salvage nor a mining ship. Perhaps, the court wondered, the vessel "was in fact designed to perform some still-secret third function," such as tapping undersea communications cables, installing submarine monitoring devices, or constructing underwater missile silos. The possibilities were endless.⁷

Where do fact and fiction converge? Did the *Explorer* sit atop a vast underwater reconnaissance effort? What did it collect? Historians can guess and pursue sources. We can (and should) file all the FOIA requests we want. But we cannot get to the bottom

4. William Colby with Peter Forbath, *30 Ans de CIA*, trans. Jean-Pierre Carasso, Paris: Presses de la Renaissance, 1978, p. 331. Author's translation.

5. "Nuclear Torpedoes Believed Found," *New York Times*, March 21, 1975, p. 15; Seymour Hersh. "Finding of a Diary on Sub Reported," *New York Times*, April 8, 1975, p. 9. In 1992, the CIA acknowledged finding human remains aboard the sub. See CIA Office of Public and Agency Information, "Glomar Explorer: Recovery and Burial of Soviet Sailors," press release, Nov. 12, 1992, in author's possession.

6. Thomas O'Toole. "A-Warheads Believed Recovered," *Washington Post*, March 21, 1975; "Behind the Great Submarine Snatch," *Time*, Dec. 6, 1976. See also Nicholas Wade. "Glomar Explorer Said Successful After All," *Science*, Dec. 10, 1976; p. 1142.

7. *Military Audit Project v. William Casey, Director of Central Intelligence*, et al., 656 F.2d 724 (DC Cir. 1981) at 744.

of the Glomar mission because many of its deepest secrets remain locked away in CIA operational records, safely protected by its most durable byproduct: the Glomar⁸ response.



To be sure, significant information about the submarine mission has surfaced over the years. Unauthorized leaks prematurely blew the program's cover in 1975, forcing President Gerald Ford to cancel plans, codenamed MATADOR, to collect the rest of the target. In 1977, the CIA released 16 documents in full and another 134 in part in response to a *Rolling Stone* reporter's FOIA request for non-operational files documenting official attempts to plug the leaks. Colby's memoirs appeared the following year, and these materials sourced an initial round of books and articles.⁹

But intelligence remains the "missing dimension" of U.S. diplomatic history some forty years after Christopher Andrew and David Dilks noted the subject's absence from the academic literature. There are exceptions, of course. The field of intelligence history is expanding, and spy thrillers are evergreen. But intelligence goes understudied *because* of the Glomar mission, which produced the Glomar response: "We can neither confirm nor deny the existence of the information requested, but hypothetically, if such data were to exist, the subject would be classified and could not be disclosed."¹⁰

Commonplace today, that legalese originated in 1975 in response to requests for data about the Explorer's mission, including those filed under FOIA. Significantly strengthened by Congress in 1974, FOIA was supposed to be the shining example of the sunshine era, a new age of transparency that dawned in the late 1960s and early 1970s. Predicated on the "unprecedented openness of institutions to critical view and correct," writes political scientist Hugh Hecló, the sunshine era took a dim view of official secrecy in the

aftermath of Vietnam and Watergate. The security balance that had cloaked the CIA in secrecy throughout much of the Cold War swung suddenly toward openness to expose some of the deepest, darkest practices of the U.S. intelligence community, from domestic spying schemes and botched assassination attempts to dirty tricks, secret wars, and covert actions.¹¹

The amended law went into effect in 1975, the "Year of Intelligence," which opened with press exposés, congressional investigations, and blue-ribbon panels. In that climate, the disclosure of a less-than-fully successful attempt to raise an elderly Soviet sub in cahoots with Howard Hughes, a shadowy figure whose under-the-table dealings with disgraced former president Richard Nixon were then spilling into view, struck critics as yet another misstep that made the CIA appear inept, even sinister. Some called for the dissolution of the spy agency, which faced the severest existential crisis in its history to that point. "Abolish the CIA!" the ordinarily moderate *Newsweek* shouted. Such assaults on the U.S. intelligence community remain fixed in historical memory. They exemplify part of the "great shift" that historians say transformed American culture and politics in the seventies.¹²

Yet Glomar's unmasking also bolstered efforts to shield the CIA from overexposure, an underappreciated but important development that calls into question just how transformative the 1970s really were when it came to matters of national security. Unauthorized disclosure of the then-active intelligence operation prompted a backlash by foreign policy hawks concerned that transparency was moving too far, too

8. "Glomar" appears italicized or not, depending on its usage. It is italicized when used in the context of the ship, its name, and its mission. But it is not italicized when discussion shades toward the Glomar response, which has an identity separate from the ship.

9. Hersh. "CIA Salvage Ship Brought Up Part of Soviet Sub Lost in 1968; Failed to Raise Atom Missiles," *New York Times*, March 19, 1975, p. 1. Accounts published in 1977-78 include George Lardner Jr. and William Claiborne. "CIA's Glomar 'Game Plan,'" *Washington Post*, Oct. 23, 1977, p. A10; Clyde W. Burleson. *The Jennifer Project*, Englewood Cliffs, NJ: Prentice-Hall, 1977; and Roy Varner and Wayne Collier. *A Matter of Risk*, New York: Random House, 1978.

10. Christopher Andrew and David Dilks, eds. *The Missing Dimension: Governments and Intelligence Communities in the Twentieth Century*, Urbana: University of Illinois Press, 1984; Hugh Wilford. "Still Missing: The Historiography of U.S. Intelligence," *Passport* 47, no. 2, 2016, pp. 20-5.

11. Hugh Hecló. "The Sixties' False Dawn: Awakenings, Movements, and Postmodern Policymaking," in *Integrating the Sixties: The Origins, Structures, and Legitimacy of Public Policy in a Turbulent Decade*, ed. Brian Balogh, University Park: Pennsylvania State University Press, 1996, p. 57. Journalist Meg Greenfield coined the "sunshine era" moniker in her memoir, *Washington*, New York: *PublicAffairs*, 2001, p. 94. See also Jason Ross Arnold. *Secrecy in the Sunshine Era: The Promise and Failures of U.S. Open Government Laws*, Lawrence: University Press of Kansas, 2014, p. xii; Katherine A. Scott. *Reining in the State: Civil Society and Congress in the Vietnam and Watergate Eras*, Lawrence: University Press of Kansas, 2013; Michael Schudson. *The Rise of the Right to Know: Politics and the Culture and Transparency, 1945-1975*, Cambridge, MA: Belknap Press of Harvard University Press, 2015.

12. "Abolish the CIA!" *Newsweek*, April 7, 1975, p. 11; Bruce Schulman. *The Seventies: The Great Shift in American Culture, Society, and Politics*, New York: Free Press, 2001. See also David Frum. *How We Got Here: The 70s: The Decade That Brought You Modern Life (for Better or Worse)*, New York: Basic Books, 2000; Edward D. Berkowitz. *Something Happened: A Political and Cultural Overview of the Seventies*, New York: Columbia University Press, 2006; Judith Stein. *Pivotal Decade: How the United States Traded Factories for Finance in the Seventies*, New Haven, CT: Yale University Press, 2010; Daniel J. Sargent. *A Superpower Transformed: The Remaking of American Foreign Relations in the 1970s*, New York: Oxford University Press, 2015.

fast, and resulting in the indiscriminate release of sensitive information.¹³



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Ronald Reagan led the charge. The former California governor began delivering nationally syndicated radio commentaries in 1975 in anticipation of a possible presidential run. Reaching 20 to 30 million listeners each week, the commentaries dealt with matters of national importance, including defense and intelligence. *Glomar*, he said in one broadcast, represented an achievement of historic proportions. But it had fallen victim to a “witch-hunting mood” that bedeviled Congress into doing “inestimable harm... to this Nation’s entire intelligence gathering ability.” As evidence, Reagan cited intelligence personnel who, unlike the forward-leaning days of yore, were “retreating into a ‘don’t stick your neck out’ posture,” that is, who were growing too cautious to again mount an ambitious undertaking like AZORIAN. The CIA’s ability to defend America’s interests would surely suffer if Congress continued to air the agency’s dirty laundry.¹⁴

Reagan also led the charge against the press, widely respected in aftermath of Watergate, for

unmasking the operation over the objections of the CIA director, Colby, who insisted that disclosure of the still active mission would harm national security. “I just think it was irresponsible to publish it,” Reagan said. “Freedom of speech and freedom of the press are wonderful, but sometimes I think we shouldn’t say something just because we have found it out.”¹⁵

Asked about the public’s right to know what the CIA was doing, Reagan responded, “I don’t think the public has a right to know if the government legitimately knows it cannot inform the public without at the same time informing the Soviet Union and thus rendering this (information) useless from the standpoint of national security.” He added, “I think the people understand that.”¹⁶

The backlash restrained the congressional and journalistic revolutions before they could expose more intelligence secrets, and it is among the reasons *Glomar* played a pivotal role in saving the CIA from the clutches of transparency at a time when it needed saving. Other developments contributed, certainly, none more so than the assassination of CIA station chief Richard Welch in Athens, Greece in December 1975. But news of the underwater mission changed the conversation. Widely hailed as one of the most “imaginative, energetic and ingenious” operations in memory, on par with the U-2 spy plane and the Berlin tunnel, the sub-raising effort provided a rallying point for CIA supporters—and a timely reminder that the agency served an important national purpose. “The CIA Was Doing Its Job,” opined the *Washington Star*, voicing a widely held view. “It wasn’t shadowing U.S. dissidents around Washington or New York; it was out on the high seas performing a function that was legitimate and potentially of high intelligence value.”¹⁷

Glomar worked to establish new limits on the post-Vietnam, post-Watergate culture of disclosure. That was the conclusion reached by one Washington insider, columnist Joseph Kraft. The submarine affair

13. Continuity as well as change characterized the political culture of the 1970s, writes Kathryn S. Olmsted in *Challenging the Secret Government: The Post-Watergate Investigations of the CIA and FBI*, Chapel Hill: University of North Carolina Press, 1996, p. 5. On the rightward shift in the politics of national security, see Julian E. Zelizer, *Arsenal of Democracy: The Politics of National Security—From World War II to the War on Terrorism*, New York: Basic Books, 2010, pp. 254-5, 262, 264; Bruce J. Schulman and Julian E. Zelizer, eds. *Rightward Bound: Making America Conservative in the 1970s*, Cambridge, MA: Harvard University Press, 2008; and Jonathan M. Schoenwald, *A Time for Choosing: The Rise of American Conservatism*, New York: Oxford University Press, 2001, pp. 255-7.

14. Ronald Reagan. “*Glomar Explorer*,” Nov. 1976, Hannaford/California Headquarters—Radio Commentaries/Broadcasts—Disc 76-1 thru 76-4, (1976), box 14, Ronald Reagan 1980 Presidential Campaign Papers, Ronald Reagan Presidential Library, Simi Valley, CA; “CIA Commission,” Aug. 1975, and “Intelligence,” June 15, 1977, printed in *Reagan, In His Own Hand*, ed. Kiron K. Skinner, Annelise Anderson, and Martin Anderson, New York: Free Press, 2001, pp. 121, 125.

15. “Reagan Scores the Media,” *New York Times*, March 21, 1975, p. 15.

16. Richard Bergholz. “US Has Right to Spy on Citizens, Reagan Asserts,” *Los Angeles Times*, March 21, 1975, p. 9.

17. “The CIA Was Doing Its Job,” *Washington Star*, March 21, 1975, in *Editorials on File 6*, no. 6, March 16-31, 1975, p. 315. Discussions of the news media’s constrained coverage of national security include Leon V. Sigal. *Reporters and Officials: The Organization and Politics of Newsmaking*, Lexington, MA: D. C. Heath, 1973, p. 84; David Halberstam. *The Powers That Be*, New York: Knopf, 1979, pp. 578-9, 558; David S. Broder. *Behind the Front Page*, New York: Simon and Schuster, 1987, p. 149; William Greider. *Who Will Tell the People: The Betrayal of American Democracy*, New York: Simon and Schuster, 1992; Ted Galen Carpenter. *The Captive Press: Foreign Policy Crises and the First Amendment*, Washington, DC: Cato Institute, 1995; and Bartholomew H. Sparrow, *Uncertain Guardians: The News Media as a Political Institution*, Baltimore, MD: Johns Hopkins University Press, 1999.

served to “right the balance,” he wrote. Recent headlines had made the CIA seem like “a kind of post-graduate Ivy League playground where rich boys and girls spied on their countrymen between clumsy efforts to make and unmake foreign governments—preferably by assassination.” But Glomar’s disclosure showed that intelligence activities “can have a serious purpose which fully justifies secrecy.” Undertaken with “high organizational skill and considerable technical ingenuity,” the CIA’s semi-successful sub-raising mission—an appropriate attempt to collect military-grade data, Kraft noted—gave the country “solid evidence of the high quality and great importance of the work being done by the intelligence community.”¹⁸

All told, the Glomar story acted as “something of a political boon for the CIA,” *Washington Post* editors remarked.¹⁹ In fact, the agency fared so well that some wondered whether officials wanted the story to leak all along. “My opinion,” *Parade* magazine editor Lloyd Shearer wrote days after the news broke, “is that the CIA wants the story out. At a time when it’s been accused of meddling in domestic affairs, when it’s being investigated by several congressional committees, it can point to Project [AZORIAN] as a superb covert operation.”²⁰

Critically, the operation’s influence extended to the courts, where the Glomar response sharply reduced FOIA’s candlepower. AZORIAN’s former cover director Walter Lloyd, a name that is not widely remembered today but really ought to be ranked among the CIA’s Trailblazers, originated the response in denying the *Rolling Stone* reporter’s 1975 FOIA request. Under FOIA, as amended, an individual like the reporter, Harriet Ann “Hank” Phillippi, who submitted a records request to an executive agency could expect to receive one of three responses. The agency could (1) identify and release responsive records; (2) determine that it possessed no responsive records and inform the requestor of that fact; or (3) identify responsive records but determine that they were exempt from disclosure under one of the act’s nine exemptions.

Lloyd’s genius introduced a fourth possibility that was neither foreseen by Congress nor ever written into

18. Joseph Kraft. “Lessons from the Soviet Submarine Incident,” *Washington Post*, March 23, 1975, p. 39.

19. “The Glomar Explorer,” *Washington Post*, March 23, 1975, p. 38. Glomar was a “godsend to the beleaguered CIA,” recalled journalists Donald L. Barlett and James B. Steele in *Empire: The Life, Legend, and Madness of Howard Hughes*, New York: W. W. Norton, 1979, p. 542. The news took a “lot of heat off the agency,” an AZORIAN veteran told Seymour Hersh, “Participant Tells of CIA Ruse to Hide Glomar Project,” *New York Times*, Dec. 10, 1976, p. A18.

20. Lloyd Shearer. “Parade and Project Jennifer,” *Parade*, May 11, 1975, p. 6.

GLOMAR TIMELINE

March 1968: *K-129*, a Soviet Golf II-class submarine, sinks in the North Pacific Ocean, killing all hands aboard

May 1968: U.S. intelligence pinpoints the sub’s location, which remains unknown to the USSR

July 1969: CIA assumes control of the clandestine collection effort, codenamed AZORIAN

August 1970: The United States Intelligence Board assigns “highest priority” to the sub-raising effort

November 1970: Industrialist Howard Hughes agrees to cover reasons to serve as the outward face of the lift ship, the *Hughes Glomar Explorer*, ostensibly a deep-sea mining vessel

March 1971: Workers at Chester, Pennsylvania’s Sun Shipbuilding and Drydock Co. begin constructing the *Glomar Explorer*

May 1972: President Richard Nixon meets with General Secretary Leonid Brezhnev in Moscow, solidifying Soviet-American détente

November 1972: Sun Shipbuilding launches the *Explorer*

September 1973: *Explorer* arrives at Long Beach, California, to undergo preparation for the recovery mission

June 5, 1974: Los Angeles police investigate a burglary of a Hughes-owned office, where a document detailing the sub-raising mission is reported missing

June 21, 1974: *Hughes Glomar Explorer* sets sail for the recovery site

August 1974: The *Explorer*’s capture vehicle fails during the lift attempt, recovering only a portion of the target

February 6, 1975: President Ford approves a follow-on mission, codenamed MATADOR

February 7, 1975: The *Los Angeles Times* reports, based on stories “circulating among local law enforcement officers,” that “Howard Hughes [had] contracted with the Central Intelligence Agency to raise a sunken Russian nuclear submarine”

February–March 1975: CIA director William Colby, hoping to continue the operation, attempts to prevent news outlets from publishing additional reports

March 18, 1975: Columnist Jack Anderson discloses, over Colby’s objections, the Glomar operation on his national radio broadcast

March 19, 1975: Reporter Seymour Hersh publishes a detailed account on page one of the *New York Times*

March 1975: Reporter Harriet Ann “Hank” Phillippi files a Freedom of Information Act (FOIA) request for non-op-

erational records pertaining to Colby's prior restraint efforts

May 1975: CIA denies Phillippi's request using the Glomar response ("We can neither confirm nor deny....")

June 1975: President Ford terminates MATADOR

Summer 1975: Phillippi files a complaint, *Phillippi v. Central Intelligence Agency*, seeking to compel the agency to disclose the requested records

October 1977: CIA, in response to *Phillippi*, releases 16 documents in full and another 134 in part documenting Colby's prior restraint efforts but acknowledges possessing some 128,000 classified program files

June 1981: DC Circuit court decides *Phillippi* in the government's favor, upholding the ability of executive agencies to neither confirm nor deny (NCND) records requests on security grounds

April 1982: President Reagan issues Executive Order 12356 directing applicable agencies to follow NCND practice whenever possible

the law: an agency could refuse to confirm or deny whether responsive records existed, on the grounds that acknowledging their existence (or nonexistence) could reveal sensitive information and therefore harm the public interest. Glomaring records, critics said, also permitted the agency to withhold materials indefinitely, without fully justifying its actions or giving requestors information on which to base appeals. As Lloyd later explained, "We'd tell the [FOIA] requestor that we could neither confirm nor deny the existence of any records responsive to the request, but if we did have any such records, they would be classified. So, either way, they're screwed!"²¹

Determined, Phillippi turned to the courts. Represented by the American Civil Liberties Union, she filed a complaint, *Phillippi v. Central Intelligence Agency*, to compel the agency to disclose the requested records. She won a minor victory in 1977 with the release of the 16 documents in full and 134 in part regarding the agency's media contacts.

But those were non-operational files, a small fraction of the 128,000 program records the CIA acknowledged possessing. Phillippi pressed ahead with litigation seeking release of the redactions, described as involving "sensitive" operational details properly falling under FOIA exemptions 1 and 3 cov-

21. Walter Lloyd (pseudonym Logan) is quoted in Sharp's *CIA's Greatest*, p. 282. Lloyd permitted me, in writing, to use his actual name. He passed away in 2019.

ering national security data. The deletions no longer qualified for national security exception, she argued, because so much about the *Glomar Explorer* was already in the public domain, pointing to Colby's 1978 memoirs, for example. In light of such disclosures, the agency could safely release the disputed data without harming national security.

Though there may have been some publicity, Justice Department lawyers responded, the government had yet to officially acknowledge the *Glomar* project's existence. Nor had it confirmed the project's purpose, its cost, its yield, or a myriad of other facts, including the names of individuals and private contractors involved. According to an affidavit filed by CIA associate deputy director for science and technology Ernest "Zeke" Zellmer, the disclosure of such information jeopardized the CIA's core mission: foreign intelligence collection.

If the CIA was precluded from entering or honoring confidential agreements for the production of covert nondomestic uses of technological intelligence gathering devices an extremely valuable means of gathering intelligence would be lost. The disclosure of the names of organizations and their employees who entered into such confidential agreements with the CIA, in connection with the HGE project, would almost certainly impact negatively on the ability of the CIA to obtain the assistance of such entities and individuals in similar ventures in the future.²²

When and how the CIA transferred money to those companies, what financial methods and procedures officials employed to obscure the transactions—that information, too, must be safeguarded, affirmed CIA finance director Thomas Yale, because the agency routinely employed many of those same methods and procedures in other instances, on clandestine projects whose success similarly depended on there being no attribution of U.S. government involvement. According to Yale, officials used intermediaries, both individual and institutional, "to break the payor-payee chain," that is, to conceal the true source of programmatic funds: the U.S. Treasury. Were the intermediary disclosed, "a key to unlocking some very sensitive information would be placed in the hands of individuals not authorized to receive such information and over whom there is no control from a national security standpoint." Armed with that key, unauthorized per-

22. Ernest J. Zellmer, affidavit, Feb. 23, 1978, *Military Audit*, 656 F.2d at 739-740.

sons could follow the “trail of financial transactions [that led to] other CIA-sponsored transactions, past or present. At this point the damage to operations of the Central Intelligence Agency would be difficult, or impossible, to contain.”²³

Dollar amounts spent in connection with the *Glomar Explorer* project also merited protection, CIA director Stansfield Turner affirmed. “Release of this information,” he wrote, risked telegraphing U.S. capabilities to adversaries abroad. That is, disclosure would be a valuable benefit to an intelligence service of a foreign country in that it would permit deductions to be made concerning the state of the art of intelligence collection in a certain area and the importance the United States attributed to particular collection activities. The existence of the technologies on which we depend, and to the level of their sophistication, could be compromised by such disclosure, and the risk of foreign countermeasures to nullify our advantage could be enhanced.²⁴

Secrecy served diplomatic purposes, as well. “In international affairs,” affirmed Secretary of State Cyrus Vance, “one deals with intangibles and uncertainties.” No one could predict what harm additional disclosure might cause. But the United States had yet to officially acknowledge what foreign adversary the mission had targeted or how. It was Vance’s professional judgment, shared by other senior State Department officials, that disclosure of this information could seriously damage U.S. foreign relations. “Even to speculate publicly about specific consequences that might flow from such disclosures would, in all likelihood, be damaging, as other governments might feel constrained to react to such speculation by comments or measures.”²⁵

These affidavits effectively led the circuit court into the wilderness of mirrors, a place, legendary CIA counterintelligence chief James J. Angleton once wrote, “where fact and illusion merge” and observers wander confused amid an array “of stratagems, deceptions, artifices and all the other devices of disinformation.” Uncertainty surrounded the *Glomar* mission, the court acknowledged. Its results. Its cost. Even its purpose. Such facts were unknown outside of a small circle of cleared officials. But there might be some advantage in leaving foreign security services guessing as to what really motivated the ship’s mission

or how many secrets it gleaned. After all, the court noted, some believed that the CIA only floated the partial success story to disguise the fact that it “wholly succeeded” in raising the entire submarine—missiles, codes, and all. Others thought it performed “some still-secret third function.” “Whatever the truth may be,” the court concluded, “it remains either unrevealed or unconfirmed. We cannot assume, as the appellants would have us, that the CIA has nothing left to hide. To the contrary, the record before us suggests either that the CIA still has something to hide or that it wishes to hide from our adversaries the fact that it has nothing to hide.”²⁶

In 1981, the court decided in the government’s favor, ruling in *Phillippi* and a related case, *Military Audit Project v. William Casey, Director of Central Intelligence, et al.*, that all withheld information was properly exempt under FOIA. Wandering further into the wilderness, the court’s opinion cited the memoirs of former Soviet premier Nikita Khrushchev, who recalled that Dwight Eisenhower’s public acknowledgment of Gary Powers’s ill-fated U-2 mission, not the fact of the mission itself, led him to scuttle 1960s Paris Summit. “The parallel of the *Glomar Explorer* project is obvious,” the court stated. “In the world of international diplomacy, where face-saving may often be as important as substance, official confirmation of the *Glomar Explorer* project through release of [the disputed material] could have an adverse effect on our relations with the Soviets.”²⁷



Phillippi and *Military Audit* were not the last words. But they were the first judicial recognition of the principle that a federal agency can refuse, on security grounds, to confirm or deny the existence of records sought in a FOIA request. As such, they helped establish FOIA case law pertinent to national security. Thousands of cases (and counting) have since cited them in proceedings pitting the public’s right to know against the state’s duty to protect. The state has usually prevailed, in part because *Phillippi* and *Military Audit* established that official disclosure of information

23. Thomas B. Yale, affidavit, March 4, 1978, *Military Audit*, 656 F.2d at 745-747.

24. Stansfield Turner, affidavit, March 3, 1978, *Military Audit*, 656 F.2d at 749.

25. Cyrus R. Vance, affidavit, Feb. 2, 1978, *Military Audit*, 656 F.2d at 741-742.

26. *Military Audit*, 656 F.2d at 745. Also, Jefferson Morley, “Wilderness of Mirrors: Documents Reveal the Complex Legacy of James Angleton,” *The Intercept*, Jan. 1, 2018, at <https://theintercept.com/2018/01/01/the-complex-legacy-of-cia-counterintelligence-chief-james-angleton/>; and Morley, *The Ghost: The Secret Life of CIA Spymaster James Jesus Angleton*, New York: St. Martin’s Press, 2017.

27. *Harriet Ann Phillippi v. Central Intelligence Agency*, 655 F.2d 1325 (DC Cir. 1981) at 1332-1333.

under the law could harm the public interest, even if some information was already public.

Glomar quickly morphed into a verb, “to Glomar,” to describe a federally recognized process, and its related noun, “Glomarization,” in which agencies neither confirmed nor denied (“Glomared”) public requests for government information. In a 1982 executive order (EO) governing national security data-handling procedures, President Reagan directed all applicable agencies to follow neither confirm nor deny (NCND) practice whenever possible. “An agency shall refuse to confirm or deny the existence or non-existence of requested information whenever the fact of its existence or nonexistence is itself classifiable under this order.”²⁸

Glomarization crept horizontally across the federal FOIA exemption spectrum. Creep began in 1980, when a federal district court ruled that law enforcement agencies could NCND the existence of certain records to protect the privacy of persons not publicly known to have been the subject of a law enforcement investigation. Affirmed on appeal, that ruling grew to cover alleged government informants, trial witnesses, and individuals named in a law enforcement record, expanding FOIA exemption 7(C) shielding information compiled for law enforcement purposes.

Glomarization reached into non-security areas in the 1990s, when courts endorsed NCND responses to FOIA requests seeking records that might reveal whether an individual government employee was disciplined or investigated for misconduct. These rulings underwrote yet another FOIA exemption, exemption 6, sparing records from release on privacy grounds.

Glomarization crept vertically, as well. Police now routinely NCND the existence of records in response to requests filed under local access laws. State courts have endorsed this nonfederal use. And legislatures have amended state access statutes to permit Glomar denials. Such proliferation, scholar A. Jay Wagner writes, “threatens freedom of information laws at their most basic, grassroots level,” where oversight may be limited and citizens may have fewer legal options to challenge statutory access denials.²⁹

At the international level, too, Glomarization has crept into open records laws. Australia’s Freedom of Information Act, as amended in 2020, contains a section allowing ministers to NCND the existence of

records in response to access requests, in cases where revelation of information could harm the public interest. Canada’s and the United Kingdom’s freedom of information laws contain similar provisions.

Mostly, though, Glomarization remains fixed in the U.S. national security realm—from the executive order currently governing the handling of classified national security information, President Barack Obama’s EO 13526, issued in 2009, which allows agencies to NCND certain records requests, to the Glomar denials the CIA, NSA, and other agencies routinely issue.³⁰

How often do federal agencies Glomar requests? Is it difficult to say with certainty, writes Nate Jones, the *Washington Post*’s FOIA director, because the Justice Department does not maintain a dedicated database. Journalists, watchdogs, and scholars who file records requests don’t need a scorecard to know the chilling effect Glomarization has on public discourse. They see it written on the pages of FOIA logs that detail the disposition of each individual request. Only a fraction of the logs is readily searchable, but those that are tell the tale: “DENIAL/GLOMAR—0 pages released,” entry after entry reports. “GLOMAR POSITION,” report others. “The use of Glomar non-denial denials [is] rampant,” Jones concludes.³¹



Government secrecy—that’s the most durable byproduct of the *Glomar Explorer* operation. More durable than its technical achievement; more durable even than its intelligence take, the contribution it made to America’s Cold War victory. Significant though both may have been, they cannot be evaluated properly, due to security restrictions that the Glomar response works to enforce. Yes, more data has entered the public domain since the circuit court’s 1981 verdicts. In 2010, the CIA released an internal history of AZORIAN. David Sharp, the deputy mission director, published his personal account in 2012, with the approval of CIA prepublication classification reviewers. In 2014, the U.S. Department of State published a documentary collection I edited. Those materials sourced another round of publications, including my own 2023 book.³²

28. Executive Order 12356, “National Security Information,” April 2, 1982, <https://www.archives.gov/federal-register/codification/executive-order/12356.html>.

29. A. Jay Wagner. “Controlling Discourse, Foreclosing Recourse: The Creep of the Glomar Response,” *Communication Law and Policy* 21, no. 4, 2016, pp. 543-5.

30. EO 13526, “Classified National Security Information,” Dec. 26, 2009, <https://www.archives.gov/isoo/policy-documents/cnsi-eo.html>.

31. Nate Jones. “‘Neither Confirm nor Deny:’ the History of the Glomar Response and the *Glomar Explorer*,” *Unredacted: The National Security Archive Blog*, Feb. 11, 2014, at <https://unredacted.com/2014/02/11/neither-confirm-nor-deny-the-history-of-the-glomar-response-and-the-glomar-explorer/>.

32. Matthew Aid, William Burr, and Thomas Blanton, eds. “Project

“Laymen,” though, are hardly better positioned to judge the operation’s outcome today than we were in 1975, when the *Washington Post* remarked that outsiders were ill-equipped “to say whether the findings are worth [the program’s estimated cost of] \$350 million.”³³ Too many unknowns still exist, because the vast majority of the 128,000 documents the CIA acknowledged possessing remain undisclosed, imperious to open records laws.

At every level: local and state, national and international. In every branch of government. In the courts. The Congress. The executive branch. Even the fourth estate. *Glomar*, a clandestine operation conceived in Cold War secrecy and dedicated to the proposition that plausible deniability matters, shielded CIA secrecy at a time when CIA secrecy needed shielding most: the sunshine era, which at its peak attempted to illuminate the darkest recesses of the U.S. intelligence community. “In my opinion,” recalled Walter Lloyd, its originator, “the *Glomar* response was very effective in a very troubling time (mid-70s).”³⁴

“Neither confirm nor deny.” That clever evasion is not just for spies anymore. It is now part of the vernacular, standard operating procedure invoked by everyone from government officials and celebrity spokespeople working to stymie the efforts of public watchdogs or tenacious reporters, to furtive teens hoping to stonewall nosy parents. It is invoked so often, in fact, that it has become cliché, the source of a running joke.

AZORIAN: The CIA’s Declassified History of the *Glomar Explorer*,” National Security Archive, George Washington University, Feb. 12, 2010 at <https://nsarchive2.gwu.edu/nukevault/ebb305/index.htm>; Sharp. *CIA’s Greatest*; Bennett, ed. *National Security Policy, 1973-1976*, vol. 35 of *FRUS, 1969-1976*. Books include Norman Polmar and Michael White. *Project AZORIAN: The CIA and the Raising of the K-129*, Annapolis, MD: Naval Institute Press, 2010; Josh Dean, *The Taking of K-129: How the CIA Used Howard Hughes to Steal a Russian Sub in the Most Daring Covert Operation in History*, New York: Dutton, 2017; and Bennett. *Neither Confirm nor Deny: How the Glomar Mission Shielded the CIA from Transparency*, New York: Columbia University Press, 2023.

33. “*Glomar Explorer*,” *Washington Post*. According to the U.S. Bureau of Labor Statistics’ Consumer Price Index Inflation Calculator, \$350 million is equivalent to more than \$2 billion in 2024 at https://www.bls.gov/data/inflation_calculator.htm.

34. Walter T. Lloyd, written statement submitted to and cleared by the CIA Prepublication Classification Review Board in response to author’s questions, July 20, 2016, p. 3.

“We can neither confirm nor deny that this is our first tweet,” @CIA deadpanned in a 2014 X (formerly Twitter) post subsequently retweeted or liked almost half a million times.³⁵ Shielding clandestine activity from view—for better or worse, that’s how *Glomar* made a difference.

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Note: This article has been reviewed and approved for publication by CIA’s Prepublication Classification Review Board.

35. CIA (@CIA), “We can neither confirm nor deny that this is our first tweet,” X (formerly Twitter), June 6, 2014, 1:49 p.m., at <https://twitter.com/cia/status/474971393852182528?lang=en>.