

26 April 1984

MEMORANDUM FOR THE RECORD

SUBJECT: Meeting with Mark Lynch Re: Marshall Library

1. On Tuesday, 24 April 1984, I met with Mark Lynch of the American Civil Liberties Union (ACLU) and Tom Millet of the Department of Justice (DOJ). The purpose of the meeting was to learn from Mr. Lynch what additional information he desired and would settle for in lieu of the discovery request he has outstanding in the Peterzel et. al v. Faurer (Marshall Library) litigation.

2. The meeting was at all times cordial and began with Mr. Lynch making an offer of settlement: he would drop the suit and give up his claim to the three remaining technical monographs if we would disclose the 31 documents from the Friedman Correspondence Files. I told Mr. Lynch that I didn't think we would be interested in such a settlement.

3. Mr. Lynch advised that it was never his intent to claim a First Amendment right of access to the materials or to dispute NSA's authority to conduct a Snepp type review of the materials one time. He felt that the essence of his complaint and, thus, the issue on which he is focusing, is whether NSA can endeavor to protect materials once it has taken its Snepp cut and the materials were made publicly available. While Mr. Millet advised Mr. Lynch that we viewed the relevant issue as only being whether the material for which protection is sought is now properly classified, Mr. Lynch nonetheless felt that he was entitled to certain discovery as would permit him to fashion his case and to refute the points on which NSA relies. In this regard, he desires:

- X a. Any additional records or correspondence which would reflect Friedman's donative intent;
- X b. Records or information which would reflect how and when NSA became aware of the agreement between the Army and the Library;
- X c. Records that reflect the agreement between the Library and NSA for NSA to provide secure shipment of the Collection to the Library and that such shipment would enable the Library to ensure it in transit;
- X d. Records that reflect the agreement between the Library and NSA to the effect that NSA would conduct classification reviews of the materials on the Collection;
- X e. Information concerning the extent of Clark's (Friedman's biographer's) access to the Collection; whether Clark was cleared for such access; and whether Clark agreed to submit his work for prepublication review;

f. More detailed information that would enable Mr. Lynch to better identify the documents and each document's status as a result of the various NSA reviews. I suggested to Mr. Lynch that this may not be solvable. To the extent he desires information about the documents themselves, I advised him it is unlikely we could say anything more without revealing sensitive information. To the extent that he wants information concerning the status of each document during the various processing stages, I advised him that we would see what we could do, but that it must be recognized that we lack detailed records sufficient to unuddle the public affidavits;

g. Information as to whether the cryptologic relationship that was being protected in April 1983 is the basis for the current classification determination;

h. To know whether the individuals involved in the Nov/Dec 1976 review are still available. Also, any records which reflect the essence of the agreement between the Library and NSA made in 1976 to close certain sensitive materials;

i. To know whether Wilson (Vince Wilson former NSA Historian) had been contacted to ensure that he did not know of Crawford's action in 1979 to open the Collection;

j. To know why we waited from June to October 1981 to return to the Library and review the portion of the Collection of concern to us and, once there, why we didn't review the Correspondence Files at that time;

k. To know how Mike Levin knew in April 1983 that the former archivist, Crawford, had opened without prior consultation with NSA the materials NSA thought were closed;

l. To know why NSA could not determine on the occasion of either the April 1983 or February 1984 visits which documents had been copied by researchers;

m. To know the current status of the four documents of concern to other organizations and the identity of the organizations to which the documents were sent;

n. Records that reflect that NSA provided Mr. Friedman a safe for secure storage, assisted his efforts in cataloging his materials, provided him materials to fill gaps in his Collection and, as noted above, provided secure transportation of the Friedman Collection to the Library;

o. Information concerning the difficult relations between NSA and Friedman;

p. To know the nature of the processing that led NSA to identify which of the records at issue were copied or are publicly available and more detail regarding what we know or don't know of each of the documents' previous or current availability to the public;

q. Any records Mr. Fisher (indeed all of the affiants) relied upon in preparing their affidavits; and

r. To know whether NSA subsequently obtained a copy of the letter that the Library archivist, Crawford, allegedly sent to former Director, General Carter, in 1979.

4. We advised Mr. Lynch that we would consult with our respective superiors. Mr. Lynch said that he would withdraw his pending discovery request if his more focused requests summarized above are satisfied and if the government grants him additional time to respond to the government papers after he has reviewed any information or materials he is provided. In the meantime, Messrs. Lynch and Millet have agreed to a stipulated extension of the time to respond to the discovery request until 11 May 1984.



Office of General Counsel

cc: GC
AGC(0ps)
Mike Levin, Q43
Russ Fisher, T54 ←
Tom Millet, DOJ

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