

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN LIBRARY ASSOCIATION,)

et al.)

Plaintiff,)

v.)

LINCOLN D. FAURER,)

Defendant.)

Civil Action No.
84-0481

AFFIDAVIT OF RUSSELL G. FISHER

State of Maryland)

County of Anne Arundel)

ss:)

Russell G. Fisher, being duly sworn, deposes and says:

1. I am a Senior Archivist in the Archives Division of the National Security Agency (NSA). As a Senior Archivist of NSA, I have TOP SECRET classification authority. My responsibilities as a Senior Archivist include, inter alia, the conduct of systematic declassification reviews of historically significant records. The statements made herein are based upon my personal knowledge, upon my personal review of the information available to me in my official capacity, my review of the affidavit of Meyer J. Levin, and upon conclusions reached in accordance therewith.

2. Since 1981, I have participated in several reviews of various portions of the materials in the William A. Friedman (hereinafter Friedman) Collection at the George C. Marshall Library (hereinafter Library) located on the campus of the

Virginia Military Institute in Lexington, Virginia. While the reviews in which I participated had been focused on the identification of currently classified records appropriate for declassification, I did, on two different occasions, reclassify six documents which had been declassified during the course of previous NSA reviews. These six documents, consisting of technical textbooks, monographs, and pamphlets, are the six documents at issue in this litigation which were not addressed in the affidavit executed by Meyer J. Levin. As Mr. Levin noted in the second paragraph of his affidavit, each of the 37 documents at issue in this litigation (including the six technical books and monographs which I reclassified) are undergoing extensive review at the most senior levels of NSA in an effort to confirm the need to protect them. Accordingly, the purpose of my affidavit is merely to explain how the six technical textbooks, monographs, and pamphlets at issue in this litigation came to be declassified, the timing of their reclassification, and the reason behind the determination that the documents were appropriate for reclassification. Inasmuch as Mr. Levin discussed the other 31 documents at issue in this litigation in his affidavit, as well as the nature of NSA's missions and the history of William Friedman's connection to NSA, I will not repeat these facts in my affidavit.

3. I first reviewed a portion of the Friedman Collection in June 1981. My visit in June 1981 was prompted by my need to become familiar with the contents of the Friedman Collection in

connection with my responsibility to conduct systematic declassification review of historical records. My visit in June was quite brief (I stopped at the Library while on other business in the area), but I was able to scan some of the materials in the Friedman Correspondence Files. My scan of the correspondence files revealed some papers which touched on sensitive issues. Further, I was advised by Library officials that they believed some sensitive materials had been placed in that portion of the Collection which was opened to the public. Based on these facts, I suggested to the Library officials that, until we could review the correspondence files more thoroughly, they should not be made available to the public. I could not examine the technical books and pamphlets as they were stacked in boxes on the floor pending completion of a Library renovation project.

4. Upon my return to NSA, I advised my superiors of the results of my review and it was agreed that another visit to the Library was necessary. Preparatory to my revisiting the Library, I coordinated a review of the classification status of the technical books, pamphlets, and monographs, whether they were classified in fact or not, by the appropriate NSA technical components. The outcome of these various reviews was the identification of those books, monographs, and papers which could be declassified as well as those which must continue to be classified in the interest of national security.

5. Armed with the results of these reviews, I returned to the Library in October 1981 and examined the technical books, monographs, and pamphlets in the Friedman Collection. I found that five books and monographs which had been identified in our reviews as appropriate for classification had been, in fact, improperly declassified in 1975 and were reposing in that portion of the Collection which was open to the public. As the reviews conducted at the Agency identified these documents as appropriate for classification, and I had no information to indicate that the books and monographs had actually been examined by members of the public, I took the necessary steps to reclassify the documents. On the occasion of this visit, I also declassified numerous books and monographs which the Agency reviews noted above had identified as appropriately declassifiable including one monograph which, as detailed in my next paragraph, I subsequently reclassified. (Thus, this is the sixth technical book or monograph at issue in this case.) Because the focus of my October visit was on the technical books and monographs, I did not have sufficient time to review any of the materials in Friedman Correspondence Files.

6. I next visited the Library to review portions of the Friedman Collection in April 1983. As Mr. Levin related in paragraphs 10 and 11 of his affidavit, the April 1983 review was concentrated primarily on reviewing and securing those portions of the Friedman Correspondence Files which had been opened to the public by a Library official without authority in

1979. It was on the occasion of this visit, however, that I reclassified the technical monograph I had declassified in October of 1981. This document was reclassified because technical reviews of the document conducted during the period between the October 1981 and April 1983 visits to the Library revealed that the monograph did, indeed, contain information which should still be classified in the interest of national security. Once again, I had no information that this monograph had been reviewed in fact by members of the public.

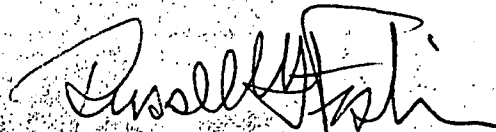
7. Though I participated in a review of portions of the Friedman Collection in a visit to the Library in February 1984, this review was focused exclusively on the Friedman Correspondence Files. (Paragraph 12 of the Levin affidavit refers.) The six technical books and monographs which I had previously reclassified were not reviewed on the occasion of this visit.

8. Each of the six technical books and monographs reclassified during my October 1981 and April 1983 visits to the Library contained detailed information about various cryptanalytic and cryptographic techniques or procedures of the United States Government. Such information was, and is, appropriate for classification as provided in Section 1.301 of Executive Order 12065, and Section 1.3 of Executive Order 12356,--the classification Executive Orders applicable in October 1981 and April 1983, respectively (copies attached at Tabs 1 and 2). The five technical books and monographs reclassified in October 1981 were classified at the CONFIDENTIAL level pursuant to Section 1-104

of Executive Order 12065 because their disclosure "reasonably could be expected to cause identifiable damage to the national security." The technical monograph reclassified in April 1983 was classified at the CONFIDENTIAL level pursuant to Section 1.1(a)(3) of Executive Order 12356 because its disclosure "reasonably could be expected to cause damage to the national security."

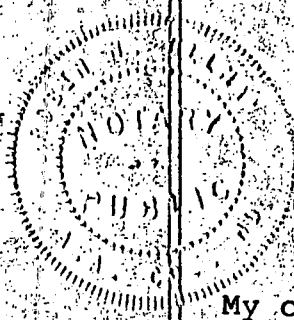
9. As the six technical books and monographs contained information related to NSA's intelligence methods and activities, it was determined at the time that they were reclassified that they were also properly protected from disclosure pursuant to Section 6 of the National Security Agency Act of 1959 (Public Law 86-36, 50 U.S.C. §402 note). Under this statute, no law shall be construed to require the disclosure of information (classified or unclassified) pertaining to the organization, functions or activities of NSA or of persons employed there. Further, it was determined that these documents may properly be protected pursuant to 18 U.S.C. §798 which prohibits the unauthorized disclosure of classified information concerning the communications intelligence activities of the United States and Section 102(d)(3) of the National Security Act of 1947 (50 U.S.C. §403(d)(3)) which permits the protection of intelligence sources and methods from disclosure. As noted in paragraph 2 supra, my actions as to these six technical books and monographs, as well as Mr. Levin's preliminary judgment in respect to the

31 documents from the Friedman Correspondence Files, is under-
going extensive review at the senior levels of NSA.



RUSSELL G. FISHER
Senior Archivist
National Security Agency

Subscribed and sworn to before me
this 16th day of April 1984.



Robin M. Uelman
Notary Public

My commission expires July 1, 1986.