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OS REGISTRY

30 DEC 1987

OGC 87-53500

24 December 1987

MEMORANDUM FOR THE RECORD

FROM:

Associate General Counsel

SUBJECT: United States v. Lyndon LaRouche, et al. (D. Mass.)

1. The United States has initiated a major criminal prosecution against Lyndon LaRouche, certain of his assistants and against certain organizations affiliated with him alleging a nationwide pattern of credit card fraud and conspiracy to obstruct justice. This complex prosecution, which is before Judge Robert Keeton of the U.S. District Court for the District of Massachusetts, commenced trial on 17 December 1987. Recently, the defense has been arguing vehemently that the CIA was heavily involved in instigating the grand jury investigation against the defendants. Thus, as I understand the argument, defendants are claiming that any actions taken to resist the grand jury investigation were proper and were not motivated by corrupt intent. Because their intent was "pure", defendants claim that they are not guilty of obstructing justice.

2. As the trial approached, the prosecution levied a number of search requests upon the Agency, primarily for documents relating to the defendants and affiliated organizations. On 15-16 December 1987, Willis Reilly, Deputy Director of the Office of Security for Personnel Security, and the undersigned traveled to Boston, Massachusetts in connection with the above referenced case. Specifically, the Office of Security had retrieved several files in response to OGC's tasking request in connection with this case. The purpose of this trip was to present these documents to the Court for its in camera examination so that the Court could determine if there was any exculpatory information contained therein.

3. Upon our arrival in Boston on Tuesday, 15 December, Mr. Reilly, the undersigned and Mark Rasch, one of the prosecutors, reviewed all of the documents which we had brought to Boston. The documents reviewed primarily consisted of the OS files and note cards relating to LaRouche and the NCLC. This review also covered

... certain miscellaneous files which the undersigned had compiled as a result of component responses to previous OGC taskings. During our examination, Mr. Rasch physically marked those documents which he thought we should sanitize for possible release to the defendants. We all agreed that these documents in no way contained any exculpatory information or information that would help the defendants. However, certain of the documents reflected minimal contacts between certain of the defendants, or related individuals, and the Agency, while other documents reflected Agency attitudes towards Mr. LaRouche and his associates. We believed that by sanitizing these documents, we would be going overboard in responding to defendants' request.

4. We initially went before the Court at approximately 3:15 p.m. on Tuesday. Mr. Rasch first explained the parameters of our review. He noted that we had tentatively marked those documents we believed to be responsive and that we would undertake to sanitize those documents if the Court agreed with the results of our review. The undersigned then noted that Agency searches were ongoing and that other documents would be available in the future for the Court's review. Following these statements, the Court reviewed, in open court, the miscellaneous files that the undersigned had brought as well as the OS note cards. It should be noted that although Judge Keeton reviewed the documents in open court, only he could see their contents. At approximately 4:30 p.m. Judge Keeton adjourned the in camera review until the next morning at 9:15 a.m.

5. That evening Mr. Reilly and I made photocopies of all the documents which we had marked. The next morning we started the process of sanitizing those documents for possible turnover to the defendants. With respect to several of the documents, we made copies and segregated those copies for coordination with other agencies or with the DO.

6. The in camera examination by Judge Keeton continued on Wednesday morning at 9:15 a.m. Once again, Judge Keeton reviewed our documents in open court as opposed to his chambers. Presumably, he was doing this to avoid any future accusations that he had engaged in ex parte conversations with us. Specifically, Judge Keeton reviewed all three of the OS files on Mr. LaRouche and on the National Caucus of Labor Committees (NCLC). This review took from 9:15 a.m. to approximately 11:30 a.m. At the end of his review, Judge Keeton made some explicit findings on the record. First, he explicitly found that the documents that we had previously marked were proper and fully sufficient for turnover to the defendants. Secondly, he explicitly found that there was no Brady material in the documents that he had reviewed, and that none of it would help the defendants. At that point, Daniel Alcorn, attorney for one of the defendants, objected to the in camera review on several grounds. Alcorn first claimed that the OS files were illegal and in violation of the Agency's enabling statute. Specifically, he argued that the files reflected the

performance of internal security functions, which functions were prohibited by the National Security Act of 1947. Mr. Alcorn also argued that he should be given access to the documents on the grounds that they would, in fact, be helpful to the defendants. Finally, he argued that the commencement of trial should be delayed pending completion of the Agency's other searches for the records within the Directorate of Operations and other components. Judge Keeton rejected these arguments seriatim. First, the Court explicitly found that the OS files were proper, lawful, and appropriately maintained by the Office of Security. He stated that he found nothing illegal in these files whatsoever. Secondly, the Judge emphasized that there was nothing whatsoever in these files that would help the defendants and certainly nothing of any exculpatory nature. Thirdly, the Court refused to delay the trial pending the completion of the Agency's final searches. In other words, all of the rulings were totally favorably to the Agency.

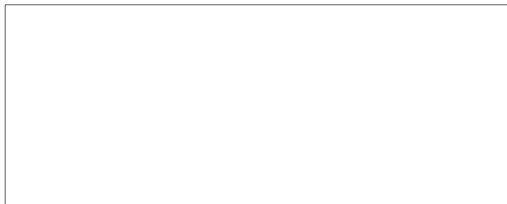
7. At that point, we turned over to the defendant redacted copies of most of the documents we had marked. The undersigned represented that we would expedite coordination of those few documents originated by, or containing other agency information. We also agreed to complete the DO searches as quickly as possible and to present those documents for the Court's in camera examination. We also represented that we would file Certificates of No Record with respect to Forrest Lee Fick and Monroe Wenger, similar to the ones that we had filed with respect to Mr. Frankhauser. Finally, we represented that we would segregate the reviewed documents and treat them as if they were under seal. This section of the in camera inspection concluded at approximately 11:45 a.m. on Wednesday, 16 December 1987.

8. From the undersigned's prospective, the hearing could not have gone any better. It was clear that Judge Keeton has no sympathy whatsoever for the defense's theory of CIA involvement. I also believe that our release of sanitized documents to the defendants enhanced our credibility in front of the Court. In other words, our actions in this regard showed that we were willing to give the defendants something even though their claims were specious. On appeal, the defendants could not argue that the Court had totally precluded them from gaining any access to Agency records. It is also extremely important that the Court explicitly found that the OS files were legitimate and not in contravention of our charter. This and the Judge's other rulings will assuredly help us in future in camera inspections.

9. I would note as a final matter that it was very valuable to have Mr. Reilly present at this in camera inspection. The presence of a senior official, in my judgment, indicates to the Court that we take this matter very seriously and that we are prepared to answer any questions concerning the documents.

Additionally, Mr. Reilly was instrumental in achieving redaction of the documents for release to the defendants, an act which enhanced our credibility before the Judge.

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cc: Deputy Director of Security
for Personnel Security
General Counsel
Deputy General Counsel
ADGC/L&CA