



**NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE**
FORT GEORGE G. MEADE, MARYLAND 20755-6000

FOIA Case: 50412
16 October 2006

Mr. A. Jay Cristol

Dear Mr. Cristol:

This responds to your Freedom of Information Act (FOIA) request submitted via facsimile on 24 May 2006, which was received in this office on 24 May 2006, for the following:

1. Documents related to James R. Gotcher's employment with NSA after his discharge from the Air Force in 1968;
2. "Report to the NSA Director, USS Liberty (AGTR-5) 23 May - 8 June 1967"; and
3. An NSA message, dated June or July 1967, to the document control officer of the U.S. Air Force, 6924 Security Squadron at DaNang, Vietnam, directing the gathering and destruction of the translations and report as it was described by Mr. Gotcher.

Your letter has been assigned Case Number 50412. For purposes of this request and based on the information you provided in your letter, you are considered an "all other" requester. As such, you are allowed 2 hours of search and the duplication of 100 pages at no cost. Your request has been processed under the FOIA.

Regarding item #1 of your request, personnel management files are maintained on NSA/CSS affiliates. Therefore, a search of our most comprehensive filing systems, which include applicant, personnel, security, medical, and training, was conducted. Our records reflect that Mr. James Ronald Gotcher, III has never been affiliated with this Agency; thus, no records responsive to this portion of your request were located.

The document responsive to item #2 of your request is enclosed. There are two versions of Tab Z included, since a copy maintained separately from the full report contained some additional markings on the cover page. Both copies have been provided to you for completeness.

Certain information has been deleted from the enclosed document. This document was just recently reviewed in July 2006 for release under the Mandatory Declassification Program (MDR), and additional information was released. The redaction codes on the document are codes used for the MDR process. Information deleted from the document was found to be currently and properly classified in accordance with Executive Order 12958, as amended. The information meets the criteria for classification as set forth in Subparagraphs (c) and (g) of Section 1.4 and remains classified TOP SECRET, SECRET, and CONFIDENTIAL as provided in Section 1.2 of Executive Order 12958, as amended. The information is classified because its

disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Because the information is currently and properly classified, it is exempt from disclosure pursuant to the first exemption of the FOIA (5 U.S.C. Section 552(b)(1)).

Furthermore, this Agency is authorized by various statutes to protect certain information concerning its activities. Accordingly, the information responsive to this portion of your request is exempt from disclosure pursuant to the third exemption of the FOIA which provides for the withholding of information specifically protected from disclosure by statute. The specific statutes applicable in this case are Title 18 U.S. Code 798; Title 50 U.S. Code 403-1(i); and Section 6, Public Law 86-36 (50 U.S. Code 402 note). Most of those markings are not contained in the redactions listed on the document, since they were processed under MDR; however, they do apply to the information.

Since we did not locate records responsive to item #1, and because portions of information responsive to item #2 are being withheld, you are hereby advised of this Agency's appeal procedures. Any person denied access to information may file an appeal to the NSA/CSS FOIA Appeal Authority. The appeal must be postmarked no later than 60 calendar days after the date of the initial denial letter. The appeal shall be in writing addressed to the NSA/CSS FOIA/PA Appeal Authority (DC34), National Security Agency, 9800 Savage Road STE 6248, Fort George G. Meade, MD 20755-6248. To aid in processing the appeal, it should reference the inability of the Agency to locate records on you and should contain, in sufficient detail and particularity, the grounds upon which you believe this Agency maintains records on you. The NSA/CSS Appeal Authority will endeavor to respond to the appeal within 20 working days after receipt, absent unusual circumstances.

Regarding item #3 of your request, since Mr. Gotcher, whom we have verified was not affiliated with NSA at the time, we cannot address the validity of his claims to have seen a document such as he describes. However, a search would be required in order to attempt to locate such a document. There are numerous boxes of records related to the USS Liberty, and a search through all of that material would cost approximately \$1,188.00. Fees are assessed in accordance with DoD Regulation 5400.7-R. Search fees are computed at \$44.00 an hour. You are entitled to 2 hours of search at no charge, therefore, we estimate your total cost to be approximately \$1,100.00 (\$1,188.00 - \$88.00 for 2 hours of search). Our policy is to request advance payment prior to initiating the search. NSA regulations preclude the conducting of partial searches.

It may interest you to know that all of the USS Liberty documents are currently under review for releasability as an historical collection. Once releasability has been determined, the documents will be posted to the NSA website at URL: www.nsa.gov/LIBERTY/index.cfm so that they will be available to the general public. You may wish to wait for the documents to be posted rather than conduct a separate search now.

Please be advised that your payment of search fees will not necessarily result in the disclosure to you of all the information you seek. If records are found which are responsive to your request, a detailed review to determine the releasability of the

information would follow, and it is possible that any record responsive to your request, if such a record exists, may be classified or otherwise exempt from release in accordance with the exemption provisions of the FOIA.

This is only an estimate. If, as we process your request, we determine that fees will be greater than the estimate, we will so notify you before continuing with our search.

If you would like us to proceed with the search for information responsive to the third part of your request, please remit to the FOIA office (see below for address) a check or money order made payable to the Treasurer of the United States in the amount of \$1,100.00. Please include the number assigned to your case on any correspondence to assure that your account is properly credited. If we do not hear from you within 60 days of the date of this letter, we will assume that you are no longer interested in pursuing this portion of your request, and we will administratively close your case with no further processing.

Correspondence related to this request may be sent to the National Security Agency, FOIA Office (DC34), 9800 Savage Road STE 6248, Ft. George G. Meade, MD 20755-6248 or may be sent by facsimile to 443-479-3612. If sent by fax, it should be marked for the attention of the FOIA office. The telephone number of the FOIA Office is 301-688-6527.

Sincerely,



LOUIS F. GILES
Director of Policy

Encls:
a/s