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C. B.

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Sandy.....I am sure you will be interested in the attached from Pat Berger to Jerald Newman. I would say it makes a reasonably compelling case on why NCLIS is in need of a new chairman. Is there anything further you can do on this? CB
September 8, 1989

Jerald C. Newman, Chairman
National Commission on Libraries and Information Science
2001 Marcus Avenue, Suite N20
Lake Success, NY 11042

Dear Mr. Newman:

Upon my return from the IFLA meetings in Paris, I received your letter of 14 August, in which you dispute two references to NCLIS in my Inaugural Address. I do not agree that either of those remarks are in error, nor do I agree that either statement constitutes "distortion" of fact.

A perusal of even the edited, blacked-out, transcript of NCLIS's 14 January 1988 meeting with a FBI representative reveals that most of the NCLIS Commissioners who registered an opinion, including you, accepted and approved of the FBI's Library Awareness Program activities and of the Bureau's raison-d'etre for that Program as well. Any other interpretation of NCLIS's posture in that meeting strikes me as transparent dissembling. I described NCLIS's approval of the program as "unnecessary" and "outrageous." You may dispute that assessment if you wish, but the facts are such that you cannot dispute the collective opinions and persuasions of NCLIS Commissioners, including your own, as set out in that transcript.

What is obvious and disheartening throughout the document is the implicit notion that national security safeguards and First Amendment rights are somehow mutually exclusive tenets. Further, there is evidence of a lack of comprehension regarding how scientific information and data are organized and used in this country, or what constitutes sinister behavior in a U.S. scientific library. Let me repeat what I have said before; were I to accept the FBI's description of a potentially subversive patron as one bearing a foreign name or having a foreign accent who photocopies "a lot" or "steals" library materials, I would be obliged to report a patron of the National Institute of Standards and Technology's Research Information Center who I know holds a security clearance and works on a contract for an intelligence agency of the U.S. government. I would need also to report the
names of a number of NIST scientists, statisticians, mathematicians and engineers, plus some of NIST's Guest Scientists, Engineers and Industrial Research Associates, as well as assorted persons from private sector corporations who use RIC's resources for their work. In sum, the FBI's assumptions about the characteristics of suspicious patrons of scientific libraries are seriously flawed. *It is most unfortunate* that not a single NCLIS Commissioner ever once questioned those assumptions. Instead, NCLIS appears to have embraced them whole cloth and without examination.

Moreover, some of us believe that an unstated objective of the FBI's Library Awareness Program was and is to use the staffs of America's scientific libraries to identify persons who can later be "turned" by the FBI to become double agents. The FBI has been less than candid regarding this matter, and NCLIS has done nothing of record to inquire whether or not this is, in fact, part of the Bureau's strategy. How can the Commission be trusted to realistically or correctly advise the President and the Congress on matters pertaining to America's scientific libraries when it fails to recognize the possibility and implications of a scenario like this one?

Since 1949, I have held U.S. government security clearances. I know quite well what precautions and responsibilities are assumed when one holds a clearance. Therefore, you will not be surprised to learn that I was dumfounded when, upon reading the transcript, I discovered that you convened a meeting which produced what former NCLIS Deputy Executive Director David Hoyt later called "sensitive and classified" information in the San Antonio Public Library, an uncleared, public area which appears to have been unswept as well. This must have been the case, because the obligatory statements regarding the security level of the meeting area and the security level of the discussion is missing from both the beginning and the end of the transcript. Yet, David Hoyt's letter of 19 February 1988 to Toby McIntosh cites two sections of 5USC as reasons why "sensitive and classified" sections of the transcript of that San Antonio meeting in the Public Library were "blacked out by the FBI." God help the U.S. government if either intelligence sources or intelligence methods were discussed or identified in that meeting.

From the foregoing, I am sure it is clear that I believe if any person or entity has public explaining to do, that entity is NCLIS. More precisely, you as NCLIS Chairman owe the library profession a public explanation.
As to my reference to the Khomeini's act of terrorism -- the Ayatollah called for the death of Salman Rushdie, the destruction of his book and all who assisted him or promoted his volume on 16 February 1989. Between 17 and 28 February, library associations, book publishers, several book sellers, reporters, editorial writers, cartoonists, librarians, library educators, library students and library staffs throughout the country staged demonstrations or took to the airwaves, the TV and the newspapers to denounce the Khomeini's actions. In addition, many library schools and libraries held read-ins of *Satanic Verses* to demonstrate publicly their support of Rushdie to write what he chooses without being threatened with murder. Within the first two weeks after 16 February, such groups and individuals had publicly rejected -- at some peril to themselves -- the Khomeini's threats to kill and to censor.

I said in Dallas and I say again that I "find it sad, shocking and a matter of concern" that NCLIS chose not to react at the time "Khomeini called for international censorship, book burning and murder." Frankly, delivering a statement to a select few in the relatively safe confines of a U.S. Senate hearing room one month and one day after such an abhorrent incident occurred does not, in my opinion, satisfy the obvious need for both timely, responsible leadership and an immediate public statement addressing the matter.

Taken together, these events cause me to doubt NCLIS's ability to function either effectively or credibly as an "honest broker," much less as a national leader, on library and information science matters.

I had seen the 19 July *Washington Post* article you included with your letter. I must say, however, I do not understand why you sent it. You are aware, I trust, that 37USC, which stipulates the conditions under which U.S. patents are granted, provides for their public disclosure and release and denies their issuance if the proposed device, compound, etc., has been described previously anywhere in the world's published literature. For this reason, the U.S. Patent and Trademark Office spends considerable money each year acquiring copies of foreign patents and accessing and translating foreign publications in a host of relevant fields. A chief method of acquiring foreign patents and foreign literature is by instituting patent and literature exchange agreements between the United States and other countries, including Eastern Bloc countries and the PRC.

I do hope your inclusion of that article was not meant to imply that the FBI should continue its attempts at counterintelligence in the library stacks. Even a casual perusal of U.S. patent law
should dispel the notion that the theft of unclassified patents has an intelligence-related basis. Ill-gotten profits may well be a motive behind such thefts, but advancing the Soviet's capabilities to build better MIGs is not. For the record, 37CFR1.11 provides specifically that

"After a patent has been issued or a statutory invention registration has been published, the specification, drawings and all papers relating to the case in the file are open to inspection by the public, and copies may be obtained upon paying the fee therefore."

That is, not only the patent document but all its accompanying papers are released to the public. Further, 35USC181 restricts inspection of certain patents and their files if their disclosure "might be detrimental to the national security," to only "responsible representatives authorized by a (defense) agency." Such patents are not made available to the public in any format.

It is imperative, I believe, that NCLIS Commissioners distinguish between the FBI's two sets of responsibilities, namely, their responsibilities as police officers charged with investigating interstate crime on the one hand and their responsibilities as intelligence agents, charged with executing certain counterintelligence functions in CONUS on the other. The patent thefts fall in their first area of responsibility but it is their second area of responsibility which gave rise to the Library Awareness Program and ultimately, to our dispute.

Having served as the Director of both classified and open scientific libraries in and out of government for over 35 years, and as a former Deputy Chief Librarian of the Patent and Trademark Office's Scientific Library, I very much hope that you and your NCLIS colleagues will be sensitive to these differences. My husband, who has read the NCLIS/FBI transcript and who is a retired Air Force Intelligence Officer and a Life Member of the Association of Former Intelligence Officers, shares my concern in this regard. We believe President George Bush, who is also a Life Member of AFIO, would agree.

Sincerely,

[Signature]

Enclosure
P.S. I too enclose a copy of an article from a recent issue of the Washington Post, which points up a circumstance central to science and technology today, namely, more often than not, research in a given field proceeds simultaneously in several parts of the world. In the case of the vacuum microelectronics technology the article describes, work goes on in the U.S., Japan, Great Britain and the Soviet Union -- and I am quite certain that the past and future advances in this field will be reported in the open literature of all these countries. Let me illustrate. Since September, 1986, a member of my staff has run online searches monthly to determine how many times an article announcing a joint NIST/Israeli discovery has been cited by other scientists. From 1 January - 14 August 1989, that article was cited 167 times in articles on further developments prepared by other scientists; 55 (33%) of those articles appeared in foreign journals. Since not all foreign or U.S. scientists choose to publish in their own country, I checked the numbers of scientists residing and working in other countries who contributed to those 167 articles. The total was 118, 37 of which reside in either Eastern Bloc countries or the PRC and 81 of which reside in countries we consider to be our allies -- or at least not our enemies at the moment.

In sum, the United States is not now and has not been for some time a world leader in many scientific areas. This is not to say we are not ahead in inventing and discovering. What we fail to do well today, however, is to convert those inventions and discoveries into useful, marketable products and technologies. This circumstance has little to do with our nation's enemies or even our nation's friends. Rather, it results from U.S. industry's greater interest in the buy-out and the takeover than in funding long-term R&D or taking risks in new markets. It has to do with a semi-literate work force and a scientifically illiterate public, 94% of whom think DNA is a food additive and Chernobyl is a ski resort. Equally serious, it has to do with those past and present Congresses who destroyed or refuse now to restore industry's incentives to invest in this country's long-term prosperity. The FBI can't remedy these maladies, nor can NCLIS or ALA -- that is, none can do it alone. It is important, however, for all to understand the real bases for many of our present scientific difficulties.

cc: NCLIS Commissioners
S. Martin, NCLIS Executive Director
ALA Executive Board
ALA Council
P. G. Schuman, Chair, ALA Legislation Committee