



MEMORANDUM

Date: June 10, 2020

To: Mattachine Society of Washington, DC **From:** McDermott Will & Emery LLP
(MSW)

Re: Key Documents in Support of “The Deviant’s War”

1. Chapter 1: Undated CIA Document released 8/27/1999.

- https://www.dropbox.com/sh/na9rlu2z4fvkzgn/AACyZ_2Qxc-qTdR6nq9v2Wm5a/Chapter%201-The%20Astronomer/7%20CIA-RDP78-04007A000700110005-8.pdf?dl=0

In this document, the CIA provided guidance to its personnel investigators for identifying homosexuals so that they could be denied employment. The CIA describes the challenges investigators will have since “there is no way to spot a homosexual.” The guidance reflects many stereotypes and tropes about how LGBT people behave but also reflects that personnel investigations into a person’s sexual orientation were never about a person’s ability to do the job for which he or she was being hired. This memorandum concedes that “[t]he homosexual subject is usually regarded as an above-average employee. His work habits are good, he is punctual, responsive to authority, cooperative, friendly, a credit to the organization.” Rather, the guidance here is a reflection of the animus targeted at the LGBT community by the federal government.

2. Chapter 3: Senate Subcommittee Report.

- <https://www.dropbox.com/sh/na9rlu2z4fvkzgn/AACMdkbrDZWink3xRrk-8LYua/Chapter%203-The%20Panic/37%20Senate%20Subcommittee%20Report%20Nov1950.pdf?dl=0>

The Senate Investigations Subcommittee of the Committee on Expenditures in the Executive Departments was formed in 1950 to “(i) determine the extent of the employment of homosexuals and other sex perverts in the Government; (ii) to consider reasons why their employment by the Government is undesirable; and (iii) to examine into the efficacy of the methods used in dealing with the problem.” Although the Subcommittee acknowledged difficulties in quantifying the extent of “the problem” in government service, it nevertheless concluded that “homosexuals and other sex perverts are not proper persons to be

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employed in Government because they are generally unsuitable and they constitute security risks.” The Committee considered that the criminal and immorality involved in sex perversions, and the underlying contrary nature of the behaviors against the normal accepted standards of social behavior, caused those who engage in such activities to be looked upon as outcasts. This social stigmatization led the Subcommittee to believe that “many perverts go to great lengths to conceal their perverted tendencies . . . [and] are frequently victimized by blackmailers who threaten to expose their sexual deviations.” Similarly, the Report concludes that sex perverts also lack the emotional stability of normal persons, because indulgence in sex perversion weakens the moral fiber of an individual to a degree that he is not suitable for a position of authority, and the presence of a sex pervert in a Government agency tends to have a corrosive influence upon fellow employees. This is because perverts frequently attempt to entice “normal” individuals to engage in perverted activities. The report then proceeds to discuss how to ferret out and handle sex perversion in the Federal government and the District of Columbia.

3. Chapter 6: NCACLU Statement.

- <https://www.dropbox.com/sh/na9rlu2z4fvkzgn/AAAFmQgNuMfNLdInQic8EzM7a/Chapter%206-The%20Bureau/2%20NCACLU%20STATEMENT.pdf?dl=0>

Three years after its inaugural meeting in November 1961, the National Capital Area Civil Liberties Union (NCACLU), a semiautonomous affiliate of the national American Civil Liberties Union, published a statement denouncing as discriminatory the United States Civil Service Commission’s (CSC) official policy that homosexuals are not fit for federal employment. Such employment practices, the NCACLU claimed, were discriminatory for three principal reasons: (i) the CSC lacked evidence that employing homosexuals would damage morale or thwart the efficient operation of the office, and in any event, such ex-ante punishment for presumed disruptive and improper behavior is unjustified and should be dealt with on an individual basis as cases arise; (ii) the CSC’s policies violated an individual’s right to privacy by arbitrarily labeling homosexuality as “immoral conduct;” and (iii) the CSC’s characterization of homosexuals as a security risk is overbroad (as some positions do not require access to security information) and discriminatory in its application (as similarly-situated heterosexuals who may be susceptible to coercion face no similar threat of dismissal). The NCACLU, therefore, recommended that the CSC end its discriminatory employment practices.

4. Chapter 7: Letter from John Macy to Mattachine Society of Washington

- <https://www.dropbox.com/sh/na9rlu2z4fvkzgn/AAAJrCEIXU4svaq1BW3eaxAea/Chapter%207-The%20Crusader/15.7%2001-17.pdf?dl=0>

Following a 1965 meeting of the United States Civil Service Commission (CSC) and a delegation of the MSW, the CSC’s chairman, John W. Macy, sent an official memorandum to the MSW stating its rationale for rejecting the MSW’s plea to end the CSC’s discriminatory employment practices. The letter seeks to delegitimize the NCACLU’s “Resolution of National Capital Area Civil Liberties Union on Federal Employment of Homosexuals” and other documents submitted by the MSW. While firmly reiterating its official policy, the CSC dismisses the MSW’s claims primarily by citing to the criminal nature of homosexual acts and claiming that enforcement against “criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct is uniformly applied and suitability investigations underlying its

observance are objectively pursued.” The letter, however, by its own admission, designates as “pertinent” certain factors for consideration in such suitability determinations, which themselves display the CSC’s official policy of animus toward homosexuals.

5. Chapter 7: Legal Advisory Files from Office of General Counsel.

- <https://www.dropbox.com/sh/na9rlu2z4fvkzgn/AAB9xzif2sh5s9PDMgDzCjq5a/Chapter%207-The%20Crusader/33%20The%20Legal%20Advisory%20Files%20%232%20of%203.pdf?dl=0>

Several documents detailing the U.S. Civil Service Commission’s actions and policies regarding investigations into individuals deemed unsuitable for Federal employment were found in the National Archives through FOIA requests. This particular collection of documents includes a 1963 memorandum instructing Civil Service Commission personnel on how to conduct special interviews with applicants and employees in order to determine disqualifying behaviors.

It also includes an internal 1965 memorandum from L.V. Meloy to the Commission expressing disappointment with the holding in the matter involving Scott v. Macy, a 1965 decision from the D.C. Circuit reversing the dismissal of Bruce Scott from federal employment on the grounds of homosexual behavior because the Commission failed to specify the particular acts that it found immoral. Accordingly, L.V. Meloy’s memorandum discusses strategies on how to bypass the Scott decision by using interrogatories and reciting in those interrogatories all of the information upon which the decision of “immoral conduct” is made.

This strategy is further illustrated by: (i) a 1965 internal memorandum outlining interrogatories to ferret out employees who had homosexual contact with Paul Richard Stoddard, an individual who was interviewed in December 1954 and who disclosed various individuals with whom he had homosexual contact, (ii) the Civil Service Commission’s 1968 Policy on Immoral Conduct, and (iii) several other documents demonstrating the Commission’s staunch opposition to homosexuals in government and even stauncher opposition to laying out to the judiciary the personal data that it assembled in order to make its conclusions.

6. Chapter 9: 1963/1964 Hearings before Committee on District of Columbia RE Charitable Solicitation Act

- https://www.dropbox.com/sh/na9rlu2z4fvkzgn/AACS9b2q0BRQ0hZM4ZC9oySta/Chapter%209-The%20Congressman/50%20hrg-1963-dch-0018_from_1_to_151.pdf?dl=0

On Thursday, August 8, 1963, Frank Kameny appeared before Congress for the first time to testify about the Mattachine Society of Washington (MSW). Following a short introduction about MSW, Kameny was caught off-guard by a question he had not specifically considered before: gay marriage. He answered the question in a way that typified his view on issues relating to homosexuality: that there is no inherent superiority to either gay or straight relationships and they ought to be treated equally.

Mr. Dowdy: Let me ask a question. Isn't it true that your society is devoted to convincing the public that homosexuality or homosexual activity is normal, moral, and worthy of equal status

with heterosexual marriage when two homosexuals form an indefinite time alliance for homosexual purposes?

Mr. Kameny: The question of what you term a homosexual marriage is not one upon which we have a specific policy. It is our feeling that if two individuals wish to enter into such a relationship it is certainly their right to do so as they choose; yes, sir.

Mr. Dowdy: And you want that in spite of everything that is in the laws of the various States and the Bible, both the Old and New Testaments? You oppose all of that?

Mr. Kameny: We will refer to those matters in a moment. We do –

Mr. Dowdy: We are going to have to adjourn.

This was likely one of the first public assertions of the right to marriage.

News of this testimony exposed Kameny as a gay man around the country for the first time – a result he must have suspected was inevitable. Nevertheless, Kameny returned the following day and gave hours of testimony, expertly rebutting Representative Dowdy’s attempts to “badger, browbeat, embarrass, and intimidate.” The hearing stands as a classic example of Kameny’s brilliant and rational approach to civil rights, as well as the vile animosity the government directed at homosexuals during the time period.

7. Chapter 12: Vincenz documents

- https://www.dropbox.com/sh/na9rlu2z4fvkzgn/AACwXSjpuMdzvgIwFlAsTb1wa/Chapter%2012-The%20Picket/36.3%201129_001.pdf?dl=0

In October 1977, Lilli Vincenz prepared a “Resume of Civil Rights and Related Activities”. The document summarizes her involvement with the Gay Rights Movement, beginning in 1963, when she joined the MSW. Ms. Vincenz “participated in every homophile picket in Washington, D.C. prior to 1970”, and was a member of the MSW delegation that first met with the Civil Service Commission in 1965 concerning “the federal government’s discriminatory policies towards homosexuals.” Even after her “active” participation in the movement ended, Ms. Vincenz continued to support the Gay Activists Alliance. Her resume concludes with a listing of her relevant publications, films, radio and TV appearances, research, and numerous speaking engagements.

- https://www.dropbox.com/sh/na9rlu2z4fvkzgn/AADm19QxyG7sYV7hfeb07TxBa/Chapter%2012-The%20Picket/36.5%201138_001.pdf?dl=0

“Lilli’s Open House Celebrates 5th Anniversary”. In what appears to be a draft article or newsletter, the author celebrates Lilli Vincenz’s weekly open houses in which queer women from “all around the metropolitan area” gathered to talk and socialize in a comfortable setting. The “Open House” came about following Frank Kameny’s run for Congress, which gained significant publicity and lead many queer women to reach out to the Mattachine Society of Washington (MSW). As the only lesbian in MSW with an “open” phone number, the interested callers were directed her way. According to the article, because Ms. Vincenz didn’t have the time to speak with each of the women individually, she decided to set aside

a time every week for the women to gather at her home. The tradition was still going strong five years later.

- https://www.dropbox.com/sh/na9rlu2z4fvkzgn/AAAFHEnXgDH31RDBCWVegeqya/Chapter%2012-The%20Picket/36.6%201139_001.pdf?dl=0

More than 30 years after her initial involvement with the Mattachine Society, Lilli Vincenz prepared remarks for an award ceremony held on May 6, 1997. In her remarks, Ms. Vincenz begins by crediting Frank Kameny for reminding her and other members of the MSW that ours “is the only country specifically protecting the pursuit of happiness in its constitution.” She continued, “[w]e should remember the entitlement we are granted by our Constitution to be happy and act on this right.” Ms. Vincenz also recounts the choice she made to pursue her own happiness – to find “someone who could return [her] love.” She began to search for “other Gay people” and was amazed by those she found; it naturally followed that she would join MSW and fight for gay rights. To Ms. Vincenz, “homosexuality always had to do with love, with sex, too, of course, but not just with sex [because her] ability to love was the most precious thing about” her.

8. Chapter 20: Kameny the Candidate

- <https://www.dropbox.com/sh/na9rlu2z4fvkzgn/AAAKo7EQ9e8ApTeP3p9mejnHa/Chapter%2020-The%20Candidate?dl=0>

These documents show Kameny the candidate for office. Kameny ran for D.C. delegate to Congress in 1971, a candidacy that would pave the way for others. The original flyers speak to the issues Kameny campaigned on – demonstrating both his commitment to ending discrimination as well as his positions on other hot-button topics of the time. His statement highlights how being the first openly gay candidate for congress – a candidate “who will put the gay interests first” – was an important step for the gay minority but a step that “works to the best interests of all.”

9. Epilogue: John Barry Remarks Kameny Memorial

- <https://www.dropbox.com/sh/na9rlu2z4fvkzgn/AABWILPEUKqsMz6kQvqqGesAa/Epilogue%3A%20The%20White%20House/64%20John%20Berry%20Remarks%20Kameny%20Memorial.pdf?dl=0>

Frank Kameny was a true winner: not just of occasional battles; rather a true long term goal achiever.

His goals were the most fundamental and logically straightforward: “Gay is Good” says his most famous slogan referring his goal of universal equality (which encompasses many of his other goals: sexual orientation is neither a reason for termination from employment nor grounds to be held mentally ill). His goals were thus also the most ambitious, demanding persistence and resilience out of him: his final victories passed through defeats. The defeats were a testament to the importance of his goals, and the eventual victories specifically reversed those defeats.

Frank Kameny's eulogy here reproduced witnesses exactly that: not only through its carefully selected, often poetic, sentences and words. Even more so, performatively through its bare existing, because of its author: it was delivered in a Capitol Hill memorial on Nov. 15, 2011 (about a month after Frank's passing, on October 11, significantly National Coming Out Day) by John Berry, the Director of the U.S. Office of Personnel Management who two years before had reversed the first and most personal of Kameny's defeats. On June 24, 2009 Mr. Berry, on behalf of the U.S. government delivered a formal apology for Kameny's dismissal from government service in 1957 (<http://www.boxturtlebulletin.com/2009/06/25/12453>).

Director Berry in this eulogy acknowledges how Mr. Kameny's dismissal from service left him "screwed in his heart;" nonetheless he "bolted his feet to the floor," and "launched a crusade," putting him in the sparse group of "people with the courage to stand up" and "t[ake] on an entire culture and a country who despised them." "He was a one-man megaphone, trumpeting the truth."

Mr. Kameny never gave up, not even when the U.S. Supreme Court denied hearing his case. "Frank stood, steadfast and unwavering," knowing "that the tree of liberty grows but one way – by adding rings." And he continued his cultural and political fight until the 2009 apology. Director Berry culminates his remarks by saying, "the Smithsonian rightly places Frank's artifacts in an exhibit titled 'Creators of the United States.' It's where Frank belongs – among the founders and the revolutionaries."