

Hon. Charles Mathias
U.S. Senate
Washington, D.C.

2/23/84

Dear Mac,

Ten days ago I wrote you that in one of my FOIA cases the Department of Justice and the FBI had contrived a new method of repression that is a threat against lawyers. I believe I also sent you copies of what I had filed in opposition and of a motion to vacate, the latter on grounds including that my time for response had not run. My lawyer also reported that he had been threatened by FBI counsel by being told that instead of asserting the judgement against me the government would move against him.

I have just received and enclose a copy of the government's response. As you can see, true to Orwell, it denies having said that it would exercise the judgement against my counsel and in the very same paragraph (on page 3) spells out exactly how it did precisely that.

The government avoids addressing what I filed by claiming this would involve "litigating" for a third time. (Page 1) There has been no hearing, no evidence adduced on this question and to the best of my knowledge, not even argument in court.

I also sent you a copy of the D.C. Court of Appeals decision in which a lawyer lost his license for refusing to pursue the lawful objective of his client. The government ignores this whipsawing of my lawyer and pretends relevance of the Roadway Express case. I do not see how this can be relevant because my counsel was not and is not in a position to do what the government demands of me and actually tried to pressure me into compliance as a lesser evil. Moreover, as I read the government's quotation of Roadway, the discovery in question was against counsel, not Roadway. (bottom of page 2)

The government's pretense that it would welcome the issue going to the court of appeals is palpably false because it did not await the action of that court and instead instituted this newest effort at repression. Moreover, it clearly intends to remove the matter from the jurisdiction of the federal courts and stated to my counsel that it would when it threatened him in advance.

As you can see, there is not even a hint that it will move against me in any way. The reason is clear; it does not dare, for many reasons. One is that the whole thing is utterly frivolous because I have, as the government has already admitted, provided all the information I have, as I told you, about two file drawers of it.

Bearing on what the government is really up to in all of this is its refusal to let me dismiss the case and not refile it, subject only to the preservation of the rights of others to seek information not provided to me. My offer even included a waiver of a Vaughn index justifying withholdings from what was provided, and such an index in this litigation would be a very costly thing. The FBI agents on the case and Department counsel did not even consult with higher authority. They just rejected this on the spot. It thus appears to be clear that the intent is to be able to withhold in perpetuity JFK assassination information not provided to me in this litigation.

Best to you all,



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BJ