Rep. Don Edwards
House of Representatives
Washington, D.C. 20515

7627 Old Receiver Road
Frederick, Md. 21701
2/24/90

Dear Don,

I've heard that you are going to hold hearings on FOIA. I write because I am certain I can be helpful, because I believe that FOIA observance needs help and because I have always believed that it bepseaks what is perhaps unique in our concept of freedom and self-government. If you think I may be exaggerating my potential usefulness, please speak to Jim Lesar, who handled most of my FOIA litigation. (393-1921) He can provide some of what I can but not by any means all.

I do not seek to be a witness and for at least a couple of months could not be. I am recovering from open-heart surgery and I am limited in what I can do by a series of venous thromboses. My typing is as poor as it is because I must sit with my legs elevated, with the typewriter to one side. I can't stand still, which limits my ability to use my own files, and my walking capability is limited, too.

When FOIA was amended in 1974, the Senate debate is specific in reflecting that the investigatory files exemption was amended over one of my earliest suits. Since then I've made extensive use of it. I then decided that FOIA made me surrogate for the people and without any exceptions I've made everything I've obtained freely available to anyone, including those I dislike personally and those who believe and write what I do not agree with. In practice, given my physical limitations and the fact that the only place I have space for what I've obtained, perhaps a third of a million ~~word~~ pages is our basement, this means unsupervised access. The use of our copier by others means more frequent service calls and repairs and for the second or third time we face the coming need to buy another one when we can ill afford it at our ages, nearing 80. On a few occasions there have been thefts, even though copies are available, but we still continue to give anyone unsupervised access. I believe that FOIA imposes this responsibility on me. I meet it.

I've had other decisions to make and rightly or wrongly I've made them and adhered to them. You may or may not be in a position to evaluate what I'll say but if you want reason to believe it, I'll provide that reason. Most of my use of FOIA has related to the official investigations of the assassinations of President Kennedy and Dr. King. I believe that the assassination of any president is the greatest subversion possible in a society like ours. I believe that in my seven books and what I've obtained under FOIA I have brought to light most of the fact, as distinguished from conspiracy theories, relating to these great tragedies. There is no conspiracy theorizing in any of my books. I've made a rather large study of how the basic institutions of our society worked in those times of great stress and since then. I do not intend this as a boast, but there is no significant error in any of my books and very,very few insignificant ones. Because mine is the basic work I seek to protect it from the many onslaughts on it by officials and by sycophants. You will not find any reporter, for example, who will tell you that I have misled or been inaccurate in anything I've said and I've spent many hundreds of unpaid hours trying to help them.

Because of the opposition I faced, and it was not I also with the earlier books, of which my first was the first, and when I was confronted by heavy official stonealling, mispresentations, lying and even perjury (I mean this literally) in the FOIA litigation, I decided not to depend on the arguments by counsel but to make myself subject to the ~~pains~~ penalties of perjury in most of what I alleged and in this challenged the government to confront the fact I presented to the courts. The affidavits I filed probably would make more than seven books and not once was officialdom able to refute anything I alleged under oath. In this I also sought to make a record for history and I believe that to a large degree I have done this. For whatever value it may have in the future. I do regard the assassination of President Kennedy as a major turning point in history, I did a considerable amount of work on that, and had it not been for the evil doctrine of some of the works that followed mine I'd have continued with that work. I did not plan more than

my first book on the assassination. I challenged the government to charge me with perjury and it not only could not, it was never able to refute anything I alleged. This made a record I think and hope will be useful in the future. It did help record our history.

Further attesting to unselfish motive is the fact that without any quid pro quo of any kind I'm giving all I have to local Hood College, where all my work will be freely available to all in the future. Some that I do not anticipate needing to respond to the inquiries of others is already on deposit there and is being used by students.

Some of the decisions I've made were not easy and from time to time I have some questions about them. I know that when I die much information I have will not be available. But I decided that when I am not able to cite the documents about which I'd be writing I'd not write anything that was not amply substantiated for the reader and could be subject to criticisms that could undermine confidence in my published work. You may remember that I once tried to explain this to you in a different way. My decision was that the unquestionable accuracy of what I have done is more important. (I've not been able to afford an assistant and I can use the cellar stairs only a few times a day and then am limited in my use of the files in about 60 file cabinets and many boxes.)

I hope wou will have taken the time to read this and that you can understand what I'm trying to say as I think in the past you didn't. You have, apparently, formed an opinion of what kind of person I am and there is not much I can do about that unless you want to know who has had enough experience with me to offer independent evaluations of me. And I hope you can understand why I prize and seek to protect the reputation of my work. I've shunned contact with conspiracy theorists and I not only refused to have anything to do with the House Select Committee on Aassassinations after my first contacts with them - I was the source of most of the published criticisms that were based on fact. I believe the assassinations were that important in our history and that the reputation and accuracy of the part of this history that I wrote is, too.

As Jim Lesar will tell you with regard to the King assassination, I conducted the the investigation that got him an evidentiary hearing and except that Jim and I both exercised discovery in Memphis for two difficult days, I conducted the investigation for the evidentiary hearing and produced the witnesse for it. They all stack. Through these witnesses we exculpated Ray, an approach I can explain if it interests you. The judge, after a very long delay, actually held that guilt or innocence were immaterial, that Ray had had the effective assistance of counsel and made his coerced guilty plea voluntarily. My investigation destroyed that of the FBI and I suppose they dislike me a little more for that. I've never been able to pinpoint the beginning of their dislike of me but it was before my work on the JFK assassination. It is quite unlike my earlier experiences with the FBI. When I was an investigator and editor of the Senate Civil Liberties Committee the Department borrowed me for what was a sensational case in 1938, the "Bloody Harlan" coal case, U.S. v Mary Helen et al. I was bofrowed because of my case knowledge, to help with the duces tecum subpoenaes, but I was used for me. I lived with the lawyers and agents for three or four months and had a friendly and trusting relationship with them. If you were in the FBI then, Jim McInerney was in charge of the detail and was like an older brother with me. Del Bryce, who was from Oklahoma, put on a shooting demonstration that ended the veiled threats that were coming back to us. McInerney later headed Lands and then Criminal and we remained friends until his death in an auto accident. After he left the government he was among the lawyers who defended "security" cases. McInerney had me ride with him when there was no agent free but before he did I had to learn to take his automatic apart and reassemble it blindfolded. I'm sure he could have been fired for it.

I've rambled a bit but aside from this Senate experience I was a reporter, an investigative reporter and an intelligence analyst in OSS.

I don't know whether your hearings will be limited to the FBI but I've had some FOIA experiences with the CIA that should provide useful records for a hearing on it. It has doped out ways of entirely ignoring my requests. And this reminds me that the FBI has quite a record of that and refused to change even after the Nader people called to the attention of the Senate subcommittee about 25 ignored requests that the Department witness testified they could not and would not try to justify. (Not one was thereafter searched for compoiance.) Those were the 1977 hearings.

I've been having some pretty farout experiences with the FBI recently, too. This includes steadfast refusal to respond to FOIA requests when I provide documentary proof of the existence of relevant records that remain withheld and persisting stonewalling of my 1975 requests for all records relating to me. I've renewed the request often and the same with appeals. I give them copies of their own records reflecting the existence of relevant and withheld records and they ignore that, too. I'm not familiar with the Privacy Act but if I am correct they have crossed the line and engaged in a criminal act in disclosing to a third party records on me when I was not the subject of investigative interest. I've gotten no response on this but after I wrote a complaint to OPR they finally blew some smoke in a totally irrelevant record. OPR has covered the FBI for years.

In my King suit, C.A.75-1996, Judge June Green asked me to cooperate with the appeals office, then headed by Quin Shea. He asked me for help with JFK assassination requests, mostly my own. The Department has acknowledged in writing that I gave it more help of this kind than anyone ever had. My copies, which include duplicates because some of the appeals addressed more than one subject, including many FBI records I attached, take up, as I now recall, seven stuffed file drawers. I did a lot of unpaid work to help and I tell you frankly, with part of the motive to leave a record for history.

Aside from my work on the assassinations, which is a real expose of the FBI that it has not been able to lay a finger on, I am confident that it dislikes me for two reason I think you should know in the event you think I can help you. Briefly, the first is that when the Dies committee entrapped me when I was researching a book on it in late 1939 and early 1940, they could not coerce me into signing an incriminating statement (I refer to the FBI here) and I took the grand jury away from the USA and got the Dies agent indicted for uttering and forging and false pretense. (The FBI is currently stonewalling on those records, of which, after 15 years, they've just let me have a few pages that refer to other records withheld, and without response when I informed it of this.) I was in the part of OSS that was tranferred to State. It fired me withour charges, without hearing, as part of a pogrom. (Mc Carthy era) I organized the successful defense. Thurman Arnold, who knew me from when he headed Anti-Trust and I took it all I developed on Nazi cartels in my investigative reporting; Paul Poeter, who knew me after he had headed FCC and was in private practise; and Abe Fortas, who I had not known, were our pro bono counsel. We were rehired, with a public apology, and we resigned. I was never a Communist, by the way. The FBI picked me up on electronic surveillances about which they lie, even to a court, and which they misrepresented in records that were disclosed. The underlying records remain withheld. They even gave the LBJ White House (Tate & Evans) a fabricated report that my wife and I annually celebrated the Russian Revolution. What was misrepresented into this is an annual gathering at a farm we then had after the Jewish high holidays, which are not in November. In this I am suggesting that because I've nailed some of this really dirty stuff for what it was they are now reluctant to disclose anything, fearing further embarrassment. Some of it, when I did try to help, as when I had a Minuteman source who was a network director and got much from him that the FBI accepted, they saw to it that there was no written record of its return because they thought I'd use it for my own purposes.

Once, and I have the records on this, they cooked up a scheme to have SA Lyndal Shaneyfelt sue me for libel to "stop" (and several agents used this word) me and my writing. This was approved up to Hoover. Tolson said the decision should be left up to Shaney-

felt, who dreamed the scheme up, I'm sure, to get some Brownie points. When the Hoover approval, subject to his agreement, got back to him he chickened out. There was no libel. The Legal Counsel Division held that he could sue.

Please excuse my rambling. I must get up and walk around a bit every 20 minutes or so and my mind wanders.

I want to get the records on me for reasons consistent with what I say above. I want to leave a record refuting the misrepresentations and lies that could be used to undermine confidence in my work.

If you hearing interest includes the past but includes how the Act was observed or wasn't after the 1974 amendments, the content of some of the records I obtained would, I believe, attract attention. The first suit filed under the amended Act was a refiling of the case cited in the Senate debates as requiring the investigatory files exemption amending. It was for the results of the scientific testing in the JFK investigation. There is new and I think significant information that I did get and this information does not support the official solution. In my suit for the records of the Dallas and New Orleans field offices relating to the JFK investigation there were regular misrepresentations and ultimately, with the judge being virtually in the FBI's pocket (John Lewis Smith) overt and undenied perjury. Again, some quite interesting records were produced, despite the great amount withheld. While I am not aware of what was dared in other litigation, I'll be surprised if in any other case there is anything like the volume of false swearing. In establishing that it was false swearing I made myself subject to the penalties of perjury and proved it time after time. They didn't dare go after me for this because they knew they were lying under oath to what could not have been more material but they did, as Jim Lesar will confirm, create a conflict of interest which meant I had to wind up representing myself. It is a long story so I tell you only that they got a money judgement against me for nonexisting reasons and haven't dared try to collect it. All this is documented. What they really tried to do, in addition, was to get a decision in which a lawyer would be held responsible if his client refused to take his advice. They got that decision from Smith, but it was overturned.

Lesar and I both have copies of all that is in the records of the cases he handled for me and if you want to go over his copies and you need a release, please take this as a release. I have more than he has and have knowledge he doesn't have. You are welcome to anything I have.

When you consider that the nature of my requests is such that there should not have been any litigation at all I think you can see that what was spent to frustrate the Act with me alone totals a fortune. There came a time, as Lesar will confirm, that the Department organized a "get Weisberg" crew of six lawyers and they did labor to frustrate my requests. To give you an idea of the extreme to which they go to run up the costs, my 1975 King case is still before the court on the question of counsel fees. They have spent much more to keep Lesar from getting what the judge awarded than they can hope to save by contesting it. I'm sure the government's costs are in seven figures in my litigation.

Whether or not you want or can use my help, you have my best wishes for hearings that can strengthen the Act and improve the government's awful record on compliance.

If you know where I can get your Hosty hearings I'd like to read them and then give them to Hood. The FBI did disclose, excuse the expression, the IG's investigation.

Sincerely,

Harold Weisberg