

Senator Paul Sarbanes
U.S. Senate
Washington, D.C. 20510

7627 Old Receiver Road
Frederick, Md. 21701
1/31/90

Dear Senator Sarbanes,

Attn: legislative or administrative assistant

I am a former reporter, investigative reporter, Senate investigator and editor, wartime intelligence analyst and the author of several books. I am almost 77, am in impaired health that, among other things, requires that I sit with my legs elevated and, when typing, with the typewriter to one side. So I apologise for my typing. I write in part to inform you for when the Congress again considers amending the Freedom of Information and Privacy Acts and in part in the hope that you can be of help with my perpetual problems with the Department of Justice and the FBI in my efforts to use those Acts, efforts that in part account for their dislike of me (and I think abuses), efforts that in 1974 led the Congress to amend the investigatory files exemption. The legislative history in the Senate is quite specific on this. Senator Kennedy saw to this in his questioning of Senator Hart during the debates.

Limitations imposed on me by my health preclude my filing any additional FOIA suits but I have filed a number and as a result have obtained about a third of a million pages of once-withheld records. They and all my other materials will be a permanent, public archive at local Hood College. Some are already deposited and students have been using these materials for years.

My work for more than 25 years has been on the subject of political assassinations, mostly those of President Kennedy and Doctor King. Unlike others, I am not a conspiracy theorist. There is none of that in any of my books. Mine is a rather large study of how our basic institutions worked in those times of great stress and since then. If some of the agencies did not dislike me before then, as the FBI did, they all developed a strong dislike because of my work and because of both my uses of the Acts and what I made part of the historical record in those lawsuits. I can amplify this if you would like and I can provide credentials from scholars on my own scholarship and accomplishments. I think I do not exaggerate in saying that I brought to light just about all that is both factual and not in accord with the official solutions to those crimes and am responsible for most of the disclosures under FOIA.

The FBI in particular generated many internal records that are quite defamatory. They can be misused in the future to undermine the credibility of my work in which, despite its best efforts, it has never been able to show a single factual error. Had there been any error in the innumerable, lengthy, detailed and thoroughly documented affidavits I filed in the FOIA cases, the government would have taken steps but there was no error at all. Not one of any substance has been shown in any of my books, either.

Senator Mathias, who had been a friend, called to Senator Goldwater's attention when he chaired the intelligence committee a particularly nasty FBI fabrication and that committee's records include the correction of it. The FBI told the Johnson White House that my wife and I annually celebrated the Russian Revolution with an outing at our home for about 35 strangers. Our home was then a farm and the occasion did not coincide with that revolution but in fact was a religious gathering sponsored by the Jewish Welfare Board for Washington area service personnel after the Jewish high holidays. What we then did at our farm that was so attractive to children the University of Maryland copied, and operates at Wheaton as Old McDonald's Farm. I cite this to give you an idea of the extreme to which the FBI went to hurt us and the basis it has, in addition to its traditional stonewalling, for resisting disclosures. If I am not able to get those records that are withheld improperly, it will not be possible for me to include with them an account of the actualities. Unless I am able to do it, it will not be done. My concern is not personal. I don't want any false representations that can undermine the credibility of my work, particularly

because I regard the assassination of a president as the most subversive of crimes in a society like ours.

If you can take the time to read the enclosures, you will see that, despite the bad typing and occasional lack of clarity in expression, there is no basis at all for the appeals office and the FBI to say that they had no idea what I was talking about, what I was appealing. This is merely another dodge, par for the course with me, as the enclosed pages of the Senate FOIA subcommittee hearings of 1977 reflect. (I had nothing to do with this being called to the committee's attention and did not even know about it until later.) What the Department did after assuring the Senate that it would rectify what it could not justify and wouldn't was not to comply with those requests, which it ~~never~~ ^{never} did. Instead it set up a "get Weisberg" crew, their designation, to frustrate my requests and FOIA litigation. The present situation is a continuation of the long past and its determined refusal to abide by the laws and make the disclosures they require.

Although I do not know, I think it is probable that the FBI's dislike of me begins with what is mentioned in the enclosures, the "Wayne" case. Toward the end of 1939 I was researching a book on the Dies ~~Ho~~ American committee of the House when it decided to entrap me, with the FBI's assistance in an effort to get me indicted. Instead the grand jury refused to indict me and my then associate, the late Gardner Jackson, who was the legislative representation of the United Mine Workers' Labor's Non-Partisan League. (That was John L. Lewis' day.) and it did indict Wayne, the committee's agent. He got two years for uttering and forging and false pretense, suspended on Dies' personal appeal. In the course of this the FBI tried to get me to sign a false and incriminating statement that is referred to in the records that are the subject of the appeal. I refused to and agreed to sign a correct statement, which I did. Both statements remain withheld, together with most of the related records. Yet my first request, it is undenied, goes back to 1975 and, again undenied, was renewed and appealed and reappealed many times, without even acknowledgement. Only now, when records are being processed in response to someone else's request, are they making this partial and prejudicial disclosure - when it can be used to defame me. Regardless of my rights under FOIA and the Privacy Act.

I am not and never have been a Communist or any kind of subversive but I was in 1941 ~~for the United States Government~~ and 1942 the opposite, working for British intelligence at the suggestion of the Department of Justice. But every record reflecting the fact that I was not anti-government and worked without pay to help it is withheld. This relates to my work in exposing Nazi cartels, all of the fruit of which I took to the Department, and to my work with it and the FBI when I was borrowed from the Senate to assist in what then was known as "the Bloody Harlan" case. I spent four months with them in Kentucky, helping both the prosecutors and the FBI, yet not a single record has been produced in response to my requests and appeals. (This was the prosecution of the Harlan County Coal Operators and their deputized gunthugs who were wholesale murderers. And I have the Senate's hearings, which I edited and published, if you ever know of a student interested in them. Later they'll be at Hood.)

I have spelled these things out to the appeals office in simply enormous detail. That began when a judge in one of my FOIA cases asked me to cooperate with the appeals office. The extent to which I did is reflected in two full file cabinets of appeals and their documentation alone. I think you can see the considerable cost in time and money of my effort to serve our history, for most do not relate to records on me. But with regard to them the appeals have attached the government records identifying those that were and remain withheld. Often I provided even the file numbers, to no avail. This is true of the false allegations of my alleged relationships with the USSR embassy, to which I refer in the appeal letter.

I've seen many letters from Members relating to FBI withholdings and generally they are fobbed off by the Department, which is reluctant to tangle with the FBI. On its part, the FBI develops strong dislikes for those who do not fear it, as I have not.

I hope you can be of help. If there is anything else you would like to know, please ask. Thank you for anything you can do. Sincerely, Harold Weisberg

Harold Weisberg