

Mr. Kent Carroll
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260 Fifth Ave.,
New York, NY 10001

7/9/93

Dear Mr. Carroll,

I do not know what our mutual friend Richard Gallen told you about me, if anything. Past 80 and with a number of health problems my sleep cycle is not that of most people. It is interrupted frequently and most of the time I am not able to remain asleep as long as most people can. I almost never remember any dreams. And if I am asleep more than has for several years been normal for me, it tires me. I also walk, the only exercise permitted me, before daylight. But this morning's heat and humidity indicate that I should not until I'll be permitted to do some walking inside an air-conditioned building. So, tired and without enough time to return to writing, I was just sitting and thinking.

I remembered that at a little before 1 a.m. when I awakened in my mind's eye was what I was ~~present~~ some time after it appeared, Publisher's Weekly's quotation of you, that Harry Livingstone "knows what he is talking about" because it is he who brought to light JFK's adrenal deficiency. Then I remembered, not without amusement, that your coming book is titled Killers of Truth, with the subtitle saying that, I presume, all other than Harry have killed the truth about the JFK assassination. That is much more modest than what he wrote me and others, which is that I was part of two conspiracies, one to kill JFK and the other to keep him from "breaking the case wide open," or I am an ~~accessory~~ accessory in two crimes, one of which is to murder. Of his varying account of the less serious crime the last one of which I have knowledge had me the leader of that conspiracy.

If you had cited a lesser authority than Harry I would have trusted my memory, which told me that without proof JFK's adrenal deficiency was referred to quite often in public by those hoping LBJ would be able to wrest the nomination from JFK by scaring people with the prospect of nominating a man on the verge of death from that adrenal deficiency and that my friend Dr. John Nichols wrote an article for a medical journal with the proof in about 1967 when he gave me a copy of that article.

Harry told me how I was an accessory in the conspiracy to murder. It was news to me.

I was puzzled for a while on how I became a killer of truth and a government disinformation agent. Now I think I can pinpoint when that began. It was when Harry was for the first time, which is to say after his two books were published, going to study the Zapruder film. He asked me what to look for. I told him he might not like it but if he examined those frames the Warren Commission was to have published and hadn't, frames I forced the Archives to include in the tray of those shown to researchers, he would find that contrary to that basis of his second book the back of the head had not been blown out. Three weeks later he phoned me and thanked me for guiding him to the truth. He even said he was wrong, the only time I remember him saying that. And soon two things coincided: he tried to have an investigation made of me as an employee of the DuPont Corporation, which I never was and never said

I had been (I'd worked for a newspaper owned by a DuPont) and Harry had a revelation: the Zapruder film had been altered by the conspirators. Thus the back of JFK's head had been blown out, as he had written, with the proof that it had not been phoned up by that nefarious conspiracy.

But as I thought about this it did not really make me a killer of truth, it was that conspiracy. I never had access to that film to doctor it before those slides were made. Nor had I been, as I told Harry, on that late-night plane from Dallas to Chicago on which the original of that film was carried. On that plane was the only opportunity for any playing of games with the original. Harry did not tell me how those foresighted conspirators managed to have in advance a photo lab on that commercial plane.

So, how could I have been a killer of truth? As I thought about this the only way possible seemed to be that I brought to light about a quarter of a million pages of what had been secret government JFK assassination records and more, I made it possible for others to continue that effort.

And, of course, all those records also are phony. Witness the fact than on his many visits here Harry never once made any search of those files.


Mea ~~QUIA~~ Culpa!

First I thought you might like to have the understated newspaper account of what a federal judge once said in one of those many FOIA lawsuits, some precedental, that brought all those phony records to light. Then I remembered that I have a copy of the pertinent page of the Congressional Record. There you will see that no less an authority than the President's only living brother saw to it that the legislative history of the amending of FOIA, referring to the investigatory files exemption, was my crime.

I enclose copies of both.

So, in a saying popular in my youth, I "lived and learn."

Sincerely,


Harold Weisberg

Critic to Get Free FBI Set Of JFK Files

By George Lardner Jr.
Washington Post Staff Writer

U.S. District Court Judge Gerhard Gesell refused yesterday to delay the FBI's impending release of thousands of additional documents bearing on the assassination of President Kennedy, but agreed that author-critic Harold Weisberg should get a free set "with all reasonable dispatch."

The FBI plans to make public on Wednesday some 40,000 pages of headquarters documents on the 1963 assassination at a cost of 10 cents a page for those who want their own copies. The bureau released an initial 40,000 pages last month on a similar basis.

An outspoken critic of the Warren Commission and author of six books on the JFK murder, Weisberg noted that he has had freedom-of-information requests for such documents pending for years and that he had asked for a waiver of fees in mid-November. He filed for a federal court injunction in late December, arguing that he was entitled to a free set at least by the time the final batch was made public.

Charging that such voluminous FBI releases amounted to "media events" that effectively camouflage unjustifiable deletions and paper over "a very careful job of sifting and concealing," Weisberg said the Justice Department and the FBI had completely ignored his request for a waiver of the fees, which he said he could not afford.

Announcing his decision from the bench after an hour-long hearing, Gesell was sharply critical of the government's delay in responding to Weisberg's request for more than 50 days. The Justice Department offered him a reduced rate of 8 cents a page last week, but Gesell said "it is apparent no consideration whatever" was given to Weisberg's claims of poor health and indigency.

"The equities are very substantially and overwhelmingly in plaintiff's favor," Gesell said. He said that the records would not be coming to light now were it not for earlier freedom-of-information litigation by Weisberg. This led to a congressional change in the law, opening the door to FBI investigatory records.

The judge, however, declined to hold up the Wednesday release, on grounds that the disclosure of the documents was the "pre-eminent consideration." Weisberg's lawyer, James H. Lesar, said later that he understood the FBI would mail Weisberg copies of the forthcoming 40,000 pages the same day.

the agencies operated illegally. The problem is that in the quest for law and order, case after case after case after case has been thrown out because the law enforcement and intelligence communities acted illegally. So I do not think we attain any particular status of accomplishment in conquering organized crime, or any crime whatsoever for that matter, with illegal activities resulting in cases being thrown out of court.

I would suggest that the record speaks for itself. Frankly, I never thought the record of former Attorney General Ramsey Clark was that good. But, comparing his record with that achieved by succeeding Attorneys General, he looks like Tom Dewey in his prosecutorial heyday.

Mr. HRUSKA. That record is bad, but do we want to make it worse by adopting this amendment which threatens to tie the hands of the FBI and dry up their sources of information? I say, with that, the soup or the broth is spoiled, and I see no use in adding a few dosages of poison.

The pending amendment should be rejected.

Mr. KENNEDY. Mr. President, I do not recognize the amendment, as it has been described by the Senator from Nebraska, as the amendment we are now considering. I feel there has been a gross misinterpretation of the actual words of the amendment and its intention, as well as what it would actually achieve and accomplish. So I think it is important for the record to be extremely clear about this.

If we accept the amendment of the Senator from Michigan, we will not open up the community to rapists, muggers, and killers, as the Senator from Nebraska has almost suggested by his direct comments and statements on the amendment. What I am trying to do, as I understand the thrust of the amendment, is that it be specific about safeguarding the legitimate investigations that would be conducted by the Federal agencies and also the investigative files of the FBI.

As a matter of fact, looking back over the development of legislation under the 1966 act and looking at the Senate report language from that legislation, it was clearly the interpretation in the Senate's development of that legislation that the "investigatory file" exemption would be extremely narrowly defined. It was so until recent times—really, until about the past few months. It is to remedy that different interpretation that the amendment of the Senator from Michigan which we are now considering was proposed.

I should like to ask the Senator from Michigan a couple of questions.

Does the Senator's amendment in effect override the court decisions in the court of appeals on the Welsberg against United States, Aspin against Department of Defense; Dilow against Brinegar; and National Center against Weinberger?

As I understand it, the holdings in those particular cases are of the greatest concern to the Senator from Michigan. As I interpret it, the impact and effect of his amendment would be to override those particular decisions. Is that not correct?

Mr. HART. The Senator from Michigan is correct. That is its purpose. That was the purpose of Congress in 1966, we thought, when we enacted this. Until about 9' or 12 months ago, the courts consistently had approached it on a balancing basis, which is exactly what this amendment seeks to do.

Mr. President, while several Senators are in the Chamber, I should like to ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. KENNEDY. Furthermore, Mr. President, the Senate report language that refers to exemption 7 in the 1966 report on the Freedom of Information Act—and that seventh exemption is the target of the Senator from Michigan's amendment—reads as follows:

Exemption No. 7 deals with "investigatory files compiled for law enforcement purposes." These are the files prepared by Government agencies to prosecute law violators. Their disclosure of such files, except to the extent they are available by law to a private party, could harm the Government's case in court.

It seems to me that the interpretation, the definition, in that report language is much more restrictive than the kind of amendment the Senator from Michigan at this time is attempting to achieve. Of course, that interpretation in the 1966 report was embraced by a unanimous Senate back then.

Mr. HART. I think the Senator from Massachusetts is correct. One could argue that the amendment we are now considering, if adopted, would leave the Freedom of Information Act less available to a concerned citizen that was the case with the 1966 language initially.

Again, however, the development in recent cases requires that we respond in some fashion, even though we may not achieve the same breadth of opportunity for the availability of documents that may arguably be said to apply under the original 1967 act.

Mr. KENNEDY. That would certainly be my understanding. Furthermore, it seems to me that the amendment itself has considerable sensitivity built in to protect against the invasion of privacy, and to protect the identities of informants, and most generally to protect the legitimate interests of a law enforcement agency to conduct an investigation into any one of these crimes which have been outlined in such wonderful verbiage here this afternoon—treason, espionage, or what have you.

So I just want to express that on these points the amendment is precise and clear and is an extremely positive and constructive development to meet legitimate law enforcement concerns. These are some of the reasons why I will support the amendment, and I urge my colleagues to do so.

The PRESIDING OFFICER (Mr. DOMENICI). The Senator from Nebraska has 6 minutes remaining.

Mr. HRUSKA. Mr. President, I should like to point out that the amendment proposed by the Senator from Michigan, preserves the right of people to a fair trial or impartial adjudication. It is careful to preserve the identity of an in-

former. It is careful to preserve the idea of protecting the investigative techniques and procedures, and so forth. But what about the names of those persons that are contained in the file who are not informers and who are not accused of crime and who will not be tried? What about the protection of those people whose names will be in there, together with information having to do with them? Will they be protected? It is a real question, and it would be of great interest to people who will be named by informers somewhere along the line of the investigation and whose name presumably would stay in the file.

Mr. President, by way of summary, I would like to say that it would distort the purposes of the FBI, imposing on them the added burden, in addition to investigating cases and getting evidence, of serving as a research source for every writer or curious person, or for those who may wish to find a basis for suit either against the Government or against someone else who might be mentioned in the file.

Second, it would impose upon the FBI the tremendous task of reviewing each page and each document contained in many of their investigatory files to make an independent judgment as to whether or not any part thereof should be released. Some of these files are very extensive, particularly in organized crime cases that are sometimes under consideration for a year, a year and a half, or 2 years.

Mr. HART. Mr. President, will the Senator yield?

The PRESIDING OFFICER. All time of the Senator has expired.

Mr. KENNEDY. I yield the Senator 5 minutes on the bill.

Mr. HART. Mr. President, I ask unanimous consent that a memorandum letter, reference to which has been made in the debate and which has been distributed to each Senator, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

MEMORANDUM LETTER

A question has been raised as to whether my amendment might hinder the Federal Bureau of Investigation in the performance of its investigatory duties. The Bureau stresses the need for confidentiality in its investigations. I agree completely. All of us recognize the crucial law enforcement role of the Bureau's unparalleled investigating capabilities.

However, my amendment would not hinder the Bureau's performance in any way. The Administrative Law Section of the American Bar Association language, which my amendment adopts verbatim, was carefully drawn to preserve every conceivable reason the Bureau might have for resisting disclosure of material in an investigative file:

If informants' anonymity—whether paid informers or citizen volunteers—would be threatened, there would be no disclosure; If the Bureau's confidential techniques and procedures would be threatened, there would be no disclosure;

If disclosure is an unwarranted invasion of privacy, there would be no disclosure (contrary to the Bureau's letter, this is a determination courts make all the time; in-

Full text of Congressional Record of which this is part in top drawer of JFK appeals file cabinet.