

Editor, New York Times Magazine
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New York, NY 10036

Harold Weisberg
7627 Old Receiver Road
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Dear Editor,

In the past I was a source for a number of Times reporters. I remember Wendell Rawls, John Crewdson and Martin Waldron, who spent time here, and Peter Kihss. After reading the manuscript of my second book in 1966 Harrison Saulsbury had Kihss and three others spend an afternoon questioning me. Tom Wicker had introduced the manuscript of my first book and me to Saulsbury. For Rawls I was his source of stories raising questions about the House select committee on political assassinations. I was the only one of those generally and I think less than accurately lumped together as "critics" of the official accounts of the JFK assassination. I alone refused to have anything to do with that committee. After my first contacts with it I informed a number of reporters of what I regarded as its improprieties. I am also alone in never having espoused any conspiracy theories. My work is limited entirely to factual reporting and analysis. In this it is unique. From time to time I debunk the commercializing of these unproven conspiracies and other exploitations.

I do not want to mislead you: with the official evidence itself I have proven that there was a conspiracy to kill, without any whodunit conjectures. On the evidence only, the official evidence. And in my new book, for which I do not have any pub date, I not only carry that forward, with official documents, I show there was a de facto conspiracy not to investigate the crime itself. I got about a third of a million pages of such records by a dozen FOIA lawsuits. Some were ^{precedental} ~~precedental~~ and one contributed to the 1974 FOIA amending to open FBI, CIA and similar ~~files~~ files. I enclose the page of the Congressional Record. I am surprised that with my suit for suppressed records in his brother's assassination no paper reported that it is he who saw to it that the legislative history would be as clear as it is.

I apologize for my typing. It cannot be any better. I am now past 80 and in impaired health.

Because I am the only one working in the field with an appropriate background and with no commercial or career interests I have, more since I started using FOIA, considered that my primary obligation is, to the degree possible for me, to perfect the record for history. Consistent with this I have given all my papers, with no quid pro quo, to local Hood College, a fine small one, and work closely with three professors who teach courses in the politics of assassinations, not as a whodunit. If you would like their independent and perhaps not entirely impartial opinions they are Dr. David Wrone, University of Wisconsin, 715/344-8148; Dr. Gerald McKnight, Hood, 301/473-5639; And Dr. Gerald Ginocchip, Wofford College, 591 Lucerne Drive, Spartanburg, SC.

Because I consider that FOIA gives me no ~~preert~~ property right to the records I obtain I make them freely available, along with our copier, to all writers who want to use them. I

know in ~~advance~~^{advance} that virtually all who do will write what I do not agree with because I know in advance that they either espouse conspiracy theories or support the official mythologies. (There are two because the FBI and the Secret Service, if not publicly, in their internal records, do not agree with the conclusions of the Warren Commission.)

I hope you will consider the enclosed article for publication. If you do, feel free to edit or cut it in any way you may like, as long as there is no change in fact. If you have any questions, please feel free to call me (301/473-8186) but before 6 p.m. I must be abed by 7 because ~~for~~^{for my} several medical problems I am awake and cannot return to sleep beginning not long after midnight.

If anyone at the Times wants to be able to consult someone with a real knowledge of the subject about the coming flood of ~~commercializations~~^{commercializations} and exploitations of the 230th anniversary of the JFK assassination I will be as helpful as I can. I do not know of one of them that will bring to light any new fact about the assassination and I know about more than Publishers Weekly reported on last month. No matter how carefully and seemingly effectively they and their publishers ~~present~~^{present} their books as factual, they are in fact theories, some absolutely impossible. For example, the one Publishers Weekly said will prove that Oswald was a lone assassin because the Zapruder film proves it. That one began as an entirely different book, by the way.

Should you be interested, I believe that there now ought be no problem in getting for use a clear picture of the tie. Not/after all that has been disclosed officialy, with all the blood on it. There is none on the tie where it has evidentiary value. It was, without any question at all, not struck by any bullet.

If you are not interested, please let me know as soon as you can. I would then submit it elsewhere.

Sincerely,

Harold Weisberg

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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. IRUSKA. 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; Dillow 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—treson, 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. IRUSKA. 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.