

Media circus in court

Bring a television camera into a courtroom: The courtroom becomes a movie set; everyone becomes an actor; and objectivity, the goal of a "fair, public trial," flies out the window.

What is left is a "media circus" designed to amuse a segment of our population that is, generally, more interested in the attire and antics of the attorneys than the case at hand.

From the Society's Code of Ethics: "Balance a criminal suspect's fair trial rights with the public's right to be informed."

BOBBIE HART O'NEILL
Yuma, Arizona

FOIA issue falls short

Commemorating FOIA and encouraging use of it are fine ideas, but the special issue (October, 1996) fell far short of what it could and should have been, as reporting, as commentary and in informing those who would use the act.

The omissions in its Hall of Fame are significant. Some members do not belong there. And although there are references to the really significant 1974 amendments, with credit given where it has nothing at all to do with those amendments, the issue contains nothing about those amendments. Can it be because of their political importance? Does SPJ duck on this?

What so many people who lacked the influence, connections, or the support of existing organizations did to give FOIA viability is not indicated in any way.

In the beginning, when it was so important, it was not as you say, that "The news media led the way..." They did not even report the efforts of those who did lead the way.

I think you may—in the future—find some of the actual history useful. To give you an idea of how it really was after Johnson signed the bill—what else could he do?—he and his administration did all they could to frustrate the act and its intent. I asked the Washington ACLU to represent me in my efforts to use the act to obtain withheld information relating to the assassination of President Kennedy and its investigations. That crime and that

investigation are not the fun-and-games the major media make of writing about them. That is the most deeply subversive of crimes. Mine is not theoretical writing about it; it is real reporting in books.

After several trips to The National Archives with me to see the kind of existing information that was withheld, instead of getting a lawyer to help me obtain the withheld information, the ACLU man got me a lawyer to defend me when—as he expected—the FBI would come after me.

In the end, a young friend, who had not yet taken the District of Columbia bar examination, did represent me in at least a dozen FOIA lawsuits. Some were precedential, including one on copyright, and one is given credit in the legislative history for the 1974 amending of the act's investigatory files exemption. Yet he, James H. Lesar, is not mentioned in your issue.

Of all the many in the Congress to whom we are indebted for those amendments that gave the act viability, the senator most responsible was the late Phil Hart of Michigan. He is not mentioned in this special issue, but he does belong in the Hall of FOIA Fame for that and for much of his political activity in support of the act.

In that early request, I could not get the ACLU's help on what I sought: the non-secret results of the FBI's testing of alleged assassination evidence. (The FBI prevailed on overt mendacity.) The senator who saw to it that the legislative history would be clear was the sole surviving Kennedy brother, Edward.

Your Hall of Fame quite properly includes Sheryl L. Walter for her role in getting fees waived—years later. But it makes no reference to the first to whom credit and thanks are due, Jim Lesar.

And contrary to the position of Jack Landau and the Reporters Committee, the judge who granted that fee waiver stated that the records then to be disclosed would not be brought to light if it had not been for my earlier litigation that was cited in the legislative history of the 1974 amending of the act. (Neither he nor Senator Kennedy credited ASNE and its counsel, Richard M. Schmidt, Jr. for that 1974 amending, as you do.)

Before my health problems compelled me to discontinue lawsuits under FOIA, I obtained more than a third of a million pages of once-withheld records, and in

the spirit of FOIA, have always given free and unsupervised access to them to all writing in the field. They have also been deemed to a college that will make them permanently available.

I want to call your attention to what can lead to considerable frustration if those who read it act on it. Under "How to file a FOIA request" on page 48, you say that "If an agency does not meet the time deadline [of ten working days], you may consider the request denied and appeal or sue ..."

If suit is filed without appeal of the denial, the judge can throw that suit out forthwith, on the ground that all administrative remedies have not been exhausted.

Gordon Winslow's failure to get compliance from the CIA after 17 years is not the record. There may be those older than mine, but I'm still awaiting compliance with requests I made of it in 1970 and earlier. Winslow's request relates to the late Rolando, not Ronaldo Masferrer. He was not known as El Tigre over his anti-Castro activities after he got to this country. He earned that nickname when he was part of the Batista regime Castro overthrew.

In the early days, when those with wealth and influence did not use the act, giving it viability was not a pink tea. It required some risks, much effort and faith, but there was no real help anywhere.

I'm sorry to tell you that the records of some of those you include in the Hall of Fame are not what you represent them to be, although what you report is the general understanding. While I have no reason for this, I guess it is because they did not like independent journalists doing what they should have been doing and were not.

HAROLD WEISBERG
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Crime down? Try again

Attorney General Janet Reno announced this summer that youth arrests dropped for 1995. Our local media featured the story, pretty much unaltered from the version that seems to have run in every other mass media outlet that day.

No one asked if crime was going down, but the stories certainly gave that impression. The New York Times went further—they actually changed Reno's