Mr. Robert G. Vaughn
Professor of Law
Law School
American University
Washington, D.C.

7/1/84

Dear Mr. Vaughn,

Your excellent article in today's Post avoids what in my not inconsiderable experience in FOIA litigation is largely responsible for the costly and dangerous (to democracy) situation you present so well. This is the tolerance of all courts of abuses by the agencies and their counsel ranging from personal abuse of the courts to repetitious and proven perjury and its subornation.

My counsel and I, for example, were first chided and then threatened by the Judge Pratt of the Vaughn v. Rosen decision for proving that an FBI agent had knowingly sworn falsely on the most material point at issue. (Ultimately he swore to four different and inconistent versions of that single point and the Department thus prevailed, ending with a grossly inaccurate defamation of me by the appeals court, which never once confronted the real issues, despite three remands skirting them.)

There is, I believe, a way of doing something outside the ignored sanctions of the amended Act, but I doubt there is a lawyer willing to run the risks I've run to make the effort and I fear there is no judge who would be any less reluctant. In my experience the agencies and their counsel have, among other things, practised deliberate felonies. Counsel could and should, among other things, be brought before the proper bar committee. One punishment could make a vast difference.

Unlike other litigants of whom I know, and I certainly am not familiar with most cases, when I was confronted with these abuses I tried to make the system work and at the same time tried to make the agencies and their counsel face what they did. Thus in each and every one of my cases, making myself subject to the penalties of perjury, I documented and I think without any doubt at all proved in the case records what I state above. There was never any real response, rarely any at all, and no single judge ever did anything significant. Only one did anything at all. In a case now in its eighth year Judge June Green banished an FBI agent who I proved had not only sworn falsely but had presented phony documents as genuine. He also was used as an FOIA supervisor and affiant when he was, unknown to the court, an unindicted coconspirator in the Pat Gray case. Yet she did not expunge either his perjurious attestation or his phony documents.

If you or any of your students have any interest, all these records are available here or through my counsel in these cases, Jim Lesar, 1000 Wilson Blvd., #900, Arlington, 276-0404.

Thanks for the fine piece, but I fear the watchman waketh in vain.

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The history of this three-remands case is illustrative. After I filed it in 1970 and charged such abuses to the FBI, the appeals court panel found for me and directed Pratt to permit me to develop these charges. The Department demanded and got an en banc review and there prevailed. One judge actually prated that I should be "forever forfended" from continuing my inquiry. It was over this that Congress amended the investigatory files exemption and the refiled case was the first under the amended Act. It then was in litigation until last year.

My first request for this information was in 1966, so the effort lasted almost two decades and as of today searches responsive to the refiled request have not been made and this was sanctioned by the appeals court, which simply ignored the case record.

Some of the information sought was destroyed after my request was filed and no court even commented on that. Was destroyed, that is, unless the FBI lied in so stating. It is information that without reasonable doubt, would overturn the official explanation of the assassination of President Kennedy. Non-secret information, the Laboratory testing of evidence, required by regulations to be preserved for five years after there is any prospect of litigation.