Rt. 8, Frederick, Md. 21701
7/9/75

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Dear John,

I'm sorry that our conversation last week was ended when George Lardner returned to the newsroom and you were busy because it could be helpful to me to know why you consider it wrong to charge perjury against the government when it is the reality.

I was reminded of this yesterday while driving to Washington to meet with my lawyer in this case and heard the news accounts of Congressman Harrington's dilemma. I was reminded against just a few minutes ago when my lawyer, Jim Lesar, phoned me to tell me of a new development I regard as not normal or necessary in this case.

In this case, C.A.226-75, the present question is on compliance. The FBI and ERDA have sworn to compliance. The judge has already indicated what the Congress did not include in the law, that whatever he may regard as "substantial compliance" is <u>full</u> compliance.

However, to this minute, I have not received a single paper that is included in my Complaint. Nor has the government certified to the court that it has no such paper - not even one. Instead, it has elected a substitute for the "reports" for which I sued, supplying me with what it calls "raw material," having told me and my lawyer that it does not have and never did have that for which I did sue. It refused our request that it and we make a record of that conversation. I asked for this based on long personal experience. There was no need for any such conference if it intended giving me the reports I seek. All it had to do is give them. If it were going to give them, why confer?

So first the FBI told us on March 14 that it never did do what it is supposed to do in performing spectrographic and neutron activating testing, compile results. It offered me as a substitute this raw material and I asked for that plus a sworn statement that it had no results like those I sued for.

They then did <u>not</u> provide me with copies of what they offered me. They totally eliminated the neutron activation papers actually claiming that while these are included in my Complaint I said I didn't want them.

Then when I disputed this they provided NAA papers that are not complete. In spectroscopay they provided less than the papers they did provide identify. They did this in a way that arranged a direct contradiction between a letter Clarence Kelley wrote us and the affidavit they filed in court.

Meanwhile, ERDA lied about the most material but not under oath. It thereafter was so reluctant to provide anything under oath that we went through two calendar calls without an ERDA affidavit, without troubling Judge Pratt a bit.

Now this FBI affidavit, which swore to compliance with my request, which was and is the material issue, also swore to the making of tests any record of which it not only failed to supply but is, from this Kelley letter, non-existent. It also swore to compliance when the papers I was given referred to three other sets of tests no paper on which I was given. Skipping much, the latest affidavit by the same agent, John W. Kilty, now swears the opposite of what his first affidavit attests to on these missing papers.

This is hardly the full record of dishonesty by these officials. I hope it is enough to give you a notion of the position I am in not only as one of the parties to the litigation but as a citizen.

Perjury is a crime. I know of it. Am I to be silent because that is considered the polite thing?

Is it not also a crime for a person knowing of a crime not to report it?

I know of this case what others, including reporters, do not. Although this is the first case filed anywhere under the amended law and is the first of four cited in the debates (in its earlier form) requiring change in the law, there was no reporter at either calendar call.

Am I to let the law be rewritten in court again because of the prejudice against the field in which I work?

The law does not recognized any form of limited compliance with a request for public information as compliance with the law.

The law does not put the burden of proof on the plaintiff, as is being done in this case.

It also does not presume the validity and honesty of government representations under it. Quite the opposite. This is the latest government claim in seeking dismissal.

It has no provision for the substitution of something other than is asked for and described in the Complaint.

If there are no other changes in the law as enacted that now impend, is not one of these enough to concern me as a citizen?

Aside from the judge's personal interpretation of the law outside anything that was before him, none of these things can be alleged without false swearing. Therefore, as I see it, aside from this false swearing being criminal it has wrongful purposes aside from the question of whether or not I obtain copies of that for which I sue.

The latest development came this morning, when out of the blue the judge's clerk called my lawyer by phone and ordered him to have the Opposition we had every reason to believe we had until the 15th to be filed tomorrow.

I have been seeking this public information for a decade. When I was stonewalled after the amending of the law I filed for it February 19. I still don't have it. The last of the substitutions for it was delivereds only last week, 244 entirely uncollated and unidentified papers, some completely illegible and no two attached together ~~each other~~.

Now all of a sudden the judge is in a great rush. He knows the Government filed an Opposition to which we must reply. While we were engaged in that it filed a Motion to Dismiss to which we also must respond. The first opportunity my lawyer and I had to meet on the Motion to Dismiss was yesterday, when we went over the material I prepared for him for an affidavit that is required. Now suddenly there is the shortening of time for no apparent need. Less than two days when we are separated by this distance and the judge knows it? Does this allow reasonable time for the researching a lawyer might want to do on the law? Or for the preparation and execution of an affidavit or the collection of any other evidence a lawyer might consider needed?

The unpleasant charge that there was perjury is totally ignored. Am I that out of date that I am to be held somehow wrong in believing that a crime is a crime, especially after Watergate and the current scandals about other official misdeeds? The judge has expressed no interest and the government hasn't even made pro forma denial.

The judge also held, out of the clear, without being asked to, that he had to assume government good faith. Once he did this I filed an affidavit in which I ticked off the history in all five cases I've filed. Good faith when there was no case not tainted by official lying, some confirmed by the Department of Justice in open court? Some perjurious?

When official lying, whether or not perjurious, is going to deny me my rights, whether or not it is going to negate the law, how am I to address this?

Especially when overt, repeated official lying is of no interest to the press. When the lack of reporting of it protects it and the judges who tolerate it. And the lawyers who suborn it.

It is not because I like to tempt opposing counsel, who also happens to be the prosecutor, that I put my own head on the block to make charges like these.

Nor is there not any other way I would prefer to spend my time.

If I saw any other way of meeting this combination of circumstances I'm sure I'd prefer it. So, if you have any suggestions, I hope you can find the time to let me know what they are.

This does not exist in a vacuum.

Whatever happens in this case it is certain to be appealed. If the results of these tests supported the official account of the JFK assassination do you think for a minute they would have been suppressed all this time?

This means that whatever happens my lawyer is going to have to be busy on it right away come Tuesday and, of course, overly busy right now.

To the knowledge of the Department of Justice he is also the lawyer doing all the legal work in the James Earl Ray case, on which I'm the investigator.

That case is to be appealed. From the backlog of transcripts that court reporter had to type up we were told it would be about a year before we could go to the 6th circuit. Then when we asked if it could not be speeded up we were told it would be a matter of some months at fastest. Suddenly Jim finds that all the transcripts except one have been sent him and the case has been certified to the 6th circuit. He phoned to ask about this missing transcript and then asked how it was that the schedule had been speeded up so.

When I was in intelligence I was not a spook. I was an analyst.

Before this happened I wrote Jim and warned him that the Department would be applying pressure to get these transcripts out for reasons of which C.A.226-75 is only one.

When Jim was speaking to the clerk's office a couple of days ago to see about this missing transcript he asked about the speed. He was told "pressure." As I recall, considerable pressure. He asked from where and was told simply "Washington."

I take this time not only because I would welcome any suggestion you may have but because I believe I have a responsibility to the press. The Department's only attempted explanation of the perjury was to tell the court that I know more about the JFK assassination than anyone in the FBI. This case is going to determine whether the FOIA law has any real meaning. I believe it is an important law and I do not want it gutted again.

If you doubt any of my popresentations, I have every paper filed, the transcripts of the two calendar calls and the stuff just delivered that was represented by the government as <u>not</u> what I asked for and is entirely uncollated. You can examine any or all of this.

I make suggestions to my lawyer. I take his advice. I don't know what else I can do except quit. I won't. Sincerely, Harold Weisberg