

Dear Jim,

9/25/84

You've made a great effort and everyone is indebted to you for it.

But you still have absolutely refused to learn how to fight! It is not that you cannot, it is that you will not. As though it is your way of avoiding having learned and practised the right way in the past.

If there is any one thing I've tried to impress upon you over the years most of all, it is that the weak never survive the strong if the weak are content to defend. Only by vigorous initiatives can the weak survive the more powerful, in this case the most powerful.

Where are the questions they cannot answer? Like the one I asked Lynch at the outset and Glasser when I got his address? Why the rush with Congress about to end? Why not explore and satisfy critics, or learn that the critics are correct?

Why did you never once ask, suppose you are wrong?

And bracket this with what under any circumstances is a major omission, the incitation to domestic excesses, a step toward the police state.

You've made a very good record, and that is important, for the immediate future and for history. But you never once, any of you with all that fine legal argument, put the ACLU on the defensive.

It was all like a college debate.

No passion (save for Conyers), not the deep feeling required for comprehension by other than academicians. Nothing at all that is for popular consumption.

I do wish you could open your mind, and forget that you ever went to college, that great corrupter of minds it is to open and expand. You simply defeat yourself, time after time, and I'm very, very sorry. I could show you so many illustrations in our litigation. Please try, for the better good you can do and for yourself. You can have so much more to show for the same effort!

The open page submission to the Times has little chance and was too hasty, but at the least someone there will probably read it and I'm sending some copies around. Not to the ACLU.

I'm a little better than yesterday and I'd, after three weeks of uncomfortable respiratory troubles, without any fever, has agreed to go to the doctor, so I'll get this and the other things in today's mail. I got Glasser's letter, thanks, and I'm enclosing a suggestion for writing him.

Best,

*Hard*

Dear Mr. Glasser,

It does not advance mature and responsible discussion of significant public issues to say the same thing in different words or to pretend that a factual record is refuted by a statement of belief, perhaps ~~rather~~ <sup>more of</sup> hope.

Let us forget that we are lawyers and let us stop ~~win~~ saying what we would we would, as adversaries, say in court.

enclose Let us, instead, address this as people who are deeply concerned about the growing authoritarianism in our country, as people who fear any additional steps toward what can be interpreted as an American fascism, for example, the disclosures in today's Washington Merry-Go-Round column, and who fear very much what the CIA can do of this nature because of what we know of what it has already done of this nature. In this context I think that in the future you of the ACLU who have rushed this legislation through will have to answer some questions, some very simple questions.

What was the great rush with Congress about to end? Especially when you did face considerable opposition in both your opinions and your representations of fact.

And suppose you are wrong? Have you really thought through the consequences of your opinions and representations of fact being wrong, of what the CIA may now do -- and we may not know, if ever, until too late?

What good will it then do to say that you are honestly sorry, that you made an honest mistake?

From the experiences and successes of my clients your basic premises are not correct. Operational records are not either immune nor always withheld (they have thousands of disclosed pages of operational files) and the CIA's backlog is not attributal to time it must waste but to time it wastes deliberately. As an illustration, requests of a decade, greatly more than the claimed backlog, remain without compliance.

I think you deceive yourself when you say that this bill derails a total exemption. It remains to be seen whether or not this bill amounts to a total exemption. And if the reactionary votes are there to "enact broader exemption," nothing will stop that.

9/23/84

AMERICAN CIVIL LIBERTIES UNION

National Headquarters  
132 West 43 Street  
New York, NY 10036  
(212) 944-9800

Norman Dorsen  
PRESIDENT

Ira Glasser  
EXECUTIVE DIRECTOR

Eleanor Holmes Norton  
CHAIR  
NATIONAL ADVISORY COUNCIL

*Harold -  
at least I  
didn't get  
solicited for a  
financial  
contribution.*

September 18, 1984

Mr. James H. Lesar  
1231 4th St., SW  
Washington, D.C. 20024

Dear Mr. Lesar:

I asked Allan Adler of our Washington staff to prepare a memorandum for me in response to your letter of September 11 to me and Norman Dorsen. Enclosed is his response to my request. Also enclosed is a copy of Mark Lynch's memorandum of September 7, to which he refers.

I have scrutinized this bill extremely closely and believe that the fears you and others have expressed are based upon inaccurate factual premises about what the bill provides and what its effect will be on current FOIA practice.

We do not believe that H.R. 5164 will result in any loss of information and we do not think anyone has made a credible argument to the contrary. Every fear expressed by critics of the bill was anticipated and the legislation was altered to remove the basis for such fear. I do not mean to sound glib on such an important issue, but the fact remains that we believe we have closed all the loopholes and that no loss of information will result.

On the other hand, the bill provides a modest gain by substantially shortening the time of response by the CIA to information it does release and by derailing the movement to enact broader exemption, including the possibility of a total exemption, which would indeed have resulted in major losses of information.

Sincerely,



Ira Glasser

/ml  
enclosures