

Harold Weisberg Rt. 8, Frederick, Md. 21701
10/16/73

Dear Mr. Shattuck,

Thanks for sending me the decision in Carl Stern's FOI suit. I knew about it. I took some time shortly after the appearance of my book on the King assassination to inform Stern personally and others at NBC Washington about this law. (The Washington Post didn't even have copies of the AG's memo on it until I supplied copies.) There was total indifference. At the request of the NBC Washington assignment editor, I made a trip to Washington to tell their local counsel about the law and to provide him with copies of the memo and as I recall, a few of the decisions. This is the same Carl Stern of the same NBC who found no news in any of my FOI efforts and where the relatively rare, at least for the era, summary judgement I got in the first case also was not "news."

I don't really think it is not that a suit against the government for what it has done to me "is not something a lawyer can get a handle on." Phil Hirschkopf, who could not take the case, saw the possibilities and sent me to you. If you did not see possibilities, I don't think you would have asked me to write a long memo. I don't think your files are full of those seeking help in cases like this who have copies, cassettes not xeroxes, of illegal federal surveillance and who can produce as witnesses those who conducted it. Or who have proven mail intrusions going along with it. And much more. A couple of amendments to the constitution provide handles. How federal money is spent provides another.

This, I agree, does belong in one of my books. These are the books that can't be published in part because of what has been done to me. If this is the crookedest time ever and this the crookedest country in the world, what has been done to me financially can't be explained by simple crookedness. Mail fraud is common. The Post Office takes a case of its selection, tells me there is a case, then falls silent as soon as the matter gets a step above the inspector. I could go on and on with the present, and I could go back to 1939, when the Dies Un-Americans had a law passed in an effort to get me, to deny me my first-amendment rights. It is still on the books, the one Weicher cited with regard to Colson. The ACLU was timid then, too, even though my companion was an ACLU man and a friend of Roger Baldwin.

If someone else has to break ice for the ACLU, especially with a Nixon President, then we are in worse shape than even doom-criers realize. More if the someone is in my situation.

In time I think it is possible you will come to realize that there are ways in which I can help the ACLU. I can think of a number, but at this point it would be a futility to suggest them. If the realization does come, I will do what I can.

I don't know what the ACLU attitude is toward Richardson and Cox in the Watergate business. I do know you are all for impeachment. I doubt you begin to know the case against Nixon and if you know all that has been in the papers your knowledge is quite inadequate. Cox's attitude toward FOI should drive you up the wall, but I don't expect it to. While his people are busy leaking the confidential he has refused me access to two pieces of public evidence, introduced in court. In two months Richardson has not even acknowledged my appeal. Either Jim Lesar, who is without income, as I am, or I, pro se, when I can find the filing fees, will file against both. If Cox will deny access to court evidence, you may need more to read the kind of attitude he has toward his responsibilities but I don't. And if the ACLU is depending on the Ervin committee in this, that need also is weak. It is busily engaged in suppressing exactly that about which I feel the ACLU should be screaming. There, however, we have no FOI. They have refused me copies of exhibits introduced into evidence, formally released to the press, and have repeatedly told my Senator they will not change in this until after their report is out. This is the precise formula of the Warren Commission. Everything will then get buried in the mass.

Johnson's single most brilliant political move was victimizing poor decent Warren and making him the creature of Hoover and the FBI so that whole business could be hidden. This, I know, accounts for some of the attitude toward me and my work and what has and continues to happen to me.

In any event, without prospect of publication, I am doing my own kind of book on The Watergate, I have followed the Ervin committee closely, I have compared their suppressions with what is suppressed, which I do have, and in no single case is there anything like a reasonable instance of "national security." It may never see the light of day, but it will be the bill of impeachment with which the ACLU will not get anywhere. Only an accident will make any difference now. When the Joe Rauhs defend the prosecutors when one has to be blind not to see what they did, was anything else likely?

I am in a position to file an FOI case against the White House any time I chose. Because I have not been able to, I am exploring other angles so that, when I file, there will be multiple defendants.

I, too, am anxious for the en banc decision in the spectro case. Unfortunately, its possibilities were never really used. This was a case in which the government's conduct did not merely violate 5 U.S.C. 552. There was overt criminality. Fensterwald from the first said he would allege it, didn't, and in each succeeding step repeated and broke the same promise. There was perjury, it was suborned, there is no doubt at all, and timidity alone precluded doing something about it. If you will read footnote 5 in the panel decision, I think you may agree that the panel suggested I pursue this. It certainly directed Sirica to give me full opportunity. Whatever happens now, this case will go to the Supreme Court. I have been careful in picking my cases. I know what the information I seek has to say before I go to court. If I get, untainted and complete, what I seek in this case, the whole JFK assassination fiction will explode. So, before the Supreme Court, where I should face fewer problems than most unwelcome litigants, there will be a weaker case only because of timidity.

But wouldn't it be nice if at some point we confronted the bureaucracy with criminal charges for those transgressions for which it has never been brought to book? And in this case, when Sirica has been making the kinds of noises that make him headlines and imputing improprieties to the U.S. Attorney's office? He is the judge at the district level.

I think I can show damages from the denials under FOI. Has that been tried? I can even show that what has been denied me was later, without even a request being made, given to another on an exclusive basis.

You did not send me a copy of your use of my case in Weinstein. I am aware of it. And even if the ACLUs and the Carl Sterns will do nothing to help me, I am sincerely glad that what I have done while broke, in debt and without any meaningful help has been of value to others.

Sincerely,

Harold Weisberg

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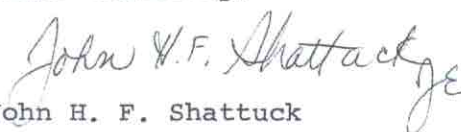
Dear Mr. Weisberg:

I am sorry to have taken so interminably long to respond to your similarly interminable letter of last spring.

Frankly, I've been at a loss about how to respond. While I'm grateful to you for taking such pains to set forth your long struggles with the federal government, and particularly the FBI, I'm afraid what you have told me belongs in one of your books but is not something that a lawyer can get a handle on -- at least not this lawyer.

I wait anxiously for the D.C. Circuit's en banc ruling in your FOIA case. Meanwhile, I'm enclosing a copy of a very interesting FOIA decision by Judge Parker of the D.C. District Court, dealing with issues somewhat similar to those in your case and resolving them in favor of disclosure.

Yours sincerely,


John H. F. Shattuck
Staff Counsel

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encl.

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