

Mr. Martin Phillips
60 Minutes-CBS News
524 W 57 St.,
New York, N.Y. 10019

8/25/86

Dear Martin,

Something unusual in which I am involved prompts this letter, although I have no reason to believe that it will interest 60 Minutes.

By way of both background and a kind of credentials, I hope you remember that when CBS did its special on the King assassination, after agreeing to be interviewed on camera, when I was confronted by what I regarded as a conflict of interest I refused. I had been James Earl Ray's investigator and something CBS wanted to do did create this conflict for me. I think it is fair to cite this as reflecting that I have no interest in personal publicity.

In a Freedom of Information lawsuit I filed in 1978 seeking the JFK assassination records of the Dallas and New Orleans FBI offices an unusual and unprecedented situation was created by the government as part of its stonewalling. This was made attractive to them because we were before a judge who has been a virtual rubber stamp for them, John Lewis Smith. They demanded alleged "discovery," which in itself is without precedent under FOIA, and Smith did flail his rubber stamp. I opposed it for a number of legitimate and recognized reasons, all of which he ignored and as best a nonlawyer can have an opinion, this may involve still other precedents that might be of consequence in other civil litigation. It was their claim that if I were to provide that "discovery" it would enable them to prove that they had complied with my requests and in the alternative, my subject-matter expertise would be required for them to locate any unprocessed relevant records. (Parenthetically, they knew in swearing to this when it was so material that they were swearing falsely because they had not ever made the initial searches required by the Act and with regard to Dallas, had actually, earlier, in a moment of aberrational truthfulness ~~had~~ described how they avoided the search and substituted for it.) Without checking all the records, I swore, subject to the penalties of perjury, that I had already, earlier and voluntarily, provided all the relevant information and documentation of which I was aware - two file drawers of it; that compliance was beyond my capabilities because of the excessiveness of the request and because of the severe limitations imposed by my health; because they had not made the required initial searches and a few other reasons. My health, I regret to say, was not exaggerated. I've had serious and severely limiting complications following arterial surgery. When I refused to comply with the discovery order the FBI's DJ lawyer phoned my then lawyer and threatened to have me cited for contempt. My response was to send him the message that he doesn't have the balls and that he would not dare any trial or any kind of public proceeding. I was right. They switched to seeking a duplicate of the money judgement they'd obtained from me and I also refused to pay from my lawyer. Yes, they got orders for us both to pay what they claimed as lawyer's fees in seeking the discovery from me. We went up on appeal and on remand the judgement against my lawyer was withdrawn by the judge. But ~~their~~ their seeking it created a conflict of interest, as had his ~~failure~~ leading the judge to believe that I would comply when I was firm in having refused to.

After the case left district court and was on appeal, the same FBI SA who had sworn that they had complied, that there were no other relevant records of which they knew, including those ordered to be searched for and processed on administrative appeal, and that if there were other relevant records they needed my help in locating them, actually processed and disclosed to a friend FBI records that establish the falsity of their attestations and other representations through counsel. Pro se I sought relief from the judgement under federal Rule 60(b), which relates to new evidence, alleging that the judgement was procured by perjury, fraud and misrepresentation. To this day my allegations are entirely undenied.

Once again Smith ignored all the evidence before him and I'm again up on appeal, where the prospects are poor, despite an undenied record of felonies by the government and, if I do not prevail, this administration's campaign against disclosure of nonexempt information will have taken a giant step, I can't say other than backward in terms of the availability of information, because the Act will have been effectively gutted. All that the government need do with this precedent is to demand "discovery." For the average person, in any case in which the government does not want to disclose, complying with such demands may be impossible and for where it will really cost, large corporations will have simply enormous and I think in many if not most cases, prohibitive costs, including large counsel fees.

This case is even worse in terms of precedent because the discovery demanded was not limited to "any" reason I had to believe that records exist that were not disclosed and "any" documents I have so indicating but it was for "each and every" reason and document. (Notwithstanding that I have already provided two file drawers of it earlier, which without dispute I swore included all that I know or have that is relevant. Can you imagine the cost and effort in providing all that data, only to have it ignored and then demanded all over again? And actually, in both JFK and King cases, my copies of what I'd provided fill two entire file cabinets.)

I say the prospects are poor before the appeals court not because the case is weak and not merely because Reagan has radically changed its composition but because of something that happened on the first appeal. In order to justify the judgement against my then lawyer they alleged, in general terms ~~that~~ never really spelled it out, that I had exerted an undefined evil influence on him to the degree that taking his lawyer's license should be considered and that the district court had "closely observed" this ~~throughout~~ throughout the five years of the litigation." Well, that was 100% fabricated and 100% knowingly false. I was ~~never once before the judge in that case~~ because it was physically impossible and my medical records in the case record, without dispute, establish this. Also, the transcripts establish it and the government lawyers had those transcripts. In addition, for the first four years nothing at all happened before Smith because he had given the government that time to comply. The appeals court ignored all of this mendacity.

It would have been, as I knew from the start, easier and cheaper for me to just give the bastards a little less than three months of my Social Security checks and forget about it. I'd tried to dismiss the case, with prejudice to myself, because of my health, and the FBI and DJ successfully opposed that. I'm not up to litigation and with my reduced capabilities I'd like to use what little time I have for other things. (I spend five hours a day in therapy now and last week more was ordered.) With interest it will now take a little more than three months of my only regular income, which is a little less than \$375 a month. But were I to do this I'd be party to the evil, party to establishing so repressive a precedent. So, I regret all alone, the major regret because I'm not a lawyer and thus ill prepared to defend the rights of others and of free information, and when I'm not very able, I have to prepare the brief which is due soon and I'll have to ask for an extension of time.

Although it has been costly and burdensome to us, to now I've provided copies of the filings of both sides to more than two dozen in all the media. The old reporter in me is aghast that undenied official felonies are considered not newsworthy. And apparently nobody in any part of the media is at all concerned about the possibility of so terrible a precedent being set.

In all of this the subject matter of the litigation becomes irrelevant.

However, some of the FBI's records disclosed to my friend are pretty raunchy. The FBI prepared dossiers on the members of the Warren Commission at the outset (and states it had an adversary relationship with the Commission), on the staff twice, early on and when the report was out, and it prepared, its words, "sex dossiers"

on the *Meritios*." Instead of saying that they never investigated the crime itself they use colorful language: they stood around with their pockets open hoping that evidence would fall into them. And with regard to what you may not remember, the second Hosty scandal, this new evidence discloses that FBIHQ "Handled" it as soon as Oswald was dead. If you do not recall, Hosty was the Oswald case agent. He'd sworn to the official FBI line, that they had no reason to believe that Oswald was capable of any violence, when he was before the Commission. But in actuality (as was leaked in 1975, after the retirement of the Special Agent in Charge was *secire*) Oswald had personally delivered a threat to bomb to the FBI office for Hosty. Who was then told to destroy it once Oswald was arrested - on the alleged orders of the SAC. So, you have, from this new evidence, FBIHQ "handling" that matter of the destruction of Oswald's threat to bomb the FBI and/or the police headquarters. *And keeping it secret.*

On and on, more like this, all sworn not to exist, etc., and all disclosed by the very FBI supervisor who swore so falsely.

For more than a year I've been living the apparent reality that we now have a government that knowingly engages in serious felonies and with the to-now reality that nobody in our supposedly free press gives a damn about that or about the consequences of it in litigation and the availability of information. And what does this say about what has happened to our judicial system? But in looking at 60 Minutes last night I thought that on the off chance I'd write you.

It is, however, off the top of the head. I hope that you can see how simply this can be handled and that 60 Minutes might get interested. Not in me, indecent as it is for government to so abuse an aging and serious ill man who has spent the last years of his life in an unpaid public role, indecent as it is to demand what isn't needed and then "each and every" document from about 60 files cabinets. (And they are in the basement and I can hardly handle stairs, as without dispute the case record also establishes.) In my youthful reporting days this kind of personal thing would have been regarded as news. But my interest is in exposing official corruption that is based entirely on undenied felonies and in preventing an evil precedent.

If you want to learn more, and I think that from this you can see why I did not phone, I'm usually home from the first three hours of my daily therapy by about 10:30 and except for medical appointments, which are not rare, and minor errands (my wife does not drive) I'm generally home for the rest of the day. I've not been able to drive more than about 20 minutes since 1967 and I've not driven outside of Frederick since then.

I suspect that they hate me more because when I persisted in the face of such corruption earlier and made the system work (Congress amended the investigatory files exemption of FOIA in 1974 over me) it led to the disclosure of so much terrible stuff, like Cointelpro and Operation Chaos. I suspect also that they hate me more because I'm the only critic who is not a conspiracy theorist and whose work, which after all these years stacks, is a study of how our basic institutions worked or failed to work in those times of great crisis and since then. Can you imagine what they'd have done to me if, after not being able to fault seven books, they'd have found any error in literally thousands of pages of affidavits filed in courts?

I'm sorry about my typing. I have to keep my legs elevated when I'm not walking or lying down (and two hours a day when lying down) so I have to type sort of sidesaddle. I hope all is going well with you and if you are ever near here again, I'd like to show you the extent of the *arhive* I'm leaving. It, by the way, is and has been available to all. I've taken the mandate of FOIA that seriously. I have working space and a table and typewriter for others near the files in the basement and even Willis Carto and *spotlight* have spent unsupervised days there.

Best wishes,

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