

Bud Fensterwald
2161 L St., NW, #203
Washington, D.C. 20037

8/15/81

Dear Bud,

After I wrote you yesterday morning and before I got your letter of yesterday I got Jim's draft of his Motion and Proposed Order and I also wrote him. In addition, I gave the matters some thought.

Jim says, and I'm sure correctly from observation and experience, that everyone is afraid to try to do anything about official perjury. It has achieved acceptability and the Government prevails in most FOIA cases because it swears falsely and because the false swearers are immune. Who, after all, prosecutes the prosecutor?

Despite the radical change in climate I think it is necessary in this case now to press on the false swearing. I believe that there are some present political factors that support this belief.

I don't mean to the exclusion of all else. I mean in addition to all else.

One is that it gives ~~tratt~~ ^{ratt} an out for his past. On the other end, it can be helpful ~~in preserving FOIA~~ in preserving FOIA. It also is important on this subject, very important. How it might influence the Congress may not be easy to predict, but once it is established, do we not have a President who says he must fire those who do not obey the law? And could he not be reminded, as often as a Congressman might consider necessary?

I think I have enough on this in the affidavit and that Jim need not bear down on it in his Memorandum of Points and Authorities and Motion and Order, just so it is stated clearly and explicitly and is there to be responded to.

Please think about this and the more obvious matters I am not going into for when Jim gets back and has to decide how he is going.

Best wishes, and thanks,