

Mr. Hedrick Smith
New York Times
1000 Connecticut Ave., NW
Washington, D.C. 20036

3/22/85

Dear Rick,

Thanks for taking the time and for the explanation. From what you say I suppose I am really addressing your colleague, so I include a copy of your letter for him.

With one exception, I have to agree with you when you say that you and he "conclude at this time . . . it does not break the kind of legal ground that merits a story at this stage." I also take this to mean that if the developments I consider not to be impossible eventuate, there might be a story. I hope and I'm inclined to believe that there will be and, that from his familiarity with the part of the case record I've sent, your colleague will be at least in part prepared.

Official dishonesty has become so much our way of life that, with rare exceptions, it is not considered newsworthy. This includes lying to courts, which in my experience is commonplace. The courts are not unaware of this, and I regard both the lying and its acceptance as deeply subversive. So, I'm a minority.

I have been for years, in many ways. In the field of assassination, I've helped expose dishonesties among those regarded as critics. Mo Waldron was a friend but he did not write much that came from me. Wendell Rawls and John Crewdson, in more recent years, used me more as a source, especially in exposing the dishonesties of the House assassins committee. So did George Lardner. And many others.

The official lying in this case is, I believe, different, so different that if a reporter were looking for a story, he'd have no trouble finding one. Before the appeals court does whatever it will do.

The official lying was not merely to withhold. It was to accomplish other and very wrongful purposes and unless I succeed, it has. These purposes include sanctions that can have deep and wide consequences and become a hazard to many lawyers, particularly those who take the cases of clients who cannot pay them; and the effective rewriting of an act of the Congress, including usurpation of the rights and powers constitutionally limited to the Congress by the executive and what has become a rubber-stamp judiciary.

It is different also in that I refused to abide by the norm and made a central issue of the official lying to both courts. Yet as I alleged to both, both accepted and acted upon what are unrefutedly false statements, knowingly false. DJ/FBI did not file even pro forma denials. Knowing that it is deplored and resented I nonetheless used the word "lie," not any circumlocution, to make this a central issue.

And absent even pro forma denial, it is the unrefuted record that officials lied knowingly to procure sanctions not only against me and my lawyer but as a precedent to be used against any lawyers.

If I am correct in believing that unless en banc the appeals court does something, this precedent exists and will be used, probably to begin with only selectively. It means that if a client refuses to do what his lawyer recommends the lawyer is subject to sanctions that can be severe. It also means that phony "discovery" can be misused ruinously against both. This situation can, I think, be regarded as news.

Your associate is correct in believing that Mark Allen requested what the FBI provided to HSCA but not in its use of all the FBI and other agencies gave it. I had made a more inclusive request of the FBI but my health prevented my going ahead, then Allen filed his and Jim Lesar filed suit for him. If HSCA had made public the fact that the FBI prepared dossiers on members of a Presidential commission, I believe that would have attracted attention, as it would that the FBI had prepared a second set of dossiers

on the Commission's staff after its report was made.

My use of the few records attached to the addition to my appeal~~s~~ was to show that the FBI lied deliberately before the district court in claiming that it did not have precisely the kind of information reflected in its ticklers.

I am not really looking for any story on the JFK assassination in this. In fact, in this it is really only incidental. (Not such things as the dossiers, however, because I think that they can stand alone*.)

Sure I work in the field of the JFK and King assassinations, but not really as whodunits. Long ago my work became a major study of the functioning of our major institutions in time of great crisis and thereafter.

If I had a dozen signed confessions nobody would believe them anyway. And I'm too old with too little time to confront the shibboleths of the desks, so many so entirely justified by all the irresponsible and not infrequently zany conjectures heaped upon them.

I do suggest, however, that your associate, if he has the time, might give some thought to the possibility, no matter how slight it may appear to be, that once again and against great odds and for all its kicking and screaming an ailing and aging man made the reluctant system work.

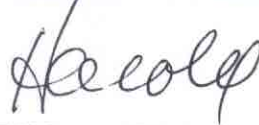
Would that, aside from the ultimate decision, be a story, particularly when it is for the second time?

Unlike Mark Lane and so many like him, when I spoke to collegiate audiences and honesty required painting a bleak picture, I was troubled - until I gave it some thought. Then I was able to close somewhat upbeat, somewhat encouraging to those young and impressionable minds. I'd remind them of the official secrets act in the countries of what had been the British empire and of the insane asylums for dissident writers in the USSR and ask them in what other country a man could do what I do. Then I'd tell them that because I persisted, and the Congressional debates are explicit on this, the system worked and Congress amended FOIA in 1974 over one of my lawsuits. I began by telling them that man is not perfect and governments are made up of men, so they are not perfect, and I'd conclude by telling them that whatever the odds, the system can be made to work and it is worth the effort. For all its many defects we have the best form of government man has yet devised and keeping it is worth any effort.

In a sense perhaps I am frustrated and just do not realize it because I do not feel frustrated. I haven't succeeded to the degree I'd like but I also haven't failed and I've done some good, I think, and I'm still able to try. May I suggest instead temporarily foiled? The moving finger still writes and it isn't necessarily going to be "meme, mene, teckle," if I recall correctly after many, many years.

* Dossiers on the chief justice, two Senators, two Congressmen and the staff who are now a Senator, a Judge, etc.

Thanks and best wishes,



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The New York Times

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March 19, 1985

Mr. Harold Weisberg
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Dear Harold:

I appreciated your long letter and the attachments you sent along. I am sorry if something I wrote earlier offended you.

Frankly, I have personally moved well away from the Kennedy assassination issue to Soviet affairs and more general affairs of the current presidency. That means that the court issues on FOIA and the Kennedy matter are things I am not expert in.

As a result, I have turned over your correspondence to one of our correspondents who does deal with the FOIA issues. From his report to me, we conclude at this time that while your case is interesting, it does not break the kind of legal ground that merits a story at this stage.

Second, this reporter advised me that he thought that the documents you mentioned, obtained by Mark Allen through an FOIA petition, had been made available previously to the House Select Committee on Assassinations. We had been under the impression that that committee had included all the significant new information at that point. Perhaps that is not right. But again, without the expertise of our Kennedy buffs, like Mo Waldron, we do not see the news break from this angle.

I do understand your point about our working to make our system work better. But I also sense your very real frustration with the FBI and at times, the courts. I can understand that very well. I also agree that a lot of trivia makes it into the press, some of the froth being interesting simply because it is current or about personalities now in power.

more

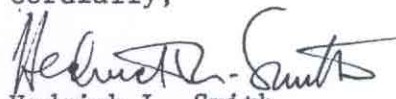
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But to reopen important issues like the Kennedy assassination, we need some tight, concise summary of what is news. Perhaps our guy overlooked something, but he was very conscientious going through your material. If you think we're missing something major, see if you can boil it down to one page or at most, two pages. I don't mean that unkindly, but simply as a means of being more efficient in our making decisions.

Again, thanks for keeping in touch. Perhaps this would best await some other new development in the courts.

With best wishes,

Cordially,


Hedrick L. Smith