

Ms. Jane E. Kirtley
Reporters Committee on Freedom of the Press
800 18 St., NW
Washington, D.C. 20006

11/6/86

Dear Ms. Kirtley,

Once upon a time, still believing that some reporters are still concerned about fairness, I wrote to complain about an account of one of my FOIA suits that, as you reported it, is a piece of government propaganda in an area in which reporters ought be very concerned, restraints on information. You replied that your reporter "examined the pleadings filed in the case" and I told you that was not possible because he mentioned only ^{side} one and the case record leaves no doubt that those government pleadings were not only untruthful, but the proof that they are is in the case record and is not refuted. I'm sorry that you have not seen fit to try to learn whether your publication has been converted into an agency of government propaganda, an accusation I would have expected to make you at least wonder.

How many times in your experience have you seen the FBI and Department of Justice charged with - in a precedent FOIA matter - getting discovery by means only of entirely undenied perjury, fraud and misrepresentation? Any examination of the case record, which supposedly was made for you, leaves it beyond reasonable question that the charges are thoroughly documented with the government's own and until then secret and fairly sordid records. How could your reporter have examined the pleadings and missed this? And what alternatives do you leave, if he did in fact examine the case record? Is this what the reporters' committee is, what you want it to be?

There is no adverse information precedent that is going to hurt me. I'm at the end of my life and my health prevents much writing and I've plenty to use in my writing. I tried to dismiss this case years ago and, surprising for a competent review of the pleadings, the government insisted it wanted to do a Vaughn index instead. After all, a full Vaughn, as the pleadings themselves show, would have cost it only 126,000 man-hours. (Your man shre made one helluva review of the pleadings, huh?) I'm in this only for the yellowbellies you represent, those sanctimonious stuffed-shirts who, I regret to say, are the only source people have for learning what they can learn so representative society can work. In persisting, as I did before and thus the 1974 amendment of the investigatory files exemption to open them up, one evil precedent has been overturned. Of course, that, not being in favor of the government, was not worth your time and space, was it? Or is it that the government did not plant it with you?

I don't care what you think of me or what you may write about me but I do care about the growing restrictions on what can be known and I've lived long enough to have lived through what this has meant in the past. For this reason I write again, so that you can report honestly, fairly, and what I think is not without consequence. Even if to some three-dozen reporters undenied government felonies in court yet-are not news.

There was a remand, again before Judge John Lewis Smith, he still has his rubber stamp for FOIA case (with a single exception only) and my appeals brief is due 11/15. We have only a simple copier, we are both idl and otherwise limited in what we can do, so I can't say when it will be filed but it will be on time. My wife (I am not able to stand still) is collating by hand the brief, which is not quite 70 pages in number but has the required pages that are not counted in the (previous) 70 limit, and a little over 150 pages of exhibits. We then have to find a local source for stapling and then we'll file. Then the government has its say and then I get another crack.

Maybe reading 70 pages is too much of a chore for you or those you use. as I can understand getting to the courthouse might be for you. On \$368 Social Security I can no longer bear the costs of trying to inform those who do not want to be informed so I'm not offering you a copy of the brief. However, there will be one with my former lawyer, who had to get out because, and you did not see fit to report this either, if I recall correctly, they created a conflict of interest in getting a judgement against him because his client refused to take his advice. Nice precedent, counsellor? Not worth reporting? Not visible in any examination of the case record? He is in downtown Washington. Or, I'll lend you a copy.

If reading 70 pages is too time-consuming, while there is little mention of FOIA itself in them, I suggest that you can get an inkling of what is really involved in this litigation from Issues Presented and Summary of Argument.

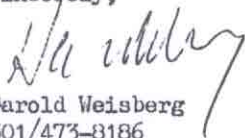
Because of my health and the limitations it imposes on me I'm having to file a retyped rough draft. This is not an apology. Rather is it an explanation of some of what I agree would better have been omitted. We could not begin the retyping earlier because my wife was in a wheelchair for a period of time. I am without question on my accuracy, however, and in the seven books I've published in the controversial area of my work of the past several decades, no single significant error has been called to my attention and none is in the innumerable pages of government records I've gotten and read. None is in any of my many FOIA affidavits, for myself and for others.

It was not possible for me to get to and use a law library so I'm restricted to about a fourth of the cases Smith cited, copies of which were provided to me, and to Miller & Wright on federal practise, on Rules 59 and 60(b). I found Smith taking liberties, including within quotes, with these decisions and although I did not use or suggest the word, I caught him lying in his Memorandum, and it is documented. He does not even know what I'm suing for or who I'm suing, from his Memorandum, because he says repeatedly that the suit is for "ing assassination records and for those of the FBI's New Haven field office, neither true and neither even reasonably suspected. This reminds me of the diligence of your Lincoln Steffens' examination of the record. The appeals court panel said, Scalia, great scholar, included, that this suit is for "ing assassination records. They didn't even read what was before them and Smith also didn't. But in today's world, so thoroughly reported by such diligent and caring reporters, it is not unusual for judgement to be rendered by those who have no idea what is before them.

Smith even says he held an "extensive" hearing but he not only held none, he refused me both an evidentiary hearing and a trial. Of course punishment without trial is not newsworthy either, is it?

I don't think you want to talk to me but if you do or if you have any questions, I'm in walking therapy every morning and I'm usually home from 10:30 a.m. on except when we have medical appointments or shopping to do.

Sincerely,


Harold Weisberg
301/473-8186

Ms. Jane E. Kirtley, Esq. Ex. Dir.
Reporters Committee for Freedom of the Press
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Washington, D.C. 20006

8/11/86

Dear Ms. Kirtley,

Because of illness and surgery your letter of 10/7/85 was buried on my desk. I'm sure you believe what you said and I think that makes it more outrageous. So your reporter "examined the pleadings filed in the case." And managed to refer to only those of the government that without refutation mine made clear were untruthful. By this standard, if you'd been reporting on Hitler, you'd have used only a condensation of his speeches.

In the field in which I work I am a minority of one. I'm the only so-called "critic" of the official investigations of the political assassinations who is not a conspiracy theorist. Mine is a study of how our institutions worked in those times of great crisis and since then. The press is one of our basic institutions, along with the courts and to a degree lawyers. If you've done nothing else you've provided a fine item for the university archive I'm leaving.

If your reporter had done what you claim, then it would have been apparent that I'd alleged perjury to procure the unprecedented "discovery" order for the first time in FOIA litigation and that my documented allegations were unrefuted. It happens that at the time of your letter I got "new evidence" in the form of FBI documents disclosed to another requester that thoroughly documents what I've since alleged pro se, (Rule 606) that fraud, perjury and misrepresentation were the basis and the only basis of the discovery order and the subsequent money judgement against me. Once I was pro se I sent copies of the pleadings of both sides to about 30 in the press. It is, I think, fair commentary on the press we have today and the reporters who received copies that undenied allegations in court of FBI and Department of Justice fraud, perjury and misrepresentations, felonies, I believe, are not newsworthy. And you people who will be paying for what will happen, as I will not, will have earned your reward. Freedom of the press indeed with such concepts and standards!

It would have been much easier and enormously less costly for me to have just paid the judgement. It will take about three months of my Social Security. But I'm neither a phony nor a coward and I do care about what you people don't really give a damn about unless it hurts them and their paymasters personally.

I am reminded of an earlier case in which, among others, I approached your committee seeking the filing of an amicus brief. You and the other phonies didn't but despite your abdications I persevered and as a result the investigatory files exemption was amended in 1974. The establishment of which you are part was so prejudiced and so indifferent to the genuine interests of the establishment that not a word appeared when one determined man, if you recall your ADA Jackson, made the system work. In my reporting days of the distant past that would have been news.

You close your letter with the offer to answer any specific questions I have. I have one: do you and yours really think it is not news when overwhelmingly documented and unrefuted allegations of serious felonies are attributed in court and subject to sanctions - particularly in FOIA litigation?

Sincerely,

Harold Weisberg
Harold Weisberg
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to the government