

1/3/85

Dear Legal Correspondent, UPI

As a former reporter I am uneasy about providing unsolicited explanations of the enclosed petition for an en banc rehearing before the U.S. court of appeals. I am sending you and other copies because of what I regard as many evil and dangerous precedents and the further reflection of the success of the administration's repressions of freedom of information. As the lawyers say, the document speaks for itself. I'm sorry that because of my circumstances it has to be a retyped rough draft and that I am not able to include a copy of the decision. You can get it, as I'm sure you know, from the clerk of the court and probably from the lawyers identified in it, meaning the enclosed.

Because of the unusual conditions I've not discussed this with either of them but if you'd like to, I have no objection.

The DJ/FBI and Judge John Lewis Smith created a conflict of interest between my lawyer, Jim Cesar, and me, and because of the principles and precedents, the Nader law group represented him and Mark Lynch, of the ACLU foundation, represented me. But only for the filing of the appeal and oral argument.

I am well aware that such petitions are usually rejected but I feel strongly that what I say must be said, if only for history. Perhaps from my background, as the first member of my family to be born in this country, I feel more strongly about official mendacity and any failings of the courts. (I'll be 72, I hope, in April.)

I hope you will find time for these 15 pages and then, if you have any questions, I'll be glad to answer them. I am usually home from daily therapy for severely impaired circulation by 10:30, but this Thursday, not until about 1:30.

The people I used to know at UPI have all retired. I am the first of the so-called critics of the official solution to the assassinations of President Kennedy and Dr. King but unlike the others I am not a conspiracy theorist. I've published seven books, including the first on the subject, and they are still being used as college texts. My study is of how the institutions of society worked - or failed to - in time of great stress and thereafter. The investigatory files exemption of FOIA was amended in 1974 over official corruption in one of the earlier or may several FOIA suits.

Thanks for anything you may do.

Sincerely,