

THE UNIVERSITY OF WISCONSIN
LAW SCHOOL

MADISON, WISCONSIN 53706

TO: Signers of the letter to John Olson

FROM: Bill Whitford

DATE: May 17, 1972

I will start with an apology. As the principal circulator of the letter, it was always my intention to release it to the press. I had no intent to mislead anybody on that score, always indicated to anybody who asked what my intentions were, and as to others, supposed that it was understood from the nature of the letter. In retrospect, it is now clear to me that many people did not so understand and that I should have been much more explicit as to my intentions. If this lapse of mine has caused anybody unanticipated embarrassment, I apologize.

I should hasten to add that in my judgment there is no need to be embarrassed by the letter, despite the hulabaloo it has caused. Ever assertion of fact and law, in the letter is accurate, and the values it assets are certainly not being challenged by Olson or anybody else.

The more important purpose of this memo is to raise the question how we should respond to Olson's letter to all of us, dated May 16th. I personally don't see much purpose in a joint response at this point. Rather, I think that individual responses would be most appropriate. I am quite amenable to suggestions for other courses of action, however, and will be available in my office after 2:30 p.m. today (Wednesday) to discuss this matter.

If individual letters are sent, it is my intention to send a letter to Olson pointing out several ways in which I believe his letter is seriously misleading (intentionally so?). It may interest you, and set your mind at ease, to know some of the more important points I intend to make.

1. In a covering letter I sent to Olson together with our jointly signed letter, I indicated that "to my knowledge" the statements "are . . . now in the possession of attorneys representing students charged as a result of the [Courthouse] incident" I asked that he contact me if he had any questions. He received both our jointly signed letter and my covering letter approximately 60 hours before it appeared in the press but made no effort before Monday to contact me. (I personally observed Olson in the Courthouse after I delivered the letter to his office. I handed the letter to Eric Wahl, a staff attorney, who assured me that he would give it to Olson before Olson left that day).

May 17, 1972

In the circumstances, then, Olson could not have held much hope of getting the statements when he and his staff came to the Law School. In any event, there was no need to question each signer of the letter to learn about the whereabouts of the statements.

2. It is not true, to quote from his letter, that at least all of us "who had read (many of) the statements would only provide (the U.S. Attorney and his staff) with vague and general information about the content of the statements".

I personally told him all I could remember, some of which concededly was vague. I gave him the names of students I could recall having made statements. I also told him in great detail the content of my personal statement, and assured him that I would do my best to obtain a copy of my statement (which I then did not have) and would send it to him.

3. It is also not true that he does not have access to any of the statements. As I personally informed him, and as I am sure he knew from other sources, a number of these statements were attached as affidavits to a complaint filed in federal court last Friday. A number of our students are plaintiffs in that action, which is based on 28 U.S.C. §1983. These affidavits are now public records.

4. On Monday morning I assured Olson that I would try to get the defense attorneys, in whose hands the statements were then located, to supply him with copies of the statements. I contacted Jim Glover, who I understood to have at least most of the statements. He informed me that he was turning the statements over to Messrs. Shellow and Coffey, who by that time were representing most of the law student defendants. By telephone conversation, I informed Olson of this fact on Monday afternoon, and indicated that I would pursue the matter further with Shellow and Coffey. At the same time I suggested that it might be more efficacious if he solicited new statements from students. I indicated that if he would send me a letter indicating that he would welcome such statements and indicating a time and place at which they might be made, I would see to it that the information was publicized within the law school. Olson did not express any interest in this idea. He indicated an interest only in the statements referred to in the letter.

5. Finally, it is important to remember that there is nothing to limit Olson's investigation of police misconduct to the now famous statements. Nor can our letter be fairly interpreted as suggesting his investigation be so limited. Several persons attempted to file complaints with his office on the afternoon of the incident. They were told that their statements would not be taken but could be made to the FBI.

I understand (and I will check this further) that several of these persons have now made statements to the FBI. In addition, Olson told me personally that he had viewed personally several movies of the incident, including a police video tape. These movies should prove a fertile source of information, and if they are complete in their coverage, are probably more reliable evidence than eyewitness testimony. If Olson thinks these movies demonstrate that there was no police misconduct, then he could quiet widely shared doubts on this score by making them available for public viewing. According to a statement of Herman Thomas reported in The Capital Times Tuesday, the only reason the police video tape has not been shown to the press is that the U.S. Attorney has not allowed it.