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July 22, 1988

Elizabeth A. Truly, Esq.
Associate Senior Counsel
New York State United Teachers
260 Park Avenue South
New York, NY 10010-7283

Re: James Graf advs. State of
New York, OMRDD
Your File No. 54063-A102

Dear Ms. Truly:

I am writing this in partial response to your letter dated July 20, 1988, which I received today.

You are either very seriously misunderstanding or deliberately misrepresenting my position. I have stated time and again that I am not refusing to perform my duties. Why do you continue to accuse me of doing so? That's Mr. Reed's job. I don't think he needs any help from you.

As I reminded Mr. Mark Berberian in my letter of December 18, 1986, Article 33.3d of the Contract states: "In all disciplinary proceedings under Section 33.5, the burden of proof that discipline is for just cause shall rest with the employer." The Contract does not say "probable cause" or "demonstrable cause" or "sufficient cause": it specifies "just cause," thus opening disciplinary matters to considerations of justice, fairness, legality, and constitutionality. This demands thorough review of the circumstances in which infractions are alleged to have occurred. It even invites examination of the employer's motivation in imposing discipline.

"Just cause" must align itself in reasonable congruence with the commonly accepted ethical and legal principles fundamental to our society. One of these principles, affirmed time and again in law and jurisprudence, is that one is not rightly punished for something that is not one's fault and over which one has no control.

I direct your attention to the "Remarks" section of the instant Disciplinary Grievance, dated August 27, 1987:

The charges are false. The Employer has created and perpetuated a work climate characterized by intimidation, harassment, restraint, coercion, and retaliation. Under illegal, discriminatory terms and conditions of employ-

ment violative of his Constitutional, human, civil, and contractual rights, the Grievant, a physically handicapped individual, is unable to perform clinical duties or adhere to established time and attendance regulations.

Nothing in my June 25 letter -- or in anything else I have ever written -- expresses any unwillingness on my part to perform my duties pending resolution of my grievances. Whenever I could do my job, I did, to the best of my ability. My employers have created a work climate so unjust and oppressive as to make work responsibilities impossible to fulfill.

You have written "In a perfect world, it is certainly true that 'one injustice deserves another.'" I have committed no injustice, Ms. Truly. Do not accuse me of having done so.

I seek a reasonably acceptable world, in which laws are obeyed and equitably enforced, and contracts are honored in good faith by all parties. The equal protection of the law does not seem such a terribly unrealistic demand. It is a basic right of any American citizen.

Article 12 of the United Nations Universal Declaration of Human Rights states: "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."

The crux of it all is MDC-OMRDD's policy of secret, non-adversarial "evaluations" at which charges of misconduct, incompetence, or "mental unfitness" are preferred, in the absence of the accused employee. As my letter of January 15, 1987 to Special State Prosecutor Hynes expresses, the charges presented at these "evaluations" are generally trumped up and are often supported by perjured testimony and falsified, forged documentation.

Many such "evaluations" have been held regarding me. Those that come most easily to mind occurred on July 26, 1984, April 1, 1985, August 7, 1985, July 30, 1986, August 14, 1986, August 21-22, 1986, and May 7, 1987, as well as the "mental incompetency" proceeding against "James Thorton Graf" that occurred toward the end of August, 1987. Thorough perusal of my notes will produce many more dates. I know that records, tapes, photographs, and other "evidence" are presented and examined in the course of such proceedings, and that records are kept of the proceedings themselves. I have tried repeatedly to obtain access to these secret files, by every means at my disposal (Non-contract Grievance, Article 20 Contract Grievance, Article 36 Contract Grievances, and

Personal Privacy Protection Law Request), but have found my requests denied or obstructed at every turn.

These files would amply demonstrate the extent to which my privacy has been invaded and my human, civil, and constitutional rights violated. These records, I insist, would provide "objective, independently verifiable factual evidence" regarding some of the crimes committed against me. I strongly urge you to subpoena them.

I note that your most recent letter made no mention of my Article 36 Contract grievance of September 25, 1986. Please be reminded that this grievance protests the coercive and intimidative psychiatric appointment of September 5, 1986 with Dr. Richard Wortman, and insists on full disclosure of the records reviewed in the "evaluation" that produced it, which took place on August 21-22, 1986. Despite my repeated written demands, PEF has done nothing to advance this grievance to Step 3, though it has lain fallow at Step 2 for 20 months. It would not be unreasonable to ask, at this point, what the State and PEF are trying to hide.

My Article 36 Contract Grievance of June 22, 1987, held in abeyance by "mutual consent" of the State and PEF on January 15, 1988, makes yet another -- and more comprehensive -- demand for disclosure of records and files. Despite several requests, PEF has failed to appeal it to Step 3.

Your letter states that "... there is nothing to be gained by either party to the contract by proceeding to arbitration on your Article 36 grievance(s) at this time." That statement makes sense only if one assumes that PEF's interests are antagonistic to mine. Had these grievances been timely advanced to arbitration, it is very likely that copious documentary evidence would thereby have been unearthed -- the very evidence that you now claim to be lacking. One of my primary objectives in filing those grievances was to bring the evidence to light, to let the truth be known. The State, for obvious reasons, and PEF, for reasons best known to its leadership, have at all points actively conspired to prevent the truth from emerging.

You state correctly that "accusing someone of criminal conduct is an extremely serious matter." Would that someone had given that excellent advice to the participants in these secret "evaluations," who have repeatedly and shamelessly defamed my character.

I must remind you, however, that I have the same right as any other citizen to make such accusations, and to expect that appropriate authorities will conduct a thorough and objective investigation. As I have documented repeatedly, my complaints to law enforcement agencies have been stonewalled, despite my provision of times, dates, names, license plate

numbers, telephone numbers, and other details that, if investigated, would establish my credibility beyond a doubt.

Regarding persons whom you could subpoena with respect to these matters, I can suggest immediately the following: Maurice D. Halifi (to explain what "reported actions" he was talking about in his Section 72 suspension letter of April 1, 1985, and how these actions were reported), Richard Haines and Eugene Ramos of "Double R Private Investigators", Debbie Van Exel, Scott Schneider, Arturo Andino, Rocco Menta, Bob Burns, Young Kim, Cynthia Alexander, Sadie Alexander, Anna Bryce, Ken Stewart, Ross Edwards, William White, Peter Corbin, Ronald Caffrey, Bill Zoltowsky, Miguel Garcia, Lydia Baumbach, Dr. Anna Maria Casullo, Dr. Richard Wortman, Dr. James Nettleton, Elsa Webb, Richard Dicie due, Margarita Woolcock, and Stanley Silverstein. There are many others I could name.

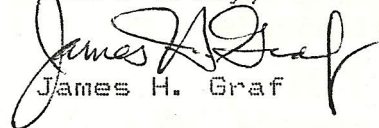
I must be brutally frank. It appears that you are looking for an excuse to "throw" this case. That is not -- and never has been -- a surprise to me. You are, after all, retained by Public Employees Federation, the union that has wantonly and repeatedly betrayed my interests and my rights. Your letters to me have displayed a tone that is palpably intimidative, accusatory, and threatening.

The Notice of Discipline of August 26, 1987, the State's continuing refusal to withdraw it, and Arbitrator Edelman's refusal to hold it in abeyance, are all acts of intimidation, coercion, restraint and retaliation against me as an OCR complainant. None of this should be happening. None of this would be happening had the State not succeeded in obstructing justice, dominating the union, and paralyzing and corrupting the grievance process.

Let the truth be told, now! Let the laws be enforced, now! Let those whose actions will shock the conscience of the civilized world be brought at long last to justice, now!

I'll send a more detailed response in the near future.

Yours truly,


James H. Graf

cc.: Mr. Barry Chiteman, OCR Investigator