

Dear Jim,

Hasty analysis Chastain firing 11/17/74

In writing Jay early this morning it occurred to me that it might be a good idea to record a hasty analysis of the situation and what, without deep thought, it seems to me to indicate and represent.

One aspect that ought not be ignored is intimidation of other reporters. I do not think it is central. However, I think it should be apparent that once I spent a long morning with one particular reporter whose work has theretofore been angled and prejudicial, that reporter's stories began to be fair and remained that way. At this hearing we had the first sign of anything that could be called fair reporting in Memphis.

As you know from having heard so many of my interviews, I have my own ways. I will ask some leading questions some times and I will converse, but on the key things I do not disclose what I'm looking for because I want what the witness remembers, not feedback.

So, in writing both Wayne and Jay I have omitted what you should remember, a dead giveaway that Wayne was not the target of the surveillance. He may have become a subsidiary target after he was observed with me. Before we left for Memphis Wayne had phoned me and extended the accepted dinner invitation. If he had been shadowed it would have been known that he took us to dinner at the Mexican place in West Memphis, Ark. This is omitted in what he was told.

The reason he was given is one that could have been invoked once his stuff started appearing in Computers. It wasn't. The reason given required no surveillance. And long before this firing he was off the King story and there is no allegation of bias or personal involvement in any of his other reporting. In fact he has excellent local sources of the kind newspapers spend years cultivating. While we were there and the very day after the longest night of our drinking one of them fed him a major local scandal. Wayne worked two days that one, from about 4:30-5:00 a.m. until about or after 8 P.M., after which he joined me for supper, after which we drank and talked more.

Perhaps if the paper was opposed to exposing local graft and asserted crookedness it might have wanted to retaliate for this, but I doubt it. The stuff stacked, the paper did use the story, and there were no suits or even real scandals.

Why, then, was Wayne just fired this past week? Why not earlier? Why not when that nonsense began appearing in Computers? That is when he could be charged with bias. But he wasn't. And it was quite some time before he was taken off the story, so they were not then troubled. Why should they suddenly get troubled when the possibility of his personal opinions influencing his reporting no longer existed? It makes no sense at all. Neither the reason for firing him nor the surveillance. Not of him, that is.

Then there is the question of Haile's subpoenaing him as a witness. A witness to what? Here that great stout heart of Bud's stood us in good stead and he did nothing after I gave him a detailed set of recommendations. Haile was testing Bud and trying to intimidate. His subpoenaing of Wayne was a gross impropriety and Bud let him get away with it. With enough major-media press to react, too. There is nothing Wayne did or even knew about that was at issue before McRae and McRae would have had no choice but to go along. From his writing in Computers to his seeing Ray under the silly pretext Deb cooked up to his meetings with me, none of this was at issue.

Here I digress for another of the reasons we are going to have and display some balls. That Wayne got fired will get around and those we'll need for witnesses will be intimidated. This is one of the reasons I want to file an action in Memphis, to end that.

What made Bud's cowardice more reprehensible is a) Wayne had been a friend, the one we had in the local press, and b) Haile selected the very moment so important to Wayne, when he was to get his lawyer's license, to keep him in the witness room. (He did this so fast, I think, he gave Wayne his personal check for witness fee. I saw it.)

To examine this another way, why did Mailer run this risk? If Bud had been at all either manly or lawyerly Henry would have been swallowing teeth on the front pages. The answers have to include reasons that to Mailer justified this risk. One of these, of course, is that he has no case and has to go in for the extraneous. But why the dangerously extraneous with which he risks an antagonist reaction from both the press and the judge?

Aside from intimidation and some possible coding misuse, the obvious explanation is to test us. He had been doing this all along and Bud had been yellow. Until I registered strong protest we were silent. And I waited a long time, until I had as justification that story from Jimmy that I chose to interpret as questioning my integrity.

However, Henry still persisted, never answering me and knowing that I had written the judge, carved to him. Here he expanded to include Bud and Bud was still silent. You and I each reacted, each differently.

When as soon as you and I were out of Memphis Henry pulled more dirty stuff, as you know I reacted immediately and strongly, making charges to the judge. The judge did not respond but this ended that kind of trickery by Henry except for two things: his overt indications that he would attempt to call me as a witness and his subpoenaing of Wayne. Neither, however, reached the judge's attention. Instead Henry ran another risk, lying to the judge about Renfro Mays' alleged unavailability when the entire State team had had him to lunch, in public. The last thing Henry could have had in mind is calling Mays. He did not dare put him on because he knew that I knew that all of Mays' investigation was credible except where Mays would have testified that he fed the police him stories to retaliate against their dirty tricks on him. He also knew that the Public Defender had made no investigation other than a partial application of Mays' law. Now I don't think Henry underestimated me. Nor you. So, he had to anticipate that in putting Mays on I'd have been feeding probably you and that we'd have ruined him more with Mays than with any other witness. His witness would have been the best participant testimony on ineffectiveness of counsel. Especially with what I'd noted in the civil-suit deposition, Peruman's refusal of all the work fees and with he had to know I'd have spotted in going over the PD's so-called investigatory file. Mays' work on the witnesses in it who were essential to the prosecution was solid and ruined them all, for all its defects.

What I am saying is that I believe Henry was testing the judge and us. We left him get away with what he pulled on the judge, much to our later detriment, for it also told the judge he could lean that way and appear impartial while being partial. And he had more than enough reading on Bud, that there was virtually nothing dirty he could pull that Bud would not accept.

Surveillance of Wayne makes no sense. That he was surveilled because I was does. That he was fired because the papers were loaned on by the State is an explanation easier to accept than the businessman Wayne was given. And that one purpose was intimidating other witnesses against whom there can be retaliation is obvious. As you are aware, my new witnesses include city and county employees. Retaliation is easiest against them.

There is another reading we can take from this. Had Bud not chickened out, had he taken the initiative in matters of this nature months ago when I spelled the need out to him in a memo of which you have a copy (and to which he made no response), the entire course of the hearing would have been different. We'd not have been as interfered with, for one thing and our discovery would have been more complete. The judge would have been less inclined to accept even contempt of his orders. He'd not have allowed any belated discovery to Henry, with the added intrusion the judge knew it meant into our capability of preparing. And had Bud not again chickened out on the motions with he was to have opened - and I do assume their surveillance told them of this - Henry would not have dared even think of such trickery as subpoenaing a reporter who was a witness to nothing at issue. Or subpoenaing other witnesses, like Mays, he has no intention of calling. In short, Henry has his reading on Bud's timidity, will make full use of it, and we'd best be prepared for more and for countering. This is one reason I believe the motion on surveillance should be filed soon, ahead of time. We now have new proof on Jimmy at least. Mostly, NH