

Dear Jim,

12/24/74

Every time there is another of these incredible situations for which Bud is responsible I am torn by another conflict, not just the one I refer to in the attached letter to Bud. If the mail hasn't come by the time I finish it, it will go out today. In any event, it and this will be mailed together.

The conflict is in deciding on the better or the least self-defeating course.

I know from a long history that if I were to say that water freezes at 32° but would disagree and believe I have some devious ~~with~~ scheme in mind. I know he resents me personally, resents my rescues and above all his personal record of being proven wrong in these silly decisions. This is harder for him than admitting that I am right in these situations and in the anticipations of them. There is an unintended psychological admission in the nature of his reference to me in his letter to McKinley. I did not comment on it. But I also did not miss it.

Each time I have to worry, which is worse, taking all the time to try to get through his stubbornness and sick ego, which will at least initially antagonize him more, or doing nothing and running those risks. I am by no means certain, ever, because predicting what emotions and self-concepts will impel is at best hazardous.

In this case I tried, in haste, to put together a sufficient package. Not the way I intended spending the morning after skimming the ~~main~~ Post to see if it added to Dan Schorr's report. (Remember that wasted morning or afternoon to which I took you with his so-called investigator and the Newsweek "expert?" I easily resist the "I told you so" temptation. But Christ the permeating incompetence!) Predictably the Post doesn't even mention it and has edited direct quotes in the editorial. So edited that it says what Helms did not. Nor does it recall its own incuriosity or that Helms picked the editors' convention for his false propaganda.

I'm still not going to do anything to hurt Bud. But I have to make still another effort to keep him from hurting himself and Jimmy with it.

What I don't remember does worry me. When we first had access to Jimmy ~~1971~~ 10/21 I alone did not have to be in chambers, so I spent that time with him. I don't recall what I'd told him of the plans we had made. I know that my disposition would have been to tell him everything. And not only because it was his right. So I may have told him that these motions were to have been the first order of business. If I did and if he remembers it and if he gets pissed off at Bud, Bud had better worry because while Jimmy has not really understood the legal significance of the violations of his rights or what a proper presentation could mean, he has a good mind and he is capable of seeing on his own what a CIA file on any of his defense could mean in his case.

Anyway, what I think this requires is that you move faster, if it is possible and if you agree. I have in mind an immediate call of the kind I mentioned yesterday again to CIA general counsel. Perhaps a communication with Shattuck, a gentle nudge on my meeting with him of May a year ago on this and his then encouragement that changed after I left. (This would require real diplomacy and perhaps, despite the probable initial negative reaction, Morgan might be better. Especially if you can tell him that I've had this all along and to your knowledge and with your participation.) It should occur to the legal eagles at CIA that added to the Baker disclosure on Bud what I have on them on me could at this point be unhelpful to them. More if they think that my Senator is one of those being heard in a one of the more responsible ways.

Meanwhile, if I can sell the story for the appropriate numbers I will. I've made a couple of phone calls. One to Langley to get him to remind his people of the topicality of what I'd agree for them to use and what their delays has cost them. Much in WWIV is quite relevant, from Dulles to Ford.

Hastily,

Dear Bud,

12/24/74

If you see this as the jackass of the story sees the 2x4 then it will have accomplished my purposes. If you feel it and say it has hit, you will be consistent with your past. I have no intention of swinging it. But I have every intention of having you aware that it is there.

There was such a sense of deja vu when I heard Dan Schorr say last night that Howard Baker was aware of a CIA file on you. So much of a sense of futility.

How in the world does one begin to cope with a man who simply can learn from a long and painful record, who can't intelligent serve self-interest, who risks his professional life to try to give a semblance of reality to fictions, and who, considering that he is a human being and not a jackass, is more blindly stubborn, less reasoning, than any jackass?

On the intellectual level there is Santayana's wisdom about being doomed to re-live history if one doesn't learn from it. On the elemental level there is the simple story of the child and hot irons. But nothing means anything to you, no reason prevails if it penetrates, nothing counts except these pretenses to avoid reality.

I have no intention of sitting down and writing Jimmy all about how you were supposed to have done and didn't do what you, with Bill's strong encouragement and help, agreed to do as the very first thing when we got to Memphis. I had it all put together for you, wanted you to come up separately on this alone because I was preparing part of the case you couldn't and thus couldn't go to Washington when you came back for Europe.

I told you to begin with that what I already had in hand was much worse than Ellsberg and gave you some examples. I had told you much earlier of other proofs I have, such as copies of CIA surveillance on me. I had in fact, asked you to first speak to your friend of the past, Houston, when he was CIA counsel about this. When you made no response I spoke to Bill, telling him that I had copies and live witnesses. His comprehensible reply was that there is a limit to the pro bone work one firm can undertake. But the point is that you knew this. I told you of two phones at the minimum on which I was tapped if my own were not. You knew that Werdig disclosed what has to have been shadowing of me and disclosed it in needling you, personally. You knew that Hoover had refused to respond to a direct accusation passed on to him by the Attorney General when I made it. And then there was the whole business in Watergate when I made you a proposal to convey to associates prior to your taking of a deposition. I then told you and Jim confirmed that this was very real and got into CIA domestic intelligence because Jim was privy and because in some aspects he helped me with some details of proof.

On October 13 you agree that as the first order of business on October 17 you will offer two motions, one on surveillance on the defense team and the other on Ray's constitutional rights. Bill then said he would prepare this for you. I spoke to Bill the afternoon of October 16, just before leaving for the plane. He told me he had personally put drafts of these motions in your brief case.

In short, your thinking and your work had all been done for you. All you had to do is present the motions. And to that you had agreed. Nothing could have been a more obvious need, nothing could have been more essential to the client's interest. And then back, without having earned any right to it, in the acclaim that you so long for and would have been yours. Free and unearned you were not even then capable of it.

And now it turns out that what a political infant should have assumed, CIA had a file on you. (Plus Baker's non-feasance in remaining silent when he knew of a crime.) The certainty of this was, in fact, the basis of my insistence on your chasing your flack of the future away, so that these could not have been used against you with him there for Halle's convenience. I knew who would have taped and transcribed that silliness you so revel in and having a copy, I knew exactly how you could and would have been pilloried. You gave me the no-spk line and the necessary end was accomplished by other means, to your benefit and against your intent to ruin yourself.

You did not merely forget to do this in Memphis. You refused to do it. Instead you did the meaningless, made an allegation in your opening statement and then compounded the failure by even then not offering a motion or both.

We were in a no-loss position because we had proofs in hand on both motions. Either they gave us what the motions asked for, the judge did do what the motions asked, or we could produce the proofs, on both motions. Actual documents, live witnesses.

We were legally in even a better position that in Ellsberg because there was the "full scale judicial inquiry" mandate of 6th circuit.

I reminded you in that unpleasant session from which you walked out complaining about the heat when you were next to both the air conditioner and the window that opens. You did not come back. This was the night of October 21, in my room, with Bob there, if you have forgotten. I then warned you of two things: what Jimmy's reaction would be if he learned of any copout; and putting me in a conflict-of-interest position.

We come back and you do nothing about these things - or anything else constructive - then go away on a trip. On returning the dybbuk in you takes over and you go to see Jimmy to sell him one-sided and wrong, in at least one instance probably and obviously wrong, course of non-action, against his interest. The only apparent reason is that I favored these things. In law there is no question in the one case because I knew from you that you would not take the time and I had made preliminary inquiries to determine what the legal situation is. But even after I've reminded you of these failings and even after you know that after talking to Jim I've tried to take corrective steps and have a copy of the first and the response, here you are at the jail and you do nothing and after you leave I hear from Jimmy that precisely the same violations of his rights still persist.

This is anything but the full record. I think that with a man who will permit himself to think, and I would urge even selfishly, the record ought dismay and worry.

You indulge this Nixonian complex about enemies, I am your enemy, thereafter anything I propose is wrong if only because I am this imagined enemy. No matter how many times soon enough it is established that I was right and in not a single case I can recall, on Ray alone going back to our original understanding on proper precautions and in court alone going back to the first appearance before Judge Williams. It makes no difference that 100% of the work I did for the recent hearing stacked; that not one witnesses, even strangers, kicked back; or that when you had overlooked having any expert witness on, publishing after all the allegations I rescued you by taking you by the head to a place of quiet and privacy and preparing you to kidnap him and make him our witness. I was even foresighted enough to have with me the documents you would need. I even marked up for you the parts to read. That I always help you and never ever had done a thing to hurt you and that I have never ever said a word in public about a long list of unconscionable abuses of me and the case is to you immaterial when you have your Nixonian state of mind to explain all away.

The other side is that living and believing these fictions you then have all the excuse you need to keep secrets from me. No matter how many times you go off half-cocked and do foolish things the nature of which would have been obvious to me - England, Houston and "etroit are convenient and so you costly examples - you persist in them. I digress to tell you that I now have what Wayne wrote that Haile was going to out Wayne on the stand for. In summary, you are lucky, personally and professionally, that some things happened to change his mind. It would have hurt you and these kinds of foolish escapades were how.

When will you permit yourself to understand that if my purpose were to hurt you I need much less than what I have? Can you not see that my silence, added to my record of also-silent rescues, means the exact opposite?

I have spent countless and very painful hours trying to get through to you. You never once responded because in ~~no way~~ could you. It is enough for you that you have convinced yourself that I am your enemy and where that falls a little short then you tell yourself to be patient and sorry for a man who is so bitter about his personal situation.

And despite this long and ~~xxxxxxx~~ wasted time of the past, here I am trying again.

Trying again with specifics again to get you to understand the great danger to yourself in all these hangups and abdications.

Trying to get you to understand the great opportunities you have thrown away if not because of these hangups then in cowardice.

Here you have another specific that typifies both.

You piss away what for me would be a fortune on what when we are lucky is not counterproductive and did ~~not~~ ^{have} and had no prospect of accomplishment, generally and in this case, ~~but~~ when there is real prospect of real accomplishment and it is moreover your obligation, you copped out still again. And here, no thanks to you, you would have had not a penny to pay. All you had to do what what you agree to do and had been entirely done for you in advance. Not a penny of cost and no work.

With help that you hate to need and get you have lucked through all of these.

Nobody can be that lucky indefinitely.

And each of your abuses make me even more unwilling to consider trying to help.

It really is far past time for you to try to conceive of the position this puts me in with respect to my obligations to Jimmy.

You talk about them, as in that immature and self-revealing letter to ~~Mc~~ ^{Mc} Inley, but fail to meet them where they are real. This covers a dangerous broad spectrum of realities, from never investigating the case to never making it possible for the investigator to to refusing to pay for what he did when it was obviously necessary and even after that work was used repeatedly and by you personally to not doing what the case required, of which these two ~~maxim~~ motions not yet made are an example.

I don't talk about these obligations, I do something about them. This ranges from making investigations in spite of your refusals and pontifications to preparing your examinations of witnesses for you to trying to protect you from yourself and Jimmy from suffering the consequences of all of this.

You are oblivious to everything except your inventions. You pretend and nothing else counts. But the incredible amount of time alone you have wasted for me is monstrous. To this you add these seemingly endless conflicts. Kid yourself as you will, I am not threatening you, I am not slyly insulting you, I am again trying to get you to think this whole thing through and understand the realities, not your substitute for them. I have nothing else in mind, no subtleties, no secret plots, no actions. Nothing. Only once again trying to save you from what at some point can happen to you. If I wanted it to happen, it would have, I don't want it to happen. But you have created a whole false situation, in your ~~own~~ ^{own} mind will it into a reality it doesn't have and then try to live it. You probably don't trust Jim now, either. So, why not ask Bill to be a devil's advocate and ask him a simpler formulation, not will it happen but can it. If he agrees it only can, then ask yourself if you want that risk to you personally or to the case.

The best wish of the season I can give you is that you can come back to reality before it is too late. Meanwhile, prior to this newest, I had already asked Jim to take steps which can be helpful. If he had time he would have taken them before this. We discussed it again only yesterday, prior to this newest disclosure. Had it not been for the work prior to the hearing we'd have done this then. I've been trying to for a long time. The sooner Jim can do it now the better and the safer. Sincerely,