

Dear Jim, Our 1/2/74 Meeting with CIA General Counsel Warner 1/3/74

After we left and when I was driving home several ideas came to me, several recollections of seemingly small things, and I was very sorry I had not taken a tape recorder so I could make notes while I drove. I'm sure there are some of these little things that we may want to recall later.

While I kept attributing his supposed lack of knowledge to his people not levelling with him, I think that need not be the explanation. For one thing, he could not have had only my first letter to Helms and known that Helms' office had finally sent me his speech. That, as I did not tell him, was not sent until my second letter, which he did not have. He had a xerox of the first, not the original.

I was not at all certain that we were not taped, whether or not bugged, although we did not discuss this. I decided on the joshing approach as we were walking to his office with Sue, apparently his secretary. In looking back on it, I think it was the correct manner for a number, including psychological reasons. I'm glad you did not find it in any way offensive. I think it may have been more effective when I could specify as I did. He finally started making notes on these things.

But I did not think it would have been productive to chide him for being unprepared after you asked him to as I'd asked you to. Nor did I think it would have served any useful purpose to accuse him of bullshitting us. I think it was better to pretend that his people were playing games with him. Meanwhile, it gave me an opportunity for laying it out for him, so he can see he does have a choice. He can check what I said and he'll find I was not bullshitting him in saying that he would, if this position persisted, be confronted with facing the same and more questions in court and under oath, with the probability of then facing considerations of perjury and its subornation. (You came in at just the right time with just the right comment on this, that he could believe us or not, we did have proof and did have copies.)

These guys never become good liars because they are not real spooks. His semantics were transparent and I thought it best to pin him on them right off the bat and tell him that in the face of them there could be no cooperation from us. And note that while I kept putting it as his people not levelling with him, the very first thing I had done when I could see that all he had in the open on his desk was my first letter to him I had asked him if he had asked for everything they had on me and he had said no. So it was all polite but it is apparent that it was not his people playing games with him but him trying to play games with us.

I had purposes in going back over that old OSS stuff. My reason for the Paris-case recollection (and the opportunity it gave from mentioning McKay!) was not just chitchat. Nor was my reason just needling him when I commented that his legal office had fucked that case up and I had cleaned up after them— and won for them when they had failed. With all of this I was giving him an indication of how good my memory was and of the kinds of things I have done, inference can still do. If this was taped, we will be better off because it will give a message to others if he missed it. So will other parts, like the reality, not a put-on, of what they can face in court.

It was kind of a game, like in Memphis with Carlisle and Haile. He can now wonder how much I have and know and how much I can elicit in interrogatories or from witnesses. But he has what he can check and will find true and this begins with what he admitted he had to have, my old OSS file. This, besides what I told him, will tell him that once there was any interest in me, that file would have provided the basis for further interest and inquiry, thus also my reference to the at least two other agencies with files of which I knew. This is why I mentioned two embassies (there are more) and at least two phones on which I knew I was overheard. Also why I volunteered that I had never been a Communist and never been anybody's agents except the British's and how that came to pass so there could be no reasonable question about it. But it is pretty obvious that if the Department of Justice asked me to work for British intelligence, I could hardly have been a "red."

In this I was doing, or trying to do, more than I said. I said that I knew pretty much what could be alleged and what could or would not be true. What I was trying to get across is the futility of trying to allege that they had a proper counter-intelligence interest in me when they combined this past with the more recent visits I had made with my writings to foreign embassies in which I was spotted or overheard on the phones. I made no reference to these phones. These were not the two I had in mind when I said they had to have overheard me on two. I had only one of these in mind then, my effort (ultimately successful) to get Castro's speech on the JFK assassination, from Revolucion. The FBI, which CIA runs, has to have that, by the way.

Here also I had a point. I don't know if it is the case, but I think that all that seemed to be idle chitchat wasn't and anyone listening or reviewing a recording may understand that I had a point with each. Here it was addressing their traditional defense, one with which they have prevailed in court. I have a file on it and it is in my jurisdiction, Baltimore federal court. It is the Reine case. They interpret it as meaning that they have a legislated license to do what otherwise would be wrong, in that case libel. I was trying to tell them that it would not work and why it would not while suggesting a link to the current disclosures, mentioning only McKay and first amendment. (The publisher I did not name when I referred him to page 130, line 4, is Norton, but again this was relevant in addressing this same point, what they will not be able to get away with alleging. It is to tell him that the truth is exactly the opposite with me.)

These were subtleties that may serve no point if we were not eavesdropped upon or if he is not sharp if we were not but can be useful if he is sharper than he seemed to be or if we were eavesdropped upon. However, I was truthful and we will be able to refer to these things later if they serve a purpose. Two of us to observe of him, by the way, does suggest he was making a tape somehow.

While I was being honest and trying to be helpful to him if he were being truthful in needing more leads and information, I also felt that separating and distinguishing would be useful to all concerned, with eavesdropping, when I distinguished between solid proof and documents in hand, substantial reason to believe and suspicion that were not without a reasonable basis. This combined with suggestions about discovery and interrogatories should be of some impact and will confront them with a choice between levelling and stonewalling right at the outset, which serves our interest.

We'll see. I hope it wasn't too subtle.

Assuming eavesdropping, our reaction to his introducing Bud's name should be of interest to them. They can't anticipate that we could have anticipated this and we didn't. So, they have our spontaneous reaction, not anxiety to be closely associated with his beliefs. However, I find how Bud could have been of help to them when he was Long's counsel something not obvious and if they had this kind of interest in that subcommittee, I find it hard to believe that they then would not have had files on both Bud and Long, both of which he denied. I enjoyed his seeming perplexity when I responded to his claim to having no files on Bud (how could he know without checking and what occasion did he have for checking?) by saying that I could identify two and was certain of at least a third. (Bill, before you joined us, recalled that I had told him October 13 and later, before 17, that this was certain. He was also impressed.) I was amused by the speed and vigor of his negative reaction to my reference to the Watergate committee and his claim that anything they said had to be false. That is a very sore point, particularly when he personally has to know that Thompson did see actual files. I have gone over Thompson's work and there can't be any real question for the CIA did show them stuff and did disagree with some of the Baker/Thompson interpretation. I have written a long chapter on this. However, reminding him, with this as a springboard, that we had taken a case to the Supreme Court under FBI with Bud and that the Senate had found this case a reason to amend the law which he now finds so complicated might be helpful in telling them that we can persevere. Your coming in at this point to say that you alone had handled the case that produced the transcript was perfect timing, for it was also a neat subtlety that they can interpret as meaning that we are past the Bud cowardliness.

In this I was doing, or trying to do, more than a little to get across much what could be alleged and what could or would not be true. What I was trying to get across is the futility of trying to allege that they had a proper counter-intelligence interest in me when they combined this past with the more recent visits I had made with my writings to foreign embassies in which I was spotted or overheard on the phones. I made no reference to these phones. These were not the two I had in mind when I said they had to have overheard me on two. I had only one of these in mind then, my effort (ultimately successful) to get Castro's speech on the JFK assassination, from Revolucion. The FBI, which CIA runs, has to have that, by the way.

Here also I had a point. I don't know if it is the case, but I think that all that seemed to be idle chitchat wasn't and anyone listening or reviewing a recording may understand that I had a point with each. Here it was addressing their traditional defense, one with which they have prevailed in court. I have a file on it and it is in my jurisdiction, Baltimore federal court. It is the Heine case. They interpret it as meaning that they have a legislated license to do what otherwise would be wrong, in that case libel. I was trying to tell them that it would not work and why it would not while suggesting a link to the current disclosures, mentioning only McKay. And first amendment. (The publisher I did not name when I referred him to page 138, line 4, is Norton, but again this was relevant in addressing this same point, what they will not be able to get away with alleging. It is to tell him that the truth is exactly the opposite with me.)

These were subtleties that may serve no point if we were not eavesdropped upon or if he is not sharp if we were not but can be useful if he is sharper than he seemed to be or if we were eavesdropped upon. However, I was truthful and we will be able to refer to these things later if they serve a purpose. Two of us to owe of him, by the way, does suggest he was making a tape somehow.

While I was being honest and trying to be helpful to him if he were being truthful in needing more leads and information, I also felt that separating and distinguishing would be useful to all concerned, with eavesdropping, when I distinguished between solid proof and documents in hand, substantial reason to believe and suspicion that were not without a reasonable basis. This combined with suggestions about discovery and interrogatories should be of some impact and will confront them with a choice between levelling and stonewalling right at the outset, which serves our interest.

We'll see. I hope it wasn't too subtle.

Assuming eavesdropping, our reaction to his introducing Bud's name should be of interest to them. They can't anticipate that we could have anticipated this and we didn't. So, they have our spontaneous reaction, not anxiety to be closely associated with his beliefs. However, I find how Bud could have been of help to them when he was Long's counsel something not obvious and if they had this kind of interest in that subcommittee, I find it hard to believe that they then would not have had files on both Bud and Long, both of which he denied. I enjoyed his seeming perplexity when I responded to his claim to having no files on Bud (how could he know without checking and what occasion did he have for checking?) by saying that I could identify two and was certain of at least a third. (Bill, before you joined us, recalled that I had told him October 13 and later, before 17, that this was certain. He was also impressed.) I was amused by the speed and vigor of his negative reaction to my reference to the Watergate committee and his claim that anything they said had to be false. That is a very sore point, particularly when he personally has to know that Thompson did see actual files. I have gone over Thompson's work and there can't be any real question for the CIA did show them stuff and did disagree with some of the Baker/Thompson interpretation. I have written a long chapter on this. However, reminding him, with this as a springboard, that we had taken a case to the Supreme Court under FBI with Bud and that the Senate had found this case a reason to amend the law which he now finds so complicated might be helpful in telling them that we can persevere. Your coming in at this point to say that you alone had handled the case that produced the transcript was perfect timing, for it was also a neat subtlety that they can interpret as meaning that we are past the Bud cowardliness.

I had planned to write a ~~memo~~ as soon as I got home but that was impossible ~~because~~ because I had surprise company from New York. The small points are now not as clear in my mind and I've probably forgotten some. However I have the clear impression that once again we worked very well together and that all things considered, we did about as well under the existing circumstances as we could expect to. We'll now have to wait and see.

My off-the-top feeling is that we took the right line and that if there is any reason to be patient if and when we hear from him again we should be - but not if there is no reason to be willing to be patient.

A few random recollections, not organized, as I can recall them:

Interesting that he did not respond when I asked him which review of the transcript CIA was responsible for, the one that said no or the one that released it. We know but he does not know that we know. I enjoyed this little needling. However, although it was spontaneous, not thought out, it also had a point: he should know that we are hep. Had he not been a bit embarrassed, do you think he would have blabbed in identifying Dooley as Rocca's assistant and their ^{Oswald} expert for the Warren Commission? I think he told us much in this and did not so intend.

Why have a separate Oswald expert for the Commission? Why not have a regular liaison officer handle liaison? Why does Dooley not figure in any Commission stuff (of which I know), only his boss, Rocca? One of those just eased out, or the coldest of cold warriors. And when it was on a level higher than Rocca, then it was Helms, who then was chief dirty-worker, not agency chief.

Why, in fact, in this division at all? If it may seem natural for that to have been under counter-intelligence, this need not be so and it is also the domestic operations part, which is quite provocative.

There is a clue to this that just about everyone seems to have missed. I have not been including it in my (published) writing but I have been aware of it from the beginning and have done some comparison checking. There is one enormous gap in the existing Oswald record: no CIA interview on his return and that was the function of this division, a proper, recognized and publicly-known function. There was one that is suppressed or there was none. Having none would have to mean having no need for one. However, his believed political views would have been no deterrent because they did interview such partisans as Felix Greene, to whom I spoke in 1965 or 1966. (Greene said they were so incompetent he wound up just telling them what questions to ask and what the answers were!) It was when he was preparing his book Vietnam, Vietnam!

However, we should not forget that these are the people who brought us withholding on review of the transcript, whether or not DJ said the same thing. And this means they are the one who falsely invoked "national security" when there was no basis, not even the authority to begin with. They didn't even downgrade the classification, and they are experts in proper classification.

His special interpretation of the transcript is amusing: Dulles didn't say what he did say. He is uptight on their lying and false-swearing.

Warner did not say when he read the transcript. But he seemed to indicate it was recently. Perhaps it was after the Post story or after Case's TV use. But he did seem to be saying that it was not when Dooley reviewed, as I recall it.

He made no pretenses about what practise there is after he was aware of my OSS experience. He did not deny that under practise they would have done as I suggested they had to have and thus did have files he claimed not to have seen. Here again you did something I recall but not in detail. I think it was to emphasize that you as a lawyer knew of proofs of two cases. But it was a perfectly-timed comment that was precisely in point. Combined with the futility of denying I think it got across ^{to} him for whatever it may or may not mean in what they will or will not do or say.

He did not answer your question, what copy of the transcript did he read? I think you repeated the question and that I said it was not the one I read. (I think it is not impossible that the call from Francis Scott Key bookstore was for them.) Hex recognizes, as they all must, that currently this transcript presents them with a serious problem.

Why do you suppose that when I questioned him he admitted being generally familiar with my writing while saying he had not read it? Why did he not merely say he had not read my work? I think one possibility is that he lied and had read some, most likely this newest book because of the special problems that transcript presents if not in connection with the purpose of our visit. Or he could have had it read for him. I think that my work on Oswald and in New Orleans is enough for them to have had an interest, thus my reference to what I said in the first book about Oswald's New Orleans career being consistent with the establishing of a cover and only that. (Here again I had in mind giving him reason to believe, if he was being honest with us and I did not believe, that it was inevitable the files have to hold more, and why in this connection, without being more specific, I introduced "operational" as distinguished from surveillance. While my response to what did I mean by "operational" was spontaneous, doing things against me, I guess it is o.k. and he has to know what "operational" means for it has a special spook meaning.)

Taking any familiarity with my writing and his having read the transcript, probably recently, together, there would seem to be a fair inference from this combination alone that there has been some interest in me. And adding to this his clear nervousness, of which his quaking hands was but one illustration (his uncertainty I take as another), he is at best not comfortable about the whole thing. Maybe worried and there is a sufficient current interest to have triggered a current rundown on what is in the files.

I do not think it is normal for a spook general counsel who has apparently been a career spook to tremble in the presence of two men who are without any special influence or connections. Now if he was in OSS in World War II and was in the office of the general counsel during Bud's employment as Long's counsel (which ended in 1968) he is pretty certainly a careerist in intelligence, even if he did not complete his education until after his military service. I would not assume his shaking to be a medical problem or a general nervous condition for he was made general counsel only recently. Which would seem to mean that he is now disliked by Nixonians. This is to say that our presence spooked him, made him this nervous. If we add other considerations, like his flash denials on Bud and persistence in them when the persistence was unreasonable, then it is reasonable to believe that he is really uptight and that this represents what he knows and can anticipate. His comment on the WC committee was close to emotional, one of the few signs of feeling he gave.

I did not address other reasons to believe there is interest in me. Some of my foreign correspondence, which NSA seems to watch, would attract it. USSR, Czechoslovakia, East Germany that I recall. Aside from the Cubans in New York, which they watch and bug, I have been to two embassies they watch, but for literary reasons only: USSR, Czech. I have been to others. I recall French.

Perhaps when you hear from him again we can place more meaning that I believe the foregoing makes possible. We have a reading that we can take as confirmation, or guilty knowledge and of uneasiness and uncertainty. I would hope we increased this. But that is not enough to forecast what they will or will not do or be willing to do or consider. In this connection, I think our best course is to play it cool, to let what will develop independently. I think more of use and interest will become public, even if I do not take part in it. This is to say that I think our situation will improve without effort by us; and that we can also improve it ourselves, especially if he learns what I think he must if he did not know it yesterday.

Amusing that the temporary parking permit does not say "CIA" on it. They are secret in these tiny ways! Way of life.