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10/11/72

Dear Herb, *Brubaker, NBC News*

If last night's excellent handling is an indication of the interest NBC can have in the Watergate story, I can help. Part has not been understood, from the reporting, and there is fact as yet unreported.

What has come to light is close to classic intelligence operation, Department of Dirty Tricks branch. It was as of World War II, when I was in intelligence, I'm sure it is today, and there have been occasions on which complaints have been made in other countries about such operations, attributed to the U.S.

This is one of a number of clues that leads me to believe that Hunt had a more important role in the deal than has been indicated. He was CIA for 20 years, engaged in domestic intelligence, including in Washington, had a State Department cover in a number of countries, including Mexico (where the money was switched around, remember), was connected with the Mullen agency (which did CIA work) while he was with CIA, and must have had a bigger role in the Bay of Pigs than was immediately leaked. (Truth of Barker also.)

I am certain Hunt continued with Mullen after they said they'd fired him. He was not just a writer. He was vice president and a director. Ken Clawson's statement that he last worked for the White House March 29 was deceptive. That was the date of the last payment to him of which Clawson knew. Meanwhile, Mullen had government contracts, the only one thus far mentioned making no sense as explained. It is not impossible that taxpayer money was also used, not just that of CREMP.

Hunt's CIA work for the period 1965-9 inside the United States indicates the possibility of transgressions against First Amendment rights. This is part of my interest in him. He may have killed things for me in 1965 and was in a position to.

What seems not to have been understood is the Cuban involvement. All of these people who were not in leadership roles in the Bay of Pigs subsequently got advanced military training from the U.S. Army. Or, they were a possible leadership cadre. And, of course, Hunt trusted them. I think he was the mysterious "Frank Bender" who ran the Bay of Pigs deal and that Barker was his next assistant, "Bernie". If you check the index to Haynes Johnson's definitive The Bay of Pigs you will find no aliases like those attributed to him in an immediate leak to the New York Times, "Eduardo", and to Barker, "Macho". (There was a priest whose real name was Macho.) Imagine, if this is correct, the man in charge of that disaster, the man who could have launched World War III, the man who knowing better committed the President to open intervention, in the White House itself!

I filed a Freedom of Information law request with Ken Clawson about three weeks ago. To date it has not even been acknowledged. I asked for the Mullen Agency government contracts and the dates of Hunt's White House employment after March 29, 1972. Hunt was still a White House consultant at the time of the arrests. He was in Florida at approximately the time film of stolen documents was processed. Regardless of which payroll he was on that day, it should be interesting and would be to me.

If it interests you, I have Hunt's own biographical representations from standard sources and can provide copies, together with a tabulation of them made by a friend. To this I have added a short but I think very productive investigation of my own. One area of this is confidential, but there is a way around that. If it interests you, the cost and trouble are slight. Just get xeroxes from the city directory for the Washington Building for the years beginning with 1965 and that at 1835 K Street, a new building, for the past several years. Hunt gave the Washington Building as his office address, when he was CIA and when, I am sure, he did not have an office there. Mullen did have a connection there that should not show in the directory. If you are interested, I'll be gone intermittently each morning at least until Saturday but expect to be home afternoons and evenings.

Sincerely,

Harold Weisberg

Afterthought: You may recall our discussion of the reluctance of the major media to use the Freedom of Information law and your kindness in sending me to Mr. Sonderer on my efforts to use it. This mess provides a legitimate case if you know anyone who is interested, with decisions right on the point of my suggestion.

Ask for a copy of the Dean report to the President.

Remember, I am not a lawyer!

The law, 5 U.S.C. 552, covers the entire executive branch. It does have specific exemptions. Mr. Sonderer has a copy of the Attorney General's memorandum on the law, which includes its text and the official interpretation. Each of the exemptions is handled separately. He xeroxed my copy.

Once the request is made, it can be ignored, the report could be said to be only verbal, in which event it will be clear there is no report or any real Dean investigation, of the request can be denied. The A.G.'s Memorandum stipulates "promptness" in response is required. With most agencies this is fiction.

Had the White House, including the President and Ziegler, never made any use or mention of the Dean report, it might have qualified for the internal-papers exemption. However, I believe the decision in American Rail Lines v Gulick is exactly in point here. It holds that any use, including mere passing mention, is a waiver of the exemption. There are other decisions that I believe bear on this point.

There is a non-binding recommendation of The Administrative Conference of the United States (I have it) that requests be answered, as I remember, in 7-10 days. It also suggests that failure to do this makes it possible to invoke still another law, alleging failure to perform an obligatory duty.

When a complaint is filed in federal district court, there is an unusual provision of 5 U.S.C. 552 which moves it to the top of the calendar. As I recall, if 20 days pass without response, the plaintiff can then take steps in court, as I have in the past. Thus such a suit can be brought before a judge rather fast, if not now before the election.

The prerequisite is simple: that the record or records sought be "identifiable". Not even "identified". So, asking for the "Dean report" meets the prerequisite of the law.

The memo begins with highly-quotable lines from LBJ and Ramsey Clark.

If anyone had used this law on the first mention of the Dean report, it could have been obtained by now unless, of course, the White House appealed, which can delay. I have a case before the court of appeals for about a year. It has been months since the hearing. The precedent is too important for me to be in any kind of rush on it. I expect it will go to the Supreme Court whichever way the appeals court decides. The government can be pretty dirty in these cases. In one Sirica was pretty far out. In another, rather amusingly, one of the federal attorney's attempts at dirty tricks backfired and he was forced into the position of certifying Kleindienst to be a liar. (Before the court of appeals.)