

3/24/73

Dear Bud,

I write this without having finished reading today's paper on the chance I have to go into town and can mail it. There are two quotes from the Watergate stories that are relevant to our spectro suit and Sirica and are relevant to my previous FOI suits, all of them, for there was lying if not perjury in all, including by Kleindienst, and I think perjury in two, spectro and clothing/pix.

"A spokesman for the Justice Department said yesterday that if McCord's statement to Sirica 'contains information supporting these allegations (of perjury and other criminal activity) or indicating any other violation of federal law, the Department of Justice will, of course, take appropriate action immediately.'"

In Peter Osnos' story on Sirica this quote from him: "Some good can and should come from a revelation of sinister conduct whenever and wherever such conduct exists."

Sirica now knows that the cases that should have been presented to him were not. There can be no question but that those who paid for the tapping alone committed a criminal offense and the present Justice administration recently obtained such an indictment. He may or may not know of or suspect other criminality. But he has had an education since he held our spectro hearing. He may or may not have got the interpretation I have on the court of appeals' footnote 5.

I charged perjury in the clothing/pix suit. I charged it to Mitchell and Kleindienst and to the judge and I think there is no doubt that with 'Rhoads' affidavit there is perjury and its subornation. I never got any response. The charges are made and are not answered and the statute can't have run. Sirica is chief judge. I can visualize some problems in writing him about the Williams affidavit because that case is on remand back to him, but with your permission I am not unwilling to do this. You have a long memo from me on that affidavit, written as soon as I saw it.

The Rhoads affidavit is not before him, the crime was committed in the court of which he is chief judge, and all the papers are part of the record. Jim has all of them if you do not. Material was whether or not I'd made a request. Under FOI almost nothing can be more material. Rhoads swore falsely and I provided the proof in a number of ways, including Archives' responses to the request.

Another alternative is for you (or me) to write Kleindienst quoting his spokesman and telling him that if he is sincere in this you are asking him to examine the Williams affidavit and ascertain for himself whether or not it is perjurious and whether or not there is a question of subornation.

Let us call some bluff and at the same time be ready for a better record. This gives us a great and legitimate opportunity I think we should seize upon immediately.

There is also the Jevens affidavit that is perjurious.

Then there is the affidavit in the Ray extradition suit by the DJ lawyer saying he had given me what he had not. That surely is perjurious and the summary judgement is the most unequivocal proof of it. We have letters of transmittal of later date proving he swore falsely, too. Bardley wrote you such a letter and Paul Valentine, when last we discussed this, remember, that he was with us and that this lawyer not only didn't give me what he said he had but refused my request. I do not know if Paul still recalls this. You may remember he was with us and gave us a ride back to your office.

This is off the top of my head. There may be more. We have, I think, a perfect context and a perfect situation. This is a rare opportunity to nail these sanctimonious liars who have a unique record of never failing to lie in any of my suits. It should also have salutary effect on all FOI matters in court and out if it is publicized. (This I will not attempt without consulting you.) If publicized now, it should make the task of the court of appeals much easier. And wouldn't it be something if a judge finally decided to do something about this endless perjury and impositions upon the courts?

Sincerely,

Jim,

spectro

3/13/73

Your 3/11 says we can't oppose the petition for a rehearing (what the hell is a "suggestion" in the law?) and opines the move is unusual and likely to fail. Great. You say we then get to submit a brief if they do the rare and grant the motion. I think we should really prepare that brief, even to lining it up in advance of need so that it can be terse: hard and to the point, as I indicated in my letter to Bud, with a few things I've thought of since, like today's coverage of the Hoback affidavit. Birch Bayh has it so with it published that should be no problem. The timing for the attack on the Williams affidavit could not be better. This stuff really makes it criminal. He did swear "never" and within the government (like Creep?) on a "need to know" basis only (like Dean?).

We and the judges will be looking ahead to the Supreme Court. This suits Whizzer Tom Whiz, and one vote may swing. He addressed this in Hink. This goes farther, this relieves him in that case, where there was controversy, validating his dictum that an affidavit alone is not enough.

All of this new and topical stuff that proves the FBI lied and did that on purpose, to deceive all the courts, should have some weight now.

All this stuff also is what the law envisioned, as what I seek is not, so that gives it even more weight.

HW 3/13/73

Jim Lesar phoned me last night about other matters. He then told me that the government had filed a motion in my spectro case asking for an additional two weeks to present a petition to the court of appeals en banc. He, Bud and Bob Smith had discussed what to do (without informing or consulting me--and it is my case). Bob and Bud were initially inclined not to oppose it. Jim was and I instinctively was. Jim indicates his opposition may be even stronger than mine, he says. However, nothing need be done now, not until after his return. This move is consistent with my belief the government would go to the Supreme Court rather than agree to go back to district court as ordered by appeals. This move permits them to delay even more. They can still go to the Supreme Court before going back to District. Or, they are hung up. They didn't even ask for en banc consideration when they lost in the court of appeals in the Mink (Amchitka atomic blast) case, where they won in Supreme Court. HW 3/9/73

Reassuring note on the genuineness of press interest in freedom of information, etc.

This is the period of Senate hearings on the rights of the press, or the jailings of reporters, of numerous subpoenas to the press and of supposed interest in the workings of the FBI. The FBI is further in the news because of hearings on the appointment of L. Patrick Gray to be Bureau Chief. This is the setting for the handing down of the decision in my spectro case by the U.S. Court of Appeals for the D of U.

One thing new this decision says is that the files of the FBI are not immune to citizens. Some are under the law but all are not. The FBI has held to the contrary.

There is other legitimate news in the decision, as there is, I believe, in the dissent, which says I should be ~~foreclosed~~ foreclosed from further inquiry into the assassination. I don't think there has ever been anything like this in any judicial decision. It follows, of course, that if any one can be foreclosed from any inquiry or writing, everyone can be. And if this can be done with the JFK assassination, is there anything on which it can't be done?

There appears to have been a small story in the late edition of the Post last Thursday. I don't have it. I left word on the decision and in some cases the dissent at the Star, New York Times, CBS, NBC (copies of it) and Chicago Daily News that I recall. I have been told that the NY Daily News carried a small story. I have not seen it. I suppose they picked it up from the Post. I have heard nothing from any single person, reporter or other, except those with whom I have been associated in the suit. Not have I heard of any wire or other story.

If one goes past the obvious in this decision, there is much other legitimate news. If Sirica's name is not mentioned, it is a severe commentary on him. The record, if any reporter had looked at it, has the DJ certifying that the AG is a liar. There is an obvious inference that this appeals court majority believes the FBI was at least deceptive. Even the dissent quotes without argument or contradiction the allegation that is the spectro sought in the suit does not show all that is claimed for it, the entire solution to the crime is fiction. The decision says the allegations of the government in describing information are not acceptable, that the government must make a showing of proof and that the burden of proof is on the government, not the ~~ix~~ applicant for information. And much more. But, apparently, none of this is news, in today's context or any other.

If there is reassurance in nothing else, we can be certain of the press!

HW 3/6/73