

11/3/73

Dear Barry,

Jim Lesar, who will deliver these papers to you, has represented me in a number of Freedom of Information matters and we hope will soon have time to file more. He has just been admitted to the bar, so he did not file the original papers. He and I have worked together closely in the case of James "Earl" Ray's appeals, where he has done almost all the real legal work.

He will be using some of these papers in a filing in court for me, with a close deadline that gives him little time. I hope that as he goes over them he will be able to make copies of the letters that can interest you. If this is the case, he will then give you for return only the Texas report. ~~and~~ There is no rush on its return. Rather than risk damaging it in the mail, perhaps Maureen can hold it until he can pick it up or, if you have a messenger to ~~bring~~ spare, it can be left for him at Fensterwald's law office, 6th floor, 910 16 NW. He and I see each other often enough.

This is far from all I have on the Texas court. I have some of it filed away with work on a book I've had to lay aside. The case for federal control, stemming directly from the White House, is much stronger. Those are the parts of the official Archives file that have been memory-holed. A friend obtained some copies from a Texas source years ago and wrote them verbatim in a minor magazine.

This copy of the report was made for me by Dean Storey (he is also a real dean, of the law school in Dallas, is it SMU?). He was a member of the court of inquiry for which Jaworski, as special counsel, had a role equivalent to J. Lee Rankin's on the Warren Commission. Storey has never been unfriendly to me. He opened his files, which he will leave as an archive at the law school, and they are a joke. I have much more than he has.

Henry Wade, Dallas D.A., has become a friend. We have had a number of long talks about this. I did not tell him that investigation, on which he was ex officio, was a cruel hoax because he was involved in only part of it, which we did discuss fully. If you ever have time, and not now for publication, I think how Jaworski presided over the conning of the Texas boys in this area will fascinate you. I have that book a third written and don't want to throw it away. For your immediate understanding, one of the Texas problems shared by the federal is that Wade was convinced beyond question that there was a conspiracy.

Let me explain a little further why I phoned you to suggest you ask for the technical data on Nixon's taping system. I am sure it will destroy all their accounts of these mysterious disappearances, perhaps to the point of criminality. Where reel-to-reel tape recorders are used for voice recording, automatic reverse has been available to my knowledge for at least six years, commercially and inexpensively. This means that it is not necessary to turn the reel over mechanically and the length of time is doubled. Identification of the machines used will establish whether or not they have this capability. More, there is no reason for the backup machine not to be permanently in the circuit, regardless of whether or not they are attended, weekend or no weekend. As I remember Haldeman's testimony (and the dates are close, I'm fairly certain), he described a 7" reel. It is difficult to believe there was such an installation. ~~with 5" reels~~ ~~any~~ reel a variable, if the original reel were longer it also would be a simple matter to rewind on a 5" reel from a longer amount of tape what would just run out at a convenient point. This would make the 5" reel look legitimate if it were not. To my knowledge, recorders that take larger than 7" reels are in common use for the alleged Nixon purposes. Radio stations use them, I believe at 15/16, to make what they call an air tape, of what is actually broadcast.

If you did not follow the relevant testimony closely, what Dean would talk about was known to Nixon. Dean spent that Sunday with Shaffer. The 9 p.m. EOB meeting followed Dean's 8:15 conversation with Higby in which Dean was explicit. While Dean and Nixon were talking, Nixon had a phone conversation with Petersen, which has to have involved a different recorder or there would be danger of cross-talk.

Sincerely,

P.S. Later 11/3/73

All the news to which I've had access, with the Post's strike, is the AP "B" wire in the local paper and the 8 a.m. CBS bet radio news. What they report is entirely consistent with my suggestions.

As reported, Bull's testimony is what I take to be deliberately evasive. In the light of it and other news reported, I strongly believe that a critical re-reading of Haldeman's might be productive, beginning with his volunteered info about having heard the tapes. As I recall it, he does not address the existence of the 4/15 tape. Rather he says merely that he did not listen to it. With Dean's credibility the issue, there is no possibility he would have avoided playing it, assuming no perjury, if it existed. Assuming the integrity of Dean's version and recalling the message to Nixon via "igby", I would also postulate that Nixon could have known his main taping system was "inoperative" and that he had an auxiliary one within the room.

Actually, dependable ones of this character are inexpensive. I have often thought of equipping one of mine for such use but I didn't because my purposes, which would not be sneaky, could be misconstrued. (My concern is over the ham in witnesses when they see a mike.) From my experience with one police department, in which I then used a jerry-rigged attache-case standard, inexpensive recorder, the results are dependable in even a noisy environment. So, if Nixon had one in an attache case, he'd have a secret one of which his own staff would not know. This could make sense of Dean's description, for the pickup range of such an arrangement is more limited. A machine like my Sony TC 40 need not be hidden, would be silent, and would not be detected if any case were taken in placing it. It could go for an hour on drug-store supplies.

Bull's offer, or the lawyers, of Nixon's tape-recorded comments fascinates. If made after he "discovered" that the tape does not exist, they are no more meaningful than any other recollection of more than a year later. If made earlier, why would he have made them when he had the tape, unless he knew he did not have the tape? This suggests what I suggested earlier, that knowing he did not want his system to record what he and Dean discussed, he had it off. I believe this is an alternative to deliberate destruction, for I do not believe the malfunction contrivance.

Given what is involved, it does not seem unreasonable to wonder if the "aldeman audition, which comes at a time that makes it possible, was really a device for enabling the disappearance of the crucial tapes. Haldeman was ~~avgue~~ ^{missing} on those he had.

If my recollection of Haldeman's testimony is correct, Nixon had heard these tapes (dates unspecified) before asking Haldeman to listen to them, which he did twice. If Dean's testimony is truthful ~~the tapes~~ ^{missing} convict Nixon of a crime. Can it be believed that of all the tapes this one would not be listened to by both Nixon and Haldeman? (When I first heard the Haldeman testimony, I felt that the real purpose of his listening to the tapes was to cue him in.) Or, given the burning White House desire to get Dean, if the tape made a perjurer of him, it would not have been used?

There is another explanation of the Part 1 than Bull offered. If it was a dub onto 5" reels to fit a portable machine that does not take 7" reels, the boxes of 5" reels would be properly identified. And if the original reel was more than 7" or if there were more than one 7" reel, then there would be more than two parts to the ~~im~~ dubs. I see no reason to assume original taping on 5" reels, every reason to assume other than 5" reels, and thus would suspect that if 5" reels are delivered to the court they are not originals, another reason for knowing what equipment is used in the total installation. With retrieval a problem in such volume, I would expect the gadgetry to include commercial radio cuing machines, fast-players. Perhaps even timers.