

June 7, 2012

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CHAMBERS OF
JUDGE LAMBERTH

The Hon. Royce C. Lamberth
Chief Judge
United States District Court
for the District of Columbia
333 Constitution Avenue, NW
Washington, D.C. 20001

*Misc. 12-74 (RCL)
let this be filed.
Royce C. Lamberth
U.S.D.J. 7/13/12*

Dear Chief Judge Lamberth,

This letter is written in response to the Department of Justice (DOJ) brief filed in my case, In Re Petition of Luke Nichter, Misc. No. 12-74 (RCL).

Summary:

1. I respectfully urge the court to act now to order the release of all sealed *US v Liddy* materials not objected to in the DOJ brief,¹ but to delay any ruling in the three areas in which the DOJ has raised objections while I assemble information in these areas that already has become a part of the public record. The assembly of such information for the court's review is needed in order to determine whether the unsealing of those *US v Liddy* materials objected to in the DOJ brief would cause the breaches of privacy of living figures, reflect the content of illegally obtained wiretaps, or reveal grand jury information to the extent that the DOJ brief claims would occur.²

¹ The DOJ brief stated "Forty years after the break-in at the Democratic National Committee that began the chapter of U.S. history known as Watergate, no good reason exists to keep sealed many of the judicial records created during the trial of the Watergate burglars." Per 44 U.S.C. 2107, materials not objected to in the DOJ brief could be located and physically and legally transferred to the custody of the National Archives and Records Administration for processing and release to the public.

In relevant part, 44 U.S.C. 2107 provides:

When it appears to the Archivist to be in the public interest, he may—

- (1) accept for deposit with the National Archives of the United States the records of a Federal agency, the Congress, the Architect of the Capitol, or the Supreme Court determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the United States Government; [and]
- (2) direct and effect the transfer to the National Archives of the United States of records of a Federal agency that have been in existence for more than thirty years and determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the United States Government, unless the head of the agency which has custody of them certifies in writing to the Archivist that they must be retained in his custody for use in the conduct of the regular current business of the agency[.]

² After the passage of four decades, the willing testimony of many of the living figures in question, government investigations, Congressional inquiries, interviews, memoirs, books, and extensive litigation have cumulatively placed an enormous volume of material about Watergate and the living figures in question on the public record. Moreover, in 1973, the DOJ and original Watergate prosecutor Assistant U.S. Attorney Earl Silbert were in favor of

2. I also urge the court to investigate the extent of the breach of this grand jury's secrecy as a result of one or more grand juror interviews by *Washington Post* reporters while *US v Liddy* was still pending, information about which has only very recently come to light. I believe those breaches—presented in the accompanying attachments—may turn out to have been of such magnitude as to undercut DOJ's continued argument for this grand jury's secrecy in my case. I further believe that findings from that investigation may well influence the court's decision regarding my own petition, and whether the unsealing of the restricted *US v Liddy* materials in question would in fact create a new breach of the grand jury.

Discussion and Detailed Response

Overview: The subject of Watergate has attracted enormous attention over the past 40 years. Some writers have been labeled anti-Nixon. Some worked for President Nixon. Some have been called conspiracy theorists. Others have been labeled revisionists.

I am not trained in the law and am in no position to respond to the DOJ's extensive legal arguments and case citations. As an American citizen and a stakeholder in our democracy, my interest is in making these materials available for historical research now and for the use of historians in the future. The simple fact remains that—even some forty years after the break-in arrests led to the demise of the Nixon presidency and to the incarceration of dozens of administration officials—historians still have no definitive answer as to the rationale for the Watergate break-in or the fruits of any illegal wiretap(s).

permitting the testimony of wiretapper Alfred C. Baldwin, who was called as a government witness. Silbert recognized the high public interest in the case, and when Baldwin's testimony was ordered sealed by the Court of Appeals, Silbert believed the decision represented a lost opportunity to understand why the break-in occurred in the first place. He has said since that he believes the break-in occurred for a reason other than to gather political intelligence on DNC Chairman Larry O'Brien, a belief that challenges the foundation of the Watergate narrative which has held for forty years. Therefore, the primary importance of unsealing those *US v Liddy* materials that remain restricted forty years later is that *US v Liddy* represented a first and contemporaneous opportunity to chronicle the actions that led to the break-in, before later litigation turned to other topics.

Forty years later, the fact that historians still cannot definitively answer basic questions about Watergate such as *Who ordered the break-in?*, *What was the purpose of the break-in?*, and *What was overheard on the Baldwin wiretaps that led to the break-in?* suggests to this petitioner that efforts by the FBI and the courts such as determining White House involvement in the break-in and a subsequent cover-up and tracing currency and phone records of the defendants took precedence over determining the actual *cause* of the break-in, which has never been determined despite the significant attention paid to other aspects of Watergate.

Moreover, for a generation of Americans who came of age during the Watergate era, a period that witnessed the crescendo of American military involvement in Southeast Asia, domestic unrest due to important but controversial civil rights reforms, the tragic assassinations of prominent national leaders, and culminated in the only resignation of a sitting American president who was subsequently pardoned by his successor, the fact that forty years later key records from *US v Liddy* remain sealed, obscuring the reason for the Watergate break-in which would over time have such a significant impact on our nation's political and legal systems, has had the effect of delaying the ability of many Americans to more fully come to terms with one of the most tumultuous periods in our nation's history.

The DOJ argument for continued secrecy in several critical areas is not easy for this historian to comprehend. While I take seriously matters of legal precedent and hold reverence for the institutions of the criminal justice system, including the continued right to privacy of living individuals, the DOJ response does not fully appreciate what has transpired in the intervening forty years since the Watergate break-in. There also appears to have been minimal or no DOJ review of the materials in question that they insist must remain sealed.

I believe that much of the substance of what DOJ argues needs to remain sealed has already become a part of the public record: in the extensive FBI Watergate investigation which has been public since 1980; in the testimony and depositions of many of the living figures in question offered in connection with a subsequent lawsuit brought by John Dean,³ as well as the two subsequent lawsuits brought by Ida M. Wells;⁴ and in the interviews given in connection with a series of subsequent books, particularly James Rosen's eight hours of interviews with Alfred Baldwin, which were done in connection with his 2008 book about Attorney General John Mitchell.⁵

These disclosures are nowhere acknowledged or addressed in the DOJ's brief.

Request for Initial Ruling: The DOJ brief recognizes that the passage of time has made it possible to release a good deal of the sealed materials from *US v Liddy* and I ask this court to order the unsealing of all those materials to which no DOJ objection has been raised.

My review of those materials also will allow a more thoughtful examination of what remains unaddressed on the public record.

Request for Partial Abeyance: At the same time, I respectfully request that for now, however, this court hold in abeyance any ruling on the three areas to which DOJ has raised objections. This will allow me the necessary time to assemble—for DOJ and the court's review and consideration—the extensive disclosures in these areas, alluded to above, that are already in the public domain.

In cases where the unsealing of any restricted *US v Liddy* materials is shown, upon review, to cause a new breach of the privacy of a living figure, reflect the content of illegally obtained wiretaps, or reveal grand jury information to the extent that the DOJ brief claims would occur, I urge the court to consider using a process like FOIA to review and release the records. In accordance with 5 U.S.C. 552(b), FOIA permits an agency to make records available to the public to the greatest extent possible, while at the same time protecting sensitive information. Wouldn't the best possible scenario for a resolution of this petitioner's request be to find a balance between permitting historians and the American people to have a better understanding of

³ See *Dean v. St. Martin's Press, et al.*, Civil Action No. 92-1807 (D.D.C.).

⁴ See *Wells v. Liddy*, 186 F.3d 505 (4th Cir. 1999) and *Wells v. Liddy*, 37 Fed. App. 53 (4th Cir. 2002).

⁵ See James Rosen, *The Strong Man: John Mitchell and the Secrets of Watergate* (New York: Doubleday, 2008).

a difficult period in our history, while still protecting the privacy of any who still consider themselves aggrieved parties?

At some point, after I have compiled the information in the three areas in which the DOJ has raised objections, I believe it will be appropriate for the court to order a review consistent with 44 U.S.C. 2107 and 5 U.S.C. 552(b) of the remaining sealed materials and make a comparison with what is publicly available, to better appreciate the historical importance of what remains under seal.

Regarding the three areas where I have suggested the court's ruling should be held in abeyance, I do note the following:

- Pre-Sentence Materials: I am not in favor of causing any new breach of privacy of a living person as a result of the release of any pre-sentencing material. However, we know, for example, that defendants Howard Hunt, Frank Sturgis, and Bernard Barker are deceased, and both John Dean and Gordon Liddy have said they do not oppose the release of pre-sentencing material.⁶ Therefore, it would follow that such materials pertaining to deceased individuals and those who have not opposed release could now be released. For any individuals who object to release and have a legitimate claim to continued privacy, such materials could be reviewed and released in redacted form consistent with 44 U.S.C. 2107 and 5 U.S.C. 552(b).
- Content of Illegally Obtained Wiretaps: In 1973, the DOJ and original Watergate prosecutor Assistant U.S. Attorney Earl Silbert were in *favor* of permitting the testimony of wiretapper Alfred C. Baldwin, who was called as a government witness. It is important to note that there were never any actual recordings made of these wiretaps—and any written analyses done by Baldwin are said to have been destroyed shortly after the break-in arrests. At least none have ever surfaced and are not the object of my petition. All that seems to exist and all that I am seeking is the release of the testimony and the interviews Baldwin gave about what he remembered having overheard, much of which has become a part of the public record in the intervening forty years. Due to the great historical interest in this matter, in cases where the unsealing of such information represents a new breach of privacy for any individuals who object to release and have a legitimate claim to continued privacy, such materials could be reviewed and released in redacted form consistent with 44 U.S.C. 2107 and 5 U.S.C. 552(b).

DOJ certainly has raised no objections on privacy grounds to the continued disclosure of conversations secretly recorded on the Nixon White House tapes,⁷ where participating individuals might well have thought they had some parallel right. As a historian, I cannot help but think issues concerning “the public’s right to know” in this intensely studied area is somehow being selectively applied.

⁶ For more than a decade now, some pre-sentencing material from *US v Liddy* has been available to the public in the Papers of John J. Sirica, held at the Library of Congress, Manuscript Division. (See Box 23, Presentencing File, 1973-1974, two folders).

⁷ See <http://nixontapes.org> for more information.

All I believe I am seeking through this particular disclosure is a means to test the completeness and veracity of subsequent statements by the individuals involved against the testimony and interviews given at a time that was closer to actual events.

- Grand Jury Testimony: I have been unable to reconcile DOJ's categorical stance against any grand jury disclosure with (i) their not appealing this court's ruling in the Kutler petition, which ordered the release of President Nixon's 1975 grand jury testimony,⁸ (ii) Attorney General Holder's letter of October 18, 2011,⁹ urging that an historic interest exception for release of grand jury testimony be added to the Federal Rules of Criminal Procedure, and (iii) with the prior disclosure in testimony, depositions, and interviews by Alfred Baldwin (about what he recalled having overheard) and Spencer Oliver and Ida M. Wells (about what they might have said in phone conversations that might have been overheard).

In sum, I believe I can document an even stronger case for disclosure if the court will provide me with a little time to do so.

Request for Investigation: On a directly related matter, I respectfully raise the issue that DOJ's stated concerns about the importance of secrecy of that particular grand jury may be inapposite because Watergate Grand Jury I's function appears already to have been severely compromised due to one or more grand juror interviews with *Washington Post* reporters Bob Woodward and Carl Bernstein during the pendency of the *US v Liddy* case, that have only very recently come to light.

For the background and information, I respectfully direct this court's attention to the following attachments, which document events of the last six weeks:

- Attachment A: The April 29, 2012 article posted by *New York Magazine* by Jeff Himmelman entitled, *The Red Flag in the Flower Pot*, which first disclosed an interview by Carl Bernstein in December, 1972, with a Watergate grand juror (falsely identified as their source, "Z"—supposedly a secretary at the Committee to Re-Elect the President—in their 1974 book, *All the President's Men*). The article can be accessed through the internet at the following link: <http://nymag.com/news/features/ben-bradlee-2012-5/>. It is instructive to note that it contains remarks attributed to the two reporters that seemingly confirm the accuracy of this reporter interview and make light of their invasion of that grand jury's sanctity.

⁸ The government did not appeal Judge Lamberth's decision in a recent case brought by Public Citizen Litigation Group, *In re Kutler*, No. 10-547, 2011 WL 3211516 (D.D.C. July 29, 2011), in which the district court agreed to unseal the 1975 grand jury testimony of former President Nixon. Other cases in which grand jury records were unsealed based on historical significance include *In re Craig*, 131 F.3d 99 (2d Cir. 1997), and *In re American Historical Ass'n*, 49 F. Supp. 2d 274 (S.D.N.Y. 1999). Public Citizen Litigation Group has consistently argued that the courts' inherent authority to disclose grand jury material exists when the records have "exceptional historical importance." The fact remains that President Nixon would not have provided grand jury testimony—nor would there have been a grand jury—had there not been a Watergate break-in, which underscores the historical importance of those *US v Liddy* records which remain restricted today and are the subject of this petitioner's request.

⁹ See <http://www.uscourts.gov/uscourts/RulesAndPolicies/rules/CR%20Suggestions%202011/11-CR-C.pdf>.

- Attachment B: This same website also displays the seven pages of typed notes that are identified as notes prepared by Bernstein immediately following what may have been his initial interview with this grand juror. That memo can be accessed through the internet at the following link: <http://nymag.com/print/?/news/features/ben-bradlee-z-memo-2012-5/>. Woodward is quoted as having told Senator Ervin of the Senate Watergate Committee that they ranked information obtained from “Z” as equally important as that obtained from “Deep Throat.”
- Attachment C: Pages 201-210 of Jeff Himmelman’s subsequently published book, *Yours in Truth, A Personal Portrait of Ben Bradlee* (Random House, 2012), which recount roughly the same tale of the grand juror interview, but also seem to suggest that counsel to the *Washington Post* may well have known and opined on the proposed grand juror interviews in advance, that the book’s author (Jeff Himmelman) also knows the identity of grand juror “Z,” and notes that at least one *Washington Post* editor had stated that Bernstein planned to meet with that grand juror again.

I question whether DOJ is taking this acknowledged breach as seriously and investigating it as vigorously as they are defending against any disclosure in my case. I cannot help but believe that DOJ should be asked how it can argue for secrecy in my case when that grand jury’s secrecy already has been so seriously breached by others, especially when I have already conceded a willingness in cases where the unsealing of such information represents a new breach of privacy for any individuals who object to release and have a legitimate claim to continued privacy that such materials could be reviewed and released in redacted form consistent with 44 U.S.C. 2107 and 5 U.S.C. 552(b).

I respectfully urge the court take steps to ascertain the extent of these leaks and of their impact on the sanctity of that particular grand jury. It might request DOJ to investigate and report back. Alternatively, the court itself might seek this information directly. After all, I understand that the specific grand jury was a creation of this court, thus the integrity of this very court appears to have been breached by those actions.

Conclusion

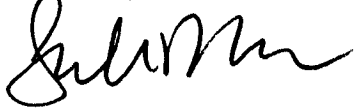
I end with the observation with which I began: it is difficult to appreciate DOJ’s stance today when forty years after the break-in that led to the demise of a presidency and to incarceration of dozens of administration officials, historians still have no definitive answer as to the rationale for the break-in or of the fruits of any actual wiretap(s) that prompted the break-in.

I earnestly seek the court’s assistance in redressing this situation, specifically asking that:

- The court order the release of all sealed materials in *US v Liddy* to which no DOJ objection has been raised.
- The court hold in abeyance any ruling regarding DOJ’s three areas of concern—presentence reports, wiretap information, and grand jury information—while I produce a compilation of what has already become a part of the public record.
- The court order an investigation into the extent of the breach of grand jury secrecy by *Washington Post* reporters, the results of which I believe will impact DOJ’s position and the court’s thinking regarding my own petition.

Thank you for your consideration of these views.

Sincerely,

A handwritten signature in black ink, appearing to read 'Luke A. Nichter', written in a cursive style.

Luke A. Nichter, Ph.D.
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NEW YORK

The Red Flag in the Flowerpot

Four decades after Watergate, there's something that still nags at Ben Bradlee about Deep Throat.

- By Jeff Himmelman
- Published Apr 29, 2012



Ben Bradlee and Bob Woodward at the *All the President's Men* premiere in 1976
(Photo: Ron Galella/Wire Image/Getty Images)

One day in early 2007, Bob Woodward poked his head into my office. He and his wife, Elsa, had been out for dinner the night before with Ben Bradlee and his wife, Sally Quinn. Bradlee had written a memoir in 1995, but he had another book left on his contract, and he and Sally were looking for somebody to help them out. “I told them they should hire you,” Bob said.

My office was on the third floor of Bob’s house, down the hall from the framed apology from Nixon’s press secretary that sits at the top of the staircase. I was back working as Bob’s research assistant for a few months, after having more or less lived in his house from 1999 to 2002. Bob had been my first real boss, hiring me when I was 23. I’d been with him on September 11, as he charged toward the Capitol while the plane presumably targeting it was still in the air, and had helped him begin *Bush at War*, the first of his blockbuster portraits of the Bush presidency that were a late turning point in his legendary career. As a reporter, I was in awe of him. I had also gotten to know Carl Bernstein, who called often and sometimes stayed in the guest bedroom on the other end of the third floor. I still remember the charge I got out of relaying Carl’s phone messages—Bernstein for Woodward.

THE ‘Z’ MEMO

- [December 4, 1972 Memo](#)
- [A Response From Woodward and Bernstein](#)

Carl was important to Bob, but Ben Bradlee was something entirely different. Bob revered him, and so I did, too. I had only met Ben once, for a few seconds in Bob's kitchen, but I had seen *All the President's Men*. When Bob said, "I told them they should hire you," I leaped at the chance.

A few weeks later, I walked down to the *Post* building on 15th Street. To say that Ben had no idea who I was, or what I was doing there, isn't quite true. We had talked briefly at his home, when Sally laid out a plan for the book and Ben mostly rolled his eyes; and Carol, Ben's secretary, had also surely prepped him for my arrival that morning. But it was almost true.

"What can I do for you?" he asked.

I recited the things Sally had told me to say—we can take it slow; I can do some preliminary work and see if it turns into anything; if there's no book there, then we won't force it—and when I was through, he looked at me blankly.

"I've already written one book," he said. "I'm not in any big rush to write another one."

I said I understood, and began to put my notebook away.

Then Ben mentioned that he had a bunch of boxes in storage someplace and had no idea what was in them. "Would you like to look at those?" he asked.

"I would love to look at those," I said.

They came in tranches of four, seven, and nine—brown legal boxes, numbered sequentially and marked "Bradlee." Courteous custodial workers wheeled them out of the elevator and through the chiming glass doors that mark the entrance to the seventh-floor executive suite of the Washington *Post* building.

The first box I opened was so filled with onionskin copies of Ben's correspondence that its sides were bowed. I pulled one of the folders at random and came across a 1977 letter to Katharine Graham, then the *Post's* publisher:

Dear Mrs. Graham:

Messrs. Eugene Meyer and Philip L. Graham must be turning over in their graves because of the way you are dragging down what used to be a wonderful newspaper.

In my humble opinion, I think the persons really responsible for the Washington Post's decline are Benjamin C. Bradlee and Philip L. Geyelin.

Beneath it was Ben's response:

Dear Mr. Dodderidge:

Your letter to Mrs. Graham reminded me of the story about W. C. Fields sitting with a drink in his hand in his garden one afternoon.

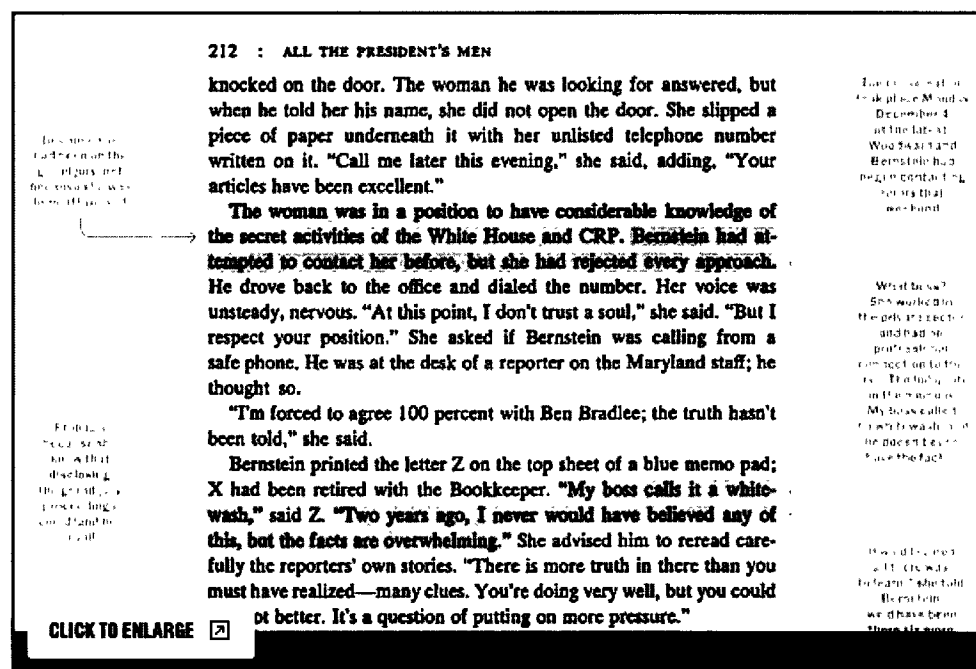
His secretary interrupted him repeatedly to tell him that a strange man wanted to see him and refused to say what he wanted to see him about. Finally Fields told his secretary to give the man "an equivocal

answer—tell him to go fuck himself.”

This was going to be fun.

I came in every afternoon to read. I didn't spend much time with the real Ben at first. For a while, I had no idea whether he knew what I was up to. One early “meeting” ended when I asked him how much thought he had put into his letters and he said, “The number of letters I wrote twice you could put in your ear.” Another ended when he started working on a crossword puzzle while I was in the middle of a sentence.

Adapted from *Yours in Truth*, by Jeff Himmelman (Random House; May). © 2012 Jeff Himmelman.



Fact-Checking Woodstein

In *All The President's Men* and ever since, Woodward and Bernstein have maintained that while they tried to get members of the Watergate grand jury to talk about the proceedings, none did. But in Bradlee's files, Jeff Himmelman discovered a memo that suggests that one source—a woman they called "Z," whom Woodward later said had been as important to the story as Deep Throat—was a grand juror, a fact they disguised in the book. Above, we annotate the relevant passage.

He didn't have much interest in the stuff I was digging up, either. Whenever I found a letter that I thought was particularly incisive or relevant or funny I would bring it to him in his office. He would hold it up, scan it, and then put it aside with the very clear intention of never looking at it again.

But the reading was reward enough. Ben began one letter to Jesse Jackson, "You are one mean dude," then proceeded to ream Jackson for trying to influence the *Post's* coverage: "If you are writing your letter of July 26 to me to show to some other people, well and good. So be it. But if you are writing that letter to help your cause, the cause of the good people in this world, you are close to being counterproductive. Next time you're in town, let's talk about that. Let's talk about what newspapers are for. One of the things they are not

for is simply this: They are not to serve anyone's special interest."

In 1976, when the *Post* published a somewhat slanted account of George McGovern's decision to rent his house to the Syrian ambassador, Ben wrote, "Dear George: I think our story about your house was bullshit, and I'm sorry it ever ran." On a letter from George Allen, the coach of the Washington Redskins, Ben simply wrote, "File under 'Assholes.'" Carol likes to tell the story about the time her son met with Ben at the *Post* for advice. After the meeting was over, Ben clapped him on the back and said, for all of the seventh floor to hear, "Keep your pecker up."

But it wasn't just his saltiness that got me. The boxes were a kind of archive of Washington history after the war. In one of them, I found an invitation to a birthday party—a generic card, with furry animals aligned along the side. I looked more closely, and I noticed that the party was for John Kennedy Jr., at the White House, to be held November 26, 1963—an invitation to a party that never happened. I had to stop working and just sit with that one for a while.

One day, I found a faded copy of a play called *How, Please?*, which Ben had written with a colleague at *Newsweek* in the late fifties. I walked into his office and plunked it down on his desk with a grin.

He looked at the title page, flipped through it, and then looked back over at me.

"Don't kill me with this," he said, half-imploring, half-kidding. It was the only time that he tried to stay my hand.

Dear Ben:

On your 80th I want to say some of the things that seem never to get said. For reasons of maleness, and maybe time, I've rushed by too much that is important, the really, truly important.

The letter was typewritten on Bob's personal stationery. He began with his first interview with Ben, in September of 1971: "Everything after the Navy was easy, we agreed," he wrote. "After the Navy there could be running room."

So that's what you gave me first—running room. It was a magnificent gift. I felt it every day, and it came directly from you. There was this huge sense that we were your boys, or girls, or people—the entire newsroom—turned loose. Running room was a matter of pride and obligation. We didn't understand fully what it was, but we recognized daylight and went for it because that is where you were pointing. Daylight: news, the unexpected and surprising, and the daily folly and occasional generosity of mankind, that endless buffet.

Bob doesn't normally write like that. When I worked for him, he would sometimes encourage me to "swing from the high vines," but he was always hesitant to do the same. Most of the time, it was hard to tell how Bob really felt about anything.

The way you and Sally have extended your family to ours in recent years is a cornerstone of our life. I'm feeling older. If the running room is a little less, and the rear end doesn't move as fast, the old fires of deep appreciation, deeper admiration and the deepest love still burn for you.

"At what point did you become friends?" I asked Bob.

“Well, you know,” he began, “I think you’ve probably got other people ...” He trailed off. “Ben and I are close, and we have this history. But he’s not going to call me up and say, ‘Hey, come on down and have a beer.’ I think he does that with [Jim] Lehrer and [Jim] Wooten and Shelby [Coffey] some,” he said, referring to three of Ben’s friends. Then, a bit uncertainly, “Doesn’t he?”

“I don’t really know,” I said. I had spent nearly five months in Ben’s archives, but I still didn’t know the man all that well.

Bob paused, thought for a moment. “I mean, you know, it’s ultimately like another father,” he said. “Like with your father, you feel that you never close the deal.”



Bradlee's "Residual Fear"

In *All the President's Men*, both film and book versions, Bob Woodward signaled to his mysterious source that he'd like to meet by moving a flowerpot with a flag in it on his balcony. When Deep Throat wanted to arrange a meeting, Woodward said, he'd code the message into Woodward's copy of the *New York Times*.
(Photo: Treatments by Gluekit)

An hour later, as I sat out in the back garden with his wife, Elsa, Bob brought out a bottle of white wine. I mentioned that I'd uncovered some information in Ben's files that I didn't know quite how to handle.

Bob's ears perked up at the mention of a secret, and he flashed a knowing smile. “All biographers are concealers,” he said.

At that point I was still writing a book with Ben, not about him, but I had the first flicker of the realization that writing about your mentor's mentor is a trickier proposition than it seems.

Over the next year, the job changed. Ben decided he didn't want to write another book after all, but told me he'd cooperate if I wanted to write about him on my own. He opened his entire life to me, from his archives at the *Washington Post* to his friends, his colleagues, his dinner table, and his lounge chairs by the pool.

This is not to say that he bared his soul. He didn't divulge any deep private thoughts, in part because I'm not sure he has any. He just answered my questions. “I'm not hiding anything,” he said to me one winter

day in his living room. For a moment I thought he was going to tell me some great secret. Then he said, “I might have bopped a couple of dames that I shouldn’t have, but I think I’ve been pretty honest about that.”

Nothing ever seemed out of bounds, even the big stuff. “I don’t give a fuck what you write about me,” he told me at dinner one night. And when I brought him material that questioned the established narrative of Watergate, he said, “Don’t feel that you have to protect me. Just follow your nose.”

Ben’s Watergate files weren’t the most organized part of his archive, but as a window into the guts of the reporting, they were mesmerizing. One of the more tantalizing items, from the start, was a dense seven-page memo with a set of initials at the top. It was hard to read, a faint copy of a typewritten document, and contained more than 100 data points, seemingly taken down in rapid-fire style by Carl soon after an interview. It was dated December 4, with no year.

By November of 1972, after President Nixon had been reelected, the Watergate story had run cold. Desperate for any kind of lead, Carl and Bob—with permission from Ben—decided to approach the grand jurors in the criminal case. In a long passage in *All the President’s Men*, Woodward and Bernstein report that they made contact with several grand jurors but didn’t get anywhere with them. This was a dubious enterprise, no matter how you slice it. The *Post’s* lawyers had tried to advise Ben against it; though approaching a grand juror might not have been legal, it was certainly illegal for a grand juror to violate the confidentiality of the proceedings. “I wouldn’t be too literal-minded about that,” Bob told me later. “I mean, it was a dicey, high-wire thing to do. But that’s what we did. That’s what the whole enterprise was.”

In early December, Judge John Sirica was told by prosecutors that a grand juror had been approached by the *Post* reporters but had revealed nothing. Incensed, Sirica called Woodward and Bernstein into court two weeks later and warned against any further meddling. “Had they actually obtained information from that grand juror,” he wrote later, “they would have gone to jail.” According to the *Post’s* lawyers, who negotiated on their behalf, Sirica almost locked them up anyway.

Before the scolding from Sirica, Bernstein visited the apartment of a woman he identified, in the book, as “Z.” She wouldn’t talk to him in person, but she slipped her number under the door. “Your articles have been excellent,” she told him, advising him to read their own reporting carefully. “There is more truth in there than you must have realized,” she said. “Your perseverance has been admirable.” She sounded, Carl thought, “like some kind of mystic.”

A few paragraphs in to that old seven-page memo lay a description of a familiar-sounding source: “CB arrived at her home about 7:45 p.m. identified myself through a closed door and she immediately responded, ‘Your articles have been excellent.’” Later, by phone, she told him: “Your persistence has been admirable.”

I scanned the rest of the memo: All of the quotes attributed to Z in the book matched this interview. And there was no doubt, in the memo, how Z knew what she knew: “Of course, I was on the grand jury,” she said plainly.

It was late at night. I was sitting in a remote farmhouse in Rapidan, Virginia, and I could hardly believe what I was reading. For four decades, Carl and Bob have insisted that the grand jurors they contacted had given them no information. For four decades, that story endured, as it was replayed in interviews and reread in library copies of *All The President’s Men*, and as Woodward and Bernstein and Bradlee became a

holy trinity of newspaper journalism. But, according to the memo, it didn't appear to be true: Z was no mystic; she was a grand juror in disguise, and had apparently broken the law by talking. Woodward and Bernstein had always denied it—in 1974, and as recently as 2011.



Bradlee's "Residual Fear"

They would meet, Woodward said, in the middle of the night, at the bottom level of an underground garage. In 2005, *Vanity Fair* identified former FBI official W. Mark Felt as Deep Throat, but some questions about the story remain. (Photo: Treatments by Gluekit)

So what did Woodward and Bernstein actually learn from Z? They learned who the grand jury was most interested in, that White House Chief of Staff Bob Haldeman and presidential assistant John Ehrlichman had received information from wiretaps, and that White House Counsel John Dean was "very involved." In early 1973, asked by Senator Sam Ervin for his best and most important leads, Bob put Z's information on the same level as Deep Throat's. That's a pretty high level.

A few weeks later, I went over the memo with Ben in his office. "It doesn't ring a huge bell," he said. "I don't ever remember probing whether they had talked to a grand juror. Maybe because I was scared that they had."

When I had a conference call with Carl and Bob last week to ask them to comment on Z's identity, they conceded that she was a grand juror, but insisted that Carl hadn't known it when he first went to visit her and said they'd disguised her only to protect their source. They said they'd long since forgotten the episode. "This is a footnote to a footnote," Bob protested. But perhaps the most telling moment had occurred when I reached Carl on his own, earlier that day. Right before we hung up, he had said, wryly, "Maybe they'll send us to jail after all."

In April of 2010, Carol, Ben's secretary, called to tell me that somebody had located a couple of stray Bradlee boxes at the *Post's* storage facility. In one of the boxes were two interviews that Ben had done with Barbara Feinman, who was helping him with his memoir, in 1990.

I mean the crime itself was really not a great deal. Had it not been for the Nixon resignation it would be really a blip in history. The Iran-Contra hearing was a much more significant violation of the democratic ethic than anything in Watergate.

wasn't quite convincing himself, even as he later told me to "embrace that thought."

Toward the end of our interview, Bob pulled the transcripts toward him and said, "Let me keep this. I'll put it in my Bradlee file." I told him that was no problem.

But when I got home later and listened to the interview, my heart sank. Bob had repeated that one phrase fifteen times in twenty minutes. I had a bad feeling.

Two days later, on a Saturday morning, an e-mail from Bob arrived. It was pleasant but direct: What was the date of Barbara's interview with Ben, and where was the tape of that interview?

On Sunday night, at 10:45, another e-mail came in, this one from Sally. Bob had come over to their house, and he was agitated. He wanted to be there the next morning when I came to look for the tape.

At 8:30 on Monday morning I called over to N Street. Sally picked up and told me what had happened. When she and Ben had gotten home from dinner the night before, there had been an urgent message from Bob on their machine. She called him back, and he ended up coming over and staying for nearly two hours. As soon as he arrived, it was clear that he was deeply worried.

The way Bob saw it, the publication of those quotations from Ben would undermine his own legacy, Ben's legacy, and the legacy of the *Post* on Watergate. I asked Sally what to expect when I got there, and she said I should expect for Bob to make a loyalty argument—to him, to Ben, to the paper.

Then she asked if I wanted her to be there for the meeting, and because I didn't know Ben's state of mind I told her that I'd be more comfortable if she were in the house somewhere. The only situation I wasn't sure I could handle, I told her, was if both Bob and Ben were to turn on me together.

One of the maids let me in a little after 9:30 a.m. "Woodward, is that you?" Ben called out when he heard the front door close.

"No, it's just me," I said. Ben was finishing his breakfast, and I saw that he had a marked-up copy of the documents I had given to Bob in his right hand.

"So I guess I've really stirred the hornet's nest here with Bob," I said.

"It sure seems that way," he said. Then he asked what I thought had upset Bob the most.

This was the moment of truth. I knew that how I answered would shape everything that followed. I told him I was starting to believe that this had struck such a chord with Bob because maybe there was some portion of the Deep Throat story that really wasn't quite straight. Maybe it was some of the flowerpot and garage stuff. Who knew? There was a lot of Hollywood in that story, but we'd all gone along with some of the more questionable details because everything else about the story turned out to be true.

Ben smiled and shrugged his shoulders. "That's all I was saying," he said.

My worry fell away in a great rush. People who know Ben well talk about these moments of telescopic intimacy, where he makes you feel that you're standing at the center of the world and he's right there with you. I had never felt it for myself, until now.

interview Dec. 4

Bernstein?

major conclusions:

Haldeman, Ehrlichman, Colson and Wards all figure in the disclosure of wiretap information. A group by itself---apparently no others.

David Packard very involved ("you missed a big one") supervisory, not payments as are Kalmbach and apparently Morton B. Jackson.

John Dean ver involved and not just from point of view of doing investigation.

Key names from grand jury pt. of view: Mitchell, Stans, the four above; Kalmbach, (Very important), rter, (grouped w. Magruder), (sort of a separate entity), Magruder ("extremely interesting"), Odle, ("a dumb errand boy"), ~~XXXXXX~~

Also figuring Baldwin, Diego, apparently Young, Nov. group ("Magruder is definitely the key") Sedan ("important") ~~xxxx~~ defendants.

CB arrived at her home about 7:45 p.m. identified myself through a closed door and she immediately responded, "Your articles have been excellent." adding something about admiring our work, and then asking how we got her name. I said I'd like to talk and I'd explain how we got her name and ash asked: "Are you contacting all the people?" ye.

She then said sh'e'd give her non-listed number and CB could call and said he couldn't come in and slipped piece of paper w. number under door (this checked w. grand jury list number) I slipped my phone numbers under door, and told her I would call from office and she said that would be fine.

Upon calling her she immediately began: "I've read your articles, the articles have been fantastic, incredible. Your persistence has been admirable." then asked how I got her name and said if ~~me~~ I honest about that she would be honest w. me---told her it had come from a source along w. a few other names and this source had 100 per cent right. on previous tips. further I told her that source had ~~said~~ said she had exhaustive info on case but in no way involved. she said "of course, I was on the grand jury." she wanted to know if it was in connection w. anyone from Justice dept.

(tr for ad one)

ad one

what follows is in the order of conversation---so the context should become clear---

"At this point I don't trust a ~~xxx~~ soul . . . I respect your position." No comment on what she knows about Colson. no comment on Kathleen Chenow (Hunt connection)

"I agree 100 per cent w. Ben Bradley, the truth has not been told. My boss called it a whitewash and he doesn't even have the facts. In a trial there will be no justice . . . I'm appalled at the courts . . . I made that supposition--- that we're all ~~xxx~~ losers (in knowing the truth about this case). Did you ever feel totally frustrated and think your getting snow jobs from every source (the problem here was) that not everybody knows a snow job when they see one (first reference to dissatisfaction w. grand jury which became more and more apparent)"

I tried specific questions and she said she couldn't answer because they "leading and I took an oath."

"We'll always have people who ~~xxx~~ sell us down the river." asked if she meant Silbert and she said "No, not Silbert."

she said that her first time in court and she had no idea about what jury duty was like. "a liberal education."
"I cared about the case more than most people on the jury."

unsure on the ~~xxx~~ question of whether purpose was to nominate McGovern, "certainly more than that."

advises us to read our articles from Sept. 15 to Oct. 30
"You will have many clues---there is more truth there than you must have realized." "the most interesting things in the paper are after sept. 15."

refer to an Oct. 19 article in Star about Frank Willis
the guard. "He wasn't on the jury; he took no oath
~~xxx~~ he's dying to talk . . . he saw who came and went."
quotes him as saying that "they haven't got the big shots yet." (she kept talking about conversations in hallway w. Marshall and other grand jurors and others and this may have been one.)

"I've seen the names in your paper . . . it's a question of putting on more pressure." "You can do a whole lot better." "You're doing very well. I'm very proud of you."

"many people in this are on the periphery, the outer-outer fringes in terms of the case."

I referred to the secret fund, she said "You mean the slush fund." and suggested we talk to Sloan ~~xxx~~ about how much in it.

asked if any legitimate use for fund, she said "A lot of us have our doubts."

(tr for ad two)

Ad two ■

(she said she is a Democrat but not for McGovern)

"nobody questions that it was a slush fund." "Sloan is a good character . . . he followed orders and didn't know what they were for."

"The fantastic cast of characters . . . the lawyers alone ~~xxxx~~ are a show. Mr. Rothblatt should be in Hollywood from the dye-job on his hair all the way down to his shoes." Roth. and Maroulis "both look seedy to me."

~~XX~~

do better to ~~xx~~ talk to the girls at GREE . "a few right there in the finance office." (Hoback didn't ring a bell to her.)

she suggested Sally Harmony;

never heard of Millsbaugh.

Chapin "very interesting" — nothing on Strachan???

The people who know tend to be witnesses, include Mrs. Moffett and people who worked for McGord.

Jenny Gleason is worth your time.

nothing on Harry Dent.

Fred Malek "very interesting."

went over structure "to a certain extent very good organizers and to a certain extent very sloppy." true to a certain extent.

"there's one who pulled tricks abover Chapin's level."

asked if Maldeman "you've got a lot of company in thinking it's Maldeman."

"Two years ago I never would have believed any of this, but the facts are overwhelming."

asked why not more indictments: "That's an excellent question why there weren't more indictments. It the quality of the jury, they're not knowledgable."

"People who present the evidence think they're dealing with professionals."

"You printed the facts about Dept. Justice officials not going beyond OIC and Burglary II" (OIC= oral interception of communication)

"naive jurors about how justice works."

No on Higbee.

~~XXXXXXXXXX~~ (tr for ad three)

and three

No on O'Neill, Gold, Long, Hijacker, Kehrli,

"good bit about the Nov. group -- very interesting."
says that was a key to Nov. group but won't say
what it did.

"The very fact that it was still in existence after the
case came before the grand jury fits the general theme,
'don't blow the lid, even now'. They're better organized
now, I think sometimes, than before we got the case."

then volunteered David Packard's name "extremely interesting."
wouldn't say if his name on ledger paper.

Sedan—"very odd, very nervous, the ~~xxx~~ type who swears
on a stack of bibles" but the doubts remain.

Mitchell "requires more perseverance."

Diego—"interesting, no immunity" suggesting that he
a witness but not a participant.

again no comment on "Chernow" -- about the phone number
"wouldn't surprise me if it's weren't a xx govt.
listing."

brought up the plumbers and she said "we indicted two of
them."

a couple of girls whose appearance that I don't remember
and one was w. the plumbers. Plumbers go back before
Aug. 16, 1971 when Hunt special installed.

"plumbers are quite relevant." "I'd like to know how
many more plumbers there were."

asked if Packard a plumber. "No, Packard stands alone . . .
he's on the West Coast, different category than Falm.
or Jackson."

ask about criminal activity by Packard. said she wouldn't
commit herself to that strong a statement.

thinks that one other White House name and at Dan's level.
nothing on Fielding.

"If we'd learned all there was to learn, we'd have been there
six more months."

"the grand ~~if~~ jurors were mad that Klein. saying what
we were going to do even before we did it."

says to keep in mind that "when people have jobs to lose
in high places they will go to any extent to protect
it."

refers to a terrific story about fin. people at C.I.E. possid inv
etc.

(tr for ad four)

four

Definitely involved Marruder, Mitchell, Stans, ~~XXXXXXXXXX~~
(she confirmed that the fund controlled by the five
we've named.)

~~XXXXXXXXXXXX~~

"the destruction of data was terrible."

were there other Segretti's ~~XXXXXXXXXX~~ she said that
she could only go so far---
"pursue other Segrettis."

Dan Hofgren at committee---said she knows him through
business and prefers

asked if Nov. group names and she said it a matter of
view point.

she asked if Silbert if he source of our articles and
he said no. apparently grand jury mad at
what we writing. ~~xxxxxxx~~

financing the most ~~ix~~ important way to learn who involved.

nothing on the AL, Nazi, ~~xxxxxxxxxxxx~~
but wouldn't comment on Wallace campaign.

nothing on Willets, Kerry, the ~~xxxx~~ vets, McKlosky,
Ashbrook, Caulfield,

nothing more to know about Leidtke and Winchester.

Colson "patently absurd that he uninvolved."

~~xx~~

said that deep involvement applied Ehrlichman, Waldman,
Colson ~~xxxxxxxxxxxx~~

~~xx~~

refused to comment on Canuck letter.

No on Benz, Kelly, Coughleman,

Marshalls know a lot.

"John Dean is very interesting, ~~XXXXXXXXXX~~ it would be
really interesting to know what Dean's investigation
really was. His involvement went way beyond that."

then put Warden in the no comment department

"The four in the no comment department are Colson, Waldman,
Ehrlichman and Warden."

asked if the disclosure of wiretap she said "yes."

"disclosure those four."

(tr for ad five)

ed ~~it~~ five -

equally convincing on all four "degrees."

she said the phrase "top ~~xxxxx~~ copy means ~~xx~~ something" to her. but wouldn't name ~~Whrichman~~.

heard name ~~Lakue~~ ~~xxx~~ and she couldn't recall anything.

Forver and Kapruder in same category and no others.

dummy committees not involved in spying finances.

a guard at CHIEF is very interesting as a witness.
got Baldwin package.

nothing on Al Capp.

Jane Dannenhauer "significant." and worked earlier ~~xxx~~
~~xxxxxxx~~ for an individual. who involved.

Martha Duncan might help. she worked earlier at White House.

nothing on Lea Jablonsky; Hobbs; Karkalekas.

she knows Marty Metcalf's name.

Odle definitely involved.

"You've got to see him to believe him . . . have you heard him talk. He ~~ix~~ different. It's incredible he's in that position given his lack of ability."
"he's the kind who could be instructed to carry out the orders and ~~do~~ anything . . . Segretti is on the same level. Both of them are extremely naive." "If you pay them enough they'll do it."

"Odle ~~xxxxx~~ stands alone, he's unique." not disclosure w.
Odle.

Silvia Pararthies (sp.?) Liddy sec. before ~~xxxxxx~~
"harmony."

no comment on Swiss banks.

Jackson "I ~~xi~~ wish I knew how significant."

"Jackson and the other two on the West Coast."
Packard and Kalm.

asked if ~~xxxxxxx~~ paymasters or supervisors.

"Paymasters would closer fit the description of Jackson and Kalmbach . . . Packard supervisory."

Paymaster she defined as primary role to ~~ix~~ give out money.

nothing on mayor Kennedy, Las Vegas, or ~~uinn~~, the Mitchell flight, Russell and Davidoff.

nothing else on Lahberg.

nothing else on Ferrer, Hernandez, none of vets on list.

ad six

avid Young rings abell but can't remember what.

suggested that Dean, Timmons, and Young might have all been
lumpers."

no money in Mackard's name (withdrawals) but she no comment
on authorize."

I went back to Waldman, Ehrlichman, Colson, and Mardian—
"disclosure is the common thread, the only four
in which disclosure figures."

asked about a vote for another indictment and she said
"no comment."

"Ogle was by himself. He an all around errand boy
all the way through."

puts Timmons, Sedan and Young in a category.

"a lot of activities grew out of plumbing . . . it goes
back a lot farther than the Pentagon papers."

"Nothing would make me happier than not to have this
oath."

nothing on Washburn and other advancements. nothing on
Tailor and Caulfield, ~~the~~ Cashen, ~~the~~ Faust,
Rick Fore,

no one on marked copy of schedule D and those mentioned.
except: John Dean, Mardian, Jane Marie Dannehauser
(1600 S. Ex End St., Arlington) asst. fin. comm.)
~~the~~ makes more than Hoback)

~~XX~~

Martha Duncan, White House, might help. in office
of management at CR-EP 6171 Leesberg Pike, apt.
411, Falls Church

Silvia Panarites, 2016 North Adams St. apt. 604 A.1.
(Liddy sec.)

YOURS *in* TRUTH

A Personal Portrait of Ben Bradlee

JEFF HIMMELMAN



RANDOM HOUSE
NEW YORK

threatened to "hold our heads in a pail of water" until they came up with a story.

In their desperation for something—anything—that they could use, the Watergate team at the *Post* made the decision to allow Woodstein to approach the grand jurors in the criminal case, to see if they could peel one off. The grand jury had already heard all of the government's evidence, and the trial of the five burglars and Hunt and Liddy was scheduled to begin in January. This was a dubious enterprise, no matter how you slice it. Whether it was illegal for the reporters to approach the grand jurors or not, it was definitely illegal for grand jurors to leak information to reporters.

In advance of the decision, Ben called his lawyers, Joe Califano and Edward Bennett Williams, to get their advice. (After leaving the Johnson administration, where he and Ben had squared off on Walter Washington and the Kerner Commission, Califano had joined Williams's law firm and now helped represent the *Post*.) "The toughest questions we had with Ben," Califano told me, had been "can they talk to grand jury members. And we kept telling him no. I'll tell you, from my point of view and Ed's point of view, after a while, anytime Ben would call either of us, we'd go right to the other guy's office. Because we figured if he were getting the no answer from one of us, he'd just try the other one." Califano laughed. "Or he'd rephrase the question."

Ben's recollection is slightly different. "I recall asking them if there was a law against going to the grand jury," he told Evan Thomas for his book *The Man to See*, a biography of Williams. "They said it violated no law, but they didn't say go ahead and do it, either. My guess is that Ed blurred it, and I blurred it." When I asked Ben if this was how he still remembered it, he said yes.

Ben okayed a preliminary sortie with the aunt of a *Post* editor's neighbor. She was rumored to be on the grand jury, but it turned out to be a different grand jury. A few days later, Bob went to the courthouse and talked one of the clerks into showing him the grand jury list, although the clerk wouldn't allow him to take notes. So, bit by bit, Bob memorized the list, excusing himself every few minutes via one pretext or another and then going to the bathroom to write out

the names, addresses, ages, occupations, and telephone numbers of the grand jury members in his notebook. (Ben loves this part of the story, Bob's tenacity and resourcefulness.)

After a long meeting at the *Post*, Ben and the rest of the Watergate editors decided to allow Bob and Carl to try to contact the grand jurors, with the admonition that they identify themselves as *Post* reporters and not attempt to strong-arm anybody. Woodstein spent the first weekend of December of 1972 ringing the doorbells of the grand jurors who appeared, from the basic information that Bob had memorized and copied down, to be the most susceptible targets. According to their book, they struck out.

That would have been it, the end of the story, if one of the grand jurors hadn't informed the prosecutors on Monday morning that a *Post* reporter had made contact. Judge John Sirica wasn't pleased, and Williams intervened to try to steady the situation. (They were old friends; Williams was godfather to one of Sirica's kids.) The next morning, Williams summoned Carl and Bob to his office, where he told them that Sirica was angry and that he had barely been able to keep them out of jail.*

Two weeks later, on December 19, Sirica called the reporters into his courtroom. "I was ready to take them to task for their tampering," Sirica would write in 1979, in his memoir *To Set the Record Straight*:

But the prosecutors urged me not to punish the reporters. They pointed out that the grand juror who was contacted had been faithful to his oath not to discuss the case and had turned the reporter away without saying anything. . . . I settled on a stiff lecture in open court, reminding everyone present that to approach a grand juror and solicit information about a case being investigated was to ask for a citation of contempt. I praised the grand jurors for their

*Williams didn't like any suggestion of a backroom deal with Sirica and objected to its publication in *All the President's Men*; just before the book came out he appealed to Simon and Schuster to have it eliminated from the manuscript. When it made it into the final draft, Williams refused to talk to Woodward for two years.

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refusal to cooperate and recessed the proceeding to let the message sink in.

Carl and Bob were in the clear, but their consciences weren't.* As they would write in their book, they hadn't done anything explicitly illegal but they had "chosen expediency over principle" and had "dodged, evaded, misrepresented, suggested and intimidated, even if they had not lied outright."

"I agree," Sirica wrote, of the reporters' own uneasy assessment of themselves. "Had they actually obtained information from that grand juror, they would have gone to jail."

Ben made no apologies. "I remember figuring, after being told that it was not illegal and after insisting that we tell no lies and identify ourselves, that it was worth a shot," he wrote of the grand jury episode in his memoir. "In the same circumstances, I'd do it again. The stakes were too high."

On March 3, 2011, I asked Bob about his and Carl's tactics directly. I laid out the long list of questionable stuff that they had done, including the visits to the grand jurors.

He smiled. "I wouldn't be too literal-minded about that," he said. "I mean, it was a dicey, high-wire thing to do. But that's what we did. That's what the whole enterprise was."

Twelve days later, Bob gave a talk at the Poynter Institute in St. Petersburg, Florida, to a crowd of nearly two hundred. He was asked about James O'Keefe, the young provocateur who had recently and surreptitiously filmed high executives at National Public Radio speaking ill of Republicans and Muslims.[†] "I don't think [what O'Keefe did] is the highest form of journalism, and I wouldn't do it," Bob said. "There are laws against entrapment, and I think there's

*Later that same day, December 19, Sirica held the *Los Angeles Times* D.C. bureau chief, John Lawrence, in contempt of court for failing to turn over audiotapes of the paper's interview with Alfred Baldwin, the lookout on the night of the break-in. Lawrence was jailed, without a chance even to say goodbye to his wife, while Woodstein walked free.

[†]The veracity of O'Keefe's videotape recording has since been challenged, but hadn't yet been at this time.

not only a legal basis for that but a moral basis that you want to represent who you are and get it clean.

"In the Watergate investigation, Carl Bernstein and I went to talk to grand jurors," Bob said, by way of explanation. "We had legal advice saying we could do it. It was very risky. It's something I'm not sure I'd do all the time, but when you're convinced the system of justice has collapsed, I think you have to be very aggressive. But we didn't say we were from the U.S. attorney's office. We identified ourselves as *Washington Post* reporters—and we got nothing from the grand jurors."

Ben's Watergate files weren't the most organized part of his archive. There were bits here, other pieces there—much like the story itself. It took me a long time to put everything together, to align the dates on the memos with contemporaneous developments in the news. Memos that at first hadn't seemed all that interesting began to make more sense as I considered them in context.

One of the more tantalizing of these memos, from the start, was a dense seven-page document with two initials and a date at its top. It was hard to read, a faint copy of a typewritten document, and all over the map in terms of substance. In my notes from the first time I read it through, I had written to myself, "Seems to be some kind of juror," but there was no year in the date and I had no concept of what that might have meant. The memo had more than one hundred data points in it, short statements that Carl had taken down in seemingly rapid-fire style. (The author identifies himself as "CB" in the memo, Carl's usual MO, and by comparison with other memos this one clearly came from Carl's typewriter.) I slotted it in my "Bernstein" file as a good example of Carl's thoroughness, Woodstein's hunger for the story.

In February of 2011, I realized that in order to write believably about Watergate I was going to have to understand the story in a way that I hadn't up until then. I was going to have to spend as long as it took to read every single one of the newspaper stories and all of the relevant books. In order to know what I had, and what to say about

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Ben's role in it of it, I couldn't just focus on the major episodes that everybody has already written about a thousand times.

And so I read through all the newspaper stories from 1972 and the first half of 1973, up to the point where Haldeman and Ehrlichman have resigned and the *Post* has won the Pulitzer and Nixon's presidency has begun to hang visibly in the balance. After that, I went back to read the appropriate chapters in all the various books, and then I reread the Watergate memos I had found in Ben's files. Then, and only then, I read *All the President's Men* start to finish for the fourth time. If there was anything in it that I didn't understand, which had always been the case before, I wasn't going to put the book down until I understood it.

Everything went smoothly until I reached the book's accounting of the grand jury episode. After the meeting with Williams, where Williams warned the reporters that Sirica was pissed and that they'd better cease all contact with grand jurors immediately, Woodstein wrote that, chastened, they "returned to more conventional sources." Bernstein visited an unnamed woman at an apartment who wouldn't talk to him in person but slipped her number under the door. "Your articles have been excellent," she told him. She was "in a position to have considerable knowledge of the secret activities of the White House and CRP," they wrote. Apparently Bernstein had tried to interview her before, but she had rebuffed him.

Now he had her number, and she was willing to talk. He returned to the *Post* and placed the call. "I'm forced to agree 100 percent with Ben Bradlee; the truth hasn't been told," the woman said. Carl began taking notes, identifying the woman only as "Z". She told him to read their own reporting carefully. "There is more truth in there than you must have realized," she said. She told him that she wouldn't cooperate in the way that a normal source might, answering only some questions and then only vaguely. "Your perseverance has been admirable," she told Bernstein. "Apply it to what I say." She sounded, he thought, "like some kind of mystic."

In the back of my mind, alarm bells started to go off. This all sounded a lot like the memo I had put into Bernstein's file, the one with the data points and the vague reference to a juror. I slid over to

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JEFF HIMMELMAN

my Watergate box and pulled it out. Six grafts down, after some of the "major conclusions" from the interview at the top, lay Carl's description of his contact with the source:

CB arrived at her home about 7:45 p.m. identified myself through a closed door and she immediately responded, "Your articles have been excellent." adding something about admiring our work, and then asking how we'd got her name. I said I'd like to talk and I'd explain how we got her name and [she] asked: "Are you contacting all the people?"

She then said she'd give me her non-listed number and CB could call and said he couldn't come in and slipped piece of paper w. number under door (this checked w. grand jury list number). I slipped my phone numbers under door, and told her I would call from office and she said that would be fine.

Upon calling her she immediately began: "I've read your articles, the articles have been fantastic, incredible. Your persistence has been admirable."

It was late at night. I was sitting in a remote farmhouse in Rapidan, Virginia, and as it dawned on me I couldn't help myself: like Woodward at the courthouse, only much, much louder, I screamed "Holy shit!" I scanned the rest of the memo to check the quotes from the book against the quotes in the memo, and every single one was a match. In a couple of places, Bernstein had changed some of the words in minor ways, but these seemed more like the inevitable journalistic errors of somebody writing against a deadline than anything else. All of the substance was there. There was no question that this was the same source...

Z was no "mystic." She was a grand juror in disguise. This, too, is obvious from the memo, and not just from the single detail of her number matching up with the grand jury list. Carl, in accordance with the instructions of their editors, was oblique about how he had come across her information: "told her it had come from a source along w. a few other names and this source had 100 per cent right. on

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previous tips. further I told her that source had said she had (in)formative infor [sic] on case but in no way involved. She said 'of course. I was on the grand jury.' " Later: "I tried specific questions and she said she couldn't answer because they 'leading and I took an oath.' " Later still: "she said that her first time in court and she had no idea about what jury duty was like. 'a liberal education.' 'I cared about the case more than most people on the jury.' " Toward the end she tells him, "If we'd learned all there was to learn, we'd have been there six more months."

The date on the memo was December 4, with no year specified. A quick date check revealed that December 4, 1972, was a Monday. In *All the President's Men*, Carl and Bob specify that the visits to the grand jurors took place on the first weekend in December of 1972. Shortly thereafter, I located a list of the grand jurors from the Watergate grand jury, empaneled on June 5, 1972. One woman had initials that matched the initials at the top of Bernstein's memo.*

All these years, Carl and Bob and Ben have described the grand jury episode as a case of flying too close to the sun but escaping before any real damage was done. That is not the truth. The damage *was* done. Carl and Bob, with Ben's explicit permission, lured a grand juror over the line of illegality and exposed her to serious risk. Z would certainly have been kicked off the grand jury had Sirica found out what she had done, and the judge could have imprisoned her without trial for as much as six months for contempt of court. He could also have upended the trial itself. (Z covered her tracks. She either lied directly to the prosecutors when they asked if any other grand jurors had been contacted, or she lied indirectly, by withholding that information and allowing Judge Sirica to act on the assumption that only one grand juror had been contacted and that nothing had leaked.)

So what did Woodstein actually learn from the grand juror? Under the heading of "major conclusions" at the top of the memo, Bernstein lays out the key points from their conversation:

*I know her name but won't reveal anything else about her.

Haldeman, Ehrlichman, Colson and Mardian all figure in the disclosure of wiretap information. A group by itself—apparently no others.

David Packard very involved ("you missed a big one") supervisory, not payments as are Kalmbach and apparently Morton B. Jackson.

John Dean very involved and not just from point of view of doing investigation.

Key names from grand jury pt. of view: Mitchell, Stans, the four above, Kalmbach, (Very important), Porter, (grouped w. Magruder), (sort of a separate entity), Magruder ("extremely interesting"), Odle, ("a dumb errand boy").

Also figuring: Baldwin, Diego, apparently Young, Nov. group ("Magruder is definitely the key"). . . .

Aside from the major conclusions, data throughout the seven-page memo would resurface later in the Watergate coverage: the slush fund, Haldeman's role, the importance of Dean (which wouldn't surface until April of the following year), the existence of a cover-up, the Plumbers, Colson's involvement, the disclosure of wiretap information from the Watergate bug job to people as high up as Haldeman and Ehrlichman.

How important was this information to Woodstein? If their own book is to be believed: crucial. In January of 1973, Senator Sam Ervin, who would run the Senate Watergate Committee, called and requested a meeting with Bob. Bob knew Ervin would seek information about his sources, and the senator didn't waste much time. Here's how Bob thought through his response, according to the book: "Information from Deep Throat and Z and some other bits and pieces might help the investigation, conceivably could even send it on its way," he remembered thinking, but he wasn't at liberty to divulge his sources and so he kept his counsel vague.

Asked by Senator Sam Ervin for his best and most important leads, Bob put Z's information on the same level as Deep Throat's. That's a pretty high level. Either Z's information was formative to their thinking about Watergate in an ongoing way, or from a narrative

perspective Woodstein were hyping the import of what Z had told them in order to heighten the mystery and power of their anonymous sources. This comports with Carl's characterization of Z as a "mystic," and is of a piece with the deeply mysterious Throat. Either reason is revealing in and of itself. References to "the riddles of Z" and "Z's statements" continue for much of the rest of the book.

"This was no Batman and Robin trip," Carl confessed to Pakula a few years later, "and this is not some simple thing about simple truths and the good guys and the bad guys. [We faced] tremendous ethical problems . . . some of which we dealt with successfully and some of which we didn't." Watergate was never a fair fight. On one hand, Woodstein's successful penetration of the grand jury is a stunning reporting coup. They didn't coerce Z; she clearly wanted to cooperate. She chose civil disobedience in the face of an unprecedented cover-up and a grand jury investigation that had stopped well short of the truth, and there is honor in that.

On the other hand, Woodstein's repeated proclamations that they "never got anything out of the grand jurors," and the faux hand-wringing in the book, do raise basic questions about ethics and truthfulness. It's one thing to get information from a grand juror and then be coy about where it came from. It's quite another thing to make a public point of honor about never having gotten it in the first place. You can argue about good lies and bad lies, about ends justifying means, but maybe the moral of the story is that nobody gets to come out of the great mud bath of Watergate with his hands entirely clean.

A couple of weeks after I rediscovered the grand juror memo, I laid out the evidence for Ben in his office during one of our regular interviews. I showed him a couple of the quotes, and the descriptions of Z in *All the President's Men*, and how they matched. And then I asked him if he knew.

"It doesn't ring a huge bell," he said. It was hard to tell if he really didn't remember or if he was just telling me that.

"I think it's very likely that you didn't know," I told him. "But I found the memo in your files." He understood what that meant.

Who knew if he'd read it, but he had it, and that meant he might well have known.

"You can say that Bradlee can't remember, right?"

"Easily. That's all I need to say."

"I mean, knowing that that's the truth," he said. "I'm not ducking it."

"I don't ever feel like you're ducking anything. But because of how strongly Bob reacted to all of this other stuff, I'm going to wait on this one. I don't want to launch World War II again." We laughed.

"I don't ever remember probing whether they had talked to a grand juror," he said. "Maybe because I was scared that they had. I mean, I don't remember holding back, I don't remember being scared about it. But if you told me that they had, it doesn't shock me."

That was as good an answer as I was going to get, as far as Z and Ben go. As for what "World War II" was, I have to start from the beginning.

*Before my interview with Ben I had spent a day in Pakula's archives in Los Angeles. Barry Sussman, to Pakula: "Some of their writing is not true . . . that they never got something from a Grand Jury member. Barry thinks that's wrong. They did get information from one person and Carl planned to meet with that person again." This doesn't mean that Ben knew for sure, but it means that they didn't keep it completely to themselves, either. And it meant that I had found what I knew I had found.

DOUBT (PART ONE)



IN APRIL OF 2010, CAROL, Ben's secretary, called to tell me that somebody had yet again located a couple of stray Bradlee boxes at the *Post's* storage facility. In one of the boxes were two of the interviews that Ben had done with Barbara Feinman for his memoir in 1990. Like me, Barbara had worked for Bob before working for Ben, and she had been roughly my age when she and Ben sat down for their interviews. Unlike me, she caught Ben while he was still the editor of the paper, and much of the material that surfaced during those interviews—and nearly all of the good stuff—went wholesale into Ben's memoir.

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The first of the two interviews was dated May 16, 1990, slugged "Watergate for memoirs." From the first question on, it sizzles:

BF: Did you read the transcript?

[of his interview with Woodward and Bernstein in 1973 for *All the President's Men*]

B: I read it but I haven't read it as thoroughly as I should. But I mean it's almost better to talk about it from my own point of view rather than from Woodward's and Bernstein's. Well, you know, Watergate in retrospect, it's hard to believe that people were that dumb, were that insane to do that. And it's achieved a prominence in history and in my life that it doesn't really deserve. . . .

I mean the crime itself was really not a great deal. Had it not been for the Nixon resignation it would be really a blip in history. The Iran-Contra hearing was a much more significant violation of the democratic ethic than anything in Watergate. Watergate really was dirty tricks and arrogance and people thinking that they were all-powerful and could ride roughshod over civil liberties, but it wasn't dealing in smuggled arms and buying foreign nations and shit like that.

I wish I had gotten the chance to interview *that* Ben.

Later I came across a longer section that told me more about what it felt like to be Ben during Watergate than anything else I'd seen:

B: None of the recreations that I've seen do justice to the absolute passion this city had for that story. I mean, every night before you went home, before Williams and Califano for instance, or before Clark Clifford, or before Katharine or before Oz Elliott in New York went home from work they would call up and say, "What have you got?" They had to have a fix, they could not go out to dinner. Kay would drop down on the way home and say something, "Jesus, what have we got tomorrow?" "Jesus, you sure you're right?" The interest in the