

HW 7/6/78

I've read all. I've annotated the legal-size copy, which I'll have with the case (legal) file if we refer to it later. Too many notations, too much repetition of same point, to go into them all. I'll comment on the Report and Shaheen below. On the re-processed 52 pp. (please let me know which appendix) a few comments:

Where what had been withheld now is not withheld it becomes clear that the orig. withholding was not legitimate. I think this also can be a basis for attack on present withholdings.

M
(antrease called. Doing that affidavit now.)

Most of the privacy claims are for FBI names.

Once again no claim that what is withheld is not in the public domain. I am certain that some of it is. The withholdings, to a large degree, seem designed to protect the FBI rather than its victims.

I'd attack the withholding claims on a different theory after noting the absence of proof of either law enforcement purpose or legit national security investigation. I'd agree with legitimate needs to protect privacy and legitimate needs to withhold what relates to the national security and then show that in this case there is neither, except with the really personal stuff. There the need to protect privacy can in a few cases be real. And they are in these records, I'm pretty sure, in a few cases. Like the women in King's life. But not the associates with whom he spoke, met and conferred.

An FBI designation, I think a code name for Levison, is withheld under "court order."

Some excisions claimed under 7C are more extensive that is required. They are total, where it would seem that some content could be reasonably segregable.

Many pages have no source indicated. On one I noted that it was original marked as exempt under GDS when there was not a single record indicated as classified. It has no source. The beginning and ending Serials on it are 1992 and 2016. (May be HQ MLK Security file, 100-106670, Section 53.)

Some of the withheld information that appears to relate to ELSURs and MISURs is in the public domain, like the ending of the operations at NYC SCLC. (I'd distinguish between the names of the FBI burglars and other withheld FBI names but I'd make the point they are hiding the names of their law violators at a time when it is much in the news and there are some indictments. Or, more coverup of those who can talk.)

Metcalf's Report, p. 2, line 2^d the language may have become the official stereotype but it is not the language or the requirement of the statute. "Personal privacy information" means nothing. They can call my age "personal privacy information." The standard should be not less than that of the statute. Some of the privacy withholdings seem to be unnecessary. Some also do not appear to justify his footnote 2 language, that "information pertaining to the general subject matter of an overheard conversation has not been deemed to be within the scope of the Court Order." My recollection is to the contrary but I'm not checking. The footnote relates to language that seems to say the opposite, par. 2. He bases this exclusively on Shaheen's affidavit, which is not of first-person knowledge. (He also fails to tell the Court that as of the apparent time of the last acknowledged intercept it was without the authority of the Attorney General.)

His last words are an offer of in camera inspection. This, if the judge goes for it, means much less unless the judge has some way of knowing what is within the public domain.

Shaheen, par. 1, does not distinguish between "made upon personal knowledge" and "information made available to me in the course of my official duties." We have had too much of this indirect hearsay. All the deficient affidavits we have torn up are of the kind of information to which he is restricted from his own definition. And why could not those who told him execute the affidavits?

In 5 he says what is withheld would be an "unwarranted invasion of personal privacy." Like the names of FBI people? or the public domain? His affidavit would appear to me to be largely meaningless without a credible assurance that nothing withheld is within the

public domain. After all the internal reviews, esp. those of CRD and OPR and after all the FBI's processing of records and all the reviews of books and clippings (remember the OPR's bibliography?) there should be someone in DJ or FBI who ought have some knowledge of what is within the p.d.

He claims "no countervailing ~~interest~~ public interest in...disclosure." On what knowledge or expertise? There is intense public interest. The AG has found the King matter to be an historical case. There is a congressional investigation. Etc. I'd say he is parti pris and is withholding to cover his own ass for a whitewashing OPR report that is already exposed as a coverup from the available records.

What is wrong with the release of the "professional" part of the conversations of those who had them with Mr. King? What kind of "personal matters" have to be withheld? (Also in par. 5.) He states the opposite of the AG's policy statements. A "professional" matter, in the word he uses, "context," would be a discussion of who would preach the Sunday sermon if King were away. (The did withhold who would meet him when he returned from Europe. And was covered by the press, usually. Privacy? Nonsense.

I think that at several points they have broadened Smith's order and have covered themselves after the attack I made by a careful wording of it.

The last sentence of Judge Smith's order says he can be overruled by another Court.

As I read this the exclusive basis of support is Shabben, who rises to claim somebody told me. Great proof! I agree you should move to strike, with some ridicule. Then there remains no basis for any of the itemized withholdings. I'd also move for summary judgement on them because the burden of proof has not been met.

By the rest must really be scared to dump it all on him - and for him to come up with such flimsy bones for his scarecrow affidavit!