

JL- re Exemption (5)

NW 2/23/79

I read more of the ~~Witt~~ Jordan decision on my recent trip.

I made this hand note:

"...excellent on (5) (as for 1448?) pp 38ff. On 43, "First, the document must be 'predecisional'. The privilege protects only communications between subordinates and superiors that are actually antecedent to the ~~assumptive~~ adoption of an agency policy." (Emphasis in original)

This is the first to two prerequisites. The second is must be "deliberative."

If 5/19 ^{EX. 8888} ~~transcript~~ ^{to Ball} is actually deliberative, or more than a saving of Ford's face, it seems to me to meet the first test, of subordinate to superior and as a "communication" of this nature.

We did not ask for the FBI reports on Ball and Redlich, which might be of the nature I think is required of this ~~nt~~ decision. They would be "pre-decisional." The transcript is decisional, as I see it.

I take the language of page 45 to mean that the transcript "must be a direct part."

Here my note ends and I do not recall clearly what it meant. However, if it means that for the exemption to be applicable then the transcript must be a direct part it is not of that nature. It ~~is~~ is a reflection of the decision but was not essential to it. There need not have been a transcript for the decision to have been reached. In other cases there is no transcript. Many Commission decisions were made without a transcript existing. A number are referred to in Kantor's book some of which I read on the trip.

There also was no need for any public statement of the decision.

I think I recall some excellent stuff on b 2 in the same decision and that I included this in the addendum to the 0249 affidavit.