Gene F. Wilson affidavit in Civil Action 77-1997, May 26, 1978

Paragraph 2 itemizes the different parts of my request. My reading is that there has not been full compliance with each of these items. With regard to 2.a., for example, there is one of the domestic intelligence records which refers to a leak of what the source had given to the CIA only and there is no other reference to that leak. With regard to item b., all records pertaining to the assassination of Dr. Martin Luther King, Jr., the records of this nature provided cannot possibly begin to be all of them. They cannot be all with regard to Mexico and with regard to Portugal, in particular. I doubt if they are all with regard to England and I am certain they are not all with regard to Headquarters. I think in this connection we are going to have to learn what files they searched.

With regards to c., records pertaining to James Earl Ray, it seems improbable that there are these few, especially with regard to these foreign countries, with Ray more than with Headquarters.

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e. is all collections of published materials on the assassination of Dr. Martin Luther King, Jr. I skip over that, temporarily at least. I do this because of one of the enclosures.

f.. all analyses and things of that sort on or in any way pertaining to published materials on the assassination of Dr. King, and the part I want to emphasize, "or the authors of said materials." Now, as of the time of compliance, they had files on Mark lane and on me at the very least. I would be surprised if they do not have files on Bill Huie. There's one report that Huie worked for

them when he was in Denver. Or on Gerold Frank or McMillan or Jim Bishop.

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g. refers to the kinds of records sought.

Paragraph 9 admits that by letter of July 21, 1977, I appealed their determination with regard to withholdings from the records they said they had found and requested a fee waiver. They say in paragraph 10 that on August 2, 1977, they acknowledged the appeal and that on March 20, 1978, they advised that they would waive the search fee but not copying charges (paragraph 11). What they do not say is that by this time almost two years had elapsed. My request was of June 11, 1976. It was not until the letter of April 26, 1977, that they informed me of 286 documents, of which 243 were to be released. The waiver of search fees was the following March 20, that is March 20 of this year. On March 23rd they advised that there was to be the additional release of 488 pages, but they were not even mailed for another two months.

He represents in paragraph 13 that only because I filed a complaint in November 1977 they began a new search and lo! apparently for the first time they consulted the records of the Office of Security where they found 28 documents. They found three documents originating with components of the Directorate of Science and Technology and 342 documents originating with the components of the Directorate of Operations. This is in toto.

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In paragraph 15 he says that in the course of the search a number of documents which originated with other agencies were retrieved and have been referred. He does not say when they were referred. He does say that they have not yet complied, and he says, "The originating agencies will respond directly to plaintiff." Now this means that it is only recently that they referred these documents around. I have received one, by the way, from the Agency for International Communications.

And lo! there are 64 documents from the Federal Bureau of Investigation. Now, Jim, I think this is an important point. It has been way over a year since the FBI referred some documents to the CIA, and now they find that they have to get the FBI's clearance on documents in their files? This is a whipsaw. But in either event, whether it begins with the FBI or begins with the CIA, they are very late.

Attachment A is your request of June 11, 1976. There are some notes that cast considerable doubts on the integrity of his affidavit. In the right-hand margin opposite the FOIA request the offices referred to begin with the Office of Security where they claim that now for the first time they found records. Others are ODO, CRS like in Central Research Service with ? after it, and OGC like in Office of General Counsel with ? after it. It is Exhibit "A" to his affidavit.

A look at Exhibit "G", his letter of April 26, 1977, confirms my recollection that what they gave me initially consisted of only newspaper and wire service accounts. However, they do provide 25 UPI wire items. This is the third item. They should have provided many more. Many more stories appeared on the UPI wire. They also give AP and Reuters wires without anything new since then, and in such quantity that they could be complete as of then. He then lists some documents which he says are released. The numbers coincide with some of the numbers just received.

The marginal notations on Exhibit "H", which is their copy of my letter of July 21, 1977, are partly omitted in xeroxing. I think we ought to get a complete copy because they are partly omitted on both sides. However, up at the top there is an incorrect notation, "Doesn't he owe us money?" The answer is "No."

My first sentence refers to an old request I made and they put a note on that, "Log this as a new request." I was reminding them that they had not notified me that they were to have these records available for me.

I also asked for all records relating to my requests and appeals, including their sequential relationships to other requests under both Acts as this relates to compliance with other requests. I have had no response. That was July 21 of last year.

In their Exhibit "I", their letter of August 2, 1977, they misinterpret this and say"it is a request for an analysis of your own correspondence." It is not any such thing. It is a request for what I needed to try and get compliance because they had not complied with requests and they had not even responded to requests and appeals.

Next in the order in which these were given to me is what is headed CIA LIBERARY OPEN LITERATURE READY REFERENCE FILE: Subject file, Dissidence/ Terrorism; Folder, Assassination & Attempted Assassination. (Follows Exhibit "K") There does not seem to be any special sequence in which these things are arranged.

There is another list headed Historial Intelligence Collection - Intelligence in Public Literature File; JFK Assassination Folder.

They include no books.

I have a special purpose in noting that they include no books. It is not merely to reflect the inadequacy of their research materials. It is to say that they have a ready means of pretending they don't know what is public domain. They have the books. They have my books that are indexed. I am sure

they have others from records I have. So I think that the omission from this list serves a purpose, a purpose of noncompliance.

HW - Notes on CIA materials released to JL

Basis: Summary judgment affidavits of:

Gene F. Wilson

Robert E. Owen

Robert W. Gambino

Ernest D. Zellmer

Roy R. Bonner

Statement Points & Authorities

373 CIA documents located

:Major portions" 238 "released in their entirety"

104 "released with deletions"

31 "withheld in their entirety"

NSA 22 withheld - Banner affidavit says all about them "consistent with the national security"

(b)(3)(A) "... requires that the matters be withheld ... " (Compare with others, JFK releases, which do not withhold what is now withheld, like station of origin

Addresses and signatories sometimes withheld, sometimes not withheld. Same for CIA components, by name and by abbreviation.

(b)(3)(B) look for applicability and proof of "establishes particular criteria for withhodling ..." particular types of matters to be withheld.

50 USC 403 (d)(3) & (g) invoked by CIA on (b)(3)

(d)(3) is projecting (sic) intelligence sources and methods from unauthorized disclosure." Projecting is right!

p.5, last graf - Does this apply to what is known?

p.6, Vaugh v. Rosen quote addresses what can "compromise the secret nature of the information." What I see withheld is not secret.

p.6, Banner affidavit quote "would disclose information about the nature of the NSA's communications intelligence activities and functions ,.." Anything not

already known, as in Congressonal hearings?

If documents reflect intercepts ("to determine the nature of the documents in the context of the Agency's mission"), what is new in that?

p.7, Section 6, 50 U.S.C. 403 (g) "shall be exempted from ... provisions of any other law which require[s] the publication or disclosure of the organization, function, names ..." Can this apply, as they apply it, to what already has been "published" and "disclosed?" How can withholding what is public "protect intelligence sources and methods?"

When there is no apparent need, why go to all the trouble and expense of editing and withholding, especially in a historic case and after the Attorney General's determination on this?

pp. 7-8, Owen affidavit: "... identities of the organizational components of the CIA was deleted ... to prevent detailed knowledge of the CIA structure and procedures from being available as a tool for hostile penetration or manipulation." (emphasis added)

This surely means that what is withheld make possible "hostile penetration or manipulation." This in turn does require that be secret =- not known, especially to any other intelligence agency of any nation. This does not cite such proof from Owen and I am sure it is not the case - that none of what is withheld is not known to other spookeries.

I think we should demand proof of=this.

Does not say that the "identities of the organizational components of the CIA" are unknown. If they are known, as indeed they are, how can this be applicable? Their exemption is from "disclosure" - and there is in these records nothing not already disclosed of the nature referred to.

NSA Foregoing also true of NSA (pp. 8 &9). Key word "disclosure" was its "signals" intercept re King "lawful?" (bottom p.9)

They add what can't be true, that letting any part of these 22 documents

out"could divulge details which would reveal and thereby jeopardize the effectiveness of current signals intelligence capabilities..." (bottom 9, top 10)

1) Fro m what has been disclosed before the Congress this can;t be true

2) From changes in the state pf tje art and science, if after 10 years or more this is remotely possible, we'd better start growing bananas to meet the other requirements of being a banana republic.

p.10, D. "... any classified information ..." check affidavit to see if they claim all 22 are classified. Reason for this is because in all the CIA records only one had been. It had been secret, it did not meet standards for that, if any, classification and it was not properly declassified. Again there is the same question, "any classified information." If this is all known, that is, what they claim to be withhodling, not the content of the messages intercepted, how can it be "classified?"
This in connection with their own definition of "classified information" in 7/. It requires that there be "reasons of national security" and "limited or restricted dissemination or distribution." This means they have to show USSR does not intercept the same communications. Their addition of Weissmantop 11. strengthens this on requirement "to protect nationaal security.: This requires that it be unknown to any others, as USSR and countries on other end of intercepted communications.

p. 11, Par. 2 They then claim that if there is no secrecy - and they have assumed it but not shown it to exist - there can be punishment of employees. Again there is reference to these all being classified. I checked Banner affidavit (Par. 4) and he says all classified under E.O. 10501 and reviewed under EO 11652. Why can they not provide copies with all except classification proofs removed, to show compliance with the EOs?
This would leave open the question of whether the content of the messages is classifiable, and that can't be true unless the intercepts were of an unknown kind, which would require an unknown method of transmission.

II p.12 (b)(1)(A) "authorized to be kept secret in the interest of national defense or foreign policy" and (B) "are in fact properly classified pursuant to such executive order."

(The last part is what I was getting at in asking for NSA copies showing classification markings)

(B) CIA records do not meet this requirement because they were not classified, except for one page.

The argument admits that both must be met ("are in fact classified"). Bracket this with their quote of Weissman "that the claim is not pretextual or unreasonable." There is then the added standard "when nothing appears to raise the issue of good faith." Bugs in any form now does raise questions of good faith. We can add to 1448 his failure to perform on my FOIA/PA requests.

P.13, CIA on classification claims only "in its original form" is any classified. How can they be classified in "original form" if this does not show on Xerox copies? EO also requires all copies to bear classification markings.

p.14 top Harm from "describing foreign relations and revelations of sensitive intelligence operations." What can be "described" as "foreign relations" that is not well=known? What kind of "sensitive operations" if at all applicable to most of these CIA withholdings can possibly be a "revelation?" This requires disclosure. What is known is/not a "disclosure."

P.14 B Citation of NY Times Co. v. United States on "diplomacy" and "national defense" uses language requiring proof I believe is not and cannot be in these affidavits, "... can be assured that their confidences will be kept."

Comment: In my second Gesell affidavit I kept emphasizing that the public domain was being withheld and that there was not only no affidavit saying what was withheld was not in the public domain. There was no claim of even knowledge of or checking to determine what was in the public domain.

I'd use these arguments here and cite Church hearings and report,

newspaper and magazine stories, King biographies and even the "docu-drama" King.

All this langauge, like "the need for adqaute secrecy," can be used against them in this sense. Also "to protect confidentiality." This requires there be "confidentiality" to "protect."

Even then this confidentiality, in the words of the Times decision, is "the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense."

p.15 The argument is that release of what is withheld "would inevitably compromise national defsense and foreign relations." This we can and should ridicule with examples some of which are notes I made while reading the documents and by attacking other CIA documents.

1) Showing origin of cables

2) What we used in 1996, then giving Bud an entire record and withholding all but my name on the copy they gave me.

We might even want to ask Snepp and Stockwell to provide affidavits on the known existence of CIA stations where they can be referred to in the records withholding this.

Footnote 9 refers to "unique insights of classifying agents. Here is where we can use the Bud v. me release.

"Substantial weight" Briggs' second affidavit in 1448 v. Epstein, Legend AND FEDORA.

p.16 III CIAand Exemption 6 - Privacy - "constitute clearly unwarranted invasion of personal privacy"

Comment: Standards of historical case:

Is there showing that privacy exists - that names are not known? I think not.

Is there a "personnel" file, a "medical" file, or what can in fact or from decisions be called "similar file?" They appear not to be using

this re CIA personnel.

Is there the "personal quality of information: of the Wine Hobby decision? I think not, Then there is the argument, "personal quality of the information," followed by "the disclosure of which." This means that there actually be a disclosure -that ~~in~~ information not be known. I recall no such showing. To this is added what I believe is a reprocessing of the exemption and I know is not in accord with the Attorney General's 5/5/77 policy on privacy (which should be attached), "may constitut e a clearly unwarranted invasion of personal privacy." I believe the conjecture may not be statutory and I know is not Attorney General policy.

With all of this I emphasize again they have not claimed name and information not public domain or that they have even sought to learn.

Fensterwald Does this interpretation accord with the decision - like it held that public information is within the exemption? The language quoted falls short of this interpretation and limits to "misuse and resulting injury." This means there must be at least the chance of some kind of "injury" or "misuse" if not both.

I emphasize another phrasing, CIA getting "such information through its routine intelligence collection activities."

None of the pre-assassination records is within the CIA's mandate so it is not "routine." None of its domestic intelligence is not forbidden ~~from~~ hence rather than being "routine" is illegal. Hence no applicability.

p.17 Interpretation of Owen affidavit not in accord with records I read if it relates to CIA personnel. If this relates to some of the illegal acts it is not true of any of those named other than possibly direct sources. But again this is all public in the King biographies.

For example, it is not "potentially embarrassing" or "derogatory" to want the President of the U.S. to declare a weekend of "silent prayer" yet this is a withheld name.

"Mere mention" of those who are not the subject of CIA, as in the above, does not mean there is a CIA file, language of Cerveny.

Nor is there with most even a suggestion of the Fensterwald language re third parties, "alleged subversive activity." This is attributed to King, without concern for privacy of survivors, and of two others whose names are withheld and can be guessed.

What this actually alleges is that there is a privacy right for paranoid mischief makers but not for their victims. And this in an area entirely illegal for the CIA, even if true, as it is recognized.

On their "balancing test" and the public's right to know, don't forget this is an historical case. The Surpeme Court's language seems to me to help us not only on the"balancing" test but also on the "basic purpose" which is to open agency actions to the right of public scrutiny.

This means not only CIA - all involved agencies, NSA, FBI, too.

"Scrutiny" includes illegal acts, like CIA's in domestic intelligence and recirculation of the defamatory for political objectives, not intelligence.

It includes the fidelity of the reporting, whether or not illegal

It includes the motive and dependabilty of the obviously biased souces and the use/misuse by the CIA and those to whom copies sent

It includes the propriety of those CIA components (some oblit erated) of having any involvement

And probably much more like these

It also includes the right to suppress what was done to a great American - and by whom and for what purpose(s)

p.18 Last graf. Not faithful to say not protecting privacy of the dead King. He has survivors and their rights are equal to those of their defamers.

It is anything but faithful to claim "names appear incidentally" in the withheld names in the S series. Maybe they can claim a "confidential

source" but they can't claim privacy if his defamations are outside of privacy considerations. Besides, one of these at least, Randolph (the self-styled Moses of the movement) is dead, too. The public interest in these "third parties," is a) not "minimal" and b) it is not their determination to make.

p.19 CIA claims this right but it is really to hide CIA political and domestic activity, not its interest in others or history or right to know.

Cerveny does not fit me. I am, from government evaluation, "unique" and in a "unique" and unselfish public role.

On the "derogatory" information, they do release that. They protect themselves and the defamers only.

The concluding graf should be shredded. They have not "evaluated the harm" except in selfish terms.

There is other than"minimal"public interest" in knowing who did these terrible things to a great and respected man on a crusade that has become national policy and is formalized in the law of the land thanks to his perseverance over such people and such efforts as are hidden (Hidden means also they have records not provided)

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Subject File: Dissidence/Terrorism

folder: Assassination & Attemtped assassination.

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