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 "established 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.5, 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

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already known, as in Congressional 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 beeexempted 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 staae 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 i 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 national 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 within 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~~ since 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"

"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

I/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 ~~x~~ 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 orthers 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)