

1/15/71

Bud, Paul, Gary, Dick, Howard,

Confirmation on two things-

Emory Brown phoned last night to say he had filed an FBI suit in Trenton for the FBI investigative reports relating to the tramps in the CEs. Fortunately, it seems to be restricted to what is in the CDs. I have written earlier about my misgivings about this particular suit. Apparently my letter with cautions didn't reach Emory to yesterday, too late. While I believe Emory's request to be within the law, I also think it may be the poorest example of a test on definition of investigatory reports and the exemption.

I asked Emory to send copies of the Complaint to Bud and to me, and he said he would, as well as all other papers. He has pursued this aspect diligently and for some time.

I also encouraged Emory, who I had had get in touch with Bud, to encourage his lawyer to take counsel with Bud. I hope he does. I fear an adverse precedent here. What I regard as a real problem is the real possibility of defamation of those involved. My own files, of investigations made for me, could be sued to establish the probability if not the fact of defamation if the request were to be granted. Oddly, with the Sprague/Garrison Bialdey-Frenchy-Payoffman-CIA sharpshooters (take your choice or make another picture), where the men are simply winos. If the FBI reports exist and they so state, is it not defamation?

The other thing is a letter from Tom Kelley in which he repeats that "we have forwarded the original Memorandum of Transfer of the materials relating to the autopsy of President Kennedy" to the Archives.

He also says "we are unable at this time to reconcile Secret Service control numbers to Warren Commission documents of Warren Commission exhibits", which to my observation earlier seemed to be fact and I believe it.

And, "In the most recent review of Secret Service documents at the Archives, I attempted to declassify all the information which was contained in Secret Service reports except for a limited amount which originated from other agencies. These supplying agencies must declassify that information." This would seem to say that all information originating with the SS has been declassified, but it is not beyond question. If anyone knows of anything not declassified and not of outside origin, I'll see if I am informed.

It is my impression that the SS believes it has nothing to hide and would much prefer to have nothing classified, which would get it entirely out from under.

When I had not received this letter after a week, I wrote him yesterday addressing these same points, but giving him PH's list of what remains classified and asking him to confirm or correct. This totals 10 items from three CDs and three entire CDs. If and when he replies, if there is anything to report, I shall.

Sincerely,

HW