

## Assassination Records Review Board FY 1996 Report

### I. Introduction to the Assassination Records Review Board

The Assassination Records Review Board is an independent Federal agency that was created to oversee the identification and release of records related to the assassination of President John F. Kennedy.

The Review Board was established by the President John F. Kennedy Assassination Records Collection Act of 1992 (PL 102-526, the "Act"), which received broad bipartisan support and was signed into law by President Bush. The five members of the Review Board were appointed by President Clinton, confirmed by the U. S. Senate, and sworn in on April 11, 1994. The Act gives the Review Board the mandate and the authority to identify, secure, and make available all records related to President Kennedy's assassination.

The Review Board has until October 1, 1997 to fulfill its mandate.

#### Background for the Act

On November 22, 1963, President John F. Kennedy was assassinated while traveling in a motorcade in Dallas, Texas. His tragic death and the subsequent murder of Lee Harvey Oswald, the President's alleged assassin, led to the creation of the Warren Commission seven days after the assassination.

Continuing public suspicion and speculation that all of the facts surrounding the assassination had not come to light led the House of Representatives to establish the House Select Committee on Assassinations (HSCA) in 1976 to reopen the investigation.

In addition to these two major Federal investigations of the assassination of President Kennedy, four other Federal investigatory bodies have dealt with the assassination to some degree. President Ford created The Rockefeller Commission in 1975 to investigate Central Intelligence Agency activities within the United States. Part of the Commission's efforts related to the Kennedy assassination. Also in 1975, Congress created the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the Church Committee) and the House Select Committee on Intelligence (the Pike Committee). Some of the work of these committees was related to the assassination.

These official investigations, however, did not satisfactorily answer the questions raised by the public about the assassination of President Kennedy. In response to continued, heated speculation, Congress passed the President John F. Kennedy Assassination Records Collection Act of 1992, which mandated

the creation of the Assassination Records Review Board. The provisions of the Act were designed as an alternative to *insufficient previous efforts to improve existing mechanisms for the public release of records related to the assassination and the actions of U.S. government agencies*. The Act states that “the Freedom of Information Act, as implemented by the executive branch, has *prevented* the timely public disclosure of records relating to the assassination . . .” [emphasis added]. In addition, Executive Order No. 12356 (Executive Order No. 12356 has been superseded by Executive Order 12958, which similarly protects sources and methods) on “Classified National Security Information” specifically exclude from the automatic declassification provision matters such as intelligence sources and methods and the identification of informants, which form the core of the Kennedy assassination records which remain classified. The Senate Committee on Governmental Affairs concluded that the creation of a Review Board was required to ensure an “independent and enforceable mechanism for disclosure under uniform standards for review.”

### **Key Provisions of the Act**

The President John F. Kennedy Assassination Records Collection Act states: “All Government records concerning the assassination of President John F. Kennedy should carry a presumption of immediate disclosure.” Furthermore, the Act mandates that all assassination-related materials be housed in a single collection in the National Archives and Records Administration (NARA).

The Act defines five categories of information for which disclosure may be postponed, including national security, intelligence gathering, and privacy. The Act anticipates that there may still be valid reasons for postponing the release of assassination records, but emphasizes that such postponements should occur only in rare cases and only when the harm of the release outweighs the public interest in the disclosure of the information.

The Act requires all Federal agencies to make an initial assessment of whether they possess records relating to the assassination. The agencies themselves conduct an initial review to determine whether their records may be disclosed immediately or whether disclosure should be postponed. All records deemed by an agency as not suitable for immediate release are subject to evaluation by the Review Board. The Review Board evaluates all agency decisions to postpone the release of records. Once the Review Board completes its review of an agency's recommendation for postponement, all records, including those that have a postponed release date, are transferred to NARA. The Act requires that all assassination records must be opened by 2017, with the exception of records certified for continued postponement by the President.

### **Authority of the Assassination Records Review Board**

According to the Senate report on the President John F. Kennedy Assassination Records Collection Act of 1992, "the underlying principles guiding the legislation are independence, public confidence, efficiency and cost effectiveness." To achieve these broad objectives, the Act gave the Review Board specific powers, including the powers to:

- Direct government offices to provide identification aids and organize assassination records;
- Direct government offices to transmit assassination records to the National Archives;
- Obtain assassination records that have been identified and organized by a government office;
- Direct government offices to investigate the facts, additional information, records, or testimony from individuals which the Review Board has reason to believe is required;
- Request the Attorney General to subpoena private persons to compel testimony, records, and other relevant information;
- Require any government office to account in writing for the destruction of any records relating to the assassination of President Kennedy;
- Receive information from the public regarding the identification and public disclosure of assassination records; and
- Conduct hearings, administer oaths, and subpoena witnesses and documents.

### **The Review Board Members**

The Review Board consists of five members:

The Honorable John R. Tunheim, Chair; United States District Court Judge for the District of Minnesota

Dr. Henry F. Graff; Professor Emeritus of History at Columbia University

Dr. Kermit L. Hall; Dean, College of Humanities, and Professor of History and Law at The Ohio State University

Dr. William L. Joyce; Associate University Librarian for Rare Books and Special

## Collections at Princeton University

Dr. Anna K. Nelson; Distinguished Adjunct Historian in Residence at The American University.

### ARRB Staff

The Executive Director of the ARRB Staff is Dr. David G. Marwell. At the end of fiscal year 1996, the ARRB Staff totaled 25 employees who were involved in management, administrative, analysis, and investigatory duties. ARRB Staff analysts continued the review of records and made recommendations to the Review Board. Organized in teams, analysts have continued to develop the necessary working relationships with the agencies for which their respective teams are responsible. Team members have all developed subject matter expertise, which is essential in the review of records and in supporting the Review Board members in the decision-making process on records. In addition, ARRB Staff analysts have continued the important assignment of determining whether additional records should be requested from agencies. In the second year of the Review Board's existence, the research role for the analysts was expanded to include the location of records that may exist in government agencies or private hands. ARRB Staff investigators, who have been primarily responsible for locating non-Federal records, had continued success in identifying and locating significant collections of records in private hands and arranging for their donation to the JFK Collection at the National Archives. In addition, investigators played critical roles in locating former government employees who were subsequently interviewed regarding the possible existence and location of additional assassination records.

### Infrastructure Update

Time devoted during FY 1995 to molding the Review Board infrastructure (office construction, staffing, and obtaining staff clearances), enabled the Review Board to accelerate its mission in FY 1996. After coping with aspects of the enabling legislation that complicated and delayed the start-up phase, the Review Board and ARRB Staff completely focused on increasing the rate of records reviewed, and identifying and locating additional records during FY 1996. The results were consistent and dramatic increases in the records voted on by the Review Board and the location and/or acquisition of records not previously in the Collection.

### Computer System Advances

The computer system, developed by the ARRB Staff, has been successful in tracking the thousands of documents reviewed by the Review Board. System advances added over the past year facilitate the complete reporting to the National Archives of the postponements in each document. Several new

databases have been created to allow the Review Board and ARRB Staff to prioritize sections of agency collections that should receive the most scrutiny. Also the Review Board and ARRB Staff have Internet E-mail accounts that allow researches and the public to receive information from the Review Board.

### **Knowledge Acquisition**

Important decisions made regarding the release or postponement of assassination records continued to require a solid foundation of knowledge about the assassination of President Kennedy, the official government investigations, private research, and the agencies that own the records. The Review Board continued in FY 1996 the intensive program of reading and study required for all staff members engaged in the ongoing record review process.

## **II. Financial Report**

The expenses for all official activities and requirements of the Review Board and its personnel are detailed below:

### III. The Review of Assassination Records

#### Review Board Meetings and Public Hearings

The U.S. Congress made clear, with the passage of the President John F. Kennedy Assassination Records Collection Act of 1992, that it wanted to “ensure that there is an adequate opportunity for public input and participation.”

Although the nature of the Review Board’s work -- dealing with classified information -- requires closed meetings, the Review Board continued to conduct opening meetings and hearings whenever possible to fully inform the public of its actions and the release of documents. During the 1996 fiscal year, eleven Review Board meetings were conducted in Washington, D.C. and public hearings were held in Washington, D.C. and Los Angeles, CA, respectively. The details and results of those meetings and hearings are listed below.

During fiscal 1996 and through October, the Review Board acted to transfer 8,972 documents to the National Archives and Records Administration for inclusion in the President John F. Kennedy Assassination Records Collection, which is housed at the National Archives facility in College Park, Maryland. These include 3,624 FBI documents, 2,852 CIA documents and 2,496 documents from the House Select Committee on Assassinations. Significantly, all of the 2,090 documents contained in the CIA’s Lee Harvey Oswald 201 file became public in 1996 under the Review Board’s direction. These include 781 documents consensually released by the Agency. **In addition, all of the documents used to prepare the Warren Commission report were released.** The Review Board’s accelerated hearing and review process, beginning with document reviews in June 1995, has significantly expanded the historical record of the Kennedy assassination. However, thousands of documents identified as assassination records await review and the identification process for new records continue. Action is pending in fiscal 1997 on 2,265 FBI records, 22,041 CIA records (all of it the Sequestered Collection), 773 Third Agency Equities and 40 HSCA documents.

# Documents Review Process

June, 1995 through September, 1996

### Board Meetings

*December 13, 1995*

*The Review Board voted to release an additional 127 CIA, FBI, and HSCA documents.*

*The Review Board voted to release 57 CIA documents, 23 in full and 34 in part. These documents relate to the CIA's broad post-assassination investigation of Lee Harvey Oswald, including its investigation of Oswald's trip to Mexico City in the fall of 1963.*

*The Review Board also voted to release 47 FBI documents, 25 in full and 22 in part. These documents relate in part to the Fair Play for Cuba Committee's reaction to the assassination of President Kennedy.*

*In addition, the Review Board voted to release 23 HSCA documents in full. These documents relate primarily to David Ferrie's attempt to get reinstated as a pilot with Eastern Airlines after his dismissal by the airline following the filing of 'corruption of minors' charges against him.*

**January 5, 1996**

The Review Board voted to release an additional 52 CIA, FBI, HSCA, and Warren Commission documents relating to the assassination of President Kennedy.

The Review Board voted to release 34 CIA documents, seven in full and 27 in part. These documents relate to the CIA's broad post-assassination investigation of Lee Harvey Oswald, particularly Oswald's trip through Europe on his return to the United States from the former Soviet Union in 1962.

The Review Board also voted to release six FBI documents in full. These records relate in part to the Bureau's interest in New Orleans District Attorney Jim Garrison's investigation into the assassination of President Kennedy.

In addition, the Review Board voted to release 23 HSCA and five Warren Commission documents in full. These documents were previously available, but contained redactions based on privacy grounds.

Notification of the Review Board's action on these documents was sent to the President of the United States and the agencies on January 25, 1996. The President has 30 days to agree or disagree with the Review Board's determinations.

**January 31, 1996**

The Review Board voted to release 207 additional CIA, FBI, HSCA and

*Warren Commission documents related to the assassination of President Kennedy.*

*The Review Board voted to release 72 CIA documents, 17 in full and 55 in part. These documents relate in part to the Agency's post-assassination investigation of Lee Harvey Oswald, including Oswald's trip to Mexico City in the fall of 1963.*

*The Review Board also voted to release 108 FBI documents (including duplicates), 42 in full and 66 in part. These documents relate in part to the FBI's post-assassination investigation of Jack Ruby. Other documents relate to a request made by the White House to the FBI for information about critics of the Warren Commission. These documents were previously available but contained redactions.*

*In addition, the Review Board voted to release 23 HSCA documents in full, with the exception of HSCA staff social security numbers. These documents include interviews with Secret Service Special Agents in Chicago and Miami regarding the assassination. Other HSCA documents relate to David Ferrie and his attempt to get reinstated as a pilot with Eastern Airlines after his dismissal by the airline following the filing of 'corruption of minors' charges against him. These documents have been previously available with certain names redacted for privacy reasons.*

*The Review Board also voted to release four Warren Commission documents. These documents are the last documents generated by the Commission itself that remain to be released in full to the public.*

*Notification of the Review Board's action on these documents was sent to the*

President of the United States and the agencies on February 14, 1996. The President has 30 days to agree or disagree with the Review Board's determinations.

In other Review Board related activities, both the Department of State and the Department of Defense have, at the Review Board's request, agreed to release documents from the HSCA Security Classified files series. DOD released three documents and DOS released 30 documents, some of which pertain in part to the HSCA's 1978 trip to Cuba to interview Castro. Many of these documents have been previously available in redacted form.

The Review Board voted to release 21 of these CIA documents at the January 5, 1996 meeting, but reconsidered them at its March 19, 1996 meeting after receiving additional evidence from the CIA. When the issue in these documents was disclosure of the originator of the cable, the Review Board voted to use the following substitute language "CIA Installation in Northern Europe (or "South Asia") (followed by a designated number)."

#### **February 29- March 1, 1996**

The Review Board met in closed session for two days of meetings. These meetings included ARRB Staff briefings on various pending matters, a classified briefing by the National Security Agency, and a classified briefing by the Central Intelligence Agency.

The members of the Review Board also reviewed assassination records. However, no formal votes were taken during this meeting.

**March 19, 1996**

The Review Board voted on March 19, 1996 to release 271 CIA, FBI and HSCA documents.

The Review Board voted to release 135 CIA documents, 24 in full and 111 in part. These documents relate primarily to the CIA's international investigation to find out anything it could about Oswald, or persons and events allegedly having something to do with him, during the days and weeks following the assassination. The Review Board voted that some information relating to intelligence sources and methods and true names should not be released at this time.

Other Review Board action included votes to release 130 FBI documents, 27 in full and 103 in part. These documents relate in part to the Bureau's investigation of the incident involving Sylvia Odio in the fall of 1963, before the assassination. Other documents detail the FBI's post-assassination investigation of Jack Ruby. The Review Board voted that informant names and symbol numbers should not be released at this time.

The Review Board voted to release six HSCA documents, five in full and one in part. Included in this group are four documents that relate to Secret Service protection of the President.

In addition to the 21 CIA documents from the January 5 and 28, CIA documents from the January 31, 1996 meetings were reconsidered by the Review Board, (referred to above), along with two other CIA documents. The Review Board reconsidered a CIA document originally voted on at the November 14, 1995 meeting. The issue was protection of information

about an individual. The other CIA document reconsidered by the Review Board was from the December 13, 1995 meeting. As with other CIA documents originally considered at Review Board meetings of January 5th and January 31st, the issue is disclosure of the originator of a cable. The Review Board voted to use substitute language in these documents.

Notification of the Review Board's action on these documents was sent to the President of the United States and the agencies on April 2, 1996. The President has 30 days to agree or disagree with the Review Board's determinations.

In other Review Board activities, 886 additional documents were opened in full by the CIA and the FBI, as well as records from the files of the HSCA. These records were released based on the standards of release established by the Review Board during its earlier review of other records. They did not require Review Board votes because they are being released in their entirety by the agencies. The CIA released 405 documents, the FBI released 410 documents, and 71 HSCA records were made available in full, 55 of which are organized crime-related documents obtained from the Metro-Dade County Police Department.

#### **April 16 and 17, 1996**

The Review Board voted on April 16 and 17, 1996 to release an additional 193 FBI, CIA, and HSCA records related to the assassination of President John F. Kennedy.

The Review Board voted to release 158 FBI documents (including duplicates)

*in full. These documents relate to the Bureau's broad post-assassination investigation of Lee Harvey Oswald, including the FBI's investigation into the incident involving Sylvia Odio.*

*The Review Board also voted to release 33 CIA documents, 14 in full and 19 in part. These documents consist of various records from Oswald's "201" file.*

*In addition, the Review Board voted to release two HSCA documents in full, which were duplicates of documents previously opened.*

*Notification of the Review Board's action on the above documents was sent to the President of the United States and the agencies on May 1, 1996. The President has 30 days to agree or disagree with the Review Board's determinations.*

*As part of the mandate of the Review Board to identify assassination records, the Review Board designated Secret Service records from the files of Chief James Rowley as "assassination records." These records include Secret Service comments on the William Manchester book manuscript. The Review Board will now review these documents for inclusion in the JFK Assassination Records Collection.*

*In other Review Board activities, after consultation with the appropriate Federal agencies and in compliance with the Act, 119 additional FBI and HSCA records were released in full. The FBI released 89 documents, and 30 HSCA documents were made available by consent release.*

May 13-14, 1996

The Review Board voted on May 13 and 14, 1996 to release an additional 528 FBI, CIA, and HSCA documents related to the assassination of President John F. Kennedy.

#### CIA Records

The Review Board voted to release 132 CIA records, one in full and 131 in part. These documents are from Lee Harvey Oswald's "201" file. The Review Board determined that some information relating to intelligence sources and methods should not be publicly released at this time.

#### CIA "Scelso" Documents

These documents postpone the name of a former CIA employee who was involved in the assassination investigation. This person used the pseudonym "Scelso" when testifying before the HSCA. The Review Board voted to release the individual's name in 188 "Scelso" documents on either May 1, 2001, or three months after the death of the individual whose name is postponed, whichever occurs first.

#### FBI Records

The Review Board also voted to release 197 additional FBI records, 40 in full and 157 in part. These documents relate to the Bureau's post-assassination investigation of Oswald.

#### HSCA Documents

The Review Board voted to release 11 HSCA documents, one in full and 10 in part. These documents relate to a variety of different topics. The postponed information consists of social security numbers.

#### Notification to the President and the Agencies

Notification of the Review Board's action on the above documents was sent to the President of the United States and the agencies on May 29, 1996. The President has 30 days to agree or disagree with the Review Board's decisions.

#### Secret Service Records

As part of the mandate of the Review Board to identify assassination records, the Review Board designated additional Secret Service records as "assassination records." These records include protective survey reports for planned presidential trips to Houston, Ft. Worth, and Austin, Texas on November 21-22, 1963, and shift reports of unusual incidents from March 1963 to January 1964. In addition, the Richard Case Nagell file has been designated as an "assassination record." The Review Board will now review these documents for inclusion in the JFK Assassination Records Collection.

#### Other Board-Related Activities

After consultation with the appropriate Federal agencies and in compliance with the Act, 463 additional FBI, CIA, HSCA, and Warren Commission records were released in full. The FBI released 289 documents, and the CIA released 146 documents. In addition, 26 HSCA documents and 2 Warren Commission documents were made available by consent release.

### **June 4, 1996**

*The Review Board voted on June 4, 1996 to release 439 CIA, FBI, and HSCA documents, including duplicates, related to the assassination of President John F. Kennedy.*

#### CIA Records

*The Review Board voted to release 228 CIA records, four in full and 224 in part. Included in these documents is the "Mexico City Chronology," a 133-paged summary of CIA communications related to Lee Harvey Oswald's trip to Mexico City in the fall of 1963. Other documents relate to Oswald's stay in the Soviet Union, and former New Orleans District Attorney Jim Garrison's investigation into the assassination. The redacted information includes, for the most part, names of CIA employees and sensitive operational details.*

#### FBI Records

*The Review Board also voted to release 205 FBI records, 37 in full and 168 in part. These documents consist in large part of post-assassination FBI headquarters and field office files on Oswald. The redacted information contains informant symbol names and numbers.*

#### HSCA Documents

*The Review Board voted to release six HSCA documents, three in full and three in part. Included in this group of documents: a United States Customs*

*Service document from the Metro-Dade Police files, which was acquired by the HSCA, concerning an organized crime meeting in Miami; multiple-year tax returns for Eileen Kaminsky (Jack Ruby's sister); a Department of Defense document that includes a fact sheet on the 112th Intelligence Corps and a fact sheet on the destruction of Oswald's IRR dossier.*

*Notification of the Review Board's action on the above documents was sent to the President of the United States and the agencies on June 18, 1996. The President has 30 days to agree or disagree with the Review Board's decisions.*

#### *Secret Service Records*

*As part of the mandate of the Review Board to identify assassination records, the Review Board designated additional Secret Service records as "assassination records." These records include Secret Service correspondence with members of the Warren Commission in 1964, and the document "Briefing Book: Director's Appearance Before the House Select Committee on Assassinations, December 1978." The Review Board will now review these documents for inclusion in the JFK Assassination Records Collection.*

*In other Review Board activities, after consultation with the FBI and in compliance with the Act, 82 FBI documents were made available by consent release.*

#### ***July 9-10, 1996***

*The Review Board voted on July 9 and 10, 1996 to release 416 CIA, FBI,*

and HSCA documents (including duplicates) related to the assassination of President John F. Kennedy.

### CIA Records

The Review Board voted to release 257 CIA records, ten in full and 247 in part. This is the first meeting in which the Review Board reviewed a significant number of documents from the CIA's 'JFK Collection', the group of records containing documents which the Agency considers part of the assassination investigation itself. The issues in these documents cover a wide variety of topics including the investigation of Jack Ruby, the Garrison investigation, and JMWAVE, the CIA station in Miami that concentrated on anti-Castro issues. The Review Board determined that some information relating to intelligence sources and methods should not be publicly released at this time.

### FBI Records

The Review Board also voted to release 150 FBI records, 64 in full and 86 in part. These records include documents that relate to the investigations of Lee Harvey Oswald and Jack Ruby. Other documents in this group relate to the international reaction to the assassination of President Kennedy, including that of the Communist Party. The Review Board determined that some information relating to informant symbol names and numbers should not be publicly released at this time.

### HSCA/Warren Commission Documents

The Review Board voted to release seven HSCA documents, five in full and two in part. Included in this group of documents is Marina Oswald's Social Security Administration file, which will be open for the first time, with the exception of social security numbers. Two duplicates of previously opened

Warren Commission documents that are in the HSCA files were also cleared for release by the Review Board.

Notification of the Review Board's action on the above documents was sent to the President of the United States and the agencies on July 24, 1996. The President has 30 days to agree or disagree with the Review Board's decisions.

#### Other Board-Related Activities

After consultation with the appropriate agencies and in compliance with the Act, 402 FBI, CIA, and HSCA documents were made available in full by consent release. The FBI released 153 documents, and the CIA released 131 documents. In addition, 118 HSCA documents were made available by consent release.

#### **August 5-6, 1996**

The Review Board voted on August 5 and 6, 1996 to release 316 CIA, FBI, and HSCA documents (including duplicates) related to the assassination of President John F. Kennedy.

#### CIA Records

The Review Board voted to release 204 CIA documents, eight in full and 196 in part. In addition to these documents, the Review Board acted on two HSCA documents with CIA equities. These documents include portions of the Lopez Report, which pertains to Oswald's trip to Mexico City, and the 193-page testimony to the HSCA by the CIA officer, alias John Scelso, who coordinated the CIA investigation in the months immediately following the

assassination. The redacted portions of these documents include intelligence sources and methods, true names, and file number prefixes.

### FBI Records

The Review Board also voted to release 104 FBI documents (including duplicates), 57 in full and 47 in part. The documents relate in large part to the Bureau's investigation of Jack Ruby. The redacted portions of these documents consist mostly of informant names and symbol numbers.

The FBI has appealed to the President the Review Board's decisions to release information contained in 36 documents (including duplicates) from the July 9-10, 1996 meeting. The information contained in the redacted portions of these documents has to do with intelligence sources and methods. The Review Board has responded to this appeal.

### HSCA Documents

In addition to the two HSCA documents mentioned above, the Review Board voted to release six HSCA documents in full, including a previously withheld document relating to Joseph Milteer. Also to become available by consent release are 17 HSCA records that document the Miami Police Department's response to inquiries related to Jim Garrison's investigation of the assassination.

Notification of the Review Board's action on the above documents was sent to the President of the United States and the relevant agencies on August 20, 1996. The President has 30 days to agree or disagree with the Review Board's decisions.

### Secret Service Records

As part of the mandate of the Review Board to identify assassination

*records, the Review Board designated additional Secret Service records as “assassination records.” These records include protective survey reports for planned presidential trips in the period between October 31--November 21, 1963, and a 13-minute tape of a radio interview with Secret Service Chief James Rowley on August 7, 1963.*

### Other Board-Related Activities

*After consultation with the appropriate Federal agencies and in compliance with the Act, 221 additional documents (24 CIA, 180 FBI, and 17 HSCA) were made available in full by consent release.*

### **September 27, 1996**

The Review Board voted on September 27, 1996 to release 1,404 CIA, FBI, HSCA, and Secret Service documents, including duplicates, related to the assassination of President John F. Kennedy.

### CIA Records

The Review Board voted to release 223 CIA records, two in full and 221 in part. These documents include communications between the Mexico City station and CIA headquarters during the months immediately before and after the assassination, Mexico City surveillance reports, correspondence between the CIA and HSCA regarding access to information, and documents related to assassination attempts on Fidel Castro, including portions of the 1967 Inspector General’s report.

### FBI Records

The Review Board also voted to release 203 FBI records, 115 in full and 88 in part. These FBI assassination investigation documents consist, in part, of records related to Clay Shaw, Michael and Ruth Paine, and Orest Peña. Other documents relate to the Communist Party reaction to the assassination. An additional 177 FBI documents will be available by consent release.

### HSCA and NARA Documents

The Review Board voted to release 47 HSCA documents, 13 in full and 34 in part. Included in this group of documents are previously withheld records such as a Congressional Research Service memo to the HSCA summarizing the Clark Commission re: autopsy, and HSCA records concerning Dealey Plaza/TSBD witness James Jarman. Also, included in the group of documents were handwriting analyses of Marina Oswald and George DeMohrenschildt. An additional 747 HSCA documents will be

available by consent release.

#### Notification to the President and the Agencies

Notification of the Review Board's action on the above documents was sent to the President of the United States and the agencies on October 11, 1996. The President has 30 days to agree or disagree with the Review Board's decisions.

#### Secret Service Records

The Review Board voted to release one document in part. Five additional Secret Service documents will be available by consent release.

#### Public Hearings

August 6, 1996

Review Board Offices

Washington, DC

This public hearing was conducted to give the public an opportunity to comment on how the Review Board should process a large volume of CIA records known as the "Sequestered Collection."

During the summer of 1996, after making progress on the review and release of records from the CIA's Oswald 201 File, the Review Board turned its attention to the CIA's "Sequestered Collection." These are the CIA records that were segregated from the agency's filing system at the conclusion of the HSCA investigation.

The Sequestered Collection ranges from records of direct relevance to the assassination to others for which the Review Board is unable to identify any relevance. The Review Board and ARRB Staff undertook an effort to establish an approach to the handling of these records that was fully consistent with its mandate and responsibilities, and, at the same time, reflects a reasonable and appropriate investment of (Review Board, ARRB Staff, and agency) resources. Separating the "wheat from the chaff," and devoting the Review Board's time to a detailed review of postponements in the "wheat," was essential to completing the most important parts of the Review Board's mission on time.

*The Review Board heard testimony from the following invited witnesses:*

*John Pereira, Central Intelligence Agency*

*Barry Harrelson, Central Intelligence Agency*

*Jeremy Gunn, Assassination Records Review Board General Counsel*

*Steven Tilley, National Archives and Records Administration*

*Other members of the public who testified were:*

*John Newman*

*James Lesar*

*Harrison Livingstone*

*The hearing was very helpful to the Review Board as it grappled with this difficult area and moved to reach a final decision on this issue.*

The Review Board allowed a 30-day public comment period following the hearing.

September 17, 1996

Los Angeles Board of Education Hearing Room

Los Angeles, California

The Review Board conducted its fourth field hearing in Los Angeles, fulfilling a commitment made by the Review Board that there would be geographic balance to the location of public hearings. The public hearing in Los Angeles allowed members of the public in this area to observe the Review Board at work and gave the Review Board members an opportunity to hear expert testimony from individuals who reside in this part of the country.

The public hearing was a fruitful one for the Review Board. As will be detailed in another section of this report, several witnesses donated records that will become part of the JFK Collection at the National Archives.

The following invited witnesses testified at the public hearing:

*David Belin, former Assistant Counsel to the Warren Commission and author of two books on the assassination, November 22, 1963: You Are The Jury*

and *Final Disclosure: The Full Truth About The Assassination of President Kennedy*. Belin also served as the Executive Director of the Rockefeller Commission in 1975, investigating CIA assassinations of foreign leaders.

**James DiEugenio**, author of *Destiny Betrayed: JFK, Cuba and the Garrison Case*, an analysis of New Orleans's District Attorney Jim Garrison's inquiry and the assassination itself.

**Eric Hamburg**, co-producer of the Oliver Stone movie *Nixon* and a former Congressional staff assistant involved in the passage of the President John F. Kennedy Assassination Records Collection Act of 1992.

**Wesley Liebeler**, former Assistant Counsel to the Warren Commission and currently a professor of law at UCLA. Liebeler donated to the JFK Collection an unpublished manuscript he wrote on various controversies surrounding the assassination.

**David Lifton**, author of *Best Evidence: Disguise and Deception In The Assassination of John F. Kennedy*, which focused on the medical evidence in the case. He is currently working on a book about Lee Harvey Oswald. Lifton agreed to donate various original oral histories of various witnesses connected to the assassination story that he recorded in the late 1960's and early 1970's.

**James Rankin**, son of former General Counsel to the Warren Commission, the late J. Lee Rankin. He testified about his father's personal papers related to his work for the Warren Commission and agreed to donate them to the JFK Collection.

*Robert Tanenbaum, former Deputy Counsel for the House Select Committee on Assassinations in the late 1970's. He is the author of Corruption of Blood, a fictionalized account of his experience with the Committee investigating the Kennedy assassination.*

*Steven Tilley, of the National Archives, oversees the JFK Collection. He gave an update on the contents of the Collection.*

Approximately 100 members of the public and the media attended the hearing. The hearing was also televised on PBS in its entirety in the greater Los Angeles area.

#### IV. Special Projects

##### Medical Evidence Inquiry

The Review Board has several ongoing areas of investigation relating to different categories of assassination records. One of these investigations of records involves the medical evidence in the assassination. As part of the review of the medical evidence, ARRB Staff has deposed the three principal pathologists involved in President Kennedy's autopsy: Drs. James Humes, "J" Thornton Boswell, and Pierre Finck, as well as the autopsy photographer, John Stringer.

While the Review Board is not authorized by the Act to reinvestigate the assassination, it, recognized the mandate to make the JFK Collection at the National Archives as complete as possible. Important medical issues and questions surrounding records related to the autopsy needed to be addressed as completely as possible and made available to the public.

##### Photographic record

In 1996, the Review Board initiated a public appeal for all photographs and motion picture film that could enhance the historical record of the assassination of President Kennedy. This appeal, published in several large and prestigious newspapers, called on those who may have taken photographs or motion picture films in Dealey Plaza on November 22, 1963, to present them to the Review Board for inclusion in records at the NARA. The results of this initiative were the donation of the Veazey and Powers films which showed assassination day events surrounding the assassination of President Kennedy, however, did not include the actual assassination event.

### **Veazey Film**

The so-called Veazey film consists of KTVT television news film out takes that had been discarded during the news frenzy following the assassination of President Kennedy. Literally rescued from the trash by photographer Roy Cooper Jr., the 45-minute black-and-white 16mm film contains unique scenes before and after the assassination. The film and one copy were held by Cooper and his friend, Eli Sturges, and later their heirs. Janet Veazey, Sturges' stepdaughter, read a Dallas newspaper account of the Review Board's search for photographic materials from the assassination and notified the Review Board of the film's existence in May 1996. The film was retrieved and physically transported to the NARA, where it was viewed and duplicated on video tape. The discovery proves the Review Board's belief that assassination-related photographs and films, which have never been publicly seen or reviewed, do exist.

### **Powers Film**

The Review Board released November 21, 1996, a three-minute, 16 mm amateur film taken November 21-22, 1963 by presidential aide Dave Powers, who accompanied President Kennedy and First Lady Jacqueline Kennedy to Texas. The film, never seen publicly, contained a series of short sequences (some lasting only a few seconds). The assassination of President Kennedy is not shown on the film. Powers, who was riding in the Secret Service car directly behind the presidential limousine during the Dallas motorcade, ran out of film minutes before the motorcade entered Dealey Plaza where the shots were fired that killed the President and seriously wounded Texas Governor John Connally. Because of Powers position within the Kennedy White House, much of the film was taken from a perspective not permitted to news photographers.

### **Priscilla McMillan**

Priscilla McMillan, author of Marina and Lee, agreed to Review Board requests to donate her personal notes from lengthy and detailed interviews with Marina Oswald on her life with Lee Harvey Oswald. In addition, Ms. McMillan donated all notes taken during the writing her book.

### **BriLab**

In the late 1970s, the FBI conducted a "Bribery-Labor" (or "BriLab") investigation of several persons, including Carlos Marcello of New Orleans. In the course of its investigation, the FBI conducted electronic surveillance and preserved the evidence gathered in the form of tape recordings and transcripts. Many of the tapes were used in the trial of Carlos Marcello. At the conclusion of the trial, the records of the electronic surveillance have been under court seal. There have been many

allegations that the transcripts and tapes include information relevant to the assassination of President Kennedy, but it has not been possible to confirm or reject such allegations because of the Court seal. The Review Board has been pursuing information related to these records, and has received the very helpful cooperation of the FBI (both at Headquarters and in the New Orleans Field Office) as well as the Federal District Court of the Eastern District of Louisiana. The work is ongoing.

### Foreign Government Records (David needs to sign off)

As part of its mandate, the Review Board has actively and successfully pursued foreign records regarding the Kennedy assassination. In particular, the British government supplied several previously classified documents regarding foreign government and press reaction to the assassination, messages of condolence, funeral arrangements, a meeting with President Lyndon Johnson and world leaders, the Warren Commission, and the final assassination report. These documents were declassified by the British government and copies given to the Review Board for inclusion in the NARA.

### Russia and Belarus

During 1996, Review Board staff visited Russia and Belarus to request assassination-related documents maintained by the former Soviet Union. **ADD ADD**

### **V. Estimated Volume of Assassination Records for Review (Jeremy recommends new title. Is this title required in the Act?)**

Since client agencies have not completed their respective reviews of assassination records in their possession, it is impossible to provide a reliable estimate of the total records that will require Review Board examination. The Review Board is currently tracking approximately 24,000 records that contain postponements, but that number will undoubtedly increase. Since the vast majority of postponements fall into defined categories, decisions made early in the review will apply to records that come later in the process. The Review Board is confident that early decisions, which have consumed a great deal of time and resources, will provide the basis for a greatly accelerated pace in the future.

One of the larger tasks remaining is the sequestered collections of the FBI and CIA which conservatively total 300,000 pages. During 1996, the Review Board defined "Segregated Collections" to include FBI Records that were:

- Requested by the HSCA in conjunction with its investigation into the Kennedy assassination;

- Requested by the Church Committee in conjunction with its inquiry into issues related to the Kennedy assassination; and
- Records requested by other bodies (*e.g.*, Pike Committee, Abzug Committee, etc.) that related to the Kennedy assassination.

In addition, the CIA's Sequestered Collection was found to include:

- Sixty-three boxes of materials collected in relationship to government investigations of the assassination as well as one box of microfilm records. The microfilm records (Box 64) include several different types of records, including copies of documents from the Oswald 201 file, personnel records, and some copies of complete files from which individual records in the first 63 boxes were taken;
- Several boxes of CIA staff "working files"; and
- Generally those records that were requested by the HSCA in conjunction with its investigation of the Kennedy assassination and, to the extent that it is possible to determine, records requested by other official bodies in conjunction with investigations of the Kennedy assassination. The ARRB Staff, on a case-by-case basis, may review agency records other than those contained in the Segregated Collections for the purpose of identifying specific records that may relate to the Kennedy assassination.

The "Segregated Collections" would require several years to read and review carefully. It is obvious, considering the small ARRB Staff, that it would be impossible to complete a word-by-word declassification review of these documents by Oct. 1, 1997. To efficiently review these documents, which may contain extraneous or unrelated information, the Review Board began developing procedures that which would be essential in determining methodologies used to review and process documents. The development of these guidelines began with the August 6, 1996 public hearing and culminated with their adoption at the October 16, 1996 Board meeting.

Recognizing the large volume of documents that remain subject to review, the Review Board has undertaken two initiatives in approaching the final phase of its work:

(1) Faced with the knowledge that it would not be able to complete the review of the segregated collections within the three-year time frame, the Review Board instructed the ARRB Staff to proceed with its review of these collections using special guidelines (see page \_\_\_\_ ) designed to distinguish between records whose relevance to the assassination is clear and those not believed to be

relevant or “NBR.” Applying these new standards will permit the ARRB Staff to identify and review the most significant remaining records in order of priority.

(2) Beginning in November 1996, the Review Board launched its compliance program (see page \_\_\_) which is designed to ensure Federal agency compliance with the Act. The compliance program will help the Review Board organize efforts in the final phase of our operation. Not only will it provide a record of the efforts on the part of the agencies, but it will allow for a comprehensive evaluation of completeness of the effort.

## VI. Guidelines for Processing and Reviewing Records in the Segregated Collections

The Review Board standards for procedures and review of the Segregated Collections require that:

- The ARRB Staff review every record in the Segregated Collections to determine whether they contain information that enriches the historical understanding of the assassination;
- Whenever the ARRB Staff identifies assassination-related information in a record of the Segregated Collections, the ARRB Staff will recommend to the appropriate agencies that the record be designated as an assassination record that should be fully processed under the Act (*i.e.*, be reviewed for postponements on a word-by-word basis under Section 6 of the Act). If the agency disagrees with the ARRB Staff designation, the ARRB Staff will notify the Review Board of the disagreement and will make the disputed record available to the Review Board for its final determination whether the record should be fully processed under the Act;
- Whenever the ARRB Staff identifies records in the Segregated Collections containing information that has “no believed relevance” to the assassination, the ARRB Staff will designate such records as “NBR” and document that designation in a written statement that will identify the records at issue and provide a brief explanation as to the basis for the NBR designation. These written statements will be made available to the Review Board for its independent review and the Review Board will have the ultimate authority to determine whether the records should be fully processed under the Act or whether they should be processed as NBRs as described below;
- Records finally determined by the Review Board to be NBRs will not be further reviewed by the Review Board. Upon the termination of the Review Board’s activities, the ARRB Staff written statements describing the NBR records will be made available to the public in the JFK Collection at NARA; and
- During the process of reviewing the Segregated Collections, the ARRB Staff will seek

continued guidance from the Review Board regarding the scope of records that the Review Board believes will enhance the historical understanding of the assassination.

For all Segregated Collection records that are designated “NBRs,” the following procedures will apply:

- After a determination that a record or groups of records are NBR records, the Review Board will instruct the agencies to send the original NBR records to NARA and order them to be placed in a security classified facility that is not open to the public. On a case-by-case basis (*e.g.*, CIA personnel files), the Review Board may agree to allow NBR records to be kept at the agencies with oversight by NARA;
- The Review Board encourages the FBI and CIA to make available to the public the information contained in NBR records. It is the Review Board’s understanding and intent that records designated NBR may be subject to FOIA and other laws pertaining to public access to information and that the NBR designation does not preclude records from being opened. Any NBR record (or part thereof) that previously has been released or that will be released in the future (*e.g.*, through FOIA), will simultaneously be released to the public in the JFK Collection; and
- All Segregated Collection records determined to be NBR presumptively are to be opened in 2017. (The Review Board will provide further guidance at a later date.)

In the event that individual records in the Segregated Collection contain information related to the assassination as well as information with No Believed Relevance (“NBR”) to the assassination, the Review Board recommended that:

- The ARRB Staff will review the proposed NBR material to determine: (A) whether it is in fact NBR, and (B) whether the type of information appears, on its face, to fall within one of the specific grounds for postponements. If the ARRB Staff believes that both (A) and (B) apply, it will recommend to the Review Board that the NBR material be postponed and that the agency need not provide any additional evidence in support of the postponement. The record and the ARRB Staff recommendation will then be made available to the Review Board for its final determination;
- If the Review Board accepts the ARRB Staff recommendation, the final determination form will reflect that such postponements have been sustained on both the specific grounds enumerated in Section 6 and the material’s NBR status;

- Absent a specific reason for an alternative opening date, material postponed on NBR and Section 6 grounds presumptively will be opened in 2017; and
- Under no circumstances will information that is relevant to the assassination be postponed on joint-NBR-Section 6 grounds. Agencies must provide specific evidence in support of postponements in assassination-related material.

These detailed guidelines will significantly reduce the loss of valuable Review Board and ARRB Staff time expended to review, on a word-by-word basis, those documents that have no relationship to the Kennedy assassination, but require the ARRB Staff to review every single record contained in the Sequestered Collection. Those documents that are identified to be relevant to the assassination will be reviewed word-by-word. These actions will allow the Review Board to proceed prudently and to prioritize wisely the time remaining to it. There will, of course, be individuals who will be suspicious of the significance of any withheld information. Ultimately, however, the Review Board's credibility will be judged less by these anticipated allegations than by the releases that have been made public and by the conscientiousness of the Review Board's procedures. These standards of relevance are designed to ensure that the greatest number of true assassination records is properly identified, reviewed and made public in the JFK Collection at NARA.

## **VII. The Record Review Process and Compliance with the JFK Act**

### **Compliance with the JFK Assassination Records Collection Act**

In November 1996, the Review Board initiated requests to approximately 25 U.S. government agencies and departments asking that they fully cooperate with the Review Board in discharging its responsibility of assuring Congress and the American people that the goals of the Act have been accomplished to the greatest possible extent. These requests were initiated to ascertain that the U.S. government has identified, located and released all records relating to the assassination of President Kennedy.

The Review Board requested the relevant Federal agencies and departments provide a complete and specific accounting of their efforts to locate and release assassination-related records, including a full explanation for the destruction of any records.

In response, each agency and department designated a Compliance Official, who ultimately will be responsible for ensuring that each entity has complied with its obligations under the Act, including identification, location and organization of assassination records and the transmission of those records to the National Archives. The Review Board also received agreements from each agency and

department to adhere to the compliance procedures outlined by the Review Board.

In addition, the Review Board requested an Initial Statement of Compliance from each Agency Compliance Official which explains the steps taken by each agency to locate and process assassination records. The Statement of Compliance will be part of the agency's comprehensive and final report to the American public of what each has done to locate records relating to the assassination.

The agencies were notified by the Review Board that, shortly after the submission of written Statements of Compliance, the Agency Compliance Official (as well as any individuals who helped prepare the statements) should be made available to the Review Board for an interview regarding the location of agency assassination records. The interview will be used as an opportunity to resolve any outstanding questions regarding the search, including any subsequent tasks to be completed by the agencies. The Review Board anticipates that these interviews will be conducted in January and February 1997.

The agencies and departments were notified by the Review Board that they should be expected to complete the process of identification, location and declassification of its assassination records by July 1, 1997. At that time, the agencies will submit to the Review Board a Final Declaration of Compliance certifying, under oath, their compliance with the provisions of the Act. This final declaration will set forth all of the information set forth in the initial Statement of Compliance and will also supplement the initial State of Compliance by detailing any further steps that were conducted by the agencies in identifying and locating assassination records. The agencies' Final Declarations of Compliance will be included in the Review Board's final report to Congress.

The Review Board anticipates that it may conduct depositions, under oath, of Agency Compliance Officials along with any other agency officials with responsibility for complying with the Act on or about August 1, 1997. The decision to take a compliance deposition from an agency will be made on a case-by-case basis, taking into account the importance of the agency to the work of the Act and the sufficiency of the agency's efforts to account fully for its compliance with the Act. Should the Review Board decide to require a compliance deposition of an agency, the responsible agency designee(s) will be expected to testify under oath on any and all issues relating to the agency's record search; including the scope of the search, the identity of files searched, the destruction of any relevant records, and any other matters set forth in the Final Declaration of Compliance.

### **Federal Agencies**

The Review Board and ARRB Staff have been in regular communication with the relevant agencies that may possess assassination records. The results of the Review Board's efforts to date to ensure

that these agencies are in compliance with the Act are mixed. On several occasions during the past year, the Review Board has been asked by an agency to reconsider a formal determination. The Review Board has taken such action reluctantly and infrequently. However, in the interest of ensuring that its decisions are based on the most complete evidence available, the Review Board has been willing to review additional materials submitted by an agency and has, on occasion, changed an initial determination.

Brief descriptions of the status of the compliance of Federal agencies with the Act are provided below.

**The Department of the Treasury (excluding IRS, Customs Service, BATF, and Secret Service)** -- "Main Treasury" had identified no assassination records under the Act prior to being contacted by the Review Board. ARRB Staff members have requested access to specified Treasury records and, last fiscal year, identified approximately two cubic feet of assassination records held at the Federal Records Center at Suitland, Maryland. To date, Treasury has not transferred any of these records to the National Archives for inclusion in the JFK Collection.

**Internal Revenue Service** -- Section 11(a) of the Act states that the transmission and disclosure provisions of the Act do *not* take precedence over Section 6103 of the Internal Revenue Code, which affords confidentiality to tax return and related information. Accordingly, Federal law exempts much of the information in IRS investigative files from inclusion in the JFK Assassination Records Collection.

Within these legal constraints, the IRS and the Review Board have worked together to ensure that the Collection is as complete as possible. For example, the IRS has agreed that tax return information may become part of the JFK Collection if the taxpayer (or his surviving spouse or descendant) consents in writing to disclosure of the information. However, Marina Oswald Porter, widow of accused assassin Lee Harvey Oswald, has refused repeated requests from the Review Board for permission to access her and her late husband's tax records.

**Customs Service** -- The Customs Service is in the final stages of its work with the Review Board to implement the Act.

Under generally applicable retention policies, most Customs Service records are authorized for destruction after twenty years. However, the ARRB Staff identified more than 100 boxes of Customs Service records from the 1950's through the 1970's at the Washington National Records Center at Suitland, Maryland. This year, Customs officials and ARRB Staff members reviewed more than 100 boxes containing these records, and identified a small number of assassination records. In August 1996, Customs advised the Review Board that it has concluded its search of field offices

and that those offices that had located assassination records had sent them to Customs headquarters for review under the Act.

Customs is now preparing electronic identification aids for all of its assassination records and will transfer the records to the National Archives when these aids are completed. Customs has advised that it does not anticipate seeking postponements in any of these records. Finally, Customs has approved release in full of all assassination records referred to it by other agencies.

**The Bureau of Alcohol, Tobacco and Firearms** -- To date, BATF has sent no records to NARA for inclusion in the JFK Assassination Records Collection. After some initial difficulties in establishing a point of contact, BATF responded to the Review Board's inquiries by stating that it had searched its records and found nothing related to the assassination of President Kennedy. The Review Board followed up with specific requests targeting particular individuals and events of interest to the Warren Commission and HSCA investigations, as well as to private researchers. In response to these requests, BATF identified one assassination record. BATF advises that other responsive records it once may have had were probably destroyed prior to the passage of the Act pursuant to records disposition schedules generally applicable to BATF investigative files.

**U. S. Secret Service** -- Over the past twelve months, the Secret Service has developed a system for its internal review of records and submission of documents and disks both to the Review Board and to the JFK Collection at the National Archives. Since October 1995, the Secret Service has processed approximately 500 records referred from the HSCA collection at Legislative Archives. Of those 500 records, the Secret Service forwarded approximately 450 records without postponements to the JFK Collection and submitted more than 50 items with postponements to the Review Board. Four documents are still under consideration by both the Review Board and the Secret Service. The Review Board is still engaged in discussions regarding specific requirements under the Act with the Secret Service.

In response to a total of eight requests for additional information from the Review Board, the Secret Service has submitted more than 1,500 pages of material. Three requests are still outstanding, and a few documents from the submitted material are still under review. The Review Board will be following up some of these responses with additional requests in the coming year. The Secret Service has forwarded material from Chief Rowley's files, letters from the public, and protective information (including trip reports, administrative files, and Warren Commission memorandums) from the 1963-1964 period. Most of these 1,500 pages will be available at the JFK Collection by October 1996.

ARRB Staff interviewed Robert I. Bouck, who worked with the Protective Research Service in 1963, and Floyd M. Boring, part of the White House Detail in 1963.

**The Department of Justice (excluding INS, FBI, and DEA)** -- The Review Board has established

points of contact within the Criminal Division, the Civil Rights Division, and the Office of Information and Privacy (for records of the DOJ leadership). Each of these offices has transferred records to the National Archives for inclusion in the JFK Assassination Records Collection, including more than 3,500 fully opened records of DOJ leadership offices, the transfer of which was completed during Fiscal Year 1996. DOJ has also allowed the ARRB Staff to review copies of DOJ records microfilmed for the John F. Kennedy Presidential Library in order to determine to what extent these records may fall within the purview of the Act. We understand that some of these records now exist only on microfilm. DOJ has also responded promptly to Review Board requests for information and referrals of records from the HSCA and other agencies.

**Immigration and Naturalization Service** -- Prior to November 1, 1996, the INS had not transferred any of its own assassination records to the Review Board or to NARA. Although the INS had reviewed its own equities in third agency documents and returned them to the appropriate agencies, it had not completed any of its own review. The INS is, however, very delinquent in fulfilling its responsibility to transfer records to NARA.

Beginning in November 1996, the INS finally began the process of transferring records to NARA with its shipment of **x files**, none of which contained any postponements. The INS now estimates, according to its communication to the Review Board on November 4, 1996, that it expects to complete the review and transfer process by February 1, 1997. The INS has now delivered to the Review Board two of its four original folders from the Lee Harvey Oswald file, and it is in the final process of review of the remainder of the Oswald file as well as the file of Marina Oswald Porter.

**The Federal Bureau of Investigation** -- The Review Board has worked with FBI documents continuously throughout FY 1996. To date, the Review Board has voted on postponements claimed in more than 1,300 FBI records. The FBI also has agreed to release in full an additional 1,600 assassination records that previously were available only in redacted form, rather than submit to the Review Board evidence in support of its redactions. When it has chosen to ask the Review Board to uphold claimed postponements, the FBI has significantly improved in making timely and pertinent evidence submissions.

By a large margin, the FBI has identified more assassination records than any other Federal agency. As a result, although the FBI has devoted substantial resources to implementing the Act, there is still more than 200,000 pages of assassination records that remain unprocessed. At the present rate, the FBI will not have completed its processing of these records until after the Review Board winds down at the end of Fiscal Year 1997. In view of these resource and time constraints, the Review Board is taking steps to ensure that it focuses on those FBI records of greatest use and interest to the public. Within the body of unprocessed assassination records, the ARRB Staff is identifying subjects of highest interest, so that the FBI can process these subjects next. The FBI has fully cooperated in this

effort.

The ARRB Staff has also continued its efforts to locate assassination records not previously identified as such by the FBI. The FBI has assisted this effort by giving Review Board members access to requested files. The FBI has, on the whole, been extremely cooperative and helpful to the Review Board.

FBI Appeals -- The FBI appealed to the President the Review Board's decisions to release redacted information in 139 records, dealing almost exclusively with "foreign counterintelligence" postponements. The FBI reconsidered the issues raised by the Review Board and, on Dec. 13, 1996, withdrew appeals on 21 documents pertaining to the investigation of Lee Harvey Oswald and the assassination of President Kennedy. In its letter withdrawing its appeal, the FBI said it would review its position with respect to all other pending appeals and would soon advise the Review Board of the results.

*Ten other FBI documents (including duplicates) which the Review Board had also originally voted to release in full in July 1995 and on which the FBI appealed to the President, were eventually released by the Review Board in October 1995. After receiving additional information from the FBI, the Review Board voted to open the documents, except for the numerical portion of informant symbol numbers.*

Swiss Records -- The Review Board released December 28, 1995, five FBI documents relating to the FBI's investigation of Lee Harvey Oswald while he was in the Soviet Union in 1960 and 1961. The FBI had previously sought to keep these documents closed principally because they contained some information provided by the Swiss Federal police. The Review Board originally voted to open these documents in full on July 17, 1995. The FBI appealed the Review Board's decision to the President. The Review Board approached the Swiss government, through diplomatic channels, to seek a waiver of any remaining Swiss interest in the records. The Swiss Government said it had no objection to the release of the documents, if the names of Swiss citizens were redacted. On December 13, 1995, the

*Review Board again voted to release the documents, except for the name of a Swiss citizen, which appeared twice in the documents. The FBI did not oppose the release of the documents after approval had come from Swiss officials. These pre-assassination FBI documents on Lee Harvey Oswald are an important part of the historical record which were worthy of the Review Board's aggressive pursuit. The documents reveal the steps that the United States government took to determine what Lee Harvey Oswald was doing after he left the United States in 1959 and whether or not someone was posing as Oswald.*

**Drug Enforcement Administration** -- The DEA has not, on its own initiative, identified any records of its own for inclusion in the JFK Assassination Records Collection. However, the DEA has responded cooperatively to Review Board requests to locate and retrieve files potentially containing assassination records. The ARRB Staff is reviewing retrieved records so that the Review Board may determine how the Act should be implemented with respect to these records. To date, this effort has concentrated on files responsive to HSCA requests for information, but records potentially relating to the assassination that postdate the HSCA also have been identified. Under its generally applicable records disposal policies, the DEA destroys investigative files after twenty-five years. As a result, ARRB Staff has not identified any records potentially related to the assassination dating before the 1970's.

**United States Postal Service** -- The Postal Service has identified in response to the Act a number of records, principally relating to postal inspectors' investigation of the mail-order purchase of the rifle that, the authorities concluded, was used to kill President Kennedy. However, the Postal Service has not yet transferred any of these records to the National Archives for inclusion in the Collection.

**Department of Defense** -- In 1996, Department of Defense (DOD) services (Army, Air Force, and Navy/Marines) each directed subordinate headquarters to search their records for assassination-relevant materials. Meanwhile, most independent DOD agencies or activities also acted to comply with the requirements of the Act. The results are discussed by individual service/agency below.

For the most part, the search for records by each service/agency focused on records currently in its custody (e.g., historical files and other administrative holdings). What these searches universally missed were records still under the service/agency's control but no longer in its custody: namely, records stored at the Federal records storage facility in Suitland, Maryland, that have not yet been

accessioned by NARA and so technically remain the property of the individual service or agency which created them. (To access these records, one must obtain permission from the owning service or agency, not NARA.) The failure by DOD agencies to search their Suitland records constitutes a serious omission inasmuch as many records from the early 1960's are in this position where they are no longer in the possession of the agency, but not yet controlled by NARA. The ARRB Staff is currently conducting a general inventory of records stored at Suitland to identify those that may include assassination-related materials; where significant holdings are found, the Review Board will make a specific, formal request to the owning service or agency for those files to be searched.

Compliance highlights by individual service/agency:

Department of Defense (General):

- designated Stewart Aly as single point of contact for liaison with ARRB Staff in July, 1995.
- Hosted explanatory meeting between ARRB Staff and all DOD services/agencies in October, 1995.
- Cleared approximately 45 previously-withheld HSCA documents for release without postponements.

Joint Staff:

- Cleared approximately 20 Joint Staff or Joint Chiefs of Staff documents for immediate release without postponements.
- Identified various historical documents (chiefly within J3 Special Operations Division) as possibly assassination-related; currently reviewing these for future Review Board action.

Office of the Secretary of Defense:

- ARRB Staff received two packages of assassination-related documents from the Office of the Secretary of Defense. The unclassified package contains actions related to various FOIA requests previously processed by OSD; the classified package contains six documents (total approximately 130 pages) related to U.S. policy toward Cuba in 1962-63. Of the classified document, three have been cleared for full release. The three remaining documents have been cleared by State, CIA, Army and OSD, but have redactions from Joint Staff. ARRB Staff will meet with the Joint Staff records' manager to request reconsideration of Joint Staff redactions to facilitate voluntary declassification and consent release of all documents.

Army:

- Located, reviewed and cleared for release without postponement Corps of Engineers documents related to JFK grave site.
- Assisted ARRB Staff in locating, reviewing and partially declassifying documents from the microfilm records of the Pentagon Telecommunications Center. To date, more than 300 documents

(all of which are either incoming or outgoing messages in the 1962-4 time frame) have been photocopied for declassification, referral and possible Review Board action. Documents represent all military services plus CIA, State Department, and other agencies. Personnel from the Army's Center of Military History in Washington, DC, and the Military History Institute at Carlisle Barracks, PA, have been particularly helpful in searching for and declassifying Army records.

-- Historical office for the Army's Intelligence and Security Command (INSCOM) assisted ARRB Staff in locating Army intelligence files previously accessioned by NARA and held in NARA's classified collection.

-- Army declassification will begin soon on six cartons of Top Secret and Secret documents found at NARA (College Park) dealing with policies and activities toward Cuba in the 1962-4 time frame.

#### Air Force:

-- Located, reviewed and cleared for release without postponement approximately ten assassination-related documents; additional classified records currently being reviewed.

-- Air Force canvass of subordinate commands yielded a ledger-type book entitled "Log of Events" and "Death of JFK" that appears to be a record of incoming/outgoing messages, orders and reports kept by an unknown individual assigned to the headquarters or operations section of the 1254th ATW at Andrews Air Force Base. This book contains handwritten entries from November 22 to November 25, 1963, describing actions related to the return of Air Force One from Dallas to Andrews and other activities.

#### Navy/Marines:

-- The Review Board has had the least substantive feedback from the Navy/Marines of all the services. Original Navy/Marine POC (Lieutenant Colonel Sparks) departed for new assignment without providing any feedback after October, 1995 meeting; ARRB Staff contacted his replacement in August to rejuvenate Navy's compliance efforts.

-- USMC historian provided the Review Board with original paper copies of Lee Harvey Oswald's personnel and medical records for transfer to NARA; also provided two cartons of documents (already open to the public) concerning USMC operational planning during the Cuban Missile Crisis in 1962 which generally appear not to be assassination-related.

#### National Security Agency:

Currently working closely with the ARRB Staff to prepare approximately 100 assassination-related documents for Review Board action.

**Central Intelligence Agency** -- Throughout the past year, the Review Board has experienced a high level of cooperation and compliance from the Central Intelligence Agency. The CIA has proven willing to release records of great operational sensitivity where the Oswald story is concerned and has

agreed as well to a wide variety of other releases in documents that are only tangentially connected to Oswald or to the JFK assassination. In addition, the CIA has taken upon itself to release in full to NARA large numbers of previously-redacted documents from its Oswald file and JFK records. Particularly worthy of note was CIA's commitment of time and manpower to reviewing records (under Review Board auspices) at the JFK Library in June, where it cleared for release a large body of Cuba-related records from the National Security Files.

So far, CIA's Historical Review Group has managed to keep pace with the Review Board's requests for records and information, but during the coming and final year the Review Board expects requirements to increase and significantly exceed CIA's ability to comply unless the Historical Review Group receives much-needed additional staff support. The Review Board hopes this problem can be solved as quickly as possible.

**Department of State** -- On July 26, 1996, the Department of State initiated a weekly review process for outstanding responses to Review Board requests to prevent further delay of cable responses regarding identification and acquisition of assassination records held by foreign governments. The origination of this review process was prompted by delays of as long as four months in responding to Review Board cable messages despite repeated follow-up inquiries with the Department of State. These delays, in some cases, may have significantly compromised the Review Board's ability to obtain assassination records held by foreign governments.

Despite the timely handling of cables, the Review Board has received a high level of cooperation from the Department of State, which has continued to release, in full, most of its records related to Oswald or the JFK assassination. In addition, State actively participated in Review Board's joint-agency review of Cuba-related records at the JFK Library, clearing for release most of those records containing DOS equities.

**Presidential Library** -- TJD WILL DO.

**National Archives and Records Administration** -- TJD WILL DO.

**House Select Committee on Assassinations** -- The collection of documents used by the HSCA was turned over to the Review Board and the National Archives. Reviews by third party agencies continued in 1996 with the Review Board voting to release 154 HSCA documents and nearly 2,000 released with agency consent.

**Senate Select Committee on Intelligence** -- The initial outstanding assassination document identification and records processing response by the Senate Select Committee staff was offset in FY 1996 by lengthy delays resulting from urgent and time-sensitive policy issues unrelated to the Act.

The issues severely subverted the Committee staff's ability to fully comply with the Act. During FY 1996 only one box and several discs of assassination records were transferred to the National Archives. In previous years, 40 boxes of documents had been transferred to NARA. The decline in record identification and processing was inconsistent with the significant numbers of assassination records that remain to be processed in Church Committee files, including numerous records cited in the footnotes to Book V of the Church Committee Report -- "The Investigation of the Assassination of President John F. Kennedy: Performance of the Intelligence Agencies." In addition, Review Board requests to process newly identified assassination records were not fulfilled. These records may represent only a small percentage of yet unidentified assassination records. A Review Board/NARA proposal that the Committee delegate the identification and referral of additional assassination records is still pending. It is obvious that, with these delays and the amount of records that must be processed, there is no reasonable prospect that the Review Board can complete the review of Church Committee documents before the September 30, 1997 legislative deadline.

### State, Local, and Private Records

The Review Board's investigative staff currently has more than 60 issues under active investigation. These issues include contacting state and local officials regarding assassination records that they may maintain, and locating and interviewing key witnesses about records that may be in private hands. The database of investigative contacts lists nearly 700 **since it started being compiled in April, 199X.**

### New Orleans Records

*The Review Board announced in 1996 that it had subpoenaed records from the Kennedy assassination investigation conducted by former New Orleans District Attorney Jim Garrison. The records are held by current New Orleans District Attorney Harry Connick, who initially refused to comply with the subpoena.*

*A Federal judge in New Orleans declined to grant the motion by the District Attorney to quash the subpoena, and ordered the parties to arrange for a convenient time for the transfer of documents to the Review Board. Connick has failed to comply with the judge's order and the Review Board is now seeking enforcement of it.*

*The subpoena required the District Attorney to produce “all documents and records in [his] possession, custody or control relating to the assassination of President John F. Kennedy, including but not limited to handwritten notes, memoranda, drawings, photographs, tape recordings, and correspondence that relate to the investigation and prosecution of Mr. Clay Shaw by former New Orleans District Attorney Jim Garrison, with the exception of any grand jury materials still extant in the possession of the District Attorney’s Office.”*

*Connick did not produce the records by February 16, 1996, as required by the subpoena. On February 16, Judge Marcel Livaudais, Jr., of the U.S. District Court for the Eastern District of Louisiana, ordered the Review Board and Connick to find “a mutually agreeable time for production of the documents in New Orleans.” Connick has failed to agree to a time to produce the documents. The Review Board subsequently filed papers in the U.S. District Court in New Orleans seeking enforcement of Judge Livaudais’ order.*

*On April 9, 1996, the Review Board announced the release of records from the private files of former New Orleans District Attorney Jim Garrison and from the files of Edward Wegmann, a member of Clay Shaw’s defense team.*

*After being approached by the Review Board, the late Jim Garrison’s family agreed to donate a collection of records on the assassination of President Kennedy that Garrison kept at his residence. The collection includes records from his assassination investigation and prosecution of Clay Shaw, as well as other files on individuals or subjects that Garrison thought were connected to the assassination. There are approximately 15,000 pages in the Garrison collection.*

*The family of the late Edward Wegmann, who was a member of the legal team which defended Clay Shaw at his 1969 assassination conspiracy trial, agreed to donate Mr. Wegmann's files to the JFK Collection. Some of the documents in the Wegmann collection came from the office files of District Attorney Garrison. William Gurvich, an investigator for Garrison, made copies of many internal memoranda and witness interviews from the District Attorney's files when he left the office after becoming disenchanted with Garrison and the investigation. He turned the documents over to Shaw's attorneys. There are approximately 6,000 pages in the Wegmann collection.*

*The original documents were transferred to the National Archives and Records Administration for inclusion in the President John F. Kennedy Assassination Records Collection, which is housed at the National Archives facility in College Park, Maryland.*

## VIII. ARRB Outreach

### Mailing lists

The Review Board has maintained contact on a bimonthly basis for the past two years with members of the public who have requested to be placed on our mailing list. The Review Board has a regular mailing list as well as an electronic list, and the total number of people on the lists has grown to more than 500. This number is growing every week.

Members of the public on our mailing list receive press releases, updates on the Review Board's activities, meeting results, information about documents transferred to the President John F. Kennedy Assassination Records Collection, and Federal Register notices.

### COPA Conference 1996

David Marwell, ARRB Executive Director, updated the research community on the activities of the Review Board during the 1996 conference of the Coalition of Political Assassinations (COPA). Marwell informed the researchers of the Review Board's actions in FY 1996, and provided a preview of the Review Board's agenda for 1997. The presentation concluded with a question and answer period.

### ARRB Open House

On October 21, 1996, the Review Board held an Open House for the public and the research community. Open House attendees were given access to newly released documents, the Review Board video library, and a tour of Review Board offices. Approximately 20 people attended.

### Professional Associations

On January 6, 1996, the Review Board made a presentation at the annual meeting of the American Historical Association (AHA) in Atlanta, Georgia. The Review Board provided background information and updates regarding its mandate. Approximately **XX** AHA members attended, and the Review Board provided time for a question and answer period.

On March 28, 1996, the Review Board made a presentation at the Organization of American Historians (OAH) Conference. **XX** OAH members attended the session and heard the Review Board provide a brief introduction, and then continued with a lengthy question and answer period regarding specific Board actions.

On August 29, 1996, the Review Board and David Marwell, ARRB Executive Director, presented papers on access issues and U.S. government information to the annual meeting of the Society of American Archivists in San Diego, CA.

### Journals and Newsletters

Several times a year, Review Board Chairman Tunheim submits Review Board updates to journals and newsletters that serve the research community. In 1996, Chairman Tunheim provided articles about the Review Board to the *AARC Quarterly*, *Open Secrets*, and *Probe*, all of which serve researchers and are circulated worldwide. In addition, ARRB Executive Director David G. Marwell, General Counsel and Associate Director for Research and Analysis, T. Jeremy Gunn, and Associate Director for Communications, Thomas E. Samoluk, participated in an extensive, in-depth interview about the Review Board with the editor of *Probe*.

### Dallas Trip

In 1996, Review Board Chairman John Tunheim, ARRB Executive Director David Marwell and ARRB Press and Public Affairs Officer Tom Samoluk visited Dallas to tour assassination-related sites and determine fertile areas for additional documents. The tours included the Sixth Floor Museum at the former Dallas School Book Depository, a review of the Dallas Municipal Archives, and discussions with local newspapers to appeal for assassination-related documents, photographs or motion picture film taken by amateur photographers.

### “Scelso” HSCA Documents

A category of records that has received great attention involves a former CIA employee who testified before the HSCA in executive session under the pseudonym “John Scelso.” The Review Board has postponed the name of this former CIA employee who was involved in the assassination investigation.

The Review Board voted to release the individual’s name in 188 “Scelso” documents on either May 1, 2001, or three months after the death of the individual whose name is postponed, whichever occurs first.

The Review Board is very much aware of the research community's interest in knowing the identity of the person identified in the records under the pseudonym of "John Scelso." The Review Board received extensive information about the true identity of Mr. Scelso. Because of issues related to his identity, the Review Board decided that Mr. Scelso should be protected for five years, after which his true name will be revealed.

The Review Board is obtaining additional information regarding Mr. Scelso's work at the CIA both before and after the assassination. Much of this information has already been revealed in Mr. Scelso's sworn testimony before the HSCA, which has been made available. Moreover, additional information gathered by the Review Board regarding Mr. Scelso also will be made available within the next year.

## **IX. Recommendations for Legislative Action**

An obvious question facing the Review Board in its last mandated year of existence is whether it will be able to complete its work on time. Until now, the Review Board has been faithful to the time constraints set by the Act. Unfortunately, the same cannot be said for other components of the review process. Executive branch agencies and committees of Congress, almost without exception, have failed to review all of their records and make them available for the Review Board’s review within the set time limits. Indeed, many have yet to complete even their initial review. The Senate Intelligence Committee, for example, has yet to process the complete holdings of its Church Committee files,

and the FBI itself has claimed that it will be unable to complete its task before the end of the century despite a significant investment of resources. In the rare cases of appeal to the White House, the President has far exceeded the thirty-day appeal period, thereby leaving the Review Board and the FBI in doubt about important questions of precedent.

This lack of fidelity to the prescribed deadlines says (in most cases) as much or more about the ambitious time limits set by the Act as it does about the resolve and commitment of the parties involved. The Review Board has done its best to proceed in a practical and realistic fashion, and, with continued cooperation from most agencies and new efforts from others, will be able to complete its work in all but two areas within the three-year deadline. With the exception of the sequestered collection at the CIA (see page \_\_\_ ) and the FBI's HSCA collection (see page \_\_\_), the Review Board expected to have completed its review of assassination records identified by Federal agencies, collected significant non-Federal records, and identified and processed additional Federal records not identified by the agencies. The Review Board will not, however, be able to complete the word-for-word, document-by-document review of the records that make up the so-called sequestered collections of the FBI and CIA.

## List of Appendices

### 1. Final Determination Forms

Final Determination Forms for every document containing postponements sustained by the Review Board through the October 1996 meeting.

### 2. List of Formal Determinations

Actions taken by the Review Board for all documents reviewed through the October 1996 meeting.

### 3. List of Regulatory Actions

List of notices and proposed final rules.

## LIST OF REGULATORY ACTIONS

“Guidance on Interpreting and Implementing the President John F. Kennedy Assassination Records Collection Act of 1992,” Proposed Interpretive Regulation, 60 F.R. 7,506 (February 8, 1995).

“Rules Implementing the Government in the Sunshine Act,” Notice of Proposed Rulemaking, 60 F.R. 32,930 (June 26, 1995).

“Guidance on Interpreting and Implementing the President John F. Kennedy Assassination Records Collection Act of 1992,” Final Regulations, 60 F.R. 33,345 (June 28, 1995).

“Rules Implementing the Freedom of Information Act,” Notice of Proposed Rulemaking, 60 F.R. 34,193 (June 30, 1995).

“Assassination Records Review Board Rules of Procedure,” adopted on July 12, 1995.

“Rules Implementing the Privacy Act,” Notice of Proposed Rulemaking, 60 F.R. 39,905 (August 4, 1995).

“Rules Implementing the Government in the Sunshine Act,” Final Rulemaking, 60 F.R. 45,335 (August 31, 1995) (to be codified at 36 CFR Part 1405).

“Rules Implementing the Freedom of Information Act,” Final Rulemaking, 60 F.R. 45,338 (August 31, 1995) (to be codified at 36 CFR Part 1410).

“Freedom of Information Act Statement of Organization, Functions, and Authority Delegations,” 60 F.R. 51,733 (October 3, 1995).

“Rules Implementing the Privacy Act,” Final Rulemaking, 60 F.R. 64,122 (December 14, 1995) (to be codified at 36 CFR Part 1415).

“Privacy Act Systems of Records,” Notice, 60 F.R. 64,143 (December 14, 1995).

## Appendix 1

### Final Determination Forms

Please see Congressional File 10.4 or the Reading Room Notebook if you wish to see Appendix 1.



## Appendix 2

### List of Formal Determinations

## Appendix 3

### List of Regulatory Actions