

Assassination Records Review Board

600 E Street NW ▪ Second Floor ▪ Washington, DC 20530

MEMORANDUM

March 5, 1995

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NPR Phase II Steering Committee
John R. Tunheim
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Options Paper

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Overview

The Assassination Records Review Board (ARRB) was conceived of as an alternative to ineffective and insufficient past efforts to clarify widely held troubling questions about the assassination of President Kennedy and the motives and actions of the US institutions and personnel. Demand for the complete opening of all records relevant to these questions has clogged agency Freedom of Information offices and is a symptom of a widespread lack of confidence in what our government

does and says. As a result of this demand, and in an effort to create a responsible, cost-effective, and efficient system for the release of these records, the Congress passed The President John F. Kennedy Assassination Records Collection Act of 1992 ("the Act"), which mandated the creation of the ARRB.

The ARRB was given the mandate to oversee the identification and public release of records related to the assassination of President John F. Kennedy. The five-member Board was appointed by President Clinton, confirmed by the United States Senate, and sworn in on April 11, 1994. By law, the ARRB will complete its work no later than September 30, 1997.

The Board, consisting of five distinguished citizens representing the legal, historical, and archival professions, serving in a part-time capacity, is currently supported by a senior staff consisting of an executive director, a general counsel, a chief of review and analysis, an administrative officer, and a press and public affairs officer. In addition to the senior staff, the Board currently employs eight analysts, two administrative support personnel, and a part-time computer specialist. The Board has either made offers to or plans to hire the following additional personnel: three investigators, two administrative support personnel, and ten analysts.

Mission and Goals

The Senate report of The President John F. Kennedy Assassination Records Collection Act of 1992 states that "the underlying principles" guiding the legislation were "efficiency and cost effectiveness" as well as independence and public confidence.

The Review Board will ensure that all assassination records are identified, secured, and, to the extent possible, released to the JFK Collection at the National Archives. The structure established by the Act will achieve Congress' cost effectiveness goal by eliminating the need for the processing of Freedom of Information Act requests and the costly litigation that often accompanies them. In addition, with the Act's stated presumption that all assassination records will be publicly disclosed, the cost of federal agencies keeping hundreds of thousands of documents unnecessarily classified will be eliminated.

The Review Board was created because of the reluctance of federal agencies to release records relating to the assassination in a timely manner. The Board will provide an independent and enforceable mechanism for disclosure under uniform standards for review.

Beyond the Review Board achieving its prescribed goals of efficiency and cost effectiveness, it has a far more important non-economic benefit. The disturbing phenomenon of public mistrust in our government began to increase considerably after the assassination of President Kennedy and the widely held perception that the government has kept important facts from the American people about the motives and actions of its institutions and personnel. A poll in late 1994 showed the percentage of Americans who "trust the government in Washington" has dropped from 76 percent in 1964, shortly after the death of President Kennedy, to 19 percent today. As the President stated in the draft Executive Order on Classified National Security Information, "Our democratic principles require that the American people be informed concerning the activities of their Government." The

Assassination Records Review Board has not only the opportunity to make public records that may clarify the facts surrounding the assassination, but also, along the way, the opportunity to reverse this trend of mistrust and to redefine the meaning of, and the need for, secrecy in government. In this sense, the Review Board can be an important agent in the reinvention of government.

Assessment of Key Functions

The Review Board is a key element in a larger process of agency record review and release established by the Act. All federal agencies are required to identify records in their possession that may relate to the assassination and to determine whether these records may be disclosed immediately or whether disclosure should be postponed. The Review Board evaluates all agency decisions to postpone the release of records. Once the Board has completed its review of agency recommendations for postponement, all records, including those that have postponed release dates, will be transferred to the National Archives to be housed in the John F. Kennedy Assassination Record Group. The Act requires that all assassination records must be released by 2017, with the exception of records certified for continued postponement by the President.

Furthermore, the Board has been given the responsibility and broad powers to identify and secure any additional assassination records held by federal, state, and local governments.

Option 1: Termination

A premature termination of the ARRB would have a disastrous effect on public confidence. Such an action would fuel speculation about

government motives and compound the very issues that gave rise to the legislation in the first place. Rather than clarifying and settling troubling issues, a termination of the ARRB would amplify and aggravate them. To achieve the goals of the Act, there is no alternative to the ARRB, which was itself conceived of as an alternative to unsatisfactory mechanisms in the past.

The conditions that gave rise to the ARRB still exist, and the mandate that we have been given is arguably more timely and important than it was at the time the legislation was passed in 1992. In the short life of the ARRB, the competing interests of the public's right to know about the activities of its government on the one hand, and the legitimate requirements of the government to protect sensitive information on the other, have presented themselves in clear and compelling ways. The Board's responsibility to balance these interests is as complex as it is important.

Option 2: Restructuring

As an agency with a daunting mission and limited time and resources, the ARRB has devoted significant energy to creating an efficient, effective, and productive organization. Nearing the end of a start-up phase that has been devoted to conceiving of and implementing a structure that is capable of meeting our responsibilities within the time and resource limits imposed on us, it is difficult to address the subject of restructuring. Having just invented ourselves after a process of careful planning and analysis, we see no advantage or appeal in any other approach or structure.