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This Report is being submitted to the Senate Governmental Affairs and the House Government Reform and Oversight Committees by the Assassination Records Review Board in compliance with Section 9(f) of the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. § 2107 (note), PL 102-526, (the “JFK Act”).²

The Assassination Records Review Board (“Review Board”) is an independent Federal agency created by the JFK Act to oversee the identification and release of records related to the assassination of President John F. Kennedy. The JFK Act, which received broad bipartisan support in 1992, was signed into law by President Bush. The five members of the Review Board were appointed by President Clinton, confirmed unanimously by the U. S. Senate, and sworn in on April 11, 1994. The JFK Act granted the Review Board the mandate and the authority to identify, secure, and make available, through the National Archives and Records Administration (“NARA”), records related to President Kennedy’s assassination.

Section 9(f) of the JFK Act requires the Review Board to submit a report to Congress each year that accounts for the progress of the Review Board, describes the status of agency compliance with the JFK Act, identifies “any special problems,” and proposes “requests to Congress for additional legislative authority needs.” The report that follows addresses each of the statutory requirements and recommends that Congress grant an extension of the Review Board’s mandate beyond its scheduled expiration on September 30, 1997. The Review Board believes that a one-year extension will be necessary to complete the principal objectives of the JFK Act.

Background of the JFK Act. The tragedy of the assassination of President Kennedy has been compounded over the years by the lingering suspicion -- widely shared by the American people -- that the Federal government

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²Although it really is not necessary to have a second footnote, it is always better to be safe than sorry. *Capice?*

is in possession of secret records that reveal that the government has known much more about the assassination than it has been willing to disclose publicly. Although many pledges were made, as early as 1963, that the government would reveal all of its evidence related to the assassination, more than 30 years have gone by with only portions of the record and the story being revealed.

From the beginning, the Federal government was responsible for the investigation of the assassination and for collecting records related to the assassination. In order to ensure that there would be a single investigation, President Johnson named five distinguished Americans to the President's Commission on the Assassination of President John F. Kennedy (the "Warren Commission"). Despite the early pledges to release all of the Warren Commission evidence to the public, and although the Warren Commission itself published 26 volumes of evidence, many of the records had still not been declassified by 1992. Although records continued to be released pursuant to declassification and to FOIA suits, the public was still not privy to much of the evidence that had been available to the Commissioners.

After several previously unknown facts were revealed in the late 1960s and 1970s, including CIA assassination attempts on Fidel Castro and others, the scope of illegal domestic activities by the CIA and the FBI, and the first public viewing of the famous Zapruder motion picture that depicted the assassination, Congress decided that it should conduct new investigations into the assassinations of President Kennedy and Martin Luther King. Accordingly, Congress formed the House Select Committee on Assassinations (HSCA) in September, 1976, to inquire into the two slayings.

In addition to these two major Federal investigations into the assassination of President Kennedy, four other Federal investigatory bodies have dealt with the assassination to some degree. In January, 1975, President Ford created the President's Commission on CIA Activities Within the United States (the "Rockefeller Commission") to investigate allegations about domestic CIA activities. The Rockefeller Commission made some limited inquiries into the Kennedy assassination and related issues. Also in January, 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. Book 5 of the Church

Committee Report, for example, was devoted exclusively to the Kennedy assassination.

Although many records that had been reviewed by the HSCA, Rockefeller Commission, Church Committee, and the Pike Committee were made available to the public, as of 1992 there were a significant number of records that remained unavailable. Many FOIA requests had been filed in order to obtain access to the records resulting in continuing (and expensive) litigation brought by private citizens who sought to learn what their government knew about the Kennedy assassination but was unwilling to tell the American people.

In 1992, Congress wisely decided that it was time to bring an end to the suspicion and secrecy that has surrounded the death of the 35th President. In order to show the American people that its government was fully prepared to release all of the evidence in its files, it enacted the JFK Act in 1992. The JFK Act was designed, in part, to be an innovative alternative to the existing mechanisms for the public release of records related to the assassination and to the conduct of U.S. government agencies. The JFK 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 on National Security Information was found by Congress to have excluded from the automatic declassification provision matters such as the identification of intelligence sources and methods, as well as informants, which form the core of the Kennedy assassination records that remain unavailable to the public. (Executive Order No. 12356 has been superseded by Executive Order 12958, which similarly protects sources and methods.) 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 JFK Act. The JFK Act provides that: "All government records concerning the assassination of President John F. Kennedy should carry a presumption of immediate disclosure." Furthermore, the JFK Act requires that all assassination-related materials be transferred to a single collection at NARA to be known as the President John F. Kennedy Assassination Records Collection (“JFK Collection”).

The JFK Act required all Federal agencies to make an initial assessment of whether they possess records relating to the assassination. The agencies themselves were to have conducted an initial review and to have identified *all* “assassination records” in their possession within 300 days of the enactment of the JFK Act. The agencies also were required to determine whether their records might 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. 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 the NARA. The JFK Act requires that all assassination records must be opened by 2017, with the exception of records certified for continued postponement by the President.

The JFK Act defines five categories of information for which disclosure may be postponed, including national security, intelligence gathering, and privacy. The JFK Act presumes that in the overwhelming number of cases the information should be opened and emphasizes that such postponements should occur only in rare cases where the harm of the release outweighs the public interest in the disclosure of the information. However, the JFK Act also provides that the agencies shall have an opportunity to present to the Review Board information supporting their proposed postponements. The agencies, properly, have submitted a great deal of information to the Review Board in support of their proposed postponements. This process, which properly was established by Congress in the JFK Act, has nevertheless consumed a great deal of time both for the Review Board and the agencies.

Authority of the Assassination Records Review Board. According to the Senate report on the JFK Act, "the underlying principles guiding the legislation are independence, public confidence, efficiency and cost effectiveness." To achieve these broad objectives, the JFK 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;
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- Obtain assassination records that have been identified and organized by a government office;
- Direct government offices to provide 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.

Early Delays in the Work of The Review Board. When Congress drafted the JFK Act, it estimated that the Review Board would complete its mandate in three years. There were, however, a number of delays, in the early phase of the Board's operation that have affected the ability of the Board to meet the deadline set by Congress.

Although the JFK Act was signed into law in October 1992, the Board was not sworn in until April 1994. While Congress passed the JFK Extension Act in 1994 to reset the clock and to give the Board a full three-year mandate, it did not foresee the impact of the agencies operating without the guidance of the Review Board. During the 18-month period between the passage of the Act and the appointment of the Review Board, some government agencies proceeded with independent reviews of their files in the absence of Review Board guidance.

Unfortunately, these agencies had to revise a significant amount of work once the necessary Review Board guidance was available.
