

Memorandum of Understanding
Establishing a Protocol for the Review of Assassination Records
for the
President of the United States
and the
Assassination Records Review Board

Whereas the President of the United States (the “President”) and the Assassination Records Review Board (the “Review Board”) are obligated to comply with the President John F. Kennedy Assassination Records Collection Act of 1992, Pub.L. 102-526, §§ 1 to 14 (as amended), 44 U.S.C. 2107 (the “JFK Act”); and

Whereas the JFK Act provides that “all Government records related to the assassination of President John F. Kennedy should be preserved for historical and governmental purposes,” [44 U.S.C. 2107 Sec. 2(a)(1)], and;

Whereas the JFK Act provides that “all Government records concerning the assassination of President John F. Kennedy should carry a presumption of immediate disclosure, and all records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination” [Sec. 2(a)(2)], and;

Whereas the JFK Act provides that “only in the rarest cases is there any legitimate need for continued protection of such records” [Sec. 2(a)(7)], and;

Whereas the JFK Act established the Review Board to “render decisions . . . whether an assassination record or particular information in a record qualifies for postponement” before it is released to the public [Sec. 7(i)(2)], and;

Whereas the JFK Act requires the Review Board to “direct that all assassination records be transmitted to the Archivist [of the United States] and disclosed to the public in the [JFK Assassination Records] Collection in the absence of clear and convincing evidence” that there is a grounds for postponement under the JFK Act [Sec. 9(c)(1)], and;

Whereas the five Members of the Review Board were nominated by President William J. Clinton and were confirmed by the United States Senate; and

Whereas the JFK Act requires the Review Board to notify the President of its formal determinations with respect to postponement or release of government assassination records within 14 days of its formal determinations [Sec. 9(c)(4)(A)]; and

Whereas the Review Board will be reviewing tens of thousands of executive branch records; and

Whereas a document-by-document review of assassination records by the President would be a time-consuming effort; and

Whereas the JFK Act allows the President only “30 days after the Review Board's determination and notice to the executive branch agency . . . stating the justification for the President's decision [Sec. 9(d)(1)], and;

Whereas the JFK Act requires the President to provide a written “justification for the President's decision, including the applicable grounds for postponement”[Sec. 9(d)(1)] and;

Whereas the JFK Act requires the Review Board to “publish in the *Federal Register* a copy of any unclassified written certification, statement, and other materials transmitted by or on behalf of the President with regard to postponement of assassination records” [Sec. 9(d)(3)] and;

Whereas it would be inconsistent with the spirit and the letter of the JFK Act for the President to fail to render his decision within the thirty day period, and;

Whereas the JFK Act anticipates that there will be an “expeditious public transmission to the Archivist [of the United States] and public disclosure of such records” [Sec. 2(b)(2)], and;

Whereas it is in the interest of the President, the Review Board, and the public that procedures for implementing the JFK Act be prompt, efficient, and cost-effective, and;

Whereas there is a need to establish an efficient procedure for the review of executive branch assassination records to ensure that both the President and the Review Board properly comply with the letter and the spirit of the JFK Act;

Therefore it is agreed between the President and the Review Board that a protocol should be established to provide for efficient procedures for the review and disposition of the records that the JFK Act presumes will be disclosed and made available to the public.

Protocol

1. As provided by the JFK Act, the Review Board will promptly notify the President or his designee once a formal determination has been made to release immediately or to postpone release of information in executive branch assassination records and such notification shall in any event be made no later than 14 days after the decision has been made.
2. The President or his designee shall be informed of all formal determinations by means of a

Listing that shall be hand delivered to the White House or to any other location specified by the President or his designee. The Listing shall identify with specificity the documents on which a formal determination has been rendered and the basis for the formal determination.

3. Unless the President, within 30 days of receiving the Listing, makes a specific finding rejecting a Review Board determination with respect to specific assassination records, the Review Board shall be authorized by the President to release assassination records to the National Archives consistent with the Review Board's prior determinations as recorded on the Listing.
4. For each specific assassination record where the President disagrees with the formal determination of the Review Board, the President shall notify the Review Board, in writing, within 30 days of the date that the Listing is provided to the President.
5. For each specific assassination record where the President disagrees with the formal determination of the Review Board, the President shall explain with specificity the basis for his disagreement so that the explanation can be attached to the record identification form that is to be sent to the National Archives.
6. The President or his designee(s) shall be granted full access to the assassination records at the Review Board's office, 600 E Street, N.W., Washington, D.C.

for the President of the United States

for the Assassination Records Review Board

June __, 1995