

# MEMORANDUM

April 8, 1998

To: T. Jeremy Gunn, Executive Director

From: Kim Herd, Senior Attorney

Re: Eileen Dinneen's Secret Service Materials to be Considered at the  
April 13, 1998 Board Meeting

## Background

At the April 13, 1998 meeting, the Review Board is scheduled to consider six documents prepared in 1978 by HSCA staff member, Eileen Dinneen. Dinneen studied protective intelligence cases established by the Secret Service from March 1963 - December 1963, and documented her findings and opinions in several memoranda and synopsis sheets (a description of which is provided below). These documents contain the names of individuals who were investigated by the Secret Service because they were potentially threatening to the President. Since its initial review of these documents, the Service has sought to postpone a majority of the names found within them.

The Board first considered the Dinneen materials at its March 18-19, 1996 meeting, when it voted to deny the Service's requested postponements. Shortly thereafter, the Secret Service registered a vigorous objection and asked the Board to reconsider its requests for postponements pursuant to Sec. 6(3) - (5) of the JFK Act. Essentially, the Service argued that most of the individuals named in the Dinneen materials had no relation to the assassination and that release of their names would constitute an invasion of privacy that was not outweighed by the public's interest in learning these names. Further, it argued that release of these names would compromise the Secret Service's protective techniques by damaging its relationship with the mental health professional community.

The Board agreed to rescind its vote and to delay release of the Dinneen materials in order to give the Secret Service additional time to gather evidence in support of its requested postponements. The Board asked the Secret Service to provide evidence regarding: (1) whether the individuals were still alive; (2) why certain names should remain confidential; (3) whether release would violate an individual's privacy rights; (4) whether an identifiable person from the mental health community actually supplied the Service with information pertaining to an individual listed in the documents at issue; (5) whether there was evidence of any confidential relationship between a subject and a mental health professional; and (6) whether there was any evidence of a confidential relationship between a mental health professional and the Secret Service or any other law enforcement official.

Although the Service researched who was still alive and provided the Board with this information, it did not provide specific evidence as to any of the Board's other requests. The Service chose to submit letters to the Board outlining its arguments (copies of these letters are attached). The Service supplemented its arguments with letters and memoranda from mental health professionals who also opposed release of these names. The Board was scheduled to vote on this issue at its November, 1996 meeting, but the issue was ultimately tabled.

Although it has been well over a year since the Dinneen issues were considered, the Service remains committed to seeking postponements of a majority of the names in the documents. Representatives from the Secret Service will attend the Board's April meeting, and may make a brief presentation to supplement the arguments they have already submitted in writing. The Service elected not to gather additional evidence in support of its arguments for postponement.

What follows is a brief listing of the Dinneen documents, as well as a summary of the Secret Service's arguments for postponement, and arguments against its position.

#### Documents at Issue

1. RIF # 180-10087-10302. This is a memorandum from Dinneen to Dick Billings that summarizes Dinneen's review of Secret Service trip files prepared from March through December, 1963. Dinneen supplemented her four-page memorandum with twenty-one "Secret Service Report Forms" summarizing the circumstances surrounding particular threats or peculiar situations. **The material in this document is particularly important because it contains summaries of the information that was later destroyed by the Secret Service in 1995.**
2. RIF # 180-10103-10465. This memorandum constitutes a summary of Dinneen's study of 413 protective intelligence cases established by the Secret Service from March 1963 - December, 1963. Dinneen analyzed criteria employed by the Secret Service to assess threat information. (The Service is conceding release of approximately 90 names).
3. RIF # 180-10065 - 10379. This document includes 413 separate synopsis sheets ("threat sheets") prepared by Dinneen, summarizing personal data and opinions regarding each of the subjects at issue. (The Service is conceding release of approximately 90 names).
4. Item # 1 from Dinneen's Personal Materials. This consists of a slightly different version of RIF #180-10103-10465 (the Memorandum regarding Secret Service Protective Cases).
5. Item #2 from Dinneen's Personal Materials. This is a memorandum to the file from Eileen Dinneen and Jim Conzelman, dated March 29, 1978, regarding Secret Service Index File and Commission documents found in the U.S. Archives.

6. Item #9 from Dinneen's Personal Materials (Document #006256 re: Briefing Papers acquired from the LBJ Library).

### **Secret Service's Arguments in Favor of Postponement**

- I. Release of these Records Constitutes an Invasion of Privacy.
  - A. If released, the information would be considered stigmatizing and extremely damaging to the subject of the information.
  - B. Most of the individuals named were in no way associated with the JFK investigation. Thus, release of their names would be particularly unfair.
  - C. Release of the names themselves adds no historical value - at least not enough to overcome the concomitant invasions of privacy.
  - D. Because of the unique nature and time restrictions of a protective intelligence investigation, files often contained information from citizen witnesses that could not necessarily be verified. This information often took the form of particularly damaging comments, such as "Apparent Mental Case," "Addict," etc.
  - E. A fair number of the Dinneen materials contain mental health information and diagnoses. The Service has traditionally accorded the highest protection to this type of information.
  - F. Due to the highly sensitive nature of mental health diagnoses, releasing such information could re-agitate or traumatize the subject of the information.
- II. Invasion of Privacy Outweighs the Public's Interest in Disclosure.
  - A. Because of the extreme stigma associated with this type of information, release would be legally and ethically inappropriate.
  - B. Releasing this information contravenes legal requirements that such information be relevant to a material fact.

- C. The information the Board wishes to release does not meet the “compelling interest in prompt public disclosure” standard set forth in Sec. 6(3) of the JFK Act. The public does not have a legitimate interest in the names contained in the study - releasing them would add nothing to the historical value of Dinneen’s study.
- D. Releasing the names is a violation of the Service’s current practice of utilizing “informed consent” forms as part of its investigative technique.

III. Release of these Names Would Compromise an Understanding of Confidentiality Between the Secret Service and the Mental Health Professional Community.

- A. It has taken the Service many years to cultivate confidential relationships with mental health professionals. Releasing the names will compromise these relationships.
- B. Damage to these relationships would result in the Service’s decreased ability to gather vital data to assist in its protection efforts.
- C. Although the Service had no agreements in 1963, it currently has an “understanding of confidentiality” with mental health professionals. Release of these names will undermine this “understanding of confidentiality.”
- D. Release of these names would compromise the Secret Service’s credibility in the Mental Health and Behavioral Sciences communities, resulting in the Service’s potential exclusion from participation in future risk assessment research efforts.
- E. Release of these materials would cause the mental health professional community to mistrust any future promises made by the Service.
- F. It is irrelevant whether an individual is alive or dead - the fact that someone provided mental health information to the Secret Service about an individual openly links the Service to the mental health professional community.

IV. Release of these names would seriously and adversely impact the Secret Service’s Ability to Continue to Fulfill its Protective Responsibilities.

- A. Release of these names will inhibit the Service's ability to gather protective information, since it will no longer be able to assure informers that their data will be kept confidential.
- B. Release of these names could provoke vocal objections from such groups as the APA and the ApA, thus drawing more public attention to the issue.

### **Arguments in Response to the Secret Service's Position**

1. Although the Service argues that release of these names will compromise its protective techniques, the Service has not requested postponement of any of this type of information that appears in the Dinneen materials.
2. The fact that the Secret Service relies upon information from mental health professionals has already been revealed in several forums - in the testimony of Secret Service Agents before the HSCA and in the release of the Thomas Vallee and John Warrington files.
3. While the mental health professional community may object to the Board's release of these names, it is unlikely that they will blame the Secret Service and/or retaliate against them on account of the Board's action.
4. It is highly unlikely that the release of these names will deter the mental health professional community from providing protective information to the Service in the future. Under certain circumstances, mental health professionals have a duty to warn - a responsibility they are not likely to take lightly when it involves the life of a Secret Service protectee.
5. The memorandum describing Dinneen's analysis of the trip files should be released since the Service has agreed to release in full all protective surveys viewed by Dinneen for the March - December, 1963 period.
6. The JFK Act presumes that the documents at issue are "assassination records" because they are records of the HSCA.
7. Dinneen chose to record the names - they are an integral part of her study and thus, of the historical record. If the Board does not release these names, the public will have questions.

8. One of Dinneen's Memoranda (RIF # 180-10087-10302) describes protective surveys which were subsequently destroyed by the Secret Service in violation of the JFK Act. Thus, Dinneen's memorandum is the only remaining source of what was contained within those protective surveys.
9. The JFK Act takes precedence over privacy and other assertions. The contested names relate to a short time frame directly before the assassination.
10. Information about the types of individuals the Service was investigating around the time of the assassination is important for the historical record, since it reveals how the Service allocated its investigative resources.
11. The Service has essentially eroded its invasion of privacy argument by already agreeing to release many of the names in the files.
12. The Secret Service was unable to produce any specific confidentiality agreements that existed between mental health providers and the Service around the time of the assassination.

### Options

1. The Board can release all of the names. The Secret Service has stated that it will probably appeal the Board's decision to the President.
2. The Board can vote to accept the Service's offer to release the text, but delay the release of all the names for a period of five years.
3. The Board can arrive at a compromise - e.g. release names that were not in any way associated with mental health information, or release names that have already been released in other documents.