

MEMORANDUM

April 3, 1998

To: T. Jeremy Gunn, Executive Director

From: Kim Herd

Re: Eileen Dinneen Materials

At its April 13, 1998 meeting, the Review Board is scheduled to reconsider six documents prepared in 1978 by HSCA staff member, Eileen Dinneen. As the Board will recall, Dinneen studied protective intelligence cases established by the Secret Service from March, 1963 - November, 1963, and documented the results of her studies in several, separate documents (a description of which is provided below). Many of these documents contained the names of individuals. The Board first considered these documents at its March, 1996 meeting, and voted to release the documents in full and to deny the Service's requested postponements. The Board then mounted a vigorous objection and asked the Board to reconsider. Initially, the Board gave the Service additional time to provide specific evidence. The Service supplied several written submissions detailing its arguments in support of postponement, and the Board was set to vote on the issue in November, 1996. Due to unrelated reasons, the issue was tabled.

Although it's been well over a year since these documents were considered, the Service remains committed to seeking these postponements. The Service will be present at the April Board meeting to register their objections to the release of the names contained in these documents.

I have attempted to set forth a brief summary of the issues surrounding these documents, that the Board must consider at its upcoming meeting.

Documents at Issue .

1. RIF # 180-10087-10302. This document is a review of Secret Service trip files prepared from March through November, 1963. As part of her study, Dinneen concentrated on various aspects of the trip files, including changes in the President's itinerary, patterns of Secret Service reporting on trip events and threatening individuals, and the details of planning for President Kennedy's trips. 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 HELP summaries of the information that was later destroyed by the Secret Service in 1995. (So far 19 out of 36 have been released)
2. RIF # 180-10103-10465. This document constitutes a summary of Dinneen's study of protective

Ms. Jane Vezeris
March 12, 1998
Page 2

cases established by the Secret Service from March 1963 - November 1963. Dinneen's purpose was to analyze threat criteria used by the Secret Service before the assassination. Her report was based on her review of 413 cases, and evaluated both sources of threat information relayed to the Secret Service from other agencies and the categories of persons considered threatening to the President. (According to Joan, 54 out of 89 have been released).

3. RIF # 180-10065 - 10379. During the course of Dinneen's research, she prepared single sheets summarizing information from Secret Service "threat" files. These individuals came to the attention of the Secret Service either through references from other agencies, by virtue of the individuals direct contact with the White House, or through anonymous tips from the public.

4. Item # 1 from Dinneen's Personal Materials. This consists of a Memorandum regarding Secret Service Protective Cases. (Seeking postponement of ninety names)

5. Item #2 from Dinneen's Personal Materials. Secret Service Index File and Commission Documents: U.S. Archive. (Seeking postponement of 35 names)

6. Item #9 from Dinneen's Personal Materials. Document #006256 re: Briefing Papers
(Seeking postponement of one name)

BACKGROUND AND SEQUENCE OF EVENTS:

The first three documents were first identified in the fall of 1995. At that time, the Secret Service reviewed them and requested multiple postponements, based on the names of the individuals listed in the reports. In a letter dated January 4, 1995, the Secret Service set forth its requested postponements as 6(3) and some 6(5). The Board voted to release these documents in full at its March 18-19, 1996 Board meeting, rejecting the Service's requested postponements. Upon learning of the Board's vote, the Service urged the Board to reconsider. In a letter dated April 15, 1996, the Secret Service argued that most of the individuals named in the Dinneen materials had no relation to the assassination. Essentially, the Service argued that release of these names would violate the individuals' privacy and compromise Secret Service's protective techniques while not enhancing the historical record. The Board considered the Service's arguments at its April 16-17 meeting, and agreed to delay the release of the Dinneen materials for sixty days in order to give the Secret Service more time to provide additional information. At that time, the Board also rescinded its vote to release these documents, and published this in the Federal Register on May 1, 1996. In making this determination, the Board informed the Secret Service that it wanted more information about whether the individuals listed on the threat sheets were living or dead, as well as any other evidence which

Ms. Jane Vezeris
March 12, 1998
Page 2

would provide further support to the Service Board set forth its Immediately thereafter, the Service contactvoting to the Secret Service's arguments concerning invasion of privacy.

On June 24, 1996, the Secret Service sent us a letter stating that they agreed to release all of the information contained within the Dinneen materials, except for the names of the individuals. They made an exception where the individual was in any way related to the investigation of the assassination of President Kennedy. The Board continued to assert postponements based on invasion of privacy, and based on how it would impact their relationship with the mental health treatment community. The Board considered the Service's arguments and again decided to give them additional time to present additional evidence. In our letter to the Service dated July 22, 1996, we asked that the Service provide us with specific evidence to support their claim that an individual's privacy interest would be violated as a result of release or that an identifiable person from the mental health community supplied information on a target. We also asked them for any evidence of a confidential relationship between either an individual named and an identifiable member of the mental health community, or (b) between an individual mental health professional and a government agent in those cases where any kind of mental health issue is mentioned in the document. In our letter, we pointed out that there were 115 threat sheets that included references to mental health issues and implied involvement by a mental health professional. Of the names on this list, 41 also appeared on Dinneen's memo. It should also be noted that at this meeting, the Board had its first opportunity to consider the materials from Dinneen's personal collection (Numbers 4-6 listed above). The Board designated these as "assassination records" and informed the Service.

The Service requested additional time, and ultimately submitted a written argument in letter form, dated November 13, 1996 - the basic points of which are summarized below. Before the Board could consider these arguments, the entire issue of the Dinneen materials was tabled.

Additionally, the Service made an effort to determine which, if any of the subjects, were deceased. In those cases where they were deceased persons and they were just seeking a postponement based on Sec. 6(3). Other cases where they were seeking postponements based on Sec. 6(3).....

Although it has been well over a year since these issues were considered by either the Board or the Service, the Service is continuing to request postponements. The Service will present oral comments at the Board's next meeting. I expect that their arguments will mirror those set forth in their letter of November 13, 1996. While they have been given the opportunity to present additional evidence, they are apparently electing to rest on their previous arguments.

Secret Service's Arguments:

In their first letter, they argued that the purpose of Dinneen's survey was to "evaluate how the Service handled threatening individuals and to discover what criteria was used in determining whether or not a person constituted a threat. The Service stressed the fact that the majority of these individuals had no tie whatsoever to the JFK assassination investigation. Gave examples of mentally ill people, delusional people, people who were clearly confined or incarcerated during the period of assassination, results of a joke, "Finally, an inordinately high percentage of PI files, in comparison to other criminal investigatory records, concern subjects with mental health histories, and do not substantiate any criminal conduct. ...Because of the sensitivity of the material found within these records, the Secret Service places a high premium on protecting these records from access, even by the law enforcement community. They acknowledged that Dinneen's study had public value, but argued that the release of names did not add any value. Didn't add value then, doesn't provide value now. The Service also argued that it would stand to lose a significant investigative aid by jeopardizing its relationship with the mental health community, and others who provide often critical and sensitive information about individuals who may pose a risk of harm to our protectees.

They also objected to trying to find out if people were dead or alive, since it would necessitate them contacting neighbors, associates, etc., and the subject. They argued that focusing Secret Service attention on these subjects at this point in time, could in certain cases, rekindle a direction of interest in the Secret Service and/or in our protectees.

1. Release of the Records Constitutes an Invasion of Privacy

- The information sought for release constitutes an invasion of privacy - includes data that would be considered potentially stigmatizing, embarrassing, and/or pejorative....disrupting individuals' quality of life.

- USSS cites case law, State constitutions, statutory codes, etc.

- Focuses on the fact that many of the information they obtain is Quickly obtained, and is unsubstantiated, resulting in Such comments as "harmless mental case" "addict" and "Apparent mental condition."

- Because of the exigency of assessing potential threatening behavior, there is a need for the Secret Service to make inquiry about even non-criminal unusual incidents or inappropriate behavior when it occurs in proximity, both in time and place, to a visit. Therefore, trip files may contain data on individuals who may not subsequently be found to be a threat to the safety of the President. For

Ms. Jane Vezeris
March 12, 1998
Page 2

example, Ms. Dinneen's memorandum includes a reference to two individuals who headed the PLM (Progressive Labor Movement,.....because the PLM intended to demonstrate at a hotel to be visited by the President on May 23, 1963.

- Cites recent attention to issues of protecting medical and psychiatric information. (Medical Records Confidentiality Act) (Bennett Bill) - requirements for written consent procedures. Also cites a Supreme Court case which affirmed the confidentiality of mental health information and extended the psychotherapist patient privilege to the federal courts (Jaffee v. Redmond)

2. Invasion of Privacy Outweighs Interest in Disclosure

The Service cites the following three categories:

1. Legal policy - The Service argues that the mental health information must be directly pertinent to the issue in controversy and it must contribute to logically proving a material fact. Cites concept of state statutes that protect this information. "Typically, privileged communications and confidential records statute uphold the principle of patient confidentiality such that no access whatsoever to mental health or drug or alcohol treatment information is permitted unless certain explicit criteria can be met."

- Here, a legitimate public interest does not exist, and therefore, privacy and confidentiality must not be suspended.

- Essentially, the information must be directly pertinent to the issue in controversy and it must contribute to logically proving a material fact.

- Disclosure of subject names does not satisfy these recognized limits to privacy rights.

Informed Consent Procedures

- Today, most of USSS' access to mental health information comes through
Via Informed Consent.

- Any disclosure of the medical/psychiatric records information beyond that
Which was explicitly authorized the patient under informed consent would

Ms. Jane Vezeris
March 12, 1998
Page 2

constitute a violation of the subject's rights to privacy, confidentiality, and informed consent.

- It would violate patient's privacy and confidentiality rights

- It would constitute a breach of trust with the mental health provider who Disclosed the information.

- USSS' re-release of this information could be interpreted as a violation Of the mental health professional's right to invoke privileged communication

- The informed consent forms restrict the consent to a specifically named individual or institution.

Limited Public Interest

- Does not meet the "compelling interest in prompt public disclosure" Prong of our statute.

- Here, pursuant to 6(3), the invasion of privacy clearly outweighs the public's interest in disclosure of these names.

The identification of these names added no value to the results of Ms. Dinneen's research in 1978, nor does it provide historical value now.

- Because of stigma associated with this type of information, it would be legally and ethically inappropriate to release this information

III. Release would compromise an understanding of confidentiality between the SS and the Mental Health community and jeopardize our ability to partner with that community in addressing the mentally ill.

- Asserting 6(4) and 6(5) postponements.

- Will set us back in our work to foster trust with the Service and the mental health community.

- It has taken many years of strategic planning and hard work to foster the trust that has developed between the Service and the mental health community.

Ms. Jane Vezeris
March 12, 1998
Page 2

- The disclosure will violate the understanding of confidentiality currently requiring protection between the SS and the mental health community. Our argument under (6) (4) does not hinge on the particulars of any possible agreements that were made in 1963.

- IF the USS didn't give clear and convincing assurances of confidentiality, we would never get this information from mental health providers.

- A confidential relationship is regularly cultivated at the field office level and those ties are strengthened through various national efforts initiated and supported at the headquarters level.

- Release of information would damage the relationship between the Secret Service and the mental health and behavioral sciences communities, compromising our ability to receive vital data on protective intelligence subjects.

- Would "challenge" the USSS's credibility, and I impede their ability to collaborate on operationally important risk assessment research.

- The access we enjoy is a direct result of the care our personnel have exhibited at Headquarter and field levels to safeguard this information.

- If this information is released, it will cause the information providers to mistrust any future implied or expresses assurances and thereby interfere with the acquisition of essential information that we have been receiving due to our techniques.

- Service is sensitive to anticipated reaction by public and professional association groups should public disclosure of personal, confidential information ensue. (Cites several letters from several mental health doctors)

- Will have a chilling effect on our ability to ensure information providers that the information they provide to us will be safeguarded.

- Cites reactions to the proposal of the Bennett Bill as a proxy for public and professional group reactions should the names and information in question be released to the public. Many professional organizations thought it was too weak and thus dangerous for privacy and confidentiality issues. (ACLU, APA and ApA voiced opposition) (See also , study prepared by Dr. Margaret Coggins, chief of Research Section, Intelligence Division of Secret Service: "Relationships between

Ms. Jane Vezeris
March 12, 1998
Page 2

the Secret Service and the Mental Health and Behavioral Sciences Communities.”

. NOTE: Service compiled a list of who was living and who was dead, and among the dead, whom they still wanted to postpone.

COUNTER ARGUMENTS

1. The Board can vote to open one of her contested memos because the Service has now released all the information Dinneen summarized. The Board could consider requesting both the computer printouts viewed by Dinneen and the raw files on which the computer printouts were based.

1. The JFK Act presumes that the documents at issue are “assassination records” because of Eileen Dinneen’s identification of them in her study of Secret Service records and in her capacity of working with the HSCA.

2. The Secret Service argues that many of the individuals named in the Threat Sheets weren’t associated in any way with the mental health community. The Board could redefine ways in which more of the names could be released beyond those the Service has already agreed to release. Some of the names have already been identified in other Secret Service records that have been released, and have also been identified in FBI reports that have been released.

3. The Service’s 6(5) arguments fail for several reasons: 1. The fact that the Secret Service obtains information from the mental health community, has already been revealed in the Thomas Vallee and John Warrington files. Both of these files contain detailed psychiatric information.

- The Secret Service agents have already referred to this technique of gathering information from mental health providers, in their HSCA interviews.

- In view of privacy, the Secret Service is already willing to release the names of individuals who were associated the assassination - hence they are already descending down that slippery slope of violating privacy for individuals.

- Plus - they have agreed to release the text, and this in effect, admits that they receive information from mental health providers. Frequently, the information obtained by mental health providers is clearly identifiable by virtue of the text.

3. Secret Service fears a chilling effect on its relationship with the mental health community. However, none of the documents at issue mentions the name of a doctor or member of the mental

Ms. Jane Vezeris
March 12, 1998
Page 2

health community. Only target names appear, with a few exceptions (I need to check this out)

4. The types of people the service were investigating is important for the historical record. It shows what sorts of people they were spending their investigative resources on.
5. The Service is not the one releasing this information - we are.
6. The Secret Service destroyed protective surveys that one of Dinneen's memos describes (RIF # 180-10087-10302) Thus, her information is the only remaining source revealing the content of the proactive surveys, and that memo should be release in full. Among the files destroyed,
 - Box 5: 38 folders (3-18-63 to 9-24-63)
 - Box 2 (7 folders March - November, 1963)
 - Other places Folder #5 - January - June, 1963)
 - Other places Folder #6 - July - November, 1963
 - Sheraton Park Hotel - Folder #3 1963
 - Shoreham Hotel 5-15-62 - 5-9-63
 - Statler Hilton hotel - folder #3 1963
 - State Department Folder #33 Theatres

They argue that the fact that someone is identified by name in a protective survey, does not mean that the person should lose all privacy rights.

7. Won't really deter the mental health community from providing this information - they have a duty to warn, and are probably protected in such an instance..
8. This JFK Act is unique and trumps all other statutes - one time thing. Thus, it is unlikely that the mental health community will view this as the Secret Service failing to protect its information - could even foster the relationship because the Service and the mental health community are on the same side as each other. This is supposed to be an all out effort to get records related to the assassination.
9. They make much of the fact that had Eileen Dinneen never recorded names, it would not have been diminished. However, she did record the names. Thus, she thought it must have been valuable to have the names.
10. Regarding Section 6(5) - Although they allude to protective techniques, none of this information is redacted in any documents - only the names are redacted. They have undermined their argument.

Ms. Jane Vezeris
March 12, 1998
Page 2

11. The Service has also apparently agreed to release in full all protective surveys viewed by Dinneen for the March - November, 1963 period. Thus - memo detailing trip reports should be released.

OPTIONS

1. We can release these in full. Secret Service will probably appeal.
2. We could vote to accept the Service's offer to release the text, but dealy the release of all the names?
3. Could redefine ways in which more of the names could be released: Many of the individuals named as targets were not associated in any way with the mental health community, and some really did threaten president Kennedy in March - Nov. 1963.

RECOMMENDATIONS

- 1.