

# MEMORANDUM

November 12, 1997

To: T. Jeremy Gunn  
Executive Director

From: Laura Denk  
Chief Analyst for FBI Records

Subject: Foreign Government Information in the FBI's "Segregated Collection"

## *Introduction*

In response to your request that I supplement my October 8, 1997, memorandum to you regarding foreign government information in the assassination records of the FBI, the following memorandum highlights the specific issue of foreign government information in the FBI's "HSCA Subject" files, known to the Review Board as the FBI's "Segregated Collection."

After reviewing over 50,000 pages of records from the FBI's Segregated Collection, the FBI team has yet to find any foreign government information that it believes to be relevant to the assassination. Thus, the staff believes that this information fits within the Review Board's November 13, 1996, "NBR" Guideline (attached) that covers the review of individual records that contain information related to the assassination as well as information with no believed relevance ("NBR") to the assassination.

The staff would like for the Review Board, at its next meeting, to consider whether it agrees with the staff recommendation that the majority of the foreign government information in the FBI's Segregated Collection should be processed according to the "NBR" Guidelines. To assist the Review Board in its deliberations, the FBI team would like to present to the Review Board records containing foreign government information from FBI Segregated Collection files that the staff has negotiated.

## *Review Board's Approach to Assassination-Related Foreign Government Information*

As you know, foreign government information appears throughout the Segregated Collection at the FBI. At the Review Board's last meeting, it adopted the staff recommendation for dealing with foreign government information in the FBI's core and related files and all foreign government information in the Segregated Collection that is *assassination-related*. With regard to these highly

relevant records, the Review Board agreed to allow the FBI to approach the foreign governments through its Legats and request that the governments consent to public release of the information. If the FBI is unsuccessful in obtaining consent from the foreign governments to release the information, the Review Board will make a determination as to whether it will pursue release of the information through diplomatic channels. *See*, Memorandum from Laura Denk to T. Jeremy Gunn, *Foreign Government Information in the Assassination Records of the FBI*, October 8, 1997, at 2-3.

### ***Foreign Government Information that is Not Assassination-Related***

Although the above-referenced approach is ideal for *assassination-related* information (in the core files and in the Segregated Collection), it is not an effective way to deal with foreign government information that is *not believed relevant* in the Segregated Collections.

The staff recommends that the Review Board apply the section of the “NBR” Guidelines that deals with “NBR” information within assassination-related records, because even though the foreign government *information* in these records is not believed relevant, the Segregated Collection *records* are at least marginally relevant to the assassination.

### ***Applying the Review Board’s Guidelines to Documents that Contain both “NBR” Information and Assassination-Related Information***

Pursuant to the Review Board’s Guidelines for “NBR” information, the ARRB staff “will review *every record* in the Segregated Collections to determine whether it contains information believed to be relevant to the assassination. . . .”

If the staff believes that the information is relevant, it will inform the FBI that it must fully process the information under the JFK Act. In the alternative, if the staff finds that an entire record is “NBR,” we will request that the Review Board designate it as such.

In the instant case, however, the records contain information related to the assassination *as well as* information with no believed relevance to the assassination. With regard to this type of information, the Review Board’s Guidelines require the staff to find first, that the information is truly not believed relevant, and second, that the information appears, on its face, to fall within one of the specific grounds for postponement. The foreign government information that the staff has reviewed to date in the FBI’s Segregated Collections fits both parts of the test because,

- (1) the staff believes that the information is not relevant to the assassination, and
- (2) on its face, the information falls within the parameters of Section 6(4) of the JFK Act because

public disclosure would compromise the existence of an understanding of confidentiality currently requiring protection between a Government agent and a foreign government.

As I wrote to you in my earlier memorandum on foreign government information, the cost of release of foreign government information in these files far outweighs any benefits that might accrued by releasing the information. Were the Review Board to seek release of this irrelevant information, it would be engaging in a time-consuming and costly diplomatic process that would consume a large part of the Review Board's last year.

Given that the staff believes that most of the foreign government information in the FBI's Segregated Collections fits both parts of the Review Board's test for records that contain both NBR information and assassination-related information, the staff recommends to the Review Board that the NBR material be postponed and that the FBI be relieved of its burden to provide any additional evidence in support of the postponements.

Consistent with the Review Board's Guidelines, the staff would like to make our recommendation, along with the records at issue, available to the Review Board for its final determination.

The FBI team is eager to present these issues to the Review Board together with records that will demonstrate why we have made this particular recommendation. If you have any questions, please let me know.

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