

## MEMORANDUM

February 20, 1997

TO: Donald Squires, Esq.  
Internal Revenue Service

FROM: T. Jeremy Gunn, Esq.  
General Counsel, Assassination Records Review Board

SUBJECT: John F. Kennedy Records Assassination Records Collection Act of 1992 and Section 6103 of the Internal Revenue Code

This memorandum will follow up on my attached letter of January 16, 1997, regarding the confidentiality of tax return information and the *President John F. Kennedy Assassination Records Collection Act of 1992*, 44 U.S.C. § 2107 (Supp. V 1994) (“JFK Act”).

In my previous letter to you, I set forth the statutory basis for the Review Board’s view that it is fully entitled to examine tax return records of the Internal Revenue Service (“IRS”), even where such records are not otherwise eligible for transmission to the National Archives and Records Administration (“NARA”) or disclosure to the public. In your subsequent meeting with Ronald Haron and Laura Denk, you mentioned that you would appreciate knowing the reasons for our seeking to examine IRS records. My purpose in writing this memorandum is not to restate the entire statutory argument. Rather, I will begin by reviewing the relevant provisions from the JFK Act and then explain why the Review Board needs to examine IRS records in order to meet its statutory obligations under the JFK Act.

The JFK Act broadly empowers the Review Board to “direct a Government office to make available to the Review Board . . . additional information, records, or testimony from individuals, which the Review Board has reason to believe is required to fulfill its functions and responsibilities under [the JFK Act.]” 44 U.S.C. § 2107.7(j)(1)(C)(ii). *See also* 44 U.S.C. § 2107.5(c)(2)(H) (Government agencies “shall . . . make available to the Review Board any additional information and records that the Review Board has reason to believe it requires . . .”). These sections of the JFK Act direct the Review Board to interpret the scope of its power to gather information and records by looking to its

Memorandum to Donald Squires, Esq.  
February 20, 1997  
Page 2

*other responsibilities under the Act.* A close examination of the Review Board's responsibilities under the Act reveals that Congress' primary goal in creating the Review Board was to restore the public's confidence that the Government is not hiding from the American people any relevant information about the assassination. This goal is evidenced by legislative history:

[T]he goal [in creating the Act] was to ensure a complete review and disclosure of files while at the same time satisfying the public that the Government was not covering up some conspiracy.

*Assassination Materials Disclosure Act of 1992: Hearing on H.J. Res. 454 before the Subcomm. on Legislation and National Security of the House Comm. on Government Operations, 102d Cong., 2d Sess. 55 (1992) (statement of Rep. Louis Stokes).* The Senate Report states that:

The Review Board will stand as the symbol and barometer of public confidence in the *review and* release of the government's records related to the assassination of President Kennedy.

S. Rep. No. 102-328, 102d Cong., 2d Sess. 30 (1992) ("Senate Report") (emphasis added). The Senate Report also states that the "underlying principles" for this legislation are "*independence, public confidence, efficiency and cost effectiveness, speed of records disclosure, and enforceability.*" Senate Report at 17 (emphasis added).

There are several ways in which the Review Board's examination of IRS records would work to fulfill its statutory mandate to restore public confidence. First, the Review Board must examine IRS records in order to determine whether IRS has made an accurate assessment about which of its records are assassination records. If the Review Board examines IRS records, it can verify that IRS understands the scope of the Board's definition of "assassination record," and that IRS has diligently searched for and located all extant assassination records.

[T]he ultimate work of the Review Board will involve not only the review of records recommended for postponement, but requiring government offices to provide additional information and records, where appropriate. Guidance, especially that [which is] developed in consultation with the public, scholars, and affected government offices, will prove valuable to ensure the fullest possible disclosure and create public confidence in a working definition that was developed in an independent and open manner.

Memorandum to Donald Squires, Esq.  
February 20, 1997  
Page 3

Senate Report at 21.

Second, the Review Board must examine IRS records in order to determine whether IRS has released all information that it can possibly release. Once the Review Board examines IRS records, it can verify that IRS withheld only records that do, in fact, contain tax return information subject to Section 6103. In addition, after we examine IRS records, we may decide that certain tax return records are important enough to attempt to obtain consent for release of the records from either the taxpayer or the next of kin.

Third, the Review Board would require access to IRS records in order to investigate leads that suggest that some agency or person may have IRS assassination records or knowledge of IRS assassination records.

Fourth, the Review Board would require access to IRS records in order to evaluate those records whose authenticity have been questioned. Because many questions about the assassination center around the alleged forgery or destruction of documents, the authentication of assassination records may be particularly important to the Review Board's mission to restore public confidence.

I hope that this memorandum assists you in resolving the outstanding issue regarding our review of IRS records. If, however, IRS remains unsure whether the Review Board is entitled to review the tax return records of your agency, we are willing to seek a formal legal opinion on this matter from the Department of Justice. Please call and let me know if you would like for us to consult with DOJ.