

ATTORNEY WORK PRODUCT
PRIVILEGED & CONFIDENTIAL

Section 11: Rules of Construction

(a) *Precedence Over Other Law.*

When this Act requires transmission of a record to the Archivist or public disclosure, it shall take precedence over any other law (except section 6103 of the Internal Revenue Code [26 U.S.C. 6103]), . . . that would otherwise prohibit such transmission or disclosure

Two ways to understand the statutory language.

(1) **IRS' interpretation of section 11(a):**

- General Rule of § 11(a):
When [*and only when*] this Act requires transmission of a record . . . or public disclosure, [the Act takes] precedence over any other law . . . that would otherwise prohibit such transmission or disclosure. (Italics added to express the IRS' position.)
- Section 11(a) allows the JFK Act to trump anti-disclosure laws like the Privacy Act and the CIA Exemption to the FOIA when the JFK Act requires the Board to TRANSMIT a record to NARA and/or to PUBLICLY DISCLOSE a record.
- Unless the JFK Act requires transmission or public disclosure, other anti-disclosure laws remain in force.
- The word "required" is in section 11(a) because Congress did not intend for the JFK Act to trump anti-disclosure statutes like the Privacy Act unless disclosure was *required* by the JFK Act.
- Exception to this rule: Section 6103 of the IRC.
- Section 6103 is a special anti-disclosure law. By creating an exception to section 11(a), Congress states that § 6103-protected information, *even if it is relevant to the assassination*, should not be disclosed.
- Gist: Section 6103 remains in full force, despite the enactment of the JFK Act. No section of the JFK Act has any impact on information protected by section 6103.

(2) **Review Board interpretation of section 11(a)**

- General Rule of § 11(a):
The JFK Act takes precedence over all other laws. Especially [w]hen this Act requires

transmission of a record . . . or public disclosure, [the Act *will* take] precedence over any other law, . . .that would otherwise prohibit such transmission or disclosure. (Italics added to express Jeremy's position.)

- Section 11(a) expresses Congress' intent that the JFK Act trumps ALL OTHER laws.
- Section 11(a) emphasizes that, even though the JFK Act's disclosure provisions conflict with anti-disclosure laws like the Privacy Act and the CIA Exemption to the FOIA, the JFK Act trumps.
- Exception: Section 6103 of the IRC.
 - Congress included one exception: Where the JFK Act's *disclosure* provisions conflict with the IRC's anti-disclosure provision, the IRC trumps. HOWEVER, the general rule that the JFK Act trumps all other laws remains in effect if the JFK Act is NOT acting to transmit records to NARA or publicly disclose records.
 - Unless the JFK Act requires transmission or public disclosure, it trumps all other laws.
 - The word "required" is in section 11(a) because . . .
- Gist: When the JFK Act requires transmission and disclosure, it does not trump section 6103. At all other times, the JFK Act trumps section 6103. Therefore, the Board when the Act requires transmission to NARA and/or public disclosure. Section 6103 remains in full force, despite the enactment of the JFK Act. No section of the JFK Act has any impact on information protected by section 6103.