

## Chapter 8

### Federal Agency Compliance with the JFK Act

#### A. Introduction

“Are federal agencies cooperating fully, or is there resistance that fosters public distrust of the government?”<sup>i</sup>

The *John F. Kennedy Assassination Records Collection Act of 1992* (JFK Act) directed federal agencies to search for records relating to the assassination of President Kennedy and to transfer those records to the John F. Kennedy Assassination Records Collection (JFK Collection) at the National Archives and Records Administration (NARA) for public disclosure. As explained earlier in this report, the agencies began their compliance activities even before the Senate confirmed the nomination of the Review Board members in 1994. Once the Review Board convened, it assessed the efforts of federal agencies to comply with the terms of the JFK Act.

In late 1996, the Review Board initiated a formal program to ensure that all relevant agencies were complying with the JFK Act. The Review Board used its compliance program to ensure that government offices fulfilled their JFK Act obligations. The program required agencies to certify that,

- (1) the agency conducted a thorough search for assassination records as that term is defined by the JFK Act and the Review Board’s regulation further defining the term;
- (2) the agency identified, organized, and reviewed its assassination records;
- (3) the agency prepared its assassination records for public release at NARA;
- (4) the agency responded to each of the Review Board’s requests for additional information and records; and
- (5) the agency transmitted its assassination records to NARA.

Chapter 6 of this Report describes both the Review Board’s requests for additional information and records to federal agencies and federal agencies’ responses to those requests.

The Review Board’s “compliance program” stressed agency obligations to search for and publicly release records relating to President Kennedy’s assassination. As part of its compliance program, the Review Board asked each agency to submit a declaration, under penalty of perjury, describing the record searches that it completed, the assassination records that it located, and any other actions it took to release assassination records. The Review Board established the compliance program in furtherance of the JFK Act’s mandate that there be “an enforceable, independent and accountable process for the public disclosure” of records on the Kennedy assassination.<sup>ii</sup>

The Review Board worked extensively with agency personnel to resolve outstanding compliance issues prior to submission of Final Declarations of Compliance.

## **B. Federal Agency Compliance with the JFK Act**

Each section of this chapter describes work that a particular agency completed, both before and during the Review Board's existence.<sup>iii</sup>

**Central Intelligence Agency.** The Review Board considered the CIA's compliance with the JFK Act, including complete disclosure of all CIA records relating to Lee Harvey Oswald and the Kennedy assassination, to be one of its highest priorities.

The CIA complied with the JFK Act through the auspices of the Agency's Historical Review Program (previously the Historical Review Group or HRG). HRP reviewed documents, referred documents within CIA, answered questions, negotiated issues with the Review Board staff, and, after Board voting, processed documents for release to NARA. The HRP reviewers were all CIA annuitants, with twenty years or more experience, working as independent contractors. Beginning with a 14-member staff in 1992, the staff grew steadily to 29 reviewers and nine administrative personnel by the Summer of 1998. HRP also drew on the resources of numerous other offices at CIA for record searches, answers to Review Board questions, and the provision of records for inspection by the Board. From 1992 until December 1997, HRG functioned as part of the Center for Studies in Intelligence and its Chief was the Director of Central Intelligence's personal representative to the Review Board. In January 1998, the CIA's reorganization renamed HRG the Historical Review Program and moved it to join other CIA declassification efforts in the Office of Information Management.

In 1992 and 1993, the CIA's Historical Review Group proceeded to assemble CIA records relating to the assassination. In early 1992, prior to enactment of the JFK Act, the Chief of the History Staff located and inventoried the CIA records on the assassination that CIA had sequestered pursuant to an agreement between the CIA and the HSCA (the CIA-HSCA sequestered collection). This material comprised 64 boxes. In addition, the History Staff secured the 16 boxes of the original Lee Harvey Oswald file 201 file. Following passage of the JFK Act, the CIA reviewed and declassified the Oswald 201 file and files within the CIA-HSCA sequestered collection, and in 1993 the CIA transmitted those records to the JFK Collection at NARA.

In October 1993, the CIA's HRG requested the various CIA directorates to search for additional records on Lee Harvey Oswald and on the JFK assassination. (The directorates were the Directorate of Operations, the Directorate of Intelligence, the Directorate of Administration, and the Directorate of Science & Technology.) As a result of this search directive, the CIA identified 31 boxes of potentially responsive records, and these were forwarded to the HRG for review under the JFK Act. Included were 19 boxes of working files on the Kennedy assassination by CIA officer Russ Holmes (for many years [he] was the Agency's focal point officer with responsibility for responding to questions related to [CIA's] Kennedy assassination-related

## CHAPTER 8: FEDERAL AGENCY COMPLIANCE WITH THE JFK ACT

records); two boxes on KGB defector Yuri Nosenko; seven boxes of Latin American Division records; and three boxes related to the Bay of Pigs. The Review Board identified 22 of 28 boxes produced as responsive under the JFK Act, although many of the records were duplicates of records contained in the Oswald 201 file or the CIA-HSCA sequestered collection files.

The Review Board requested numerous categories of additional CIA records in an effort to ensure the most complete disclosure of information relating to the Kennedy assassination. The Review Board made 16 formal requests in writing, and 37 informal requests for additional information of the CIA.

In anticipation of the Review Board's requests for additional information and records, the CIA, in April 1995, requested each directorate and the DCI administrative officer "to appoint a focal point officer" for the JFK Act. Review Board inquiries were referred by the HRG to the appropriate CIA office. A number of CIA officers facilitated the difficult processes of securing access to CIA files, as well as negotiating issues relating to the release of records. The Board found that, whenever it and its staff were able to deal directly with knowledgeable experts throughout the Agency on substantive issues or records, more often than not the result was a mutually acceptable release or postponement. These compromises reasonably balanced the public interest in disclosure with legitimate needs for continued secrecy on limited issues. The Review Board did encounter early CIA resistance to making records available to the Review Board, as well as resistance to ultimate disclosure of records. A small number of CIA staff officers, almost exclusively from the Directorate of Operations, unnecessarily impeded the process and damaged the Agency's interests by resisting compromise with all-or-nothing positions.

In response to the Review Board requests, the Board staff was granted access to review original, unsanitized CIA files--including original files of the highest officials at CIA during the time of the assassination--to confirm the existence (or non-existence) of materials relating to the assassination. Since the CIA files covered other matters in addition to the assassination, the CIA was initially reluctant to provide whole files for Review Board inspection. In order to obtain access to certain sets of files, and thus examine them in their original form, the Review Board agreed to limit access to one or two Board staff members. The Board believed that agreeing to this limitation was of practical benefit because it secured access to entire original sets of files.

As a result of the Review Board's requests and inspection of various CIA files, the Review Board staff identified additional materials relating to the assassination in addition to those initially identified in 1992 and 1993.

In 1997, the CIA provided the Review Board staff with several briefings by representatives of each directorate with respect to their files and record keeping systems and their searches for assassination-related records. In its searches for records on the assassination, the CIA conducted both manual and electronic database searches. In 1998, the Review Board expressed to the CIA

## FINAL REPORT OF THE ASSASSINATION RECORDS REVIEW BOARD

concern regarding the thoroughness of CIA's initial record searches. The Review Board's concern arose out of the CIA's belated discovery of several files relating directly to Lee Harvey Oswald, including (a) a multi-volume Office of Security file on Oswald; (b) a previously undisclosed continuation of the Oswald 201 file containing a small number of documents post-dating the 1977-78 HSCA investigation; (c) another, small file on Oswald designated by the CIA as an "A" file; and (d) additional records relating to a KGB source with information relating to Lee and Marina Oswald. None of these files had been identified by the CIA in 1992-93, when CIA first assembled its files on the Kennedy assassination. These files were located through Review Board inquiries regarding specific records. The Review Board was disturbed by the belated discovery of these records, particularly given its mandate to assure the public that all relevant materials on the Kennedy assassination were being released by the U.S. Government.

In an effort to ensure that the CIA had conducted thorough and adequate searches under the JFK Act, the Review Board specifically requested that CIA Director George Tenet issue a directive to all components of CIA requesting that they identify any records relating to the assassination. Director Tenet issued the directive. Other measures were suggested by the Review Board, and these were undertaken by CIA. In particular, offices most likely to contain assassination records (e.g., Counter-Intelligence and Latin American Division) were asked to conduct targeted searches following Review Board guidelines.

In its Final Declaration of Compliance, the CIA stated that each of its directorates, as well as the official responsible for the DCI area, had certified that "their respective offices or directorates [had] properly and fully responded to requests from the Board." CIA further represented, under oath, that it had "made diligent searches to locate and disclose . . . all records in its possession relating to Lee Harvey Oswald and the assassination of President Kennedy" and that it was "aware of no other assassination-related records in its possession being withheld . . . ."

The Central Intelligence Agency submitted its Final Declaration of Compliance dated September 2, 1998.

**Federal Bureau of Investigation.** The Federal Bureau of Investigation identified its primary files on the Kennedy assassination in the 1970s in response to public interest in disclosure of records related to the assassination under the Freedom of Information Act. These records, referred to by the FBI as the "core and related" files, consist of headquarters and field office files on the following subjects: Lee Harvey Oswald, Jack Ruby, the JFK Assassination Investigation, the FBI administrative file on the Warren Commission, Marina Oswald, Ruth Paine, George de Mohrenshildt, Clay Shaw, David Ferrie, the FBI administrative file on the Church Committee, and the FBI administrative file on the House Select Committee on Assassinations. The FBI established its JFK Task Force (which consisted of five document reviewers)<sup>iv</sup> in 1992 as Congress debated legislation to accelerate disclosure of all records related to the assassination of President Kennedy. The FBI conducted records searches of the core and related subjects in its Central Records System and its automated electronic surveillance index

## CHAPTER 8: FEDERAL AGENCY COMPLIANCE WITH THE JFK ACT

(ELSUR Index) to determine that they had gathered all core and related files in FBI headquarters and field offices.

The FBI identified a second major category of records to be processed under the JFK Act which the FBI refers to as the “HSCA Subjects”. In its investigation of the Kennedy assassination, the House Select Committee on Assassinations (HSCA) requested access to records responsive to FBI searches on more than 600 different subjects. The HSCA cast a wide net in its investigation, and the HSCA subjects range from individuals who had direct contact with Lee Harvey Oswald to major figures in organized crime and anti-Castro Cuban political activity. The HSCA secured an agreement from the FBI in 1978 that the Bureau would retain the HSCA subjects as a “sequestered collection” which would be filed as a set of records apart from the FBI’s central records system.

All of these records (the core and related files and the HSCA subjects) were identified, and the FBI had begun its JFK Act processing prior to the appointment of the Assassination Records Review Board. The FBI delivered its first shipment of assassination records to the JFK Collection in December 1993. As of September 30, 1998, the FBI has made 22 shipments of assassination records to the JFK Collection.

As described in Chapters 4 and 5 of this report, the Review Board streamlined its review processes in 1997 to ensure that all assassination records would be reviewed by the close of the Assassination Records Review Board. In the spring and summer of 1997, the FBI assured the Review Board that it would attempt to finish its processing of assassination records as a result of the streamlined processes. In March 1998, the FBI wrote a letter to the Review Board stating that it did not expect to finish its assassination records processing until February of 2000. After a series of meetings between the Review Board and the FBI, the FBI again committed to finishing its JFK processing before the end of September 1998.

The Review Board formally submitted to the FBI more than 50 requests for additional records. In response to the Board’s requests, the FBI made its original files available. In a limited number of instances, the Bureau provided documentation on those files that were destroyed according to the FBI’s records retention schedule. The Review Board designated thousands of documents for assassination records processing as a result of these requests.

In January 1997 and again in April 1998, the staff of the Review Board met with the FBI to address any outstanding matters with respect to the Bureau’s compliance with the JFK Act. The compliance program with the FBI focused primarily on the scope of the FBI’s searches under the JFK Act. The Review Board staff raised additional records issues, including the identification of any working files of top FBI officials with responsibility for overseeing the investigation of the Kennedy assassination and accounting for all relevant electronic surveillance that related to the assassination. Acting on the Review Board’s concerns, the FBI requested all FBIHQ Divisions to conduct searches for any materials not retrievable through the FBI central records

## FINAL REPORT OF THE ASSASSINATION RECORDS REVIEW BOARD

system and for records that may have been maintained by top FBI officials. While the FBI has discovered some new assassination records as a result of this search, they have not found any working files maintained by top FBI officials from the early 1960s.

On the issue of electronic surveillance, the FBI requested all 56 of its field offices to identify any electronic surveillance in which assassination-related figures were either speaking, or referred to, in conversations monitored by the FBI. The FBI searched its ELSUR indices under the core file subjects. The FBI certified that it identified only one instance where a core subject was a target of FBI electronic surveillance, and that was the electronic surveillance of Marina Oswald in Dallas following the assassination. All other responsive electronic surveillance identified by the FBI consisted of so-called “overhears,” where a person is mentioned in a conversation. Nonetheless, the FBI certified that these would be reviewed and processed under the JFK Act.

The FBI has a well-indexed, centralized filing system, and the FBI’s official main files on the Kennedy assassination were readily identified and processed under the JFK Act. The bulk of FBI records relating to the assassination have been placed in the JFK Collection. However, at the time of this Report, the FBI was still processing some additional materials for inclusion in the JFK Collection.

The FBI submitted its Final Declaration of Compliance on August 20, 1998.

**Secret Service.** The Secret Service transferred its official case file on the Kennedy assassination to NARA in 1979.

In December 1992, after the JFK Act was passed, the Assistant Director for the Secret Service Office of Administration directed the Secret Service to inventory its records in an attempt to locate records relating to the assassination. In response, the Chief of the Policy Analysis & Records Systems Branch within the Office of Administration reviewed the inventories of Secret Service records in storage. Secret Service made these inventories, as well as archive records, available to the Review Board staff for inspection. In 1995, the Assistant Director for the Office of Administration instructed each Assistant Director and the Chief Counsel to search for assassination-related records. In December 1996, the same Assistant Director issued another search directive to each employee.

In addition to the Secret Service’s search of its archival records, the Review Board submitted to the Secret Service 21 separate requests for records. The Secret Service was generally cooperative in making the requested records available to the Review Board. As a result of the Service’s own searches, as well as Review Board requests for records, the Secret Service identified, as assassination records under the JFK Act, additional materials beyond those contained in the official case file for the Kennedy assassination.

## CHAPTER 8: FEDERAL AGENCY COMPLIANCE WITH THE JFK ACT

Congress passed the JFK Act of 1992. One month later, the Secret Service began its compliance efforts. However, in January 1995, the Secret Service destroyed presidential protection survey reports for President Kennedy's September , November , and November , 1963, trips to , Chicago, and . The Review Board learned of the destruction approximately one week after the Secret Service destroyed them, when the Board was drafting its request for additional information. The Board believed that the Secret Service files on the president's travel in the weeks preceding his murder would be relevant.

The Review Board requested the Secret Service to explain the circumstances surrounding the destruction, after passage of the JFK Act. The Secret Service formally explained the circumstances of this destruction in correspondence and an oral briefing to the Review Board.

The Review Board also sought to account for certain additional record categories that might relate to the Kennedy assassination. For example, the Review Board sought information regarding a protective intelligence file on the Fair Play for Cuba Committee (FPCC) and regarding protective intelligence files relating to threats to President Kennedy in the Dallas area (the Dallas-related files were disclosed to the Warren Commission). The FPCC and Dallas-related files apparently were destroyed, and the Review Board sought any information regarding the destruction.

The Secret Service submitted an Initial Statement of Compliance dated April 30, 1998, but has not submitted its Final Declaration of Compliance.

**National Security Agency.** Despite the highly classified nature of its operations, the National Security Agency (NSA) conducted searches for assassination records. In March 1993, NSA's Deputy Director of Plans, Policy, and Programs (DDP) directed that an NSA-wide search be conducted for records responsive to the JFK Act. Within NSA, the Office of Policy coordinated review of NSA's assassination-related records. According to NSA, "[a] search of all files and databases believed to hold such [assassination-related] records was conducted by each of the Directorates within NSA . . . ." In addition to database searches, NSA assigned ten individuals to hand-search approximately 200 boxes of archived material from the 1963-64 time frame. The Directorate of Operations and the NSA Archives also conducted searches in response to specific requests of the Review Board in 1995. As a result of NSA's 1993 and 1995 searches, NSA identified a total of 269 records to be processed under the JFK Act.

NSA located the bulk of its assassination records in the NSA Legislative Affairs Office and General Counsel's Office. These records related to NSA responses to prior investigational inquiries regarding the assassination. In March 1995, the NSA briefed the Review Board members as to how it conducted its searches for assassination records and, in addition, submitted answers to specific questions of the Review Board concerning assassination records in the possession of NSA. The Review Board subsequently submitted additional questions to NSA, particularly regarding NSA intelligence records relating to Cuba or the Soviet Union. NSA

## FINAL REPORT OF THE ASSASSINATION RECORDS REVIEW BOARD

answered the Board's questions, submitting a detailed set of responses to Review Board inquiries regarding intelligence holdings on Cuba and the Soviet Union that might lead to relevant information relating to the assassination. NSA stated that "both Cuba and the USSR were targets of high interest [to NSA] during the time of the assassination," and that NSA searched its files relating to those countries. NSA concluded that "[t]hese searches produced records that primarily reflected reactions to the assassination."

With respect to NSA's review of its intelligence holdings, NSA "certifie[d] that it has neither located, nor is it withholding, any intelligence records containing information of investigatory significance to the Kennedy assassination." NSA advised the Review Board that its relevant intelligence records had "report[ed] on reactions to the assassination" and that they did not contain "unique information" on the "planning, execution, or investigation" of the assassination.

The National Security Agency submitted its Final Declaration of Compliance dated August 18, 1998.

**Department of State.** The Department of State transferred its main record holdings regarding the assassination to NARA in 1989. These were "lot files" consisting mostly of records relating to the State Department's work relating to the Warren Commission investigation. The files originated in the Department of State Legal Advisor's Office and from the Office of Security and Consular Affairs. After Congress passed the JFK Act, the State Department opened these files to the public in August 1993.

The Department of State designated its Office of Freedom of Information, Privacy & Classification Review (within the Bureau of Administration) as the entity responsible for identifying and processing assassination records under the JFK Act. The office in turn appointed a retired Department of State historian to coordinate the Department's JFK Act compliance.

The Department of State staff conducted numerous searches of its records to ensure compliance with the JFK Act. For example, in 1993, the Department searched its Central Foreign Policy records. The search included a review of manifests of retired files of Departmental offices and foreign posts, as well as computerized searches of its automated document systems. Also in 1993, the Assistant Secretary of State for Administration formally requested various offices within the Department to search for records relating to the assassination.

Among the records located by the Department were 25,000 pages of material relating to condolences, funeral attendance arrangements, and memorial activities. Also, "virtually every diplomatic conversation held during the month or so after the assassination contained oral condolences or references to the recent American tragedy." After processing approximately 3,000 such records for the JFK Collection, the Department discontinued processing these kinds of records and "restricted its search to documents relevant to the murder investigation." The Review Board did not object to this approach.

## CHAPTER 8: FEDERAL AGENCY COMPLIANCE WITH THE JFK ACT

Former Foreign Service Officers, working as re-employed annuitants, reviewed Department of State-originated documents and documents referred by other agencies to State. Other entities within the State Department also participated in review and declassification, including the Bureau of Diplomatic Security, the Office of Passport Policy, and the Bureau of Intelligence & Research. State Department reviewers were sent to NARA, the CIA, the House and Senate Intelligence Committees, and the JFK Library to review and declassify Department of State records. More than 10,00 such records were processed under the JFK Act. In addition, State Department reviewers processed approximately 4,500 documents referred to State from other agencies.

Since 1997, a team of Department of State reviewers also has been declassifying Department records pursuant to Executive Order 12958. These reviewers were instructed to identify any assassination-related materials in the course of their review. Many of the records that were searched under the JFK Act have been processed under Executive Order 12958 and sent to NARA. In view of the State Department's representations regarding its declassification efforts under the Executive Order, the Review Board determined that a further detailed review of these records for assassination-related materials was not necessary.

Among the records identified under the JFK Act and transferred to NARA were: a lot file on the assassination; diplomatic cables regarding foreign reaction to the assassination; records from the Mexico City Post File; documents from the records of Llewellyn E. Thompson, former Ambassador to the Soviet Union; records of Secretary Dean Rusk, including memoranda summarizing telephone conversations he had regarding the assassination; and working files on the assassination maintained by U. Alexis Johnson, then Deputy Undersecretary of State.

The Department of State submitted its Final Declaration of Compliance dated March 18, 1998.

**Department of Justice.** The Review Board worked separately with each of the relevant divisions of the Department of Justice to identify and release records under the JFK Act. Accordingly, the Review Board worked with the Office of Information & Privacy (OIP), responsible for so-called "leadership offices;" the Criminal Division; the Civil Division; the Civil Rights Division; and the Office of Legal Counsel. The work of each Division is summarized below.

*Office of Information and Privacy.* This office is responsible for records of the "leadership offices" of the Department of Justice, including records of the Attorney General, Deputy Attorney General, and Associate Attorney General. In addition, OIP is responsible for handling FOIA requests and appeals directed against all entities within the Department of Justice. OIP assigned staff to carry out its obligations under the JFK Act, including a senior counsel, a Department of Justice archivist, and two FOIA/declassification specialists. The senior counsel was appointed as the OIP representative to coordinate OIP's efforts under the JFK Act.

## FINAL REPORT OF THE ASSASSINATION RECORDS REVIEW BOARD

After passage of the JFK Act, OIP had identified materials relating to FOIA litigation over records relating to the JFK assassination, and these materials were placed in the JFK Collection. OIP also located and designated as assassination records the following: (1) certain files of Robert Keuch, who was DOJ's liaison to the HSCA; (2) a file of Attorney General Edward Levi (entitled, "FBI/JFK Assassination Investigation"); (3) a file of Attorney General William Barr; (4) files from DOJ's Office of Public Affairs; (5) documents from DOJ's Departmental Review Committee involving administrative appeals of FOIA requests; and (6) an historical file containing assassination-related documents from "leadership offices" and that have been the subject of past FOIA litigation.

The Office of Information and Privacy submitted its Final Declaration of Compliance dated August 6, 1998.

*Criminal Division.* After passage of the JFK Act, the Acting Assistant Attorney General for the Criminal Division instructed high-level officials within the Division to forward any assassination records to the Freedom of Information/Privacy Act (FOI/PA) Unit within the Division. In addition, record searches were conducted by the FOI/PA Unit and the Criminal Division Records Unit. Files relating to the assassination were identified and placed into the JFK Collection in 1993. Among the Criminal Division files in the JFK Collection are the Division's main file on the assassination and a file on FBI handling of the assassination investigation. In the course of complying with the JFK Act, the Criminal Division utilized four attorneys and support personnel.

As of September 1998, major categories of assassination records in the custody of the Criminal Division had not yet been transferred to the JFK Collection at NARA. These included the organized crime and internal security records that had been identified by the Review Board. The Review Board is disappointed that these records have not been processed and transferred to the JFK Collection, but the Criminal Division has committed to completing the process of releasing these records to the JFK Collection.

The Criminal Division has also generated additional records regarding recent ballistics testing of one of the bullet fragments and has committed to placing those records in the JFK Collection.

The Criminal Division submitted its Final Declaration of Compliance dated September 2, 1998.

*Civil Division.* In March 1993, the Acting Assistant Attorney General for the Civil Division directed all Division offices to identify any assassination-related records that might be in their custody. In addition, the Civil Division appointed the Division's attorney in charge of its FOI/PA Unit to coordinate release of assassination records under the JFK Act.

## CHAPTER 8: FEDERAL AGENCY COMPLIANCE WITH THE JFK ACT

As a result of the search directive, the Civil Division identified four categories of records as potentially responsive to the JFK Act: (1) case files relating to FOIA litigation in which plaintiffs sought access to U.S. Government records on the Kennedy assassination; (2) a case file relating to compensation for the U.S. Government's taking of the Oswald rifle (*Marina Oswald Porter v. United States*) (this file, however, had been destroyed in 1991 according to the Department's records retention/destruction schedule); (3) a Criminal Division file relating to the Kennedy family's agreement to donate certain personal items of President Kennedy to NARA; and (4) miscellaneous materials relating to the assassination located with the Director of the Federal Programs Branch.

In 1993, the Civil Division transferred to NARA the small collection of documents that had been discovered among the secured files of the Director for the Federal Programs Branch. This collection of materials included pictures of the President's clothing after the assassination, documents relating to the autopsy, and memoranda relating to the availability of Warren Commission materials. Aside from these materials, no other assassination-related records had been placed in the JFK Collection at that time.

The Civil Division defends federal agencies in suits arising under the FOIA, and the Division had numerous FOIA litigation cases brought against the Government for denying access to Kennedy assassination records. The Review Board requested that the Civil Division process its FOIA litigation case files relating to assassination records under the JFK Act. The Civil Division took the position that FOIA litigation files on JFK assassination records need not be reviewed or released under the JFK Act. However, the Review Board prevailed upon the Civil Division to release these FOIA files under the JFK Act. The various JFK-related FOIA cases were identified to the Civil Division by the Review Board, and they were transmitted to the JFK Collection.

The Civil Division submitted its Final Declaration of Compliance dated July 29, 1998.

*Civil Rights Division.* The Civil Rights Division located one file responsive to the JFK Act. This is a file of civil rights complaints made against New Orleans District Attorney Jim Garrison. That file was placed in the JFK Collection.

The Civil Rights Division submitted its Final Declaration of Compliance dated July 2, 1997.

*Office of Legal Counsel.* The Office of Legal Counsel collected documents spanning from the date of the assassination through the Congressional inquiries of the 1970s pertaining to legal aspects of the assassination, the start-up of the Warren Commission, access to Warren Commission evidence, legislation making Presidential assassination a federal crime, and public inquiries about the assassination. These records have been transmitted to the JFK Collection.

The Review Board did not request a declaration of compliance from the Office of Legal Counsel.

## FINAL REPORT OF THE ASSASSINATION RECORDS REVIEW BOARD

**Department of the Treasury.** The Review Board worked with various components of the Department of Treasury, including Main Treasury (*i.e.*, the Office of the Secretary), Secret Service (discussed above), the Internal Revenue Service (IRS), the Customs Service, and the Bureau of Alcohol, Tobacco & Firearms (ATF).

*Main Treasury.* In December 1992, the Assistant Director for Policy, Plans and Paperwork Management requested the Departmental Offices Records Officer to identify any assassination-related records under the JFK Act. No assassination records were identified at that time. In 1995, the Review Board began to make specific additional requests for information and records, and Treasury searched for the records that the Board requested. In late 1996, Main Treasury designated the Departmental Offices' Records Officer to coordinate Treasury's work under the JFK Act. In addition, a senior attorney from the Office of General Counsel was tasked to handle JFK Act matters. These officials assisted in the processing of identified assassination records and in making available to the Review Board additional records for inspection.

Treasury has confirmed that all of its identified assassination records have been transferred to the JFK Collection at NARA.

The Department of the Treasury submitted its Final Declaration of Compliance dated August 12, 1998.

*Bureau of Alcohol, Tobacco and Firearms (ATF).* In 1992, ATF's Assistant Director (Administration) directed each of the heads of offices within ATF to locate any records relating to the assassination. No assassination records were identified at that time. In addition, in 1995, ATF reviewed inventories of records held in storage, and no assassination records were identified through that review. In particular, ATF reported that the Fort Worth Records Center held no ATF records from the 1960s. ATF also made search inquiries with its Criminal Enforcement Divisions, including Intelligence, Firearms, and Special Operations. Again, no relevant records were identified. The Review Board sought to have ATF locate any 1963-64 records relating to ATF's assistance in the investigation of the JFK assassination, as well as records from the late 1970s relating to ATF's work for the HSCA. The Review Board specifically requested that ATF check for records from the ATF Field Office in Dallas, as well as records for the ATF Director and ATF Chief Counsel, and this was done.

ATF was fully cooperative and documented its search efforts in detail and under oath. ATF located only a handful of records, all of which related to its work with the HSCA.

One factor that may explain the inability of ATF to locate any relevant records from the 1960s was the fact that ATF was not created as an independent entity until 1972. ATF's predecessor agency was the Alcohol Tobacco Tax Unit of the Internal Revenue Service. The Review Board

## CHAPTER 8: FEDERAL AGENCY COMPLIANCE WITH THE JFK ACT

therefore requested that IRS determine whether it had any pre-1972 ATF records relating to the assassination. IRS was unable to locate any ATF assassination records within its files.

The Bureau of Alcohol, Tobacco and Firearms submitted its Final Declaration of Compliance dated November 11, 1997.

*Customs Service.* After passage of the JFK Act, Customs conducted a search of its Washington, D.C. headquarters files through computerized searches, as well as extensive review of its archival files with the assistance of Review Board staff. In addition, Customs instructed its field offices to search for assassination records. Customs identified a modest number of assassination records.

The Review Board staff requested additional searches of Customs headquarters records, but no additional records were identified. In an effort to determine whether field offices kept records that headquarters might have destroyed, the Review Board asked that Customs have its Dallas field office re-check for any relevant files.

Customs Service submitted its Final Declaration of Compliance dated June 30, 1997.

*Internal Revenue Service.* The identification and release of assassination-related records in IRS's custody has been difficult because Section 11(a) of the JFK Act explicit provision that tax-related records continue to be exempt from public disclosure under Section 6103 of the IRS Code. The Review Board believes that significant assassination-related records of the IRS were precluded from release under the JFK Act. Most significantly, the JFK Act failed to secure IRS's public release of the original Lee Harvey Oswald's tax returns and significant tax-related material in the files of the Warren Commission.<sup>v</sup>

Notwithstanding Section 6103, the Review Board requested that the IRS collect and identify all records it had relating to the assassination. In 1994, IRS reported that it had identified, pursuant to the JFK Act, approximately 50 documents. These documents apparently related to a tax proceeding involving Jack Ruby's estate. At the time, no further work was undertaken by IRS to release these documents or to identify any other records under the JFK Act.

In late 1996, the Review Board sought to clarify what IRS did to locate additional records relating to the assassination and what it intended to release in light of Section 6103. In addition, the Review Board sought to inspect the assassination records that were, or would be, collected by IRS, including original tax returns of Lee Harvey Oswald, and records relating to IRS work with the Warren Commission. The Review Board also sought to ascertain the status and anticipated treatment of such records by IRS under the JFK Act. While IRS considered such records under Section 6103 exempt from release, the Review Board asserted its legal authority, under the JFK Act, to confidentially inspect IRS assassination records. However, the assassination records collected by IRS were not made available for our inspection. Only a year later did IRS affirm the Review Board's legal authority to inspect IRS assassination records.

## FINAL REPORT OF THE ASSASSINATION RECORDS REVIEW BOARD

In 1998, the Review Board requested that IRS formally document its actions and compliance under the JFK Act. The Review Board requested that the IRS search for records that might relate to the assassination and that the IRS specifically identify any such records that it believed could not be released under Section 6103. The Review Board also requested that IRS review the tax-related records in the Warren Commission and HSCA holdings to determine which records could be released consistent with Section 6103.

At the request of the Review Board, the IRS intends to forward to the JFK Collection all tax-related assassination records identified by IRS, including those records to remain confidential pursuant to Section 6103.

The Review Board has received draft compliance statements from the Internal Revenue Service but has not received the IRS's Final Declaration of Compliance.

**National Security Council.** The National Security Council did not initially do any work in response to the JFK Act following its passage. In 1997, the Review Board contacted the NSC to ascertain whether it might have any records that would be relevant under the JFK Act. The NSC was fully cooperative in identifying and making available the records within its custody and control. NSC provided the Review Board with various inventories to records held off-site and certain records from its vault in the Old Executive Office Building. Review Board staff worked with senior NSC records officials to designate assassination-related records under the JFK Act. Among the early 1960s records designated were minutes of NSC and Special Group meetings. The materials covered issues regarding Cuba and Vietnam.

The National Security Council submitted its Final Declaration of Compliance dated April 30, 1998.

**President's Foreign Intelligence Advisory Board.** In early 1997, the Review Board requested that the President's Foreign Intelligence Advisory Board (PFIAB) make available any 1962-64 records that might relate to the Kennedy assassination. PFIAB agreed to make available certain records for the Review Board's inspection. Over several months, the Review Board staff inspected these records and identified certain excerpts as assassination records. When the Review Board sought to have the records processed for public release, PFIAB took the position that these records were, in fact, not releasable under the JFK Act. Senator Warren Rudman, Chairman of PFIAB, appeared before members of the Review Board in August 1998 to present PFIAB's view that its records were not covered by the JFK Act and, furthermore, that particular records identified by the Review Board were not assassination-related within the meaning of the statute.

The Review Board proceeded to formally designate the identified PFIAB records (many of which dealt with U.S. policy towards Cuba) as assassination records under the JFK Act. Challenging the Review Board's authority to designate pertinent records as "assassination records" under the Act. In September of 1998, PFIAB, requested a document-by-document justification regarding the

## CHAPTER 8: FEDERAL AGENCY COMPLIANCE WITH THE JFK ACT

relevance of the records, the public interest in their release, and whether the PFIAB documents contained unique information. The Board had previously articulated the relevance of the materials to PFIAB and considered the requested analysis to be unnecessary, burdensome, and ultimately an obstacle to release. At the time of this Report, PFIAB reserved its right to appeal to the President any Board decision to release PFIAB records.

**Immigration & Naturalization Service.** In 1993, the Immigration & Naturalization Service (INS) conducted a records search in response to passage of the JFK Act. Specifically, INS's Assistant Commissioner for the Records System Division directed all INS components to search for records that met the statutory definition of an assassination record. INS designated a Management Analyst for the Headquarters Records Management Branch to receive and process INS assassination records under the JFK Act. Most of the files identified by INS were files on various individuals who had some connection to the assassination story, and therefore had previously been made available to Congressional committees, including the HSCA. After consultation with other agencies, INS identified additional files as being pertinent under the JFK Act. (A list of the INS files processed under the JFK Act is set forth in the INS Final Declaration of Compliance). While INS had identified over 65 files to be processed under the JFK Act, none had been transferred to NARA until late 1996. INS ultimately devoted substantial resources to processing these files for release under the JFK Act.

INS had not, at the time of this Report, completed the transmission of its identified assassination records to the JFK Collection. Although INS had forwarded numerous files to the JFK Collection, including files on Lee and Marina Oswald, INS had yet to forward files on certain lesser known figures, some miscellaneous documents from its subject files, and a work file on Carlos Marcello. INS attributes the delay, in part, to the time-consuming processing of referring documents to other agencies for review and awaiting agencies' release of its equities. INS has committed to completing the transmission of all remaining assassination-related files to the JFK Collection.

The Immigration and Naturalization Service submitted its Final Declaration of Compliance dated September 11, 1998.

**Office of the Secretary of Defense.** The Office of the Secretary of Defense (OSD) had not identified any assassination records by August 1993, the first deadline imposed by the JFK Act. In October 1995, Review Board staff met with various Department of Defense officials and identified topics and record categories to be searched for under the JFK Act. As a result, components of the armed forces under the Secretary of Defense were instructed to search for assassination records and, in addition, OSD's own archival records were searched. Miscellaneous records were thereafter identified from the Secretary of Defense official correspondence files, including records on Cuba and correspondence with the HSCA.

## FINAL REPORT OF THE ASSASSINATION RECORDS REVIEW BOARD

The OSD's Directorate for Correspondence & Directives was diligent in attempting to address the record-related issues raised by the Review Board. The OSD's Records Section ran computerized record searches and inventoried its archive records and ultimately responded to all Review Board searches.

The Office of the Secretary of Defense submitted its Final Declaration of Compliance dated May 21, 1998.

**Defense Intelligence Agency.** In 1993, DIA forwarded to NARA approximately one box of materials for the JFK Collection consisting mostly of correspondence with the HSCA. The Review Board staff met with DIA in early 1997 and determined that DIA had not reviewed all of its relevant archive holdings. The Review Board then began to make specific requests for additional information from DIA. All requests were ultimately answered.

In an effort to locate records responsive to the Review Board's additional requests, a "special DIA Task Force" worked at the Washington National Records Center in Suitland, MD conducting a page-by-page review of all pertinent pre-1965 Agency file series. After this review of its archive records, DIA identified additional assassination-related documents. These records have been placed in the JFK Collection.

Defense Intelligence Agency submitted its Final Declaration of Compliance dated April 10, 1998.

**Department of the Army.** In response to the JFK Act, the Army conducted in 1993 an "Army-wide canvassing for relevant records." Another canvassing of records was done in 1997. The Army reported that it conducted "a complete review of the 70,000 line item listing of the Army's holdings in the Federal Records Centers . . . ." The Army ultimately identified various assassination records, including: (a) material relating to ballistics research performed by the Army in connection with the assassination; (b) the 1965 typewritten notes of Pierre Finck, the Army pathologist who participated in the Kennedy autopsy; (c) records of the Army Corps of Engineers relating to the design and construction of the Kennedy gravesite; (d) materials relating to the polygraph examination of Jack Ruby from the Defense Polygraph Institute at Fort McClellan, Alabama; (e) records on Cuba from the files of Joseph Califano, created while he was a Special Assistant to the Secretary of the Army in the Kennedy administration; and (f) Army intelligence files on various individuals connected with the Kennedy assassination story. In addition, the Army made available microfilm records of the Pentagon Telecommunications Agency, and the Review Board designated certain documents from the 1963-64 period as assassination records.

In late 1997, the Review Board staff sent its requests for additional information to the Army. Army cooperated with the Review Board's requests.

## CHAPTER 8: FEDERAL AGENCY COMPLIANCE WITH THE JFK ACT

The Department of the Army submitted its Final Declaration of Compliance dated August 20, 1998.

*Investigative Records Repository.* The Review Board staff also worked separately with the IRR at Fort Meade, the Army's storage facility for counter-intelligence files. The IRR has released several intelligence files under the JFK Act, including files on Gerald P. Hemming and anti-Castro activists. The IRR was cooperative in determining whether it had any files on other individuals related to the assassination. In many cases, they found no records for the names submitted. The Review Board requested the IRR to determine whether it had any office or work files for certain Army intelligence officials located in the Dallas area in 1963-64. The IRR stated that it had no such files. In addition, the Review Board requested that the IRR provide any additional information or documentation with respect to an Army intelligence dossier maintained on Oswald. The Army destroyed this file in 1973 as part of a program to purge domestic surveillance files. The Review Board developed no new information beyond that developed by the HSCA.

The Review Board received the Final Declaration of Compliance of the Investigative Records Repository on January 23, 1998.

**Department of the Navy.** The Review Board considered records of the Department of the Navy essential in view of Lee Harvey Oswald's tenure with the Marines, which is administratively a part of Navy. Under the JFK Act, the Navy identified and placed into the JFK Collection at NARA certain core files relating to Lee Harvey Oswald—(1) the personnel and medical Marine Corps files for Oswald and (2) Office of Naval Intelligence records on Oswald.

After passage of the JFK Act, the Navy's Criminal Investigative Service transferred, in 1994, the Office of Naval Intelligence (ONI) records that had been maintained on Lee Harvey Oswald.<sup>vi</sup> In 1995, the General Counsel of the Navy directed that a further review of the Navy's files be undertaken pursuant to the JFK Act. This directive went to the Chief of Naval Operations, the Commandant of the Marine Corps, the Naval Criminal Investigative Service, and the Naval Historical Center. The Navy identified no additional assassination records. In 1996, the Marine Corps transmitted to the Review Board the original personnel and medical Marine Corps files on Oswald. The Review Board transmitted these records to the JFK Collection.

Notwithstanding the Navy's identification of these core materials, the Review Board requested the Navy to search additional record categories to ensure that all relevant materials had been identified. In December 1996, the Navy designated two officials within the Office of General Counsel to coordinate the Navy's further search and processing of assassination-related records under the JFK Act. In early 1997, the Navy consulted with Review Board staff regarding categories of potentially relevant records, the General counsel's office issued another search directive to the Chief of Naval Operations, the Commandant of the Marine Corps, the Judge Advocate General of the Navy, the Naval Criminal Investigative Service, the Secretary of the Navy's Administrative Division, and other components within the Navy. The Review Board

## FINAL REPORT OF THE ASSASSINATION RECORDS REVIEW BOARD

asked the Navy to search for files of high-level officials of the Marine corps, the Office of Naval Intelligence and the Navy during the years 1959 through 1964. The Navy conducted an extensive review of files, including a review of files from the Secretary of the Navy's Administrative Office, the Chief of Naval Operations, and the Marine Corps. The Navy located miscellaneous documents relating to the Warren Commission and HSCA from files of the Administrative Office for the Secretary of the Navy as a result of this search. Among the records found was a copy of an unsigned affidavit by the Director of ONI, prepared at the time of the Warren Commission, stating that Lee Harvey Oswald was not used as an agent or informant by ONI. The Navy confirmed that it had not, however, located the files for the Director of ONI.

The Department of the Navy submitted its Final Declaration of Compliance dated December 3, 1997.

*Office of Naval Intelligence.* The Review Board pursued the matter of ONI records separately. Accordingly, the Board requested that ONI submit its own certification of its compliance with the JFK Act. In its Final Declaration of Compliance ONI stated that an extensive review of ONI records held at Federal Records Centers throughout the country. ONI did not identify any additional assassination records. ONI was unable to find any files from 1959 to 1964. ONI also acknowledged that there were additional ONI records that were not reviewed for assassination records, but that these records would be reviewed under Executive Order 12958 requiring declassification of government records.

The Office of Naval Intelligence submitted its Final Declaration of Compliance dated May 18, 1998.

*National Naval Medical Center at Bethesda.* The Review Board also pursued assassination records with the National Naval Medical Center at Bethesda, Maryland (NNMC). The NNMC was cooperative and conducted extensive searches, but it located no records relating to the autopsy with one exception. An unsigned original of the JFK autopsy report was located in a safe at the NNMC's Anatomic Pathology Division. The NNMC located miscellaneous FOIA requests relating to autopsy records. The Review Board thereafter asked the NNMC to re-check whether it had any 1963-64 files for the top officials of the NNMC, including Commanders Humes and Boswell. Humes and Boswell were the Naval pathologists who conducted the autopsy of President Kennedy. The NNMC re-certified that it had no such files.

The National Naval Medical Center submitted its Final Declaration of Compliance dated June 27, 1997, and its Supplemental Declaration of Compliance on December 23, 1997.

**Armed Forces Institute of Pathology.** The Review Board worked directly with the Armed Forces Institute of Pathology (AFIP). AFIP designated its Archivist for the National Museum of Health and Medicine to serve as the official responsible for conducting AFIP's searches under the JFK Act. As with the National Naval Medical Center in Bethesda, Maryland,

## CHAPTER 8: FEDERAL AGENCY COMPLIANCE WITH THE JFK ACT

the Review Board sought to identify any records from AFIP that might relate to the autopsy of President Kennedy (Lt. Col. Pierre Finck, one of the autopsy pathologists, was Chief of the Wound Ballistics Branch of AFIP at the time). AFIP located some materials of Dr. Finck, including two 1965 reports he prepared regarding the autopsy for General Blumborg and his 1969 memorandum regarding testimony he gave at the Clay Shaw trial. The Review Board also asked AFIP for any 1963-64 files of top AFIP officials who might have had information regarding the autopsy of President Kennedy. AFIP did locate one additional record, an oral history interview with Dr. Robert F. Karnei, Jr., in which he briefly discusses his role at the JFK autopsy.

The Armed Forces Institute of Pathology submitted its Final Declaration of Compliance dated June 12, 1997.

**Department of the Air Force.** In 1995, the Air Force directed certain Air Force commands to undertake searches for assassination records. The only assassination record found was a flight logbook from Andrews Air Force Base that had recorded events at the base on the day of the assassination. The Review Board asked the Air Force to conduct further searches for assassination records. The Review Board asked the Air Force to (1) identify and review the 1963-64 files for the highest officials in the Air Force, including the Secretary of the Air Force and the Chief of Staff for the Air Force (2) more thoroughly review the files of the Office of Special Investigations for any records related to Oswald and (3) determine whether there were any records relating to Air Force 1 on November 22, 1963, including specifically searching for any audiotapes of transmissions to or from Air Force 1 on the day of the assassination.

The Review Board requested that the Air Force conduct a targeted search. The Air Force did not, however, forward additional records to the JFK Collection. After the Air Force submitted its Final Declaration, the Board requested that the Air Force further account for specific Air Force records, particularly records for the Air Force's Office of Presidential Pilot and the Historical Research Agency at Maxwell Air Force Base in Alabama. The Air Force, at the time of this Report, had not followed-up on the Review Board's request.

The Air Force submitted its Final Declaration of Compliance dated November 21, 1997.

**Joint Staff.** The Chief of the Information Management Division, Joint Secretariat, Joint Staff of the Department of Defense, coordinated the Joint Staff's compliance with the JFK Act. The Joint Staff searched its archived files for record of the Joint Chiefs of Staff from the early 1960s, including files of Joint Chiefs Chairmen Lyman L. Lemnitzer, Maxwell Taylor, and Earle G. Wheeler. The Joint Staff estimated that it spent 210 searching for assassination records in such files. The Joint Staff allowed the Review Board access to these records.

The Joint Staff responded to the Review Board's requests for additional information relating to Cuba and Vietnam.

## FINAL REPORT OF THE ASSASSINATION RECORDS REVIEW BOARD

In the course of identifying relevant records, the Review Board learned that the Joint Staff had destroyed minutes and/or transcripts of meetings of the Joint Chiefs of Staff from 1947 to 1978. Since the records would have included minutes of meetings in 1963 and 1964 which might have been relevant to the assassination, the Review Board requested that the Joint Chief account for the destruction. The Joint Staff explained that, in 1974, the Secretary for the Joint Chiefs of Staff ordered these materials destroyed and, at that time, also established a disposition schedule for such records. In 1978, according to the Joint Staff, the “practice of recording meeting minutes was discontinued....”

The Joint Staff submitted its Final Declaration of Compliance dated November 13, 1997.

**White House Communications Agency.** The White House Communications Agency (WHCA) did not identify any assassination records before its first meeting with the Review Board in early 1997. The Review Board contacted WHCA to determine whether it retained any archived records from 1963-64 relating to the assassination.

The Review Board formally requested that WHCA search for any 1963-64 records that might have pertained to the assassination. WHCA located and placed into the JFK Collection an historical file that contained statements of WHCA personnel regarding events on the day of the assassination and, in addition, a WHCA memorandum providing a “list of telephone calls recorded by the White House switchboard on 22 November 1963.”

The Review Board further requested WHCA to undertake a broad search for any records reflecting White House communications regarding the assassination, including any communications to or from Air Force 1 on the day of the assassination. The Commander of WHCA instructed his offices to conduct a search for assassination-related records. WHCA located no additional assassination records. The Review Board then requested that WHCA certify, under penalty of perjury, that it had no other records from the 1963-64 period that might relate to the assassination. WHCA certified that it had no records from the 1963-64 time period nor any records relating to their disposition.

The White House Communications Agency submitted its Final Declaration of Compliance dated April 22, 1998.

**U.S. Postal Service.** In 1993, the Postal Service located its original file on the Kennedy assassination investigation composed of Postal Service investigative reports regarding the assassination. The file had been located among the archived records for the Chief Postal Inspector, and the file was subsequently transferred to the JFK Collection. The Review Board suggested additional searches. The Postal Service was diligent in following those suggestions, but no additional assassination records were uncovered.

## CHAPTER 8: FEDERAL AGENCY COMPLIANCE WITH THE JFK ACT

**Social Security Administration.** In response to a directive in 1993 by the Department of Health & Human Services (HHS) regarding compliance with the JFK Act, the Social Security Administration (SSA) inventoried its holdings relating to Lee Harvey Oswald and Jack Ruby. SSA did not transfer any of these records to the JFK Collection particularly because Section 6103 of the IRS Code prevents any disclosure of tax-related records.

In early 1997, the Review Board staff met with SSA to verify what assassination-related records SSA might have and to determine if any such records could be publicly released. The Review Board requested that SSA assemble all earnings-related records for Lee Harvey Oswald and Jack Ruby, quarterly reports filed by Oswald's employers (to verify Oswald's employment history and income), and the original file opened for Marina Oswald's claim for survivor benefits following Lee Harvey Oswald's death.

The SSA was extremely diligent in collecting and assembling these records. The SSA protected some of these records under Section 6103, but the balance were transmitted to the JFK Collection. The Review Board requested that the SSA sequester assassination records protected under Section 6103 pending determination by IRS regarding their status. The SSA confirmed that these records are being preserved.

As with Oswald's tax returns, the Review Board regrets that Oswald's earnings information and employment history, as contained in employer reports on file with SSA, have not been released to the public as of the date of this Report.

**Drug Enforcement Administration.** The Drug Enforcement Administration (DEA) was cooperative with the Review Board in making files available for review. In May 1998, the Review Board asked DEA to formally process certain records as assassination records under the JFK Act. In addition, the Review Board asked for a formal statement of DEA's compliance. However, DEA has taken no steps to formally designate assassination records, nor has it submitted a compliance report as requested.

**Library of Congress.** The Library of Congress did not transmit any assassination records to the JFK Collection after passage of the Act. In June 1994, the Library of Congress responded to an inquiry by the Review Board and reported that it had located no assassination-related records within the classified holdings in its Manuscript Division. In 1996, the Review Board asked the Library of Congress, including the Congressional Research Service, to ensure that it had searched for any non-public records in its custody that might relate to the assassination. The Library of Congress took no action on the Review Board's request, and the Board made another formal request in October 1997. The Congressional Research Service deferred compliance with the JFK Act pending explicit Congressional authorization. Aside from CRS, however, the Library of Congress undertook to survey its non-public holdings to identify records relating to the assassination. This entailed review of the Library's closed records in its Manuscript Division.

## FINAL REPORT OF THE ASSASSINATION RECORDS REVIEW BOARD

The Library of Congress filed a formal statement of compliance with the Review Board and identified three sets of closed records containing assassination-related materials -- (1) a “duplicate and partial” set of Rockefeller Commission records donated by Vice-President Rockefeller and closed until March 25, 2002; (2) papers of Senator Daniel Moynihan from his tenure as Assistant Secretary of Labor in the Kennedy administration; and (3) papers of Howard Liebengood, an aide to Senator Howard Baker, who did work relating to the assassination for the Senate Intelligence Committee. The Library also identified relevant collections that were previously open to the public, including papers of Earl Warren, David Atlee Phillips, and Elmer Gertz (attorney for Jack Ruby). In addition, the Library had one piece of correspondence written by Lee Harvey Oswald while he was in the Soviet Union.

Once the relevant closed materials were identified, the Review Board sought the donors’ permission to open the records. The Review Board obtained Senator Moynihan’s agreement to open his papers relating to the assassination, and the Board has been in the process of obtaining Mr. Liebengood’s consent. The Library of Congress stated that its Rockefeller Commission records were duplicates of the Rockefeller Commission files at the Ford Library. The Ford Library reviewed and processed assassination records from the Rockefeller Commission under the JFK Act. The Review Board has requested the Library of Congress to ascertain whether its set of the Rockefeller Commission papers contains any assassination-related materials that have not been released by the Ford Library.

In the Summer of 1998, the Congressional Research Service (CRS) identified one box of memoranda relating to the assassination that were prepared by CRS for the HSCA and other entities. Having received appropriate Congressional authorization, CRS has agreed to forward these materials to the JFK Collection.

### **NARA and the Presidential Libraries.**

The Review Board worked separately with NARA in Washington, D.C., the Federal Records Center in Fort Worth, Texas, the Ford Presidential Library, The JFK Presidential Library, and the LBJ Presidential Library. The compliance status for each of these entities is set forth below.

*NARA, Washington, D.C.* NARA has legal and physical custody of numerous federal government records that are transferred to it by federal agencies. Accordingly, the JFK Act required NARA to identify any assassination records that may have been in its legal custody at the time the JFK Act was passed.

After the JFK Act was passed, NARA identified three major record categories in its custody -- (1) records of the Warren Commission; (2) the Main Department of Justice Criminal Division file on the Kennedy assassination; and (3) the main Secret Service file on the assassination. Many of the records within these files were already open to the public when the JFK Act was passed. NARA also identified administrative records for the United States Archivist and Deputy Archivist relating to the handling of assassination-related materials maintained by NARA,

## CHAPTER 8: FEDERAL AGENCY COMPLIANCE WITH THE JFK ACT

including administrative records regarding Warren Commission holdings. In addition, NARA staff identified various federal agencies that had cooperated with the Warren Commission and searched those records for assassination records.

In December 1992, the Assistant Archivist issued a directive to the staff of NARA requesting that any other assassination-related records be identified. Some miscellaneous records were included in the JFK Collection as a result of this search. In addition, NARA -- through its Center for Legislative Archives -- processed hundreds of boxes of Congressional records relating to the assassination, including most importantly the records of the House Select Committee on Assassinations (HSCA).

In April 1998, staffs of the Review Board and NARA met to review the status of NARA's identification and release of assassination records. The Review Board asked NARA to confirm that there were no other closed records relating to the assassination that might be among classified or closed files of officials of the Kennedy and Johnson administrations, including certain Cabinet Secretaries. In addition, the Review Board had asked NARA to coordinate with the Administrative Office of U.S. Courts to identify and secure for the JFK Collection court case files for various FOIA suits involving the public's request to open up CIA, FBI, and other agency files on the Kennedy assassination. NARA has been working with the Administrative Office to obtain these court files.

*NARA, Southwest Region.* NARA had its Southwest regional facility undertake searches pursuant to the JFK Act. That facility is a repository for federal agency records in the Dallas, Texas area. Among the records identified under the JFK Act by the Southwest Region were: (1) court files from the federal district court in Dallas, Texas with respect to litigation over the rifle used to assassinate President Kennedy (*United States v. 6.5 Mannlicher-Carcano Rifle* and *Marina Oswald Porter v. United States*); (2) court files for the litigation brought by Clay Shaw against Jim Garrison in federal district court in New Orleans (*Clay Shaw v. Jim Garrison*); (3) files from the U.S. Attorney in Dallas relating to the litigation over the Oswald rifle; and (4) records of the criminal proceedings against Jack Ruby, also obtained from the U.S. Attorney in Dallas.

The Southwest Region also identified within its custody various medical equipment from Trauma Room No. 1 at Dallas Parkland Hospital. This equipment was purchased from Dallas County in 1973 when Parkland Hospital was being remodeled, and the equipment was placed in storage by NARA at its Southwest Region facility. The Review Board deferred to NARA's decision to retain the equipment in storage.<sup>vii</sup>

In April 1998, Review Board staff met with officials of the Southwest Region at its facility in Fort Worth, Texas. The Review Board sought to ascertain whether the Southwest Region had legal custody of any 1963-64 records for various law enforcement, intelligence, or military agencies with offices in the Dallas region, including Secret Service, ATF, FBI, and the Office of

## FINAL REPORT OF THE ASSASSINATION RECORDS REVIEW BOARD

Naval Intelligence. The staff of the Southwest Region confirmed that it had no such relevant records.

*The Gerald R. Ford Library.* The Ford Library had substantial holdings that were relevant under the JFK Act, including files of the President's Commission on CIA Activities within the United States (the Rockefeller Commission) and papers of former Gerald R. Ford relating to his work on the Warren Commission. The Ford Library first identified assassination records from among materials that were already open to researchers, including records from Gerald Ford's Congressional and Vice-Presidential papers and records of Ford Administration officials.<sup>viii</sup> As a result of these searches, the Ford Library transmitted approximately six cubic feet of records to the JFK Collection in August 1993. The Ford Library also searched its unprocessed or closed "national security collections." This encompassed a review of the Rockefeller Commission files, as well as files of President Ford's National Security Advisor and the Presidential Counsel to the extent the files related to intelligence investigations of the mid-1970's (*i.e.*, the Rockefeller Commission and Church Committee investigations). The Ford Library reviewed approximately 240,000 pages from more than 20 different closed or unprocessed collections, and the Library selected approximately 1,400 documents (11,500 pages) for processing under the JFK Act. The Ford Library worked with the Review Board to have relevant agencies release these assassination records.

*The John F. Kennedy Library.* The identification of assassination records within the holdings of the JFK Library presented a challenge to both the Library and the Review Board in view of the extensive material relating to, and originated by, officials within the Kennedy administration.

After passage of the JFK Act, the JFK Library staff undertook an extensive review of Kennedy administration records, personal papers, and oral histories in its possession. In particular, the JFK Library reviewed its closed or "unprocessed" holdings to identify assassination records. Among the records reviewed by the JFK Library staff were President Kennedy's National Security files and Office files. The Library staff also reviewed material made available to investigative bodies in the 1970's such as the Church Committee. In addition, the Review Board staff, with the Library, reviewed the classified Attorney General file series of Robert F. Kennedy. The JFK Library staff reviewed numerous collections of records from Kennedy administration officials, as well as numerous oral history interviews of such officials. The Library processed many of these records as assassination records.

As of March 1995, the JFK Library had transmitted to the JFK Collection 33,000 pages of documents identified under the JFK Act. These included papers of President Kennedy, Robert F. Kennedy, C. Douglas Dillon, Theodore Sorenson, Burke Marshall, David Broder, Chet Huntley, and Arthur Schlesinger. In addition, records from the Kennedy White House were also transmitted. These included records from the National Security files, the White House Central Subject files, and the President's Office files. The Library also sent all or parts of numerous oral

## CHAPTER 8: FEDERAL AGENCY COMPLIANCE WITH THE JFK ACT

history interviews to the extent that these interviews touched upon the Kennedy assassination. Additional materials were sent later, including Teddy White's "Camelot papers," which contained notes of his interview with Jacqueline Kennedy for *Life* magazine, and Evelyn Lincoln's records consisting of log books, daily diaries, and appointment books for President Kennedy. Finally, the JFK Library has stated that all remaining closed dictabelts of President Kennedy's telephone conversations, as well as 25 hours of audio recordings of President Kennedy's meetings, will be released this fall. The JFK Library committed to releasing all remaining audio recordings of Kennedy meetings by 1999 under Executive Order 12958.

The Review Board attempted to ensure that the Library had reviewed and identified all relevant records in its custody, particularly records that were closed and unavailable to researchers. The Review Board submitted to the JFK Library, in July 1998, a detailed set of questions regarding the Library's record searches and its work under the JFK Act. The questions were to be answered by Library officials, under penalty of perjury, in the Library's Final Declaration of Compliance. The Library submitted its Final Declaration of Compliance shortly thereafter. The JFK Library certified that "[a]ll records of President Kennedy, Jacqueline Kennedy Onassis, Evelyn Lincoln, and Robert F. Kennedy in the custody of the Library have been reviewed under the JFK Act." The Library also stated that further review of Robert F. Kennedy's papers had resulted in the identification of additional assassination records that would be processed for release. In addition, approximately 150 RFK documents previously identified for release were still in the process of declassification or review by the RFK Donor Committee at the time of this Report.<sup>ix</sup> While recognizing the extensive work of the JFK Library and its significant contribution to the JFK Collection, the Review Board was disappointed in the delay in identification and release of RFK papers.

The JFK Library, at its suggestion, briefed the members of the Review Board in August 1998 with respect to the work of the Library under the JFK Act. At that presentation, the Review Board was given assurances by the Library, in the strongest terms, that it was committed to completing release of all assassination-related records, including the RFK records.<sup>x</sup>

*The Lyndon B. Johnson Library.* The LBJ Library has extensive records that were reviewed pursuant to the JFK Act. The Library holds 505 collections of personal papers, 59 bodies of federal records, and 1,227 processed and deeded oral history interviews. Even before the JFK Act was passed in 1992, the Library, beginning in 1980, identified and made available materials that it had relating to the assassination of President Kennedy.<sup>xi</sup> In 1993, the LBJ Library transmitted to the JFK Collection material on the assassination from the LBJ White House Central files, White House Confidential files, and the National Security files; the Library's "Special File on the Assassination of President Kennedy," which was assembled by the White House in late 1966 as a reference file to respond to William Manchester's book, *The Death of a President*; President Johnson's daily diary records recording his appointments and phone calls made during the period following the assassination; office files of various White House aides, White House telephone office records; personal papers of Under Secretary of State George Ball,

## FINAL REPORT OF THE ASSASSINATION RECORDS REVIEW BOARD

Attorney General Ramsey Clark, and John Connally; and numerous oral history interviews. The LBJ Library also released tapes of President Johnson's conversations relating to the assassination (dating mostly from 1963, 1964, and 1967 [the time of the Garrison investigation and publication of the Manchester book]).

In the Spring of 1997, The Review Board staff conducted a comprehensive review of LBJ Library National Security Files (NSF), closed oral histories thought to be related to the assassination, and various manuscripts, archives and office files of key officials. The staff identified more than 300 additional assassination records. The Review Board coordinated with various agencies in declassifying these records.

Finally, the LBJ Library committed to releasing tapes of all of President Johnson's recorded telephone conversations through October 1964 will have been released by September 1998. This release will include six previously closed recordings of President Johnson's telephone conversations with Jacqueline Kennedy in December 1963 and January 1964. The LBJ Library will also release additional telephone conversations identified as assassination-related, including two involving McGeorge Bundy. The Library plans to continue release of the LBJ tapes (post-October, 1964) in chronological order, and has represented that additional conversations relating to the assassination will be forwarded to the JFK Collection.

**General Services Administration.** The General Services Administration (GSA) conducted no records searches under the JFK Act. The Review Board asked GSA in 1997 to determine whether it might have records relating to the assassination. This approach was made because NARA, until 1984, was under the auspices of GSA. Therefore, the Review Board wanted to ensure that GSA did not have records relating to NARA's handling of Warren Commission materials or the handling of the JFK autopsy photos and x-rays. GSA did identify files for the top officials of GSA from the 1960s but these were already at NARA and fully available to the public. GSA did not transfer any records to the JFK Collection.

**Congressional Records.** In addition to Executive Branch records, the Review Board worked with various Congressional Committees, and NARA, to ensure disclosure of various Congressional records relating to the assassination. The two most important record groups in this regard were the records of the two Congressional Committees that conducted independent investigations of President Kennedy's assassination—the Church Committee in 1975-76 and the House Select Committee on Assassinations in 1977-78. In addition, the Review Board sought to ascertain whether there were relevant records among certain other Congressional Committees.

*The House Select Committee on Assassinations (the HSCA).* The files of the HSCA embody the collective work of that Committee in investigating the assassinations of President Kennedy and the Reverend Martin Luther King. After issuance of the HSCA's report in 1979, the voluminous files of the HSCA were placed in storage and were to be kept under seal until 2029 (*i.e.*, 50 years from 1979). Because these were Congressional records, they were not subject to

## CHAPTER 8: FEDERAL AGENCY COMPLIANCE WITH THE JFK ACT

disclosure under the FOIA. Oliver Stone's film, *JFK*, underscored the existence of these closed files and the fact that they would not be released until 2029. After passage of the JFK Act, NARA made the opening of the HSCA files the highest priorities. NARA opened the JFK assassination portion of the HSCA records after consulting with the agencies that had equities in the records.

*Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the Church Committee)*. Records of the Church Committee, like the HSCA records, were of high public interest. The Review Board made extensive efforts to ensure the fullest disclosure of relevant records. The Church Committee, in 1975-76, investigated a range of issues involving the operations of the intelligence agencies. Many of these issues fell outside of the scope of the JFK Act, but the Church Committee investigated the Kennedy assassination, and the issue of assassination of foreign leaders.

After passage of the JFK Act, the Senate Select Committee on Intelligence (SSCI) inventoried the original records of the Church Committee (some 450 boxes) and transmitted approximately 40 boxes of assassination-related records to the JFK Collection. This represented a significant effort by the Committee, as well as by the agencies that reviewed and declassified the records. The NARA, however, surveyed the records placed in the Collection and concluded that testimony directly relevant to the Kennedy assassination (and cited in the Kennedy assassination report of the Church Committee) was not included in the released materials. For approximately two years, the SSCI did not explain or rectify this crucial gap in the records provided to NARA.

In 1997, the Review Board wrote to the SSCI and, again, raised the issue of identifying and processing testimony directly relevant to the Church Committee's investigation of the Kennedy assassination, as well as testimony regarding alleged CIA assassination plots against foreign leaders. The SSCI was cooperative and diligent in attempting to locate and forward the specific transcripts that had been identified by the Review Board and NARA. Throughout 1997-98, the SSCI identified and produced scores of microfilmed copies of the requested transcripts. This testimony was processed and placed into the JFK Collection. The transcripts include testimony of FBI and CIA officials who worked on the JFK assassination investigation, as well as officials who testified regarding the alleged assassination plots against Fidel Castro. Among the officials whose testimony was released under the JFK Act were Secretary of Defense Robert McNamara; Deputy Secretary of Defense Roswell Gilpatric; Special Assistant for National Security McGeorge Bundy; former Directors of Central Intelligence John McCone, Richard Helms, and William Colby; Deputy Director of Central Intelligence Marshall Carter; CIA officer John Scelso (alias); Secret Service Chief James Rowley; Assistant FBI Director Alex Rosen; FBI Special Agent in Charge for the Dallas Field Office Gordon Shanklin; and FBI Agent James Hosty.

While the SSCI had by and large been successful in obtaining the microfilmed transcripts requested by the Board, the Review Board remained concerned that the *original hardcopy transcripts* for this testimony, and any accompanying materials, had not been located by the SSCI

## FINAL REPORT OF THE ASSASSINATION RECORDS REVIEW BOARD

or otherwise accounted for. The Review Board asked for access to all 450 boxes of original Church Committee files. Again, SSCI was cooperative and arranged to have the original Church Committee available for the Board's inspection (the originals had not previously been reviewed by the staffs of NARA or the Review Board). The Review Board staff inspected all the original files, and additional materials were designated as assassination records. However, the hard copy of testimony cited in the JFK Assassination Report, were not among the materials. Although microfilm copies of this testimony were available, the Review Board specifically asked the SSCI to explain the absence of the hard copy files, particularly since they were a discrete and significant body of records relating to the Kennedy assassination. At the time of this Report, the SSCI could not explain the absence of these original transcripts (and perhaps accompanying materials) relating to the Kennedy assassination.

*House Select Committee on Intelligence (the Pike Committee).* In 1975, the Pike Committee investigated various issues regarding the intelligence community. The Pike Committee also looked into certain discrete, limited issues regarding the assassination of President Kennedy. The Pike Committee records have been under the custody of the House Permanent Select Committee on Intelligence (HPSCI). HPSCI identified approximately three boxes of assassination-related records of the Pike Committee and has placed them into the JFK Collection.

*House Judiciary's Subcommittee on Civil & Constitutional Rights, Chaired by Congressman Don Edwards (the Edwards Subcommittee).* In 1975 and 1976, the Edwards Subcommittee investigated the FBI's destruction of a note that Lee Harvey Oswald delivered to the Dallas Field Office prior to the assassination of President Kennedy. The Review Board raised with NARA Center for Legislative Archives the issue of whether they had any original files for this Subcommittee. The Legislative Archives staff could not identify any such files within its Judiciary Committee records. The Review Board also asked the Clerk's Office for the House of Representatives for assistance in locating these records. Unfortunately, no original records for this Subcommittee have been located, although copies of some of these records can be found in the HSCA Collection.

*House Government Operation's Subcommittee on Government Information and Individual Rights, Chaired by Congresswoman Bella Abzug (the Abzug Subcommittee).* In 1975 and 1976, the Abzug Subcommittee looked into issues relating to access to Warren Commission records and the destruction of FBI records. It was the Review Board's understanding that these records remained closed pursuant to House Rules. In 1996, and again in 1997, the Review Board sought Congressional authorization to have any assassination-related records within the Abzug Subcommittee files reviewed and released under the JFK Act. After receiving the appropriate Congressional authorization, the Review Board staff inspected the original files of the Abzug Subcommittee and designated various materials for release under the JFK Act.

## CHAPTER 8: FEDERAL AGENCY COMPLIANCE WITH THE JFK ACT

*House Un-American Activities Committee (HUAC).* During the 1950s and 1960s, this Committee investigated “un-American” activities of various individuals and groups. In the summer of 1996, the staff of the NARA Center for Legislative Archives did an initial survey of the HUAC files and identified files on Lee Harvey Oswald, Marina Oswald, the Fair Play for Cuba Committee (FPCC), and Mark Lane (a Warren Commission critic). Under House Rules, investigative records of House committees are closed for 50 years after the committee finishes their investigation and shuts down.

In November 1996, the Review Board requested that Congress make these records available for inspection by the Review Board to confirm whether the records initially identified by NARA staff were assassination records and should be released to the public. The Review Board received no responses and raised the matter again in 1997. In January 1998, the Clerk’s Office sought permission from the Judiciary Committee to open up the HUAC files for Review Board inspection. The Judiciary Committee initially denied the Board’s request, but upon reconsideration ultimately agreed to release certain HUAC files relating to the JFK assassination.

*Other Congressional Records.* The NARA and Review Board staffs also examined certain other Congressional records to identify any materials that might be considered “assassination-related” under the JFK Act.

The Review Board was given appropriate Congressional authorization to inspect files of the Senate Select Committee on Improper Activities in the Labor or Management Field (the McClellan Committee). This Committee investigated labor practices in the late 1950’s; then Senator John Kennedy was a member of the Committee and Robert F. Kennedy was Chief Counsel. The records of the Committee include information on organized crime figures. It was determined that the records of the Committee did not qualify as assassination records under the JFK Act.

The Review Board surveyed the indices to 1949-51 records of the Senate Special Committee to investigate Organized Crime in Interstate Commerce (the Kefauver Committee). Given the remoteness in time from the events of the assassination, no records of the Kefauver Committee were designated as assassination records. Moreover, Congress has authorized NARA to open these records in 2001.

The Review Board and NARA identified certain records of the Senate Judiciary’s Senate Internal Security Subcommittee (the Eastland Committee) for review under the JFK Act. Thirteen transcripts of executive session testimony were subsequently identified for release under the JFK Act. These were processed by the Center for Legislative Archives and transmitted to the JFK Collection. The records included 1961 testimony of Edwin Walker and December 1963 testimony of Ruth Paine. In addition, the Center for Legislative Archives transmitted to the JFK Collection three boxes of press clippings regarding Lee Harvey Oswald and the assassination.

### **C. Conclusion**

## FINAL REPORT OF THE ASSASSINATION RECORDS REVIEW BOARD

Generally, government offices attempted to search for and release their records relating to the Kennedy assassination in response to the JFK Act. Most importantly, this was the case with the major agencies, such as the FBI, CIA, State Department, Department of Justice, Secret Service, NARA, and the Presidential Libraries, that would be expected to have core materials relating directly to the assassination. In some cases, particular agencies conducted searches after the Review Board notified them of their obligations.

By initiating a compliance program, the Board made a decision that it would require the relevant agencies to affirmatively document their work under the JFK Act, including certification that they had conducted diligent searches for assassination records. The individual officials who represented the agencies were professional and cooperative in meeting the substantive and procedural requirements of the Board's compliance program.

With some limited exceptions, almost all of the federal entities this chapter discusses have explained and certified, under penalty of perjury, their efforts to locate and release all relevant records on the assassination of President Kennedy. The Board anticipates that these statements, under oath, would enhance the public's confidence that the United States government, in good faith, attempted to release all records on the Kennedy assassination.

## CHAPTER 8 COMPLIANCE

- 
- i. House Committee on the Judiciary, Subcommittee on Economic and Commercial Law, *Assassination Materials Disclosure Act of 1992: Hearings on H.J. 454*, 102 Cong., 2d sess., 1992. (Opening statement by Committee Chairman John Conyers, Jr.)
  - ii. 44 U.S.C. § 2107 (2)(a)(3).
  - iii. Many of the descriptions of agency's efforts to comply with the JFK Act were obtained from the initial or final certifications that the agencies submitted to the Review Board.
  - iv. At its peak in 1994, the FBI's JFK Task Force had more than 90 employees working on assassination records processing.
  - v. In the spring of 1997, Marina Oswald provided limited consent to the IRS to release Lee Harvey Oswald's tax returns to researchers Ray and Mary La Fontaine. Marina Oswald declared her intent to have the La Fontaines release these returns to the public, but to our knowledge they have not done so. The IRS is legally obligated under Section 6103 to withhold the Oswald tax returns from public disclosure.
  - vi. Copies of these ONI records were also located in the files of the HSCA, and they were released along with the other HSCA files.
  - vii. In addition to records identified by the Southwest Region of NARA, the Southeast Region had identified some papers of Senator Richard Russell relating to his work on the Warren Commission. (The NARA had been providing courtesy storage for these papers on behalf of the University of Georgia).
  - viii. Among the Ford papers transmitted to the JFK Collection were excerpts of interviews with President Ford conducted by Trevor Armbrister in connection with the writing of Ford's memoirs, *A Time to Heal*.
  - ix. The Robert F. Kennedy Donor Committee controls access to all RFK papers under a Deed of Gift agreement with the JFK Library.
  - x. In addition, the JFK Library is releasing the RFK and other papers pursuant to the declassification requirements of Executive Order 12958.
  - xi. These materials were identified in a detailed index entitled, "Guide to Materials from the Johnson Library Pertaining to the Assassination of John F. Kennedy."