

To: File 4.16.2.5
From: Phil Golrick
Date: January 24, 1995
CC: Jeremy Gunn
Re: FBI -- Definition of Assassination Records -- Allen v. FBI

This morning I retrieved the following documents from the five-volume court file for Allen v. FBI, CA No. 81-1206-JLG (D.D.C.):

Plaintiff's first FOIA request, dated December 12, 1980 (Attachment 1);

Plaintiff's second FOIA request, dated April 6, 1981 (Attachment 2); and

Stipulation of Settlement and Dismissal, approved by Judge June L. Green on April 14, 1994 (Attachment 3).

Plaintiff's first request seeks "all correspondence or any records of any communications between the U.S. House Select Committee on Assassinations and the Federal Bureau of Investigation relating to the Select Committee's investigation into the assassination of President John F. Kennedy." Plaintiff's second request seeks "all records relating to the investigation of the U.S. House Select Committee on Assassinations into the murder of President John F. Kennedy not covered by [plaintiff's] FOIA request of December 12, 1980." Both these requests are directed to the FBI. These requests, and the FBI's response thereto, spawned over a decade of litigation in the above-cited case.

The April 14, 1994, Stipulation settled the dispute. Paragraph 4 of

the Stipulation provides "that all 'assassination records' as defined in this agreement will be processed pursuant to the provisions" of the JFK Assassination Records Collection Act. Paragraph 3 defines the term "assassination records," as used in the Stipulation, "as all 'responsive documents' that are subject to the provisions of [the Act], as determined by the FBI, by the independent Review Board authorized under the JFK Act, or by a reviewing court, subject to any right to appeal such a determination." Finally, Paragraph 2 defines "responsive documents" "to include all documents . . . or other records held by the FBI that are responsive to plaintiff's December 12, 1980 and April 6, 1981 requests, . . . except that all documents that were available to the public in the FBI reading room prior to the filing of this lawsuit (i.e. File No. 62-109060, No. 62-109090, No. 105-82555, and No. 44-24016) are not included."

Apparently, the Stipulation obligates the FBI to process under our Act only those HSCA-related records that the FBI, the Review Board or "a reviewing court" determines to be "subject" to our Act, i.e., assassination records as defined by our Act. If this is the proper interpretation, then the Stipulation in and of itself does not require the FBI to treat its HSCA-related records as "assassination records" under our Act.