

DRAFT -- 2/17/97

## FBI Transition Points

### I. Postponement issues

A. Foreign Liaison Issue: At last meeting, the Review Board, in the course of individual review (yellow issue), unanimously and without discussion accepted staff recommendations to protect the names of foreign police/intelligence agencies and of their personnel, in contexts where the information provided had been unilaterally released by the FBI. It strikes me as a close call whether it is now appropriate to code routine, clearcut postponements of this type as green issues. It remains to be seen whether the FBI will acquiesce in (what I foresee as) Review Board decisions to release information provided through foreign liaison channels, even with the express reference to the foreign agency protected.

B. FCI Postponements: Carol has unofficially advised that the only issues remaining of all the records identified for appeal in 1996 are those some form of "third agency" interest.

#### C. Informant Postponements: Foreseeable Points of Contention

1. New Orleans informant: we should discuss.

2. San Juan informant: Source file awaits review, and this review should be accomplished before postponement is voted on. I've suggested to Carol that this may be one of the rare cases where contacting the source, if living, would be helpful to the Bureau's case, but I do not believe the Bureau has attempted to do so yet.

3. Informant whose files Laura has reviewed: This review needs to be completed (if it hasn't been already) and memorialized, and the FBI should be advised in writing what the staff believes are additional assassination records in this file, before the postponements in processed records involving this informant are presented to the Board.

4. Informant on certain Texas aspects of Garrison investigation: Informally requested source files await review, which should be completed before these postponements are presented to the Board.

D. Privacy Postponement: A small matter, but some time ago I asked Dave Montague to ascertain whether the home address for Ferris Rookstool (postponed in an FBI record) was "unlisted," and therefore one to which some expectation of privacy might attach. He has not yet gotten back to me on this.

## II. Review of Records Additional Records and Information

A. BRILAB: Kevin and Laura are the only FBI team members (other than myself) specifically authorized to review this information under the court order. Roughly, they have reviewed about 2/3 of the logs and transcripts. We had set a target date of February 19 to have completed review of this material, which we probably will miss, but only by a few working days. Once this review is completed, we shall have to take at least some of the following steps (order they are listed does not reflect any considered judgment on order they should be taken):

1. Making a policy decision on whether paper logs and transcripts alone are sufficient to put into Collection or whether audio recordings are necessary for inclusion in the Collection. Identifying the relevant discussions in audio format and excerpting them onto an archivally-appropriate audio medium are likely to involve considerable further work on the part of Review Board and FBI staff (and possibly NARA also).
2. Presenting the relevant material to the Review Board for formal designation as assassination records.
3. Through the U.S. Attorney's Office in New Orleans (or whatever DOJ entity is appropriate), seeking to have the court lift the seal for the assassination-related intercepts, in order to allow them to be released to the public via the Collection. I've mentioned to Carol that, when this time comes, we might find it helpful to be able to advise the court that the FBI "joins in" or "has no objection to" this request. To this end, we should identify for Carol those conversations we wish to have included in the Collection sufficiently in advance of our approach to the court, so that Carol has enough time to review the material and get the required approvals from John Collingwood, the General Counsel's Office or whomever else is appropriate.
4. As a matter of courtesy, returning to Judge Sear his three audiocassettes of (not assassination-related) "highlights" from the BRILAB surveillances, which he gave me in New Orleans last summer.
5. Deciding to what extent, if any, we wish to review further material related to BRILAB surveillances in cities other than New Orleans, and communicating these decisions to the FBI. At our request, Judy Bowen of the FBI's JFK Task Force has done some preliminary work on records from the DC-based BRILAB surveillances. (Laura is the analyst knowledgeable about this.) It is my sense that extending our review beyond New Orleans may not be a prudent expenditure of time and effort, given that the published allegations of incriminating statements involve New Orleans

intercepts. If we extend our review beyond New Orleans, I'd recommend targeting any dates for which there was DC surveillance and that related to significant developments in the HSCA's work (*e.g.*, Marcello's appearance before the Committee).

B. Mark Lane materials: I understand that Kevin has essentially finished this review, but needs to put his memorialization of it in final form and identify for the FBI what should be processed under the JFK Act.

C. Clarence Smelley request: At least some of the responsive files have been retrieved and are ready to be reviewed. Kevin is familiar with the allegations, but any member of the FBI team could review this material after talking with Kevin.

D. Adele Edisen request: Laura is the member of the FBI team most familiar with these allegations, and would be a logical person to review any responsive materials. I believe that, if there are any close-to-contemporaneous FBI records regarding her alleged interview on Nov. 24, 1963, they are more likely to be found in files already processed (although not identifiable from RIF searches), rather than separate, unprocessed files. For this reason, we should find out from the Bureau whether the requested index searches yield any "hits" to records in processed files, as well as review any retrieved records not already in the pipeline under the JFK Act.

E. Requests for Smalls, Redlich, Mora: I intend to complete review of the materials provided in response to these requests before my departure.

F. Request for records on certain technical coverages immediately after assassination: Last week (week of February 10), Carol mentioned that Judy Bowen had completed her compilation and review of these materials, and had drafted a memo on what she had found that Carol needed to approve and review. Carol said that Judy "hadn't found that much" related to the assassination, but I anticipate that we will want to review the files ourselves.

G. Request for administrative files on specified field offices: Laura has been tasked to review the provided materials, and she can advise on the status of this project.

H. Secret Service liaison file: Joan has renewed efforts to review the portions of this file falling on either side of the interval that the Review Board decided (some time ago) was assassination-related. The separate FBI HQ file on "Presidential Protection" should be handled on the same basis.

### III. Unresolved "Policy Questions" Affecting the FBI (in some instances, among other agencies)

A. To what extent, if any, are records that reflect the FBI's implementation of the JFK Act

themselves records that must be processed under the Act? This question is of great concern to the FBI. It seems to me that our compliance program should go some distance toward distilling and presenting the information in such records that is of high public interest. I'd suggest advising the FBI that it does not have to process these records under the JFK Act, *except* for such records that were also placed in "core" JFK Act files. (Some field offices appear to have put records concerning the earliest search for records responsive to legislative proposals that became the JFK Act in their files on the assassination investigation.)

B. To what extent, if any, should the FBI process under the JFK Act records related to the processing of FOIA requests on the assassination (or closely related subjects)? This question is also of great concern to the FBI.

C. [Closely related to B. above]: To what extent, if any, should the FBI process under the JFK Act records related to the "mandatory review" of Warren Commission and other underlying assassination records.

IV. Unfinished Housekeeping with FBI: Early in our dealings with the FBI, we undertook to return to the FBI the sensitive portions of its justifications for continued postponements in particular records. We have not been returning these pages on a systematic basis. Now that the FCI appeals are almost completely resolved, there is an opportunity to go through our review copies of records from prior meetings, remove the pages containing sensitive information (the more experienced members of the FBI team should be able to identify these pages at a glance), and return them to the FBI. For future meetings, we could propose to the people on the FBI Task Force that it remove these pages when we give them the working copies of records voted at a particular meeting as part of the informal "pre-notice" process (although I will defer to Kevin or the Task Force people if either see a problem with this way of proceeding).

#### V. "Macroprocessing" Issues

A. The FBI does not appear to have recognized the potential utility of an "NBR" designation at the early stages of the processing of an HSCA subject. However, even some of the subjects we identified as "highest priority" may have records that could appropriately be designated "NBR," thereby allowing the FBI to postpone the record in full until 2017, thereby saving the costs of line-by-line processing and of justifying postponement to the Review Board. It will take some thought to coordinate the FBI processing with the requirements of the Review Board's "NBR" guidelines (*e.g.*, the creation of a "writing" on the Reviewtrack), but I believe that such coordination would be worthwhile.

B. The FBI team needs to review the records that the FBI provided to the Church Committee (which are part of the HQ file on liaison with the Church Committee or attached thereto as "enclosures behind file") to determine whether the ARRB staff concurs with the FBI determination to withhold some of these records in full as "not assassination-related."

As I understand it, records that the ARRB staff agrees are “not assassination-related” will *not* be sent to College Park as “NBRs” to be opened in 2017; rather, they are wholly nonresponsive to the JFK Act, and will not become part of the JFK Collection at any time. We have had preliminary discussions with the FBI on whether and how to revise existing RIFs for such records, but we need to finalize and implement whatever is decided on. On a smaller scale, we will probably face the same issues regarding the HQ file for FBI liaison with the Rockefeller Commission, and possibly with other HQ liaison files.

C. HSCA records from numbered files referred to FBI by Legislative Archives: The FBI team has completed review of these records for the purpose of identifying “easy” consent releases, and have identified the “easy” releases for Deb Beatty to act on. There are still a number of records so identified that we haven’t gotten back from Deb, but I would guess she will have worked through these by the end of the month.

The FBI regards a high percentage of the remaining referred records as particularly difficult ones to process, the most difficult being summaries of HSCA file reviews for subjects for which the FBI has not completed processing the underlying files. We have told Carol that we will need to work through all of these records during the tenure of the Review Board, but the FBI still views these records with trepidation. *Any comprehensive strategy for completing postponement review of the FBI’s “core-and-related” files needs to take into account the need to complete these records also.* To date, we have not given the FBI “evidence due dates” for any of these HSCA records.

D. Closely related to C. above is the need to refer to the FBI (and ultimately, to the extent necessary, to present to the Review Board for review of claimed postponements) copies of FBI records from the HSCA security-classified files. Kevin is familiar with these records and I’ll defer to him on suggestions how to get this done (although I understand we have the approval, under specified safeguards, to take these records from our SCIF to the FBI).

E. FBI records under court seal and grand jury records: One of our numbered requests for additional information and records called for an inventory of these records. I understand that the FBI Task Force has essentially completed this work, but the “cover” communication from the FBI to us needs to be finalized. *Coordinating with DOJ the required efforts to petition courts around the country to remove these obstacles to disclosure will be a major project.*

## VI. Hosty Interview Wrap-Up and Follow-Up

A. Cleanup of Entries in Hosty Database: I have asked Kevin and Laura to attend to this for the tapes sides that they were responsible for entering in the first instance. It may be necessary for Ron and Doug to do the same for the entries they created. Then, the entire outline of entries will probably have to be reviewed one more time.

B. Referral to FBI: A printout of the outline from the database (probably excluding “leads”) should be provided to the FBI, along with copies of the tapes themselves. (My recollection is that, when Jeremy and I last talked about this, we planned on giving the FBI copies of all the tapes with the outline to point the FBI to the relatively brief discussions that could conceivably be sensitive. If we proceed on this basis, we should make copies of all the tapes to give to the FBI, and keep the originals.)

C. Literal Transcription of Selected Portions of Interview: The entries in the database identify suggested portions of the interview to be transcribed *verbatim*. These portions consist mostly, if not entirely, of discussion of the “Oswald note” and of the authenticity of the records Mr. Hosty has donated. This transcription has not yet been done.

D. Follow-Up on Records Sent By Mr. Hosty After the Interview: If we have no other subjects about which we wish to speak to Mr. Hosty “on the record,” then I suggest that Laura contact him by phone (perhaps after mailing him photocopies of the post-interview donated records with exhibit numbers attached), confirm what he has to say about their authenticity and “chain of custody,” and draft a brief statement for him to sign and notarize. Alternatively, we could tape-record the phone interview and have the recording transcribed *verbatim*.

E. Follow-up of any Appropriate Leads from Hosty Interview: A potentially open-ended item. Note that a “lead” entry in the database does not indicate a considered judgment that a point needs to be pursued, just that it might be worth consideration. As far as additional requests to the FBI, I believe that the Dallas file on the FPCC and the Walker-related files described by Hosty may be the most significant.

As far as additional persons to interview: *if*, all things considered, it is appropriate for us to interview *anyone* else in connection with the subjects we covered with Hosty, then the following individuals merit consideration: Robert Gemberling (supervisory responsibility in post-assassination investigation); Wallace Heitman (agent who investigated FPCC and Cuban matters in Dallas); John Quigley (LHO interview, August 1963); Milton Kaack (agent responsible for LHO file in New Orleans); Warren DeBrueys (agent responsible for FPCC and Cuban matters in New Orleans; also involved in post-assassination investigation in Dallas); and, if appropriate given his advance years, John Fain (agent responsible for LHO file in Dallas in 1962).

F. Review and Release of Hosty’s Testimony Before Church Committee: The FBI has cleared the large majority (say, 95%) for release in full as far as its equities are concerned. Carl has undertaken to research the issues posed by the remaining pages (and has informally advised that he thinks nearly all of this information could be declassified and released as well). We’ll need to follow up on this at the Bureau, and (on just one point, I think)

coordinate with CIA as well. I'll leave it to Brian and Jeremy to advise how to proceed as far as the Senate is concerned.

## VII. Other "Leads" on Identifying Additional FBI Assassination Records

A. Information received by FBI from NSA: This information was channelized into particular HQ files, some of the numbers of which remain classified and have been postponed by the Review Board. Even so, these files may contain the type of relevant post-assassination material that we hoped to find, but did not find, in the FBI's "NSA liaison file." Kevin should be able to find the appropriate numbers, based on Carl's explanations in his justifications for sustaining the postponements for the file numbers. We should also check whether the TS FBI records we recently referred to NSA contain any file numbers that may we should ask for in this regard.

## DOJ Transition Points

Christopher has been asked to review the remaining microfilm rolls from the JFK Presidential Library, starting with the Criminal Division and Cuban-related subjects. I don't have the impression that he has gotten far into this material -- at least, he hasn't spoken to me about it since I first showed him the material in the SCIF.

## Miscellaneous Transition Points

A. Interview with Carver Gayton: Jeremy tasked me with interviewing Mr. Gayton by phone concerning allegations attributed to him that Oswald was an FBI informant. At the same time, as I recall, Jeremy asked Dave to obtain/verify Gayton's phone number. I have been waiting to hear back from Dave on this.

B. Interview with James Rhoads: Jeremy tasked me with conducting phone interview with Dr. Rhoads concerning the 1966 inventory of autopsy x-rays and photographs. I have not yet done so.