

III. DEFERENCE TO THE REVIEW BOARD'S INTERPRETATION OF THE JFK ACT

For the reasons stated above, we believe that the applicability of the JFK Act's transmittal and disclosure requirements to records that did not originate with the Federal Government is quite clear. However, in the event that some aspect of the above analysis is called into question, it should be noted that the Review Board's interpretation of any ambiguities in the JFK Act is entitled to deference under the rule of *Chevron U.S.A. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

Chevron established a two-step methodology for judicial review of an agency's statutory interpretation:

When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter If, however, . . . the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.

Id. at 842-43.

Accordingly, even if the JFK Act were thought to be "silent or ambiguous" regarding some aspect of its application to records that did not originate with the Federal Government, the Review Board's interpretation must be given effect as long as it is reasonable. See, e.g., *National Railroad Passenger Corp. v. Boston & Maine Corp.*, 503 U.S. 407, 418-19 (1992); *United States v. Riverside Bayview Homes, Inc.*, 474 U.S. 121, 131 (1985). Courts are bound by this "rule of judicial deference to an agency's statutory interpretation, even when the statute is one authorizing condemnation of private property." *National Railroad Passenger Corp.*, 503 U.S. at 421-22.

We believe that the analysis described in Part II above should easily withstand this level of review.