

Billing Code 6820TD

ASSASSINATION RECORDS REVIEW BOARD

36 CFR Part 1400

Guidance on Interpreting and Implementing the President John F. Kennedy

Assassination Records Collection Act of 1992.

AGENCY: Assassination Records Review Board

ACTION: Interpretation.

SUMMARY: These final interpretive regulations provide guidance on the interpretation of certain terms defined in the President John F. Kennedy Assassination Records Collection Act of 1992 and on implementation of certain of the statute's provisions. The final interpretive regulations make effective proposed interpretive regulations previously published by the Assassination Records Review

Board. The Review Board revised the proposed interpretive regulations after considering public comment received in writing and through testimony at public hearings convened by the Review Board.

EFFECTIVE DATE: This interpretative regulation is effective [Insert date of publication in the FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:
Background and Statutory Authority

The President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. 2107 note (as amended) (JFK Act), established the President John F. Kennedy Assassination Records Collection (the JFK Assassination Records Collection) at the National

Archives and Records Administration (NARA). In establishing a process for public disclosure of all records relating to the assassination, Congress created an independent federal agency, the Assassination Records Review Board (the Review Board), that consists of five citizens appointed by the President and confirmed by the Senate in 1994. Under the JFK Act, the Review Board is empowered to decide "whether a record constitutes an assassination record." 44 U.S.C. 2107 note Sec. 7(l)(2)(A). Congress also intended that the Review Board "issue guidance to assist in articulating the scope or universe of assassination records." President John F. Kennedy Assassination Records Collection Act of 1992, S.Rep.102-328, 102d Cong., 2d Sess. (1992) at 21. These final interpretive regulations, a proposed version of which was published at 60 FR 7506-7508 (Feb. 8, 1995), comply with that mandate.

As the Supplementary Information accompanying the proposed

inter-pretive regulations stated, the Review Board's goal in issuing this guidance is

to implement congressional intent that the JFK Collection contain "the most comprehensive disclosure of records related to the assassination of President Kennedy." [S.Rep. 102-328, supra] at 18. The Board is also mindful of Congress's instruction that the Board apply a 'broad and encompassing' working definition of 'assassination record' in order to achieve the goal of assembling the fullest historical record on this tragic event in American history and on the investigations that were undertaken in the assassination's aftermath. The Board recognizes that many agencies have already begun to organize and review records responsive to the [JFK Act] even before the Board was appointed and began its work. Nevertheless, the Board's aim is that this guidance will aid in the ultimate assembly and public disclosure of the fullest possible historical record on this tragedy and on subsequent investigations and inquiries into it.

60 FR 7506. The final interpretive regulations are intended to identify comprehensively the range of records reasonably related to the assassination of President Kennedy and investigations undertaken

in its aftermath. The final interpretive regulations are also intended to aid in the consistent, effective and efficient implementation of the JFK Act and to establish procedures for including assassination records in the President John F. Kennedy Assassination Records Collection (JFK Assassination Records Collection) established by Congress and housed at NARA's facility in College Park, Maryland.

Notice and Comment Process

The Review Board sought public comment on its proposed interpretive regulations and set a thirty day period, which ended on March 10, 1995, for the purpose of receiving written comments.

The Review Board also heard testimony at public hearings on aspects of the proposed interpretive regulations. In addition, the Review Board sent copies of the proposed interpretive regulations to agencies known to have an interest in and be affected by the Review Board's work, particularly those who hold or created assassination

records, and to the appropriate oversight committees in Congress.

The Review Board also sent notices of the proposed interpretive regulations and request for comments or sent copies of the Federal Register notice itself to many organizations and individuals who have demonstrated an interest in the release of materials under the JFK Act or who have engaged in research into the assassination of President Kennedy.

The Review Board received written comments on the proposed interpretive regulations from numerous federal agencies, state and local government entities, and individuals. Federal agencies providing written comments include the Federal Bureau of Investigation (FBI), the Central Intelligence Agency (CIA), NARA, and the Department of State. State and local government entities providing written comments include the Dallas (Texas) County Commissioner's Court, the Dallas County Historical Foundation, and the City of Dallas

Records Management Division of the Office of the City Secretary.

Numerous private citizens with an interest in the Review Board's work also submitted comments.

Prior to publication of the proposed interpretive regulations, the Review Board heard testimony at a public hearing held at the Review Board's offices on December 14, 1994 from representatives of NARA on the question of including artifacts in the scope of the term "assassination record." After publication of the proposed interpretive regulations and before expiration of the comment period, the Review Board heard testimony at a public hearing on March 7, 1995 from the FBI and from several individuals and representatives of private organizations on their views regarding the text of the proposed interpretive regulations. Copies of all written comments received and transcripts of public testimony on the proposed interpretive regulations were placed in the public reading room at the

Review Board's offices and made available for inspection and copying by the public upon request.

At a public meeting held on May 3, 1995, for which notice was timely published in the Federal Register pursuant to the provisions of the Government in the Sunshine Act, the Review Board considered a final draft of these interpretive regulations. That discussion draft incorporated many of the comments received by the Review Board on the proposed interpretive regulations. The Review Board unanimously voted to adopt the text of the discussion draft as its final interpretive regulations. The approved text is, with a few corrections of typographical errors, the text published here.

Response to Comments

The Review Board found very helpful the thoughtful and, in many cases, very detailed comments submitted on the proposed interpretive regulations. Nearly all of the commenters expressed

support for what they characterized as the proposed interpretive regulations' comprehensiveness and flexibility. All comments submitted were carefully studied and considered by the Review Board.

Submitters made both substantive and technical suggestions, many of which were incorporated in the interpretive regulations as issued here in final form. The principal substantive comments received, and the Review Board's responses thereto, are summarized below.

Comment: The proposed language of §1400.1(a) is unduly restrictive because the phrase "may have led to the assassination" requires at least a potential causal link to the assassination.

Moreover, determining whether there is a causal link would require the Review Board to evaluate the validity of competing accounts of what led to the assassination of President Kennedy.

Response: A number of commentators put forward criticisms along these lines. Some of these commentators suggested that some

form of a "reasonably related" standard be substituted for the "may have led to" language, while others suggested alternative formulations (e.g., "that may shed light on the assassination"). In adopting and eventually applying a "reasonably related" standard, the Review Board does not seek to endorse or reject any particular theory of the assassination of President Kennedy, although such theories may inform the Review Board's search for records reasonably related to the assassination and investigations into it. The Review Board believes that § 1400.1(a) as now worded advances that effort and will promote consistent broad interpretation and implementation of the JFK Act.

Comment: The proposed language of § 1400.1(a) is too broad and open-ended. A more specific nexus to the assassination of President Kennedy should be required.

Response: As its text and legislative history make clear, the

JFK Act contemplates that the Review Board extend its search for relevant records beyond what has been compiled or reviewed by previous investigations. It is inevitable, therefore, that the Review Board must exercise judgment in determining whether such records constitute "assassination records." The Review Board regards its "reasonably related" standard as sufficient to ensure that agencies are not overburdened with identifying and reviewing records that, if added to the JFK Assassination Records Collection, would not advance the purposes of the JFK Act.

Comment: § 1400.1 should specifically include as assassination records any records pertaining to particularly identified individuals, organizations, events, etc.

Response: The Review Board determined that, in almost every case, the types of records commentators sought to add were already adequately covered by § 1400.1 as proposed. Accordingly, the

Review Board declined to include records or record groups at the level of specificity urged by these commentators because doing so might limit the scope of the interpretive regulations as applied initially by other agencies, or otherwise might prove duplicative or confusing. However, the Review Board welcomes and encourages suggestions from the public as to specific records or record groups that may constitute assassination records, and intends to follow up on such leads, including those provided in the written comments to the proposed interpretive regulations.

Comment: § 1400.2(a) is vague and overly broad in describing the scope of additional records and information.

Response: The Review Board has added language to clarify that the purpose of requesting additional records and information under § 1400.2(a) is to identify, evaluate or interpret assassination records, including assassination records that may not initially have

been identified by an agency. The Review Board also has added language to indicate that it intends to implement this section through written requests signed by its Executive Director. The Review Board contemplates that, with regard to such requests, its staff will work closely with entities to whom such requests are addressed to implement the JFK Act effectively and efficiently.

Comment: The scope of additional records and information should specifically include records or information that:

- describe agencies' methods of searching for records;
- describe reclassification, transfer, destruction, or other

disposition of records; or

-- do not constitute assassination records, but have the potential to enhance, enrich, and broaden the historical record of the assassination.

Response: To the extent that, in the estimation of the Review

Board, specifically including records and information of the types described would assist the Review Board in meeting its responsibilities under the JFK Act, the Review Board has adopted the suggested language.

Comment: The scope of "assassination records" under § 1400.1 and "additional records and information" should not extend to state and local government or private records that are not in the possession of the federal government.

Response: The Review Board considered such comments carefully, but concluded that the terms of the JFK Act preclude the narrower reading of the Review Board's responsibilities urged by such comments. § 1400.6 allows the Review Board, in its discretion, to accept copies in lieu of originals. The Review Board believes that this flexibility addresses the concerns of some commentators about the removal of original records already housed, for example, in state or

local archives.

Comment: § 1400.3 should include as sources of assassination records and additional records and information individuals and corporations who possess such material even if not obtained from sources identified in paragraphs (a) through (e) thereof, and should specifically include individuals and corporations who contracted to provide goods or services to the government.

Response: The Review Board has added paragraph (f) to this section in response to these comments. The Review Board has concluded that, in view of paragraph (f), specifically identifying government contractors or other private persons would be unnecessary and redundant.

Comment: § 1400.4 should not include artifacts among the types of materials included in the term "record." Regarding artifacts as "records" would be contrary to NARA's accustomed practice and

the usage of the term "records" in other areas of federal records law, and would result in substantial practical difficulties.

Response: The Review Board has carefully considered NARA's objections to the inclusion of artifacts as "records," but has concluded that this inclusion is necessary to achieve the purposes of the JFK Act.

The Review Board noted that artifacts which became exhibits to the proceedings of the Warren Commission have long been in the custody of NARA, and determined that certainly these artifacts should remain in the JFK Assassination Records Collection. The Review Board further believes that the unique issues of public trust and credibility of government processes that prompted enactment of the JFK Act requires that artifacts be included within the JFK Assassination Records Collection. The strong support that commenting members of the public gave to this inclusion reinforces this conclusion. The Review Board included in its proposed regulations and retained in §

1400.7 of the final interpretive regulations language intended to address NARA's concerns about potential copying requirements and preservation issues unique to artifacts.

Comment: § 1400.5 should be modified to allow agencies to withhold from the JFK Assassination Records Collection material that is not related to the assassination of President Kennedy, even though it appears in a record that contains other material that is related to the assassination of President Kennedy.

Response: It remains the intent of this section to make clear to agencies that, as a rule, entire records, and not parts thereof, are to become part of the JFK Assassination Records Collection. The purpose of requiring that records be produced in their entirety is to ensure that the context and integrity of the records be preserved. Only in rare instances will the Review Board assent to withholding particular information within an assassination record on the ground

that such information is not relevant to the assassination. § 1400.5 has been modified to clarify that, although the Review Board may allow this practice in extraordinary circumstances, this determination is within the sole discretion of the Review Board.

Comment: The discussion of originals and copies in § 1400.6 is, in various respects, unclear and confusing.

Response: The Review Board made extensive changes to this section to address these concerns and to achieve greater internal consistency. The Review Board's intent in this section is to express its strong preference for including original records in the JFK Assassination Records Collection, but also its understanding that, for a variety of reasons, there may be situations where a copy instead of the original of an assassination record may be more appropriate for inclusion in the Collection.

Comment: § 1400.6 should be clarified as to whether "record

copies" of federal agency records may be included in the JFK Assassination Records Collection.

Response: The Review Board has modified § 1400.6(a)(1) to clarify that the Review Board may determine that record copies may be included in the Collection.

Comment: The Catalog of Assassination Records (COAR) described in § 1400.8 should consist of, or be replaced by, the database and finding aids prepared by the federal agencies in possession of assassination records.

Response: This and other comments received regarding the proposed § 1400.8 indicated some confusion as to the intent and operation of the mechanism established in this section. For this reason, the Review Board decided to replace the term "Catalog of Assassination Records" with the term "Notice of Assassination Record Determination" (NARD), and to redraft this section to clarify the

Review Board's intent to use the NARD mechanism simply to document the Review Board's ongoing determinations that, in addition to records explicitly enumerated in the JFK Act as assassination records (e.g., records reviewed by the HSCA) or identified by federal agencies in their own searches, certain other records also are assassination records to be included in the JFK Assassination Records Collection.

Section by Section Analysis

Scope of assassination record

The Review Board received many comments on the text of section 1400.1, some technical in nature and some more substantive.

The final interpretive regulations incorporate suggested technical changes, including revision of this section's title to make it more precise and edits for clarification.

Many comments focused on the wording of subparagraph (a).

Of particular concern to many was the portion of subparagraph (a) that provides that an "assassination record" includes records "that may have led to the assassination." Comments from both government agencies and private researchers suggested alternative language, some because they read the proposed regulation's scope as too narrow and others because they construe the language as overly broad. There was consensus among those submitting comments, however, that the phrase "reasonably related to" is an acceptable and appropriate alternative to the "may have led to" language that appeared in the proposed interpretive regulations.

The Review Board agrees and adopts this change. In doing so, the Review Board seeks to identify and preserve records not to support or refute any particular theory of the assassination of President Kennedy, although such theories may inform the Review Board's search for records reasonably related to the assassination and

investigations into it. The Review Board believes that subparagraph (a) as now worded advances that effort and will promote consistent broad interpretation and implementation of the JFK Act.

Many comments suggested that the identification of specific individuals, events, organizations, or groups of records be added to this section. The Review Board considered these suggestions but determined that the types of records commenters sought to add were already adequately covered by the section's scope as proposed. The Review Board has received and continues to receive many suggestions from researchers and the general public on records and record groups that they believe should be considered for inclusion in the JFK Assassination Records Collection. The Review Board welcomes and encourages this assistance with its work and intends to follow up on such leads, including those provided in the written comments to the proposed interpretive regulations.

However, the Review Board determined that including records or record groups at the level of specificity urged by some commenters in these interpretive regulations, which are geared to providing general guidance on the scope of the JFK Act's key terms, potentially could limit the scope of the interpretive regulations as applied, might prove confusing, and would be duplicative. As discussed in the analysis of §1400.8 below, the Review Board further concluded that the mechanism established in that section will serve to notify agencies and the public of particular records identified by the Review Board as assassination records. The Review Board intends, in implementing the JFK Act, to take into account and follow up on suggestions from the public and to work closely with agencies to clarify whether particular records or record groups are assassination records.

Scope of additional records and information

The title of section 1400.2 was revised to conform to the new title of section 1400.1. Additional editing changes were made for clarity. A new subpart (6) was added to subparagraph (e) and a new subparagraph (f) was added after consideration of comments that noted the potential exclusion of certain categories from the scope of this section in the proposed interpretive regulations.

This section is intended to be used by the Review Board to

obtain access to a wide variety of materials, classified and unclassified, which may not fall into the definition of "assassination record" but which will lead to the identification of assassination records. Some comments expressed concern as to this section's broad scope. The Review Board has added language in the final interpretive regulations to clarify that the purpose of this section is to identify, evaluate or interpret assassination records, including assassination records that may not initially have been identified by an agency. The Review Board also has added language to indicate that it intends to implement this section through requests made in writing. These written requests will be signed by the Review Board's executive director. The Review Board contemplates that in implementing this section its staff will work closely with entities to whom such requests are addressed to promote the JFK Act's effective and efficient implementation.

Sources of assassination records and additional records and information

A new subparagraph (new subparagraph (g)) was added to section 1400.3 after consideration of comments noting the potential exclusion of records created by individuals or corporations or obtained from sources other than those already identified in the previous subparagraphs. Other comments suggesting the inclusion of additional specific sources were considered but not included in the final version because they were determined to replicate language already in this section.

Types of materials included in scope of assassination record and additional records and information

The National Archives and Records Administration provided the Review Board with oral testimony and written comments objecting to the inclusion of artifacts in section 1400.4. Other comments

received strongly supported the inclusion of artifacts within the scope of the term assassination record. The Review Board carefully considered NARA's comments as contained in its written submission and as presented in oral testimony by NARA representatives at a public hearing of the Review Board held on December 14, 1994. However, the Review Board concluded that artifacts should remain in this section of the final interpretive regulations without change from the proposed version.

Artifacts that were exhibits in the Warren Commission's deliberations are already housed at NARA. The Review Board believes that the unique nature of the issues of public trust and credibility of government processes that prompted enactment of the JFK Act require that artifacts be included within the scope of items to be included in the JFK Assassination Records Collection. The Review Board included in its proposed regulations and retained in § 1400.7

of the final interpretive regulations language intended to address NARA's concerns about potential copying requirements and preservation issues unique to artifacts. NARA's comments on the proposed interpretive regulations noted its approval of the Review Board's inclusion of that language in the proposed interpretive regulations and that language has been retained in the final version.

Requirement that assassination records be released in their entirety

Section 1400.5 is intended to provide guidance to agencies that they are to produce records in their entirety for the Review Board and, except in rare instances and with the assent of the Review Board, withhold information in records only under the postponement provisions of Section 6 of the JFK Act. The purpose of requiring that records be produced in their entirety is to ensure that the context and integrity of the records be preserved and to clarify that the Review Board has the sole discretion to determine what records or

portions thereof are or are not assassination records.

In revising the proposed interpretive regulations the Review Board considered concerns expressed by some federal agencies about the scope of this provision. The Review Board recognizes that there may be records responsive to the provisions of the JFK Act that are lengthy but that contain only a small amount of material related to the assassination. In such cases, if an agency reasonably believes that review of the entire record for postponement determinations would not further the disclosure purposes of the JFK Act, the agency may request that the Review Board allow the agency to process under the JFK Act only the portion that relates to the assassination, including material sufficient to provide context for the postponed portions.

However, in such cases the Review Board shall retain sole discretion to determine whether review for inclusion in the JFK Assassination Records Collection of a portion of the record will fulfill

the purposes the JFK Act or whether the entire record must be processed under the postponement provisions of that statute.

Originals and copies

Many comments were received on section 1400.6 requesting that portions be clarified to better explain the Review Board's intent. Extensive changes were made to this section in response to these comments. Other revisions also were made for internal consistency. The Review Board's intent in this section is to express its strong preference for including original records in the JFK Assassination Records Collection but also its understanding that, for a variety of reasons, there may be situations where a copy instead of the original of an assassination record may be more appropriate for inclusion in the collection.

The Review Board incorporated in the final interpretive regulations language that is responsive to comments made by NARA

requesting clarification that "record copies" of federal agency records may be included in the JFK Assassination Records Collection. In response to other comments from NARA, revisions were also made to take into consideration the important issue of preservation requirements, especially given that many of the records at issue are over three decades old. In this respect, the Review Board sought to treat records in various media in a means appropriate to the unique characteristics of each medium.

Additional guidance

The Review Board received a variety of comments on section 1400.7 of the proposed interpretive regulations, which is intended to provide additional guidance for implementation of the JFK Act. The Review Board considered all of the comments and, except where the comments appeared to duplicate what was covered in this section already or was addressed elsewhere, revised this section to reflect

many of the suggested changes and to add clarity. For example, subparagraph (d) as it appeared in the proposed interpretive regulations has been broken into three subparagraphs -- new subparagraphs (d), (e) and (f) -- to avoid potential confusion and to add clarity. The intent of these subparagraphs is to make clear that all files on an individual, event, organization or activity are to be made available to the Review Board regardless of the labels on the files, where the records may be found, or whether they reflect the individual's, event's, organization's, or activity's true name or identifier.

As described above in the analysis for §1400.4, subparagraphs (b) and (c) of §1400.7 were included in the proposed interpretive regulations and retained in the final interpretive regulations in order to address concerns expressed by NARA regarding the inclusion of artifacts in the scope of the materials deemed "assassination records."

By including these subparagraphs, the Review Board wishes to make it clear that it believes the JFK Act establishes unique standards as to the records to be included in the JFK Assassination Records Collection.

By including artifacts as a type of "assassination record," the Review Board seeks to fulfill its mandate from Congress to assemble all materials reasonably related to the assassination in the JFK Assassination Records Collection. It is not intended that the inclusion here of artifacts for purposes of implementing the JFK Act should be construed to affect the implementation of other records laws. Subparagraph (c) is intended to ensure that all artifacts in the collection are preserved for posterity and that public access be provided to those artifacts in a manner consistent with their preservation. The Review Board encourages NARA to set out in writing the terms and conditions under which access to such materials may be allowed.

Implementing the JFK Act -- Notice of Assassination Records

Determination

Comments received on section 1400.8 as it appeared in the proposed interpretive regulations indicated some confusion as to the intent and operation of the mechanism established in this section. For this reason, the Review Board decided to replace the term "Catalog of Assassination Records" that appeared in the proposed interpretive regulations and to redraft this section to clarify the Review Board's intent. In the final interpretive regulations, the Review Board substitutes the term "Notice of Assassination Record Determination (NARD)" for prior references to a "catalog." The NARD is not intended to serve as an inventory of all records in the JFK Assassination Records Collection; records identified by federal agencies in their own reviews of records conducted under the JFK Act will not, for example, be listed. Nor is the NARD intended to replace

the database and finding aids that have been compiled by agencies at NARA's direction as required by the Congress in the JFK Act.

Rather, the NARD is intended to document the Review Board's ongoing determinations that, in addition to records explicitly enumerated in the JFK Act as assassination records (e.g., records reviewed by the HSCA) or identified by federal agencies in searches they have undertaken or may conduct in the future pursuant to the JFK Act, certain other records also are assassination records and are to be included in the JFK Assassination Records Collection.

Paperwork Reduction Act Statement

The regulation is not subject to the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.) because it does not contain any information collection requirements within the meaning of 44 U.S.C. § 3502(4).

Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. § 601-612), the Board certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities and that, therefore, a regulatory flexibility analysis need not be prepared, 5 U.S.C. § 605(b). The proposed rule would not impose any obligations, including any obligations on “small entities,” as set forth in 5 U.S.C. § 601(3) of the Regulatory Flexibility Act, or within the definition of “small business,” as found in 15 U.S.C. 632, or within the Small Business Size Standards in regulations issued by the Small Business Administration and codified in 13 CFR part 121. Whatever economic impacts may result to small entities were already considered by Congress in enacting and amending the FOIA or by OMB in Promulgating the Uniform Fee Schedules and Guidelines.

List of Subjects in 36 CFR Part 1400

Administrative practice and procedure, Archives and records.

Accordingly, the Review Board hereby proposes to establish a new chapter XIV in title 36 of the Code of Federal Regulations to read as follows:

CHAPTER XIV -- ASSASSINATION RECORDS REVIEW BOARD

Part 1400 -- GUIDANCE FOR INTERPRETATION AND

IMPLEMENTATION OF THE PRESIDENT JOHN F. KENNEDY

ASSASSINATION RECORDS COLLECTION ACT OF 1992 (JFK Act)

Sec.

1400.1 Scope of assassination record.

1400.2 Scope of additional records and information.

1400.3 Sources of assassination records and additional records and information.

1400.4 Types of materials included in scope of assassination record and additional records and information.

1400.5 Requirement that assassination records be released in their

entirety.

1400.6 Originals and copies.

1400.7 Additional guidance.

1400.8 Implementing the JFK Act -- Notice of Assassination

Record Designation.

Authority: 44 U.S.C. 2107 note.

§ 1400.1 Scope of assassination record.

(a) An assassination record includes, but is not limited to, all records,

public and private, regardless of how labeled or identified, that document, describe, report on, analyze, or interpret activities,

persons, or events reasonably related to the assassination of President

John F. Kennedy and investigations of or inquiries into the

assassination.

(b) An assassination record further includes, without limitation:

- (1) All records as defined in Sec. 3(2) of the JFK Act;
- (2) All records collected by or segregated by all federal, state, and local government agencies in conjunction with any investigation or analysis of or inquiry into the assassination of President Kennedy (for example, any intra-agency investigation or analysis of or inquiry into the assassination; any inter-agency communication regarding the assassination; any request by the House Select Committee on Assassinations to collect documents and other materials; or any inter- or intra-agency collection or segregation of documents and other materials);
- (3) Other records or groups of records listed in the Notice of Assassination Record Designation, as described in §1400.8 of this chapter.

§1400.2 Scope of additional records and information.

The term additional records and information includes:

(a) All documents used by government offices and agencies during

their

declassification review of assassination records as well as all other

documents, indices, and other material (including but not limited to

those that disclose cryptonyms, code names, or other identifiers that

appear in assassination records) that the Review Board has a

reasonable basis to believe may constitute an assassination record or

would assist in the identification, evaluation or interpretation of an

assassination record. The Review Board will identify in writing those

records and other materials it intends to seek under this section.

(b) All training manuals, instructional materials, and guidelines

created or

used by the agencies in furtherance of their review of assassination

records.

(c) All records, lists, and documents describing the procedure by which the

agencies identified or selected assassination records for review.

(d) Organizational charts of government agencies.

(e) Records necessary and sufficient to describe the agency's:

(1) Records policies and schedules;

(2) Filing systems and organization;

(3) Storage facilities and locations;

(4) Indexing symbols, marks, codes, instructions, guidelines,

methods and procedures;

(5) Search methods and procedures used in the performance of

the agencies' duties under the JFK Act; and

(6) Reclassification to a higher level, transfer, destruction, or other

information (e.g., theft) regarding the status of assassination records.

(f) Any other record that does not fall within the scope of

assassination record as described in §1400.1, but which has the potential to enhance, enrich, and broaden the historical record of the assassination.

§1400.3 Sources of assassination records and additional records and information.

Assassination records and additional records and information may be located at, or under the control of, without limitation:

(a) Agencies, offices, and entities of the executive, legislative, and judicial

branches of the federal government;

(b) Agencies, offices, and entities of the executive, legislative, and judicial

branches of state and local governments;

(c) Record repositories and archives of federal, state, and local governments,

including presidential libraries;

*(d) Record repositories and archives of universities, libraries,
historical*

societies, and other similar organizations;

*(e) Individuals who possess such records by virtue of service with a
government agency, office, or entity;*

*(f) Persons, including individuals and corporations, who have
obtained such*

*records from sources identified in subparagraphs (a) through (e) of
this section;*

*(g) Persons, including individuals or corporations, who have
themselves created or have obtained such records from sources other
than those identified in subparagraphs (a) through (e) of this section;*

*(h) Federal, state, and local courts where such records are being
held under*

seal; or

(i) Foreign governments.

§1400.4 Types of materials included in scope of assassination record

and

additional records and information.

The term record in assassination record and additional records and information includes, for purposes of interpreting and implementing the JFK Act:

(a) papers, maps, and other documentary material;

(b) photographs;

(c) motion pictures;

(d) sound and video recordings;

(e) machine readable information in any form; and

(f) artifacts.

§1400.5 Requirement that assassination records be released in their

entirety.

An assassination record shall be released in its entirety except for portions specifically postponed pursuant to the grounds for postponement of public disclosure of records established in Sec. 6 of the JFK Act, and no portion of any assassination record shall be withheld from public disclosure solely on grounds of non-relevance unless, in the Review Board's sole discretion, release of part of a record is sufficient to comply with the intent and purposes of the JFK Act.

§1400.6 Originals and copies.

(a) For purposes of determining whether originals or copies of assassination records will be made part of the President John F. Kennedy Assassination Records Collection (the JFK Assassination Records Collection) established under the JFK Act, the following shall apply:

(1) In the case of papers, maps, and other documentary materials, the

Review Board may determine that record copies of government records, either the signed original, original production or a reproduction that has been treated as the official record maintained to chronicle government functions or activities, may be placed in the JFK Assassination Records Collection;

(2) In the case of other papers, maps, and other documentary material, the

Review Board may determine that a true and accurate copy of a record in lieu of the original may be placed in the JFK Assassination Records Collection;

(3) In the case of photographs, the original negative, whenever available (otherwise, the earliest generation print that is a true and accurate copy) may be placed in the JFK Assassination Records

Collection;

(4) In the case of motion pictures, the camera original, whenever available (otherwise, the earliest generation print that is a true and accurate copy), may be placed in the JFK Assassination Records

Collection;

(5) In the case of sound and video recordings, the original recording, whenever available (otherwise, the earliest generation copy that is a true and accurate copy), may be placed in the JFK Assassination

Records Collection;

(6) In the case of machine-readable information, a true and accurate copy of the original (duplicating all information contained in the original and in a format that permits retrieval of the information) may be placed in the JFK Assassination Records Collection; and

(7) In the case of artifacts, the original objects themselves may be placed in the JFK Assassination Records Collection.

(b) To the extent records from foreign governments are included in the JFK

Assassination Records Collection, copies of the original records shall be sufficient for inclusion in the collection.

(c) In cases where a copy, as defined in paragraph (a) of this section above, is authorized by the Review Board to be included in the JFK Assassination Records Collection, the Review Board may require that a copy be certified if, in its discretion, it determines a certification to be necessary to ensure the integrity of the JFK Assassination Records Collection. In cases where an original, as defined in paragraph (a) of this section, is required for inclusion in the JFK Assassination Records Collection the Review Board may, at its discretion, accept the best available copy. In such cases that records

included in the collection, whether originals or copies, contain illegible portions, such records shall have attached thereto a certified transcription of the illegible language to the extent practicable.

(d) For purposes of implementing the JFK Act, the term copy means a true and accurate photocopy duplication by a means appropriate to the medium of the original record that preserves and displays the integrity of the record and the information contained in it.

(e) Nothing in this section shall be interpreted to suggest that additional copies of any assassination records contained in the JFK Assassination Records Collection are not also assassination records that, at the Review Board's discretion, may also be placed in the JFK Assassination Records Collection.

(f) Nothing in this section shall be interpreted to prevent or to preclude copies of any electronic assassination records from being

reformatted electronically in order to conform to different hardware and/or software requirements of audiovisual or machine readable formats if such is the professional judgment of the National Archives and Records Administration.

§1400.7 Additional guidance.

(a) A government agency, office, or entity includes, for purposes of interpreting and implementing the JFK Act, all current, past, and former departments, agencies, offices, divisions, foreign offices, bureaus, and deliberative bodies of any federal, state, or local government and includes all inter- or intra-agency working groups, committees, and meetings that possess or created records relating to the assassination of President John F. Kennedy.

(b) The inclusion of artifacts in the scope of the term assassination record is understood to apply solely to the JFK Assassination Records Collection and to implement fully the terms of the JFK Act and has

no direct or indirect bearing on the interpretation or implementation of any other statute or regulation.

(c) Whenever artifacts are included in the JFK Assassination Records Collection, it shall be sufficient to comply with the JFK Act if the public is provided access to photographs, drawings, or similar materials depicting the artifacts. Additional display of or examination by the public of artifacts in the JFK Assassination Records Collection shall occur under the terms and conditions established by the National Archives and Records Administration to ensure their preservation and protection for posterity.

(d) The terms and, or, any, all, and the plural and singular forms of nouns shall be understood in their broadest and most inclusive sense and shall not be understood to be terms of limitation.

(e) Unless the Review Board in its sole discretion directs otherwise, records that are identified with respect to a particular person shall

include all records relating to that person that use or reflect their true name or any other name, pseudonym, codeword, symbol number, cryptonym or alias used to identify that person.

(f) Unless the Review Board in its sole discretion directs otherwise, records that are identified by the Review Board with respect to a particular operation or program shall include all records pertaining to that program by any other name, pseudonym, codeword, symbol, number or cryptonym.

§1400.8 Implementing the JFK Act -- Notice of Assassination

Record Designation.

(a) A Notice of Assassination Record Designation shall be the mechanism for the Review Board to announce publicly its determination that a record or group of records meets the definition of assassination records.

(b) Notice of all designations will be published in the Federal

Register within

30 days of the decision to designate such records as assassination records.

In determining that a record or group of records meets the definition of

assassination records, the Review Board must determine that the record or group of records will more likely than not enhance, enrich, and broaden the historical record of the assassination.

Dated: June __, 1995

David G. Marwell
Executive Director
Review Board