

I.I. Introduction to the Assassination Records Review Board

The Assassination Records Review Board is an independent federal agency that was created to oversee the identification and release of records related to the assassination of President John F. Kennedy.

The Review Board was established by the President John F. Kennedy Assassination Records Collection Act of 1992 (PL 102-526, the "Act"), which received broad bipartisan support and was signed into law by President Bush. The five members of the Board were appointed by President Clinton, confirmed by the U. S. Senate, and sworn in on April 11, 1994. The act gives the Assassination Records Review Board the mandate and the authority to identify, secure, and make available all records related to President Kennedy's assassination.

The Board has until October 1, 1996 to fulfill its mandate, with an additional year at the Board's discretion to complete its responsibilities.

Background and Need for the Act

On November 22, 1963, President John F. Kennedy was assassinated while traveling in a motorcade in Dallas, Texas. His tragic death and the subsequent murder of Lee Harvey Oswald, the President's alleged assassin, led to the creation of the Warren Commission seven days after the assassination.

Continuing public suspicion and speculation that all of the facts surrounding the assassination had not come to light led the House of Representatives to establish the House Select Committee on Assassinations (HSCA) in 1976 to reopen the investigation.

In addition to these two major federal investigations devoted to investigating the assassination of President Kennedy, four other federal investigatory bodies have dealt with the assassination to some degree. President Ford created The Rockefeller Commission in 1975 to investigate Central Intelligence Agency activities within the United States. Part of the Commission's efforts related to the Kennedy assassination. Also in 1975, Congress created the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the Church Committee) and the House Select Committee on Intelligence (the Pike Committee). Some of the work of these committees was related to the assassination.

These official investigations, however, did not satisfactorily answer the questions raised by the public about the assassination of President Kennedy. In response to continued, heated speculation,

Congress passed the President John F. Kennedy Assassination Records Collection Act of 1992, which mandated the creation of the Assassination Records Review Board. The provisions of the Act were designed as an alternative to

insufficient past efforts to clarify widely held troubling questions about the assassination of President Kennedy and the actions of U. S. Government institutions and personnel, and to address inadequate existing mechanisms for the public release of records.

The Act states that “the Freedom of Information Act, as implemented by the executive branch, has *prevented* the timely public disclosure of records relating to the assassination ...” [emphasis added]. In addition, Executive Order No. 12958 on “Classified National Security Information” specifically excludes from the automatic declassification provision matters such as intelligence sources and methods and the identification of informants, which form the core of the Kennedy assassination records which remain classified. The Senate Committee on Governmental Affairs concluded that the creation of a Review Board was required to ensure an “independent and enforceable mechanism for disclosure under uniform standards for review.”

Key Provisions of the Act

The President John F. Kennedy Assassination Records Collection Act states: “All Government records concerning the assassination of President John F. Kennedy should carry a presumption of immediate disclosure.” Furthermore, the Act mandates that all assassination-related materials be housed in a single collection in the National Archives and Records Administration (NARA).

The Act defines five categories of information for which disclosure may be postponed, including national security, intelligence gathering, and privacy. The Act anticipates that there may still be valid reasons for postponing the release of assassination records, but emphasizes that such postponements should occur only in rare cases and only when the harm of the release outweighs the public interest in the disclosure of the information.

The Act requires all federal agencies to make an initial assessment of whether they possess records relating to the assassination. The agencies themselves conduct an initial review to determine whether their records may be disclosed immediately or whether disclosure should be postponed. All records deemed by an agency as not suitable for immediate release are subject to evaluation by the Review Board. The Review Board evaluates all agency decisions to postpone the release of records. Once the Board completes its review of an agency's recommendation for postponement, all records, including those that have a postponed release date, are transferred to NARA. The Act requires that all assassination records must be opened by 2017, with the exception of records certified for continued postponement by the President.

Authority of the Assassination Records Review Board

According to the Senate report on the President John F. Kennedy Assassination Records Collection Act of 1992, "the underlying principles guiding the legislation are independence, public confidence, efficiency and cost effectiveness." To achieve these broad objectives, the Act gave the Board specific powers, namely to:

- direct government offices to provide identification aids and organize assassination records;
- direct government offices to transmit assassination records to the National Archives;
- obtain assassination records that have been identified and organized by a Government office;
- direct government offices to investigate the facts, additional information, records, or testimony from individuals which the Board has reason to believe is required;
- request the Attorney General to subpoena private persons to compel testimony, records, and other relevant information;
- require any government office to account in writing for the destruction of any records relating to the assassination of President Kennedy;
- receive information from the public regarding the identification and public disclosure of assassination records; and
- hold hearings, administer oaths, and subpoena witnesses and documents.

The Review Board Members

The Review Board consists of five members:

The Honorable John R. Tunheim, Chair; United States District Court Judge for the District of Minnesota

Dr. Henry F. Graff; Professor Emeritus of History at Columbia University

Dr. Kermit L. Hall; Dean, College of Humanities, and Professor of History and Law at The Ohio State University

Dr. William L. Joyce; Associate University Librarian for Rare Books and Special Collections at Princeton University

Dr. Anna K. Nelson; Adjunct Professor of History at The American University.

Review Board Staff

The Review Board staff is nearly at its allotted ceiling of 30 full-time employees. In addition to the management and administrative staff, the Board employs analysts and investigators. Analysts perform the challenging task of reviewing records and making recommendations to the Board. Organized in teams, they have established good working relationships with the agencies for which they are responsible. Team members have become subject matter experts and evaluate the significance of individual records and respond to questions raised by the Board. In addition, analysts are responsible for determining whether additional records should be requested from agencies. Investigators, who are primarily responsible for locating non-federal records, have been successful in identifying and locating significant collections of records in private hands and arranging for their donation to the National Archives.

Start-up

During the first six months of FY1995, the Board was engaged in creating its infrastructure -- building a new federal agency from the ground up. Three aspects of our enabling legislation complicated this initial phase and necessitated a slower, more gradual start-up:

1. *The JFK Act prohibits the hiring of current federal employees.*

We were prohibited from arranging details or transfers of qualified government employees. This provision of the act significantly reduced the universe of qualified applicants.

2. *The JFK Act requires all employees to have security clearances.*

The clearance process is extremely unpredictable and time consuming. Consequently, we did not have a critical mass of cleared staff until May 1995.

3. *The JFK Act requires that the Board offices be suitable for the storage of large quantities of security-classified documents.*

This requirement limited the selection of office space for the Board and required special construction features. As a result, the Board was unable to occupy its office space until March 1995, and consequently could not accommodate more than a skeleton staff.

As a result of the delays in staffing and construction, the Board was not in a position to begin the actual review of documents until June 1995. Even though the Board could not engage in the full-scale review of assassination records during most of FY1995, it devoted its time and resources to establishing the infrastructure and procedures necessary for a consistent and comprehensive review process.

Development of Computer System

The Board spent considerable time and energy in developing a computer system that allows it to track the thousands of documents to be reviewed along with the tens of thousands of redactions, record the actions of the Board, and produce the many and varied reports required by the Act.

Critical Mass of Knowledge: Getting Up to Speed

The ability to make intelligent and responsible decisions about the release or postponement of assassination records requires substantial knowledge not only about the assassination of President Kennedy and the concerns of those who study it, but also about the responsibilities and concerns of the agencies who own the records. Some of this knowledge is highly technical in nature and involves issues that are extremely sensitive. Each member of the staff, prior to getting clearance, engaged in a program of reading and study focused on the assassination and the relevant agencies. In addition, the staff arranged a series of substantive briefings for the Board conducted by other federal agencies.

II. Financial Report

The expenses for all official activities and requirements of the Review Board and its personnel are detailed below. The slow start-up resulted in significant savings in FY 1995. These savings are supplementing the fiscal year 1996 appropriation. The projected operating costs for fiscal year 1996 exceed the Board's appropriation by nearly \$300,000.

**ASSASSINATION RECORDS REVIEW BOARD
FY95 SPENDING**

<i>Object Class</i>	<i>Description</i>	<i>SPENDING</i>
11	Personnel Compensation	828,114
12	Personnel Benefits	178,046
21/	Travel & Transportation	
110	Board Travel	43,814
111	Staff Travel	15,370
113	Invitational Travel	3,200
117	Meeting Expenses	6,050
	SUBTOTAL	68,434
23/	Rent, Communications, Utilities	
370	Rent	154,904
380	Local Telephone	7,520
381	Long Distance	2,794
383	Postage	5,101
	SUBTOTAL	170,319
24/	Printing & Reproduction	
410	GSA/GPO Printing	4,824
413	Photocopying	2,646
451	Federal Register	14,125
	SUBTOTAL	21,595
25/	Other Services	
516	Delivery, Phone Wiring & Other Services	26,908

535	GSA Support	35,600
536	Payment to Other Govt Agencies (Includes security clearance background investigations)	97,014
SUBTOTAL		159,522
26/	Supplies & Materials	
611	Supplies	17,435
612	Books/Subscriptions	2,488
SUBTOTAL		19,921
31	Equipment	135,140
TOTAL		1,581,091

III. The Review of Assassination Records

The Review Board dealt with major issues relating to thousands of records in the early part of fiscal year 1995. The decisions it made with regard to issues such as the release of information that might reveal intelligence sources and methods or the names of informants have precedential value for thousands of other assassination records which remain to be reviewed. The early investment of time to debate and carefully consider these important issues, before arriving at decisions and voting, has resulted in the progressive increase in the number of records reviewed at each meeting. We expect this trend to continue in fiscal year 1996.

Review Board Meetings and Public Hearings

The U. S. Congress made clear, with the passage of the President John F. Kennedy Assassination Records Collection Act of 1992, that it wanted to “ensure that there is an adequate opportunity for public input and participation.” In order to comply with the intent of the law, the Review Board, after being sworn in and upon receiving its FY1995 funding, immediately conducted a public hearing and has followed a policy of being open to the public during the past year. Although the very nature of the Board’s work (i.e., the review of classified documents), requires many closed meetings, the public hearings and opening of at least part of some Board meetings have allowed interested members of the public to observe and participate in the Board’s work.

The Board has conducted several meetings, both open and closed, for a range of purposes, including start-up discussion and decision making, promulgating definition guidance for “assassination records,” briefings with federal agencies, and the review of classified records. In addition, the Review Board held public hearings in Washington, DC, Dallas, Boston, and New Orleans. The Review Board meetings and public hearings conducted during FY1995 will be discussed in separate sections below.

1. Board Meetings

The Review Board has conducted 14 meetings in Washington, DC, 12 of which took place during fiscal year 1995. The early meetings involved necessary start-up discussions and briefings with federal agencies regarding assassination records held by these agencies. Since June 1995, as will be discussed below, the Board has been engaged in reviewing documents.

- a. April 12, 1994
National Archives Building
Washington, DC

This was the first meeting conducted by the Review Board following the members being sworn in on April 11. This first meeting, attended by all of the Board members, was an organizational meeting at which the first order of business conducted was the election of Board Member John R. Tunheim as Chair. Other topics on the agenda included: the transition budget, the FY1995 budget request, the timetable and process for appointing an Executive Director, a resolution seeking an extension of the Board's time period, and plans and timetable for the Board's first year. A representative of the National Archives also gave a presentation on the status of the JFK Collection housed at the College Park, Maryland facility.

This first meeting of the Review Board was anxiously awaited by historians and researchers, approximately 100 of whom attended.

- b. July 12, 1994
National Archives Building
Washington, DC

The Review Board conducted its second organizational meeting with all of the members present to further discuss organizational, staffing, funding, and document review issues. Dr. Hall gave a report on the search for an Executive Director, which was followed by a motion to offer the position to Dr. David G. Marwell. The motion carried unanimously, and it was announced that he would begin work in August. The members also voted unanimously to extend the term of the Review Board until October 1995, pending passage of technical amendments before the Congress to further extend the Board's term. Members discussed the plans for the Board for the remainder of FY1994. Other matters considered by the Board included a report on obtaining office space and a review of agencies' progress in reviewing records.

The Board received an update from a representative of the National Archives, who explained what additions had been made to the JFK Collection since the Board's initial meeting in April.

The Chair reserved time at the meeting for members of the public to be heard. Three members of the public, Dr. John Newman; James Lesar, Esq.; and Mark Zaid, Esq., each took the opportunity allowed by the Chair to discuss issues related to the JFK Collection.

- c. December 13/14, 1994 (Open/Closed)

Review Board Offices
Washington, DC

The Board met for two days of private and public meetings. On December 13, in private meetings, the Board discussed the Dallas public hearing and the extent of the follow-up on the testimony that was given. The agenda also included a discussion of 1995 planning issues (e.g., future hearings, future agency visits, meeting with the President, and an experts conference). Mr. James Hastings (National Archives and Records Administration) gave the Board and staff a briefing on issues pertaining to the JFK Collection and the Board's responsibilities relating to the records it creates. Following the briefing, the staff briefed members of the Board on personnel, progress on the preparation of records for review, and the status of the draft guidance for the definition of assassination records.

The afternoon session of the December 13 meeting concluded with briefings on government travel, ethics regulations, the Sunshine in Government Act, and press policy.

On December 14, the Review Board and staff members were briefed by several officials from the Federal Bureau of Investigation on various informant issues that relate to the collection of assassination records held by the Bureau.

The Board conducted a public meeting at its temporary offices on the afternoon of December 14. The meeting was attended by all of the Review Board members and the senior staff. Ms. Miriam Nisbet (Special Counsel to the Archivist of the United States) and Mr. Michael McReynolds (Director of the Textual Reference Division of the National Archives) testified on the Archives' opposition to including assassination-related artifacts in the definition of an "assassination record." Mr. Steven D. Tilley (JFK Liaison for the National Archives and Record Administration) gave the Board an update on recent additions to the JFK Collection.

Approximately 40 members of the public attended the open part of the Review Board's meeting.

- d. January 25, 1995 (Closed)
National Archives Building
Washington, DC

The Review Board conducted a closed meeting with an agenda that included: (a) a discussion, preparation for, and a vote on the publication in the Federal Register of the draft definition on “assassination records;” (b) a presentation by the Executive Director on the records review process; (c) a preliminary review of House Select Committee on Assassinations records and Warren Commission records; (d) a discussion of a recently decided court case, Assassination Archives and Research Center v. Department of Justice, involving the JFK Act; (e) an update on the Experts Conference, and (f) the Review Board schedule.

Later in the afternoon on January 25, the members of the Review Board and Executive Director Marwell met with FBI Director Louis Freeh at FBI headquarters.

- e. March 6/7, 1995(Closed)
Review Board Offices
Washington, DC

The Review Board received a briefing from the Executive Director on the hiring and assignment of staff members. In addition, he updated the Board members on the procedures for issuing security clearances to staff members. The Board also was advised of the schedule for the visit to the John F. Kennedy Library and the public hearing in Boston, Massachusetts.

Later in the morning, the Review Board and staff received a classified briefing from representatives of the Central Intelligence Agency.

In the afternoon meeting, General Counsel Sheryl Walter summarized the status of the public comment process regarding the proposed definition guidance for assassination records published in the Federal Register on February 8, 1995. Most of the comments submitted were from private citizens, although the FBI submitted comments and the CIA and the National Archives and Records Administration indicated their intention to do so.

The meeting concluded with a Board briefing on personal privacy issues arising under the postponement provisions of the Act. The discussion proceeded to preliminary consideration of privacy issues presented in 18 sample documents in which agencies have sought postponement of particular information under the relevant section of the Act, and comparison of these documents with six documents that, although released in full, contain similarly

sensitive information. The Review Board made no decisions on these proposed postponements, and no vote was taken.

On the morning of March 7, the Review Board received a classified briefing from representatives of the National Security Agency.

- f. March 7, 1995 (Open)
National Archives Building
Washington, DC

The Board conducted an open meeting. First on the agenda was an update from Mr. Steven Tilley (JFK Collection Liaison from the National Archives) on additions to the JFK Collection at the National Archives. The Review Board then heard additional public comment on the Board's proposed definition guidance on "assassination records."

Six witnesses testified before the Board:

William Baugh, FBI
Terry O'Connor, FBI
Mark Zaid, Esq.
James Lesar, Esq.
John Judge
Joseph Backes

Sheryl Walter, General Counsel, also gave an overview of the written public comments which had been received to date.

Following the meeting, the Board and senior staff met with the Director of the Secret Service.

- g. April 12/13 1995 (Closed)
Review Board Offices
Washington, DC

The agenda of this closed meeting included discussions of: (a) the status of the Zapruder film; (b) the Board schedule; (c) definition guidance; (d) intelligence sources and methods postponements; (e) informant postponements; (f) privacy postponements; and (g) the one-day Experts Conference scheduled for May.

- h. May 3, 1995 (Closed/Open)

Review Board Offices
Washington, DC

The Review Board met in closed session in the morning and discussed the FBI response procedure and the Board "Document Review Procedure."

In the afternoon, the Board conducted an open meeting. First on the agenda was a discussion and vote on the final definition guidance for "assassination records," based on the draft that was published in the Federal Register for notice and comment on February 8, 1995. The Board voted unanimously to approve the final definition guidance.

The Review Board also received an update on the JFK Collection at the National Archives from Ms. Mary Ronan.

- i. May 16, 1995
Review Board Offices
Washington, DC

The Review Board staff hosted an Experts Conference to assist the Board in identifying and locating records related to the assassination of President Kennedy. The outside conference participants were selected for their expertise, knowledge, experience, and diverse viewpoints.

Seven invited experts attended: Professor Robert Blakey; Dr. David Garrow; James Lesar, Esq.; Dr. Paul Hoch; Dr. John M. Newman; Mr. David S. Lifton; and Professor W. David Slawson.

Based on the discussion, suggestions, and comments from this conference, a detailed, follow-up worksheet listing more than 300 references to assassination records or categories of records to be pursued was compiled by the Review Board staff.

- j. May 17/18, 1995 (Closed)
Review Board Offices
Washington, DC

The Review Board met in closed session for two days. The agenda included the preliminary review of CIA documents as well as various administrative issues.

- k. June 6/7, 1995 (Closed)

Review Board Offices
Washington, DC

The Review Board met in closed session for two days. The primary purpose of this meeting was to review documents postponed in part or in full by federal agencies. The Review Board formally voted to release in full 16 documents from the CIA's Oswald files which contain information that the Agency had kept classified. These were the Review Board's first formal determinations to release records under the President John F. Kennedy Assassination Records Collection Act of 1992 (JFK Act). The CIA documents which the Review Board voted to release in full related principally to the opening of Lee Harvey Oswald's "201 file" and to certain issues connected with his visit to Mexico City in Fall 1963, only weeks before President Kennedy was assassinated. These documents had been publicly available, but contained many redactions.

1. July 17/18, 1995 (Closed/Open)
Review Board Offices
Washington, DC

The Review Board met in an open meeting on the morning of July 17, principally to discuss comments received on various proposed regulations.

The Review Board met in closed session for the review, discussion, and decisions on records postponed in part or in full by federal agencies. The Board voted to open in full 16 FBI documents and two CIA documents. The FBI documents related to their investigation of Oswald while he was in the Soviet Union in 1960 and 1961; the Communist Party, U.S.A. reaction to the assassination; and Jack Ruby's shooting of Oswald. The CIA documents related to Oswald's trip to Mexico City.

In addition, the Board made a determination regarding whether certain records met the definition of an assassination record. By unanimous vote, the Review Board designated all serials dated after January 1, 1960, in Sections 1-16 of the FBI Headquarters file on Sam Giancana, as "assassination records."

- m. August 2/3 1995 (Closed/Open)
Review Board Offices

Washington, DC

The Board met in closed session for the review, discussion, and decisions on records postponed in part or in full by federal agencies. The attending members voted to release 16 CIA documents in full and 21 CIA documents in part. These documents had been publicly available, but contained many redactions. For the first time, the Board sustained the CIA's position that some information relating to sensitive intelligence sources and methods should not be publicly released at this time. The Board indicated in its notification to the President that some redacted parts of the documents still need to be protected, but also noted they contain no information about the assassination of President Kennedy or about Lee Harvey Oswald. In other instances, the Board proposed substitute language that gives some relevant information in place of the redactions, while not revealing the sensitive intelligence information. The Review Board voted to release 393 of the 478 redactions that the CIA had proposed maintaining in these 37 documents.

Following the completion of the closed meeting, the Board held an open meeting. Agenda items included the review and acceptance of minutes from the July 17 open meeting, delegation of subpoena powers, and consideration of Government in Sunshine Act and FOIA regulations.

- n. August 28/29, 1995 (Closed)
Review Board Offices
Washington, DC

The Review Board met in closed session for the *review, discussion, and decisions on* records postponed in part or in full by federal agencies. The Review Board voted to release 43 CIA documents, 27 in full and 16 in part. These documents relate to Lee Harvey

Oswald's trip to Mexico City in Fall 1963, only weeks before the assassination of President Kennedy. In addition, the Board voted to release 11 FBI documents (including duplicate copies), nine in full and two in part. These FBI documents involved the Bureau's investigation of the Fair Play for Cuba Committee in 1961; the Bureau's post-assassination investigation of Michael R. Paine (the husband of Ruth Paine, with whom Marina Oswald was staying prior to the assassination); discussion of the relations of the FBI, the Warren Commission, and the Dallas District Attorney's office; and a 1967 document on reaction to the Warren Commission Report. All of the FBI and CIA documents had been available to the public, but contained many redactions.

The Board agreed with the CIA and the FBI that some information relating to sensitive intelligence sources and methods as well as informants should not be publicly released at this time. The Board voted that one entire CIA document and some redacted parts of other documents still need to be protected, but also noted they contain no information about the assassination of President Kennedy or about Lee Harvey Oswald. In other instances, the Board proposed substitute language which gives some relevant information in place of the redactions, while not revealing the sensitive intelligence information. The Board voted to release 142 of the 173 redactions in this group of documents.

- o. September 20/21, 1995 (Closed/Open)
Review Board Offices
Washington, DC

The Review Board met in closed session over the course of two days for the *review, discussion, and decisions on* records postponed in part or in full by federal agencies. The Board voted to release 61 CIA documents, 56 in full and five in part. These records related to Oswald's trip to Mexico City. In addition, the Board voted to release 10 FBI documents, one in full and nine in part. (These FBI documents were reconsidered by the Board following a previous vote to allow the FBI an additional 30 days to present additional information.)

The Board also received separate briefings in closed session from the CIA and the FBI regarding various issues connected with their respective assassination records collections.

In an afternoon open meeting, the Board discussed and voted on Privacy Act regulations and other notices for the Federal Register.

- p. October 23/24, 1995 (Open/Closed)
Review Board Offices

Washington, DC

At the open meeting on October 23, the Board set a tentative schedule for Board meetings through June 5, 1996, and heard presentations by Steven D. Tilley of the National Archives and Review Board staff members Mary McAuliffe, Phil Golrick, Jeremy Gunn, and Anne Buttimer.

The Review Board met in closed session for the review, discussion, and decisions on records postponed in part or in full by federal agencies.

The Board voted to release 38 FBI documents which cover a range of areas the FBI investigated in relation to the assassination. The Board also voted to release 198 CIA documents which relate to Oswald's trip to Mexico City in Fall 1963.

In addition, the Review Board voted to release 198 HSCA documents. Postponements in these HSCA administrative files contain only the HSCA employee Social Security Numbers. The Board also voted to open in full 98 pages of the HSCA document entitled Oswald in Mexico City (commonly identified as the Lopez Report.)

q. November 14, 1995 (Closed)

Review Board Offices

Washington, DC

The Board voted to release 67 HSCA documents, 53 FBI documents, and 33 CIA documents.

The HSCA documents relate in part to HSCA employee payroll certification records, in addition to HSCA documents that had been referred to the Secret Service regarding the Secret Service's investigation of potential threats to President Kennedy. The Board voted to postpone only the release of employee Social Security Numbers throughout these documents.

The FBI documents relate to various records of the Bureau's investigation of the assassination, including contact that Oswald had made on several occasions with Communist Party U.S.A. officials. The documents also contain records on the developments of New Orleans District Attorney Jim Garrison's investigation of the assassination in 1967. Postponements in this group of documents contain informant true names and portions of informant symbol and file numbers.

The CIA documents relate primarily to Lee Harvey Oswald's trip to Mexico City in the Fall of 1963, only weeks before the assassination of President Kennedy.

2. Public Hearings

- a. October 11, 1994
National Archives Building
Washington, DC

The primary objective of this hearing was to hear testimony from the public to assist the Board in fulfilling one of its early and important objectives— formulating guidance for federal agencies and the public on the definition of the term "assassination record." The Board heard from 13 witnesses who offered a wide range of opinions on the parameters which the Board should set under the JFK Act with regard to what constitutes an "assassination record." The importance of obtaining public input was underscored by Congress' intention that the definition should be broad and include records that go beyond those that were of interest to the Warren Commission and the House Select Committee on Assassinations. The goal of the Review Board was to provide clear guidance to agencies on what records they are responsible for producing to ensure that the American public has as complete a record as possible of the assassination. Many of the suggestions made by witnesses at this hearing were incorporated into the final guidance on the definition of "assassination record" made by the Board.

Oral testimony was presented to the Review Board by 13 witnesses:

Page Putnam Miller
James H. Lesar
Mark S. Zaid
Charles J. Sanders
John Newman
Daniel Alcorn
Peter Dale Scott
John Judge

William Kelly
Harrison Livingstone
Max Holland
Martin Barkley
Daryl Weatherly

Written submissions were provided by 16 individuals:

Page Putnam Miller
James H. Lesar
Charles J. Sanders and Mark S. Zaid
John Newman
Daniel Alcorn
Peter Dale Scott
John Judge
William Kelly
Harrison Livingstone
Max Holland
Daryl Weatherly
Kathleen Cunningham
Carol Hewett
Gerald Posner
Dick Russell
Martin Shackelford

Nearly 100 members of the public, including researchers, historians, and media representatives, attended this hearing.

- b. November 18, 1994
Earl Cabell Federal Building
Dallas, Texas

The Board decided to conduct its second public hearing in Dallas, Texas because, as the actual location of the assassination, there remains a high level of interest and a great potential to retrieve records not yet part of the JFK Records Collection. The hearing was intended to give interested members of the public the opportunity to offer their expertise on the existence and location of assassination records. Oral testimony on a range of different topics related to assassination records was presented by 19 witnesses:

Jim Marrs
David J. Murrah
Adele E. U. Edisen
Gary Mack
Robert Vernon
Thomas Wilson
Wallace Milam
Beverly Oliver Massegee
Steve Osborn
Philip TenBrink
John McLaughlin
Gary L. Aguilar
Hal Verb
Thomas Meros
Lawrence Sutherland
Joseph Backes
Martin Shackelford
Roy Schaeffer
Kenneth Smith

Written submissions were provided by 20 individuals:

Jim Marrs
David J. Murrah
Adele E. U. Edisen
Gary Mack
Thomas Wilson
Wallace Milam
Beverly Oliver Massegee
Steve Osborn
Philip TenBrink
Gary Aguilar
Hal Verb
Lawrence Sutherland
Ernest C. Brandt
Don Carleton
Karen Clem
Frank DeBenedictis
Mary Ferrell
Christopher LaPlante
Lamar Waldron
Theresa Seay

Nearly 100 members of the public, researchers, historians, and media representatives attended this hearing.

- c. **March 24, 1995**
Massachusetts State House
Boston, Massachusetts

The Review Board conducted a public hearing at which it heard testimony on the identification and location of assassination records, discussed finalizing the proposed

definition guidance on “assassination records,” and received an update by the National Archives on the JFK Collection. The following invited witnesses testified at the hearing:

George Michael Evica, Professor and author
Philip H. Melanson, Political Science Professor at the University of
Massachusetts-Dartmouth and the author of *Spy Saga: Lee Harvey
Oswald and U.S. Intelligence*, published in 1990
Edgar Tatro, teacher
Priscilla Johnson McMillan, Professor at the Harvard Russian
Research Center and the author of *Marina and Lee*, published in
1977
Dick Russell, author of *The Man Who Knew Too Much*
Richard Trask Author of *Pictures of the Pain, Photography and
the Assassination of President Kennedy*, published in 1994
Steven D. Tilley, National Archives

Approximately 100 members of the public and media representatives attended the hearing.

On the day preceding the open meeting (i.e., March 23), the Review Board and staff had a day-long briefing with officials from the John F. Kennedy Library. The meeting focused on the collection of assassination records at the Library and the Library’s responsibilities articulated under the Act.

d. June 28, 1995
Old U.S. Mint Building
New Orleans, Louisiana

The Board heard testimony on the identification and location of assassination records in the greater New Orleans area and received an update by a representative from the National Archives on the status of the JFK Collection, including an accounting of recent additions.

The Review Board heard from the following invited witnesses:

The Honorable Lindy Boggs, former Congresswoman
The Honorable Harry F. Connick, Sr., New Orleans District
Attorney
Wayne Everard, Archivist, City of New Orleans Archives
Michael L. Kurtz, Professor at Southeastern Louisiana
Stephen Tyler, documentary producer and director

Cynthia Anne Wegmann, Esq.
Steven D. Tilley, National Archives

Approximately 125 members of the public and media representatives attended the public hearing.

Following the completion of testimony at the public hearing, the Board held a public meeting to discuss, among other items, the Government in Sunshine Act regulation, the FOIA/PA regulation, and Board procedures.

Several of the approximately 125 attendees of the public hearing remained for the public meeting.

IV. Estimated Volume of Assassination Records for Review

Since the agencies have not completed their respective reviews of assassination records in their possession, it is impossible to provide a reliable estimate of the total universe of records that will require Board review. The Board is currently tracking approximately 24,000 records that contain postponements, but that number will undoubtedly increase. Since the vast majority of postponements fall into defined categories, decisions made early in the review will apply to records that come later in the process. We are confident that the Board's early decisions, which have consumed a great deal of time and resources, will provide the basis for a greatly accelerated pace in the future.

V. The Record Review Process and Compliance with the JFK Act

1. Federal Agencies

The Review Board and staff have been in regular communication with the relevant agencies that may possess assassination records. The results of the Board's efforts to date to ensure that these agencies are in compliance with the JFK Act are mixed. On several occasions during the past year, the Board has been asked by an agency to reconsider a formal determination. The Board has taken such action reluctantly and infrequently. However, in the interest of ensuring that its decisions are based on the most complete evidence available, the Board has been willing to review additional materials submitted by an agency and has, on occasion, changed an initial determination.

Brief descriptions of the status of the compliance of federal agencies with the Act are provided below.

National Archives and Records Administration

The Board is pleased with the cooperation it has received from the Archives, an institution that plays a key role in the process of making assassination records available to the public. The JFK Act created the John F. Kennedy Assassination Records Collection at Archives II in College Park, Maryland, and the Archives has established a staff dedicated to its maintenance. It is the Board's opinion that delays at NARA are a result of insufficient resources and are not attributable to the staff, which has been extremely helpful. In addition to fulfilling its traditional archival role of protecting the records and assisting researchers in their use, the Archives' JFK staff is responsible for liaison with federal agencies and shares a close and collaborative relationship with the Review Board. In addition, the Board has established contact with the John F. Kennedy Library in Boston and the Lyndon B. Johnson Library in Austin and has begun the review of their holdings. The staffs of both institutions have been very cooperative, and the LBJ Library staff should be singled out for the high quality of its work.

Department of Justice (not including FBI, DEA, INS)

In response to a request from the Board, DOJ has designated three individuals as points of contact for the Board regarding assassination records from the Criminal Division, the Civil Rights Division, and DOJ leadership, respectively. The Review Board has pending requests to each of these individuals for detailed, current accounts of compliance with the JFK Act. Until responses to these requests are received, the Review Board staff is unable to estimate the number of DOJ assassination records containing claimed postponements.

Federal Bureau of Investigation

Review Board staff members are working with FBI documents on a daily basis. Their efforts include: (1) reviewing postponements proposed by the FBI, together with the FBI's supporting evidence, to make recommendations to the Review Board regarding these postponements; and (2) reviewing documents provided by the FBI in response to requests for "additional records and information," in order to identify and locate assassination records that have not been so designated by the FBI.

The Review Board staff conservatively estimates that there will be 18,000 to 20,000 FBI assassination records containing claimed postponements. (No exact figure is available because the FBI has approximately 300,000 pages of assassination records left to process.)

On the whole, the Review Board staff views its day-to-day relations with FBI personnel as cooperative and productive. There have been, however, considerable delays in obtaining from the FBI meaningful evidence in support of its proposed redactions. Although the Board wishes to afford the FBI every opportunity to present its justifications for continuing to withhold information in assassination records, difficulties with this process appear to be the greatest impediment to the Board's ability to fulfill its responsibilities relating to FBI records.

Immigration and Naturalization Service

To date, the INS has identified approximately 5 cubic feet of assassination records. About one-third of these have been reviewed by INS personnel, and no redactions or postponements have been made. None of these records has been reviewed by the Review Board or staff. Although the INS failed to respond to initial ARRB staff inquiries, a liaison has now been identified and is cooperating fully.

Drug Enforcement Administration

The number of assassination records in DEA files is undetermined. There appears to have been no contemporaneous investigation by DEA predecessor organizations, and the extent of cooperation with other agencies (such as the Secret Service) may be unknowable because of some recent records destruction. From the file of HSCA correspondence with the DEA, the Review Board staff has identified 36 names that appeared in files reviewed by HSCA staff. A letter was sent to DEA in July 1995 that listed the 36 names (28 from a DEA letter which listed positive references in DEA files and eight Ruby family siblings) and asked to see all files in which they appeared. In a subsequent meeting, Review Board staff was shown the computer-generated results of a new search on the 36 names. The results were mixed: some names that had yielded positive file references in 1978 did not yield any references in this most recent search. The Board's DEA contact could not explain this discrepancy, but promised to work on it. Of the names that did yield positive results, the Review Board staff looked only at the computer search slips, not the actual files. In effect, the Review Board has one standing formal request to the DEA which has not been fulfilled. We also have an informal request for materials that would clarify DEA's system of record keeping.

The DEA has generally been cooperative in that they now understand that they have an obligation under the JFK Act. There are no indications, however, that their compliance is a priority within the agency.

Main Treasury

To date, the Treasury Department has not identified any assassination records, with or without redactions or postponements. The Department did not conduct a file search for any such records. Review Board staff conducted a review of the file inventories and identified approximately 2 cubic feet of assassination records held at the Federal Record Center at Suitland. Treasury Records personnel have been cooperative in retrieving and allowing access to those records.

U. S. Customs Service

The Customs Service designated the Director of the Office of Administration within the Office of Investigations to oversee the search for assassination records. Review Board staff members first met with the Director and his staff in July 1995. At that meeting, Customs indicated that it had not yet begun its search for records, but that it had been aware of its obligations under the JFK Act for more than a year. Soon after the July meeting, however, Customs assigned a staff person to search for records and to be the liaison with the Review Board.

The Customs representative met with the Review Board staff in August. At that time, the only assassination records located by Customs were those records referred to it by other agencies. Customs received at least 15 envelopes of referred documents, and it has approved full release of all those documents. The Customs liaison is not optimistic that other Customs assassination records still exist because of their general record destruction policy and poorly labeled storage boxes, which will make it difficult to locate any assassination records that may not have been destroyed. Review Board staff will continue to work with the Customs liaison to determine what assassination records still exist and should be included in the JFK Collection.

U. S. Secret Service

During a meeting with Secret Service Director Eljay Bowron in March 1995, the Review Board was assured that the Secret Service was in full compliance with the JFK Act. The agency apparently believed that, having sent its investigative file relating to the assassination to the National Archives in 1979, it had no further obligations other than the review of records referred to it by other agencies.

Through extensive and, at times, frustrating contacts, the Board has instructed the Secret Service on its obligations and responsibilities under the Act. In the opinion of the Board, the Secret Service has yet to undertake a thorough search of all its holdings and has yet to establish an efficient internal structure designed to meet the requirements of the JFK Act in a timely manner. The Secret Service has sent 159 White House detail shift reports for the period November 1, 1963—November 23, 1963, to the National Archives.

In an apparent violation of the JFK Act, two boxes of Secret Service Protective Reports for President Kennedy in the 1961-1963 period that had been reviewed by the HSCA were destroyed. The destruction of these Reports was authorized by the Secret Service after the passage of the JFK Act, and the records were destroyed at the Washington National Records Center in January 1995, shortly before the Board requested access to them. The Review Board is continuing its investigation of this matter.

Department of Defense (includes OSD, Army, Navy, Marine Corps & Air Force)

To date, no redacted documents have been identified by any uniformed service or component of the Department of Defense. In April 1993, in response to the JFK Act, the Army requested all its activities to search for assassination-related documents. Three Army activities identified assassination documents and transferred these documents to the U.S. Army Information Systems Command at Fort Huachuca, Arizona, pending transfer to NARA. As best the Board can determine, neither OSD nor any of the other uniformed services has taken similar steps.

Accordingly, on August 30, 1995, the Board requested that DOD as well as the Departments of the Navy and Air Force issue DOD and service-wide directives informing all activities of the requirements of the JFK Act and requesting that each component conduct an appropriate search for assassination-related records. While awaiting DOD and Service compliance with this request, the the Review Board has compiled, in draft form, detailed requests for additional information which will be forwarded to DOD, Army, Navy (and Marine Corps), and the Air Force during FY1996. The Review Board expects that, when issued, its requests for additional information will result in the identification of additional military records for the JFK Collection.

National Security Agency

The Board has been in close contact with the National Security Agency. NSA has identified a number of records falling within the scope of the JFK Act. The Board will be reviewing NSA documents during FY1996.

Central Intelligence Agency

Since April 1995, the Review Board has made significant progress in determining which, among the tens of thousands of redactions made by the CIA in documents turned over to NARA under the JFK Act, it can now properly release. This has been an enormous task, involving research into hundreds of names, numbers, pseudonyms, and cryptonyms. As a result of this effort, a large portion of these, especially those concerned with the CIA's Mexico City operations, has been released. Although a large number of redacted CIA documents remain to be reviewed by the Board, many of the issues in these unreviewed documents have already been resolved in CIA documents released by the Board since June, and the Review Board expects that most of the remaining major issues will be resolved within the next few months. The speedy resolution of these issues should accelerate the pace of the Board's review of documents in 1996.

Department of State

Since most of the State Department's records dealing with the JFK assassination (e.g., Warren Commission-related records), were transferred to NARA before the JFK Act, relatively few records—approximately 5,000—remained to be reviewed under the Act's terms. Of these, almost 95% have been opened in full. About 2% are still on referral with other agencies, while only a little over 3% contain postponed material to be reviewed by the Board. DOS is proceeding with those documents still on referral and has recently released in full a small collection of records which the Review Board staff located in DOS files. Following discussions with Review Board staff, DOS is also re-reviewing a small collection of records from the Passport Office.

The Board, with the assistance of the Department of State, has initiated contact with the governments of Russia, Belarus, and the Federal Republic of Germany in an attempt to gain access to documents related to the JFK assassination. The Board plans to take similar steps with other foreign governments in the near future.

House Select Committee on Assassinations

The Board has begun reviewing records generated by the investigation of the House Select Committee on Assassinations, 1976-1979. The HSCA generated over 50,000 records, representing some 600,000 pages of documents, now stored in almost 800 archive boxes. The vast majority of these records were opened in full by NARA after the passage of the JFK Act, but several thousand remain postponed or, what is more often the case, have been referred by NARA to Executive Branch agencies. Moreover, HSCA records have a unique standing within the JFK Collection in that—while Executive Branch agency equities are the most frequent cause of remaining HSCA postponements and referrals—they are the property of Congress.

In the first half of 1995, Review Board staff held a series of meetings with NARA personnel and Congressional staffers intended to devise arrangements for the Board's processing of HSCA records. In a letter dated October 11, 1995, the Honorable William M. Thomas, Chairman of the Committee on House Oversight, set out guidelines under which the Board could begin consideration of these important records. This date, then, marked the effective starting point for the Board's active consideration of HSCA material.

Most of the HSCA records processed to date were postponed for privacy reasons. Upon receipt of Chairman Thomas' letter, the Board considered 198 such records at its October meeting. In November, the Board processed an additional 36 privacy-related records as well as 32 records that had been referred to the Secret Service, and, at its December meeting, the Board opened an additional 20 privacy-related and three Secret Service records.

The Board is also working with Executive Branch agencies on HSCA documents referred to them by NARA. In order to facilitate the prompt processing of these records, the Board is encouraging agencies to review and release their equities in these documents as soon as possible. This approach relieves the Board of having to undertake a formal review of the records, while simultaneously saving the agencies time and effort. This policy has already resulted in the expeditious release of previously classified HSCA testimony.

2. State, Local, and Private Records

The Board's investigative staff currently has over 60 issues under active investigation. These issues include contacting state and local officials regarding assassination records that they may maintain, and locating and interviewing key witnesses about records that may be in private hands. The database of investigative contacts lists nearly 700 since it went on line in April. The investigative efforts have yielded encouraging results, including the addition of several large and important private record collections to the JFK Collection.

The Review Board has devoted significant attention to records in the New Orleans area in light of the investigation conducted by New Orleans District Attorney Jim Garrison into the assassination of President Kennedy in the late 1960s. The investigation and prosecution of Clay Shaw generated records that the Board believes are important and should be part of the JFK Collection.

In addition to the June 28, 1995 public hearing conducted by the Board in New Orleans, the staff made direct contact and interviewed several individuals in connection with locating and acquiring assassination records in the New Orleans area. Material was obtained from two important sources:

- (1) The family of the late District Attorney Garrison donated several boxes of records related to the assassination which were in the personal possession of Garrison when he died in 1992.
- (2) The family of the late Edward Wegmann, an attorney on the Clay Shaw defense team, donated several boxes of materials used in Shaw's defense against the charge of conspiracy to assassinate President Kennedy.

Current District Attorney Harry Connick testified at the June 28, 1995 public hearing in New Orleans regarding records from the assassination investigation of his predecessor, Jim Garrison. Connick testified in public and stated privately that he would donate the records from the Garrison investigation which were still in his office. Review Board staff members were allowed to inventory the records in Connick's office, but the actual transfer to the Review Board was to be made at a later date, pending the completion of an inventory by the District Attorney's staff.

Following the Review Board's public hearing and the accompanying media coverage, the Board received from a New Orleans television station what appear to be original transcripts of approximately 40 witnesses called by District Attorney Garrison before a grand jury during his assassination investigation. The records had reportedly been provided to the television station by a former member of District Attorney Connick's staff. The individual stated that in the early 1970s, as part of an effort to clear out grand jury records from closed cases, including the Clay Shaw case, Connick had ordered him to destroy these grand jury transcripts. The former staffer stated that instead of

taking the records to the city incinerator, he kept them at his home until giving them to a television reporter, under the condition that they be turned over to the Review Board.

District Attorney Connick has sought the return of these grand jury records, asserting that secrecy requirements under Louisiana state law forbid the disclosure of any grand jury records. Mr. Connick is seeking to have the Review Board return the records. The Review Board informed the U.S. Department of Justice that Mr. Connick had tried to serve a subpoena and was advised to inform the District Attorney that the attempt to serve a subpoena was invalid. Efforts to resolve the dispute and clarify the legal status of the grand jury records have been unsuccessful to date.

As a result of this ongoing dispute over the grand jury records, District Attorney Connick has not fulfilled his earlier commitment to the Review Board to donate the assassination records, which are still in his office.

List of Appendices

1. Final Determination Forms

Final Determination Forms for every document containing postponements sustained by the Review Board through the October 1995 meeting.

2. List of Formal Determinations

Actions taken by the Review Board for all documents reviewed through the October 1995 meeting.

3. List of Regulatory Actions

List of notices and proposed final rules.

LIST OF REGULATORY ACTIONS

"Guidance on Interpreting and Implementing the President John F. Kennedy Assassination Records Collection Act of 1992," Proposed Interpretive Regulation, 60 F.R. 7,506 (February 8, 1995).

"Rules Implementing the Government in the Sunshine Act," Notice of Proposed Rulemaking, 60 F.R. 32,930 (June 26, 1995).

"Guidance on Interpreting and Implementing the President John F. Kennedy Assassination Records Collection Act of 1992," Final Regulations, 60 F.R. 33,345 (June 28, 1995).

"Rules Implementing the Freedom of Information Act," Notice of Proposed Rulemaking, 60 F.R. 34,193 (June 30, 1995).

"Assassination Records Review Board Rules of Procedure," adopted on July 12, 1995.

"Rules Implementing the Privacy Act," Notice of Proposed Rulemaking, 60 F.R. 39,905 (August 4, 1995).

"Rules Implementing the Government in the Sunshine Act," Final Rulemaking, 60 F.R. 45,335 (August 31, 1995) (to be codified at 36 CFR Part 1405).

"Rules Implementing the Freedom of Information Act," Final Rulemaking, 60 F.R. 45,338 (August 31, 1995) (to be codified at 36 CFR Part 1410).

"Freedom of Information Act Statement of Organization, Functions, and Authority Delegations," 60 F.R. 51,733 (October 3, 1995).

"Rules Implementing the Privacy Act," Final Rulemaking, 60 F.R. 64,122 (December 14, 1995) (to be codified at 36 CFR Part 1415).

"Privacy Act Systems of Records," Notice, 60 F.R. 64,143 (December 14, 1995).

Appendix 1

Final Determination Forms

Please see Congressional File 10.4 or the Reading Room
Notebook if you wish to see Appendix 1.

Appendix 2

List of Formal Determinations

Appendix 3

List of Regulatory Actions