

1 UNITED STATES OF AMERICA
2 ASSASSINATION RECORDS REVIEW BOARD

3 ***

4 GUIDANCE ON INTERPRETING AND IMPLEMENTING THE
5 PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS
6 COLLECTION ACT OF 1992

7 ***

8 Assassination Records Review Board
9 600 E Street, N.W.
10 Room 208
11 Washington, D.C.

12
13 Wednesday, May 3, 1995
14

15 The above-entitled proceedings commenced, pursuant
16 to notice, at 1:10 p.m.
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P R O C E E D I N G S

[1:10 p.m.]

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3 CHAIRMAN TUNHEIM: I'll call to order this public
4 meeting of the Assassination Records Review Board. Welcome
5 everyone who is here in attendance today. The primary purpose
6 of today's meeting is to consider final action in adoption of
7 the interpretive rules governing the Board's guidance on the
8 definition of an assassination record.

9 We'll get right into that issue by asking the Board's
10 general counsel, Sheryl Walter, who has administered this
11 process, to give the Board an overview of the processes we've
12 gone forward thus far, and to be ready to answer questions from
13 the Board before we move the adoption. Sheryl?

14 MS. WALTER: Thank you, Mr. Chairman, and members
15 of the Board. What I would like to do right now is to give
16 you some background on the process of the finalization of the
17 interpretive regulations and to discuss some of the changes
18 that have been made to the proposed regulations that were
19 published in the Federal Register.

20 In establishing a process for public disclosure of
21 all records relating to the assassination of President John
22 F. Kennedy, Congress created this Review Board and empowered
23 it to decide whether a record constitutes an assassination
24 record. In the Senate report to the President John F. Kennedy
25 Assassination Records Collection Act, which of course created

1 this Board, Congress also indicated its intent that the Review
2 Board issue guidance to assist in articulating the scope or
3 universe of assassination records.

4 The interpretive regulation discussion draft that
5 you have before you, and which has been distributed to the
6 members of the public who are attending this meeting, will be
7 the focus of what I'm going to talk about right now. The
8 proposed version was published at Volume 60 of the Federal
9 Register, page 7506, on February 8th, 1995, and was published
10 to comply with Congress's mandate.

11 As a supplementary information that accompanied the
12 proposed interpretive regulations stated, the principle
13 underlying these interpretive regulations is to implement
14 congressional intent that the JFK collection contain the most
15 comprehensive disclosure of records relating to the
16 assassination of President Kennedy.

17 Congress instructed that the Board apply a broad and
18 encompassing working definition of assassination record in
19 order to achieve the goal of assembling the fullest historical
20 record on this tragic event in American history, and into the
21 investigations that were undertaken in the assassination's
22 aftermath.

23 Many agencies have already begun to organize and
24 review records responsive to the act, even before the Board
25 was appointed and began its work. Nevertheless, the aim of

1 the interpretive regulations is that they will aid in the
2 ultimate assembly and public disclosure of the fullest possible
3 historical record on the tragedy and on the subsequent
4 investigations and inquiries into it.

5 These final regulations that you are to vote on today
6 are also intended to aid in the consistent, effective, and
7 efficient implementation of the act, and to establish procedures
8 for including assassination records in the President John F.
9 Kennedy Assassination Records Collection, which is housed, as
10 you know, at College Park, Maryland in the National Archives
11 facility there.

12 This Board sought public comment on its proposed
13 interpretive regulations and set a 30-day period which ended
14 on March 10th, 1995, for the purpose of receiving written
15 comments. The Review Board also heard testimony at public
16 hearings on aspects of the proposed regulations.

17 In addition, this Review Board sent copies of the
18 proposed interpretive regulations to agencies known to have
19 an interest in and be affected by this Board's work, particularly
20 those who hold or created assassination records, and to the
21 appropriate oversight committees in Congress, as well as to
22 OMB.

23 The Review Board also sent notice of the proposed
24 regulations and a request for comments, or sent copies of the
25 Federal Register notice itself to many organizations and

1 individuals who have demonstrated an interest in the release
2 of materials under the Act, or who have engaged in research
3 into the assassination.

4 The Review Board received written comments on the
5 proposed interpretive regulations from numerous federal
6 agencies, state and local government entities, and individuals.

7 Some of the federal agencies providing written comments
8 included the Federal Bureau of Investigation, Central
9 Intelligence Agency, the National Archives and the Department
10 of State.

11 State and local government entities providing written
12 comments included the Dallas, Texas county commissioner's
13 court, the Dallas County Historical Foundation, and the city
14 of Dallas records management division of the office of the city
15 secretary. Altogether, approximately 30 sets of written
16 comments were received.

17 Prior to publication of the proposed interpretive
18 regulations, the Review Board heard testimony at a public
19 hearing held in this building on December 14, 1994, from
20 representatives of the National Archives on the question of
21 including artifacts in the scope of the term assassination
22 record.

23 After publication of the proposed interpretive
24 regulations and before expiration of the comment period, Review
25 Board heard testimony at a public hearing on March 7th, 1995.

1 It was held in the auditorium of the main building of the
2 National Archives.

3 Testimony was heard from the FBI and from several
4 individuals and representatives of private organizations on
5 their views regarding the text of the proposed regulations.
6 Copies of all written comments that were received and
7 transcripts of the public testimony on the proposed regulations
8 were placed in the Board's public reading room at the Review
9 Board's offices here at this building, and made available for
10 inspection and copying by the public upon request.

11 The Board should also be aware that copies of comments
12 and transcripts that were requested were all provided to the
13 public at no charge to the public.

14 The comments received were very thoughtful and in
15 many cases very detailed. Nearly all the comments expressed
16 support for what was characterized as the proposed regulations'
17 comprehensiveness and flexibility. All comments that were
18 received were carefully studied and considered. Submitters
19 made both technical and substantive suggestions and as I will
20 shortly describe, many of these suggestions were incorporated
21 in the discussion draft of the interpretive regulations now
22 before you.

23 Some comments did express concern at the broad scope
24 of the Review Board's proposed regulations. A few comments
25 also questioned the inclusion of records not in the possession

1 of federal agencies, especially in the scope of the terms
2 "assassination record" and additional records and information.

3 However, the broad scope of the Act directs the Review
4 Board to identify and make available to the public all documents
5 that will enhance, enrich, and broaden the historical record
6 of the assassination.

7 The interpretive regulations thus seek to have
8 fulfilled Congress' intent and emphasis that the search and
9 disclosure of records under this Act must go beyond the records
10 of previous commissions and committees established to
11 investigate the assassination.

12 The Review Board may, as provided in Section 1400.6
13 of these interpretive regulations, exercise discretion in the
14 acceptance of copies where appropriate in lieu of originals
15 of records for inclusion in the collection. This flexibility
16 addresses concerns that some commenters expressed about the
17 removal of original records already housed, for example, in
18 the archives of state and local institutions.

19 In addition, many comments from individual
20 researchers requested enumeration of specific records or record
21 groups in several sections of the interpretive regulations,
22 especially those sections that deal with the scope of the terms
23 "assassination records" and "additional records and
24 information."

25 Many helpful suggestions in this regard have been

1 provided to the Review Board already, identifying particular
2 record groups for review and inclusion in the collection. It
3 is hoped that there will be continued correspondence from
4 researchers and the general public in this regard.

5 However, to ensure that the final interpretive
6 regulations are interpreted broadly and to avoid duplication
7 or potentially too narrow interpretation or implementation of
8 these regulations, individual records or record groups were
9 not enumerated further in this discussion draft of the
10 regulations.

11 To ensure that the public is aware of the Review
12 Board's knowledge of and pursuit of specific records and record
13 groups, such as those that were identified in the public comments
14 received on the proposed interpretive regulations, and in other
15 correspondence with or testimony before the Review Board,
16 Section 1400.8 has been revised to create a notice of
17 assassination record designations.

18 With this mechanism, to notify the public of records
19 it has designated as assassination records to be included in
20 the collection, it should be unnecessary and would be
21 duplicative to include in the final regulations a more detailed
22 enumeration of those specific records or record groups.

23 I'd like to move on briefly to describe changes that
24 were made to each of the sections, starting with Section 1400.1,
25 now titled "Scope of Assassination Record." The Review Board

1 received many comments on the text of this section. Some were
2 technical in nature and some were more substantive. The final
3 regulations incorporate the suggested technical changes,
4 including, as you can see, revision of the section's title to
5 make it more precise, as well as the addition of other clarifying
6 edits.

7 Many comments focused on the wording of subparagraph
8 (a) as it was original proposed. Of particular concern to many
9 commenters was the portion of this subparagraph that provides
10 that an assassination record includes records that, as it was
11 originally drafted, may have led to the assassination.
12 Comments from both government agencies and individuals
13 suggested alternative language, some because they read the
14 proposed regulation's scope as too narrow, and others because
15 they construed it as being too broad.

16 There was a consensus, however, that inserting a
17 phrase similar to "reasonably related to" would be an acceptable
18 and appropriate alternative to the "may have led to"
19 construction that originally appeared. Therefore, this change
20 was made.

21 Again, many comments suggested in terms of this
22 particular section that specific individuals, events, or groups
23 of records be added and enumerated in particularity. However,
24 as I just discussed, it was determined that including these
25 records or record groups at this level of specificity in these

1 interpretive regulations, which are intended to provide general
2 guidance on the scope of the Act and of its key terms, could
3 potentially limit the scope of the regulations as applied and
4 might prove confusing and would be duplicative.

5 However, again, such suggestions are to be taken into
6 account from the public and they'll be followed up on an ongoing
7 basis.

8 Sections 1400.2, now titled "Scope of additional
9 records and information." Again, this title was revised to
10 conform both to the new title of 1400.1 and to be more specific.

11 There were also additional editing changes made for clarity.

12 A new sub-part 6 was added to subparagraph (e), and
13 a new subparagraph (f) was added after consideration of comments
14 that noted the potential exclusion of certain categories in
15 the scope of this section in the proposed regulations.

16 This section is intended to be used to obtain access
17 to a wide variety of materials, classified and unclassified,
18 which may not fall into the definition of assassination record,
19 but which will lead to the identification of assassination
20 records. Some commenters expressed concern as to the broader
21 scope of this section. Language was added to clarify that the
22 purpose of this section is to identify, evaluate, or interpret
23 assassination records, including assassination records that
24 may not initially have been identified by an agency.

25 Language was also added to indicate that an intent

1 to implement this section through requests in writing will be
2 made. These written requests will be signed by the Review
3 Board's executive director.

4 In implementing this section, the Review Board staff
5 will work closely with entities to whom such requests are
6 addressed to promote the Act's effective and efficient
7 implementation.

8 Moving on to Section 1400.3, "Sources of
9 assassination records and additional records and information."

10 A new subparagraph, which is now subparagraph (g), was added
11 after consideration of comments noting the potential exclusion
12 of records created by individuals or corporations or obtained
13 from sources other than those already identified in the previous
14 subparagraphs.

15 Other comments suggesting the inclusion of additional
16 specific sources were considered but not included in the final
17 version because they were determined to replicate language
18 already in existing subparagraphs.

19 The Section 1400.4, "Types of materials included in
20 the scope of assassination record and additional records and
21 information." The National Archives and Records
22 Administration provided oral testimony and written comments
23 objecting to the inclusion of artifacts in this section. Other
24 comments received strongly supported inclusion of this type
25 of material within the scope of assassination record.

1 NARA's comments, as contained in its written
2 submission and as presented in oral testimony by NARA
3 representatives at a public hearing of the Review Board on
4 December 14th, 1994, were carefully considered. However, this
5 section of the interpretive regulations was retained without
6 any change.

7 Review Board I think believes that the unique nature
8 of issues of public trust and credibility of government
9 processes that prompted enactment of the Act require that
10 artifacts be included in the scope of items to be included in
11 the collection.

12 Included in the proposed regulations retained in
13 Section 1400.7 is language intended to address NARA's concerns
14 about potential copying requirements related to artifacts and
15 to presentation issues. NARA's comments on the proposed
16 regulations noted its approval of the inclusion of that
17 language.

18 In Section 1400.5, the requirement that assassination
19 records be released in their entirety. This section is intended
20 to provide guidance to agencies if they are to produce for the
21 Review Board's review records in their entirety and except in
22 rare instances and with the assent of the Review Board, withhold
23 information and documents only under the proposed provisions
24 of Section 6 of the Act.

25 The purpose of requiring that records be produced

1 in their entirety is to ensure that the context and integrity
2 of the records be preserved and to clarify that the Review Board
3 has the sole discretion to determine what records or portion
4 thereof are or are not assassination records.

5 Some federal agencies expressed concern about the
6 scope of this provision and those concerns were taken into
7 consideration. There may be records responsive to provisions
8 of the Act that are many hundreds of pages long, or contain
9 only a small amount of information related to the assassination.

10 In such cases, if an agency reasonably believes that review
11 of the entire record for postponement and determinations would
12 not further the disclosure purposes of the Act, the agency may
13 request the Review Board allow the agency to process under the
14 Act only the portion that relates to the Act, including materials
15 sufficient to provide context for the postponed portion.

16 However, in such cases the Review Board will retain
17 sole discretion to determine whether review for inclusion in
18 the collection of a portion of the record will fulfill the
19 purposes of the Act or whether the entire record must be
20 processed under the postponement provisions of the Act.

21 In Section 1400.6, the regulations address the issue
22 of originals and copies. Many comments were received on this
23 section requesting that portions be clarified and extensive
24 changes were made to this section in response to these comments.

25 Revisions were also made for purposes of internal consistency.

1 The intent in this section is to express a strong
2 preference for including original materials and original
3 records in the JFK assassination records collection, but also
4 an understanding that for a variety of reasons there may be
5 situations where a copy instead of the original of an
6 assassination record may be more appropriate for inclusion in
7 the collection.

8 Incorporated in this version is language that is
9 responsive to comments made particularly by the National
10 Archives, requesting clarification that record copies of
11 federal agency records may be included in the collection.

12 In response to other comments from the National
13 Archives, revisions were also made to take into consideration
14 the important issue of preservation, especially given that many
15 of the records at issue are over three decades old. In this
16 respect, the regulations treat records in various media in a
17 means appropriate to the unique characteristics of that medium.

18 In Section 1400.7, which provides additional
19 guidance, the Review Board received a variety of comments on
20 this section, which is intended, as I said, to provide additional
21 guidance for implementation of the Act. All of the comments
22 on this section were carefully considered and, except where
23 the comments appear to duplicate what was covered in this section
24 already or was addressed elsewhere, the section was revised
25 to reflect many of the suggested changes and to add clarity.

1 For example, subparagraph (d) as it appeared in the
2 proposed regulations, has been broken into three subparagraphs,
3 new subparagraph (d), (e) and (f), to eliminate potential
4 confusion and add clarity. The intent of these subparagraphs
5 is to make clear that all files in an individual event or activity
6 are to be made available to the Review Board, regardless of
7 the labels on the files where they may be found, or whether
8 the records reflect the individual events or activity's true
9 name or identifier.

10 As I stated earlier regarding Section 1400.4,
11 subparagraphs (b) and (c) of 1400.7 were included in the proposed
12 regulations and retained here in order to address concerns
13 expressed by the National Archives regarding the inclusion of
14 artifacts and the scope of materials deemed assassination
15 records.

16 These subparagraphs are intended to make it clear
17 that the Act establishes unique standards as to the records
18 to be included in the collection. By including artifacts as
19 a type of assassination record, the Review Board seeks to fulfill
20 its mandate from Congress to assemble all materials reasonably
21 related to the assassination in the collection.

22 It is not intended that the inclusion of artifacts
23 here for purposes of implementing the Act should be construed
24 to affect the implementation of other records collections.
25 Subparagraph (c) is intended to insure that all artifacts in

1 the collection are preserved for posterity and that public
2 access be provided to those artifacts in a manner consistent
3 with their preservation.

4 In this regard, the National Archives should be
5 encouraged to set out in writing the terms and conditions under
6 which access to such material may be allowed.

7 Finally, as to Section 1400.8, now called "Notice
8 of Assassination records determination." The comments
9 received on this section as it appeared in the proposed
10 interpretive regulations indicated a great deal of confusion
11 as to the intent and operation of the mechanism that is
12 established in this section. For this reason, the original
13 term "catalog of assassination records," which appeared in the
14 proposed regulations, was replaced and this section
15 substantially redrafted.

16 In the discussion draft version, the term "notice
17 of assassination record determination" was substituted for
18 prior references to a catalog. This mechanism is not intended
19 as a mechanism to list all assassination records. The records
20 identified by federal agencies in the review of their own records
21 will not, for example, be listed.

22 Nor is it intended to replace the database and finding
23 aids that have been compiled by agencies at NARA's direction,
24 as required by Congress. Rather, this notice of assassination
25 record determination is intended to document the Review Board's

1 ongoing determinations, that in addition to records explicitly
2 enumerated in the Act as assassination records, or identified
3 by federal agencies in the searches they undertook in the future
4 pursuant to the Act, certain other records are also
5 assassination records and are to be included in the collection.

6 This is a summary of the changes that were made to
7 the proposed interpretive regulations that were published in
8 February and I'd be happy to answer any questions you may have.

9 CHAIRMAN TUNHEIM: Thank you, Ms. Walter, and thank
10 for all the staff that worked so hard on these regulations.

11 Questions that Board members have for Sheryl. Go
12 ahead.

13 MR. JOYCE: Ms. Walter, for the final section that
14 was headed, you correctly observed that this section is added
15 to help in the enumeration of assassination records and those
16 identified in searches undertaken by other investigations,
17 certain other records are also assassination records and ought
18 to be included.

19 Could you give us a little bit more information about
20 what certain other records might be entailed and what led to
21 that formulation?

22 MS. WALTER: In 1400.8?

23 MR. JOYCE: Right.

24 MS. WALTER: The mechanism is intended to provide
25 public notice of the vast variety of records that may be out

1 in the public domain in various capacities, as well as to
2 identify records in agencies that may not have been identified
3 by an agency as an assassination record and this will be an
4 ongoing process with the staff and with the agencies. But it
5 will also include records that may be in private hands as well.

6 MR. JOYCE: So this is a mechanism by which we can
7 identify records in private hands?

8 MS. WALTER: Exactly.

9 MS. NELSON: I wonder if for the purpose of
10 clarification you'd go back over why the term "record copies"
11 was inserted and I think the original documents, and now it's
12 record copies.

13 MS. WALTER: Certainly. The comments that were
14 received by the National Archives on this score brought the
15 point that was not really addressed in the proposed interpretive
16 regulations and that is that it's often a practice in many
17 federal agencies that a copy of an original document is included
18 and used in agency files as the record copy, as the copy that
19 the agency treats as its --

20 MS. NELSON: That's the federal record.

21 MS. WALTER: That that's the federal record, exactly.
22 And in some cases it may be that the original no longer exists.
23 There is, of course, in Section 1400.6 a strong preference
24 for originals, but especially when you're talking about
25 documents that are over 30 years old, it may be difficult or

impossible to find that original.

1
2 Especially in cases where that copy is treated and
3 has been treated by the agency as the record copy that it used
4 to do business, it seemed to make sense and the National Archives
5 point seemed very logical and sensible, that that also be
6 something that could be included in the collection.

7 CHAIRMAN TUNHEIM: Further questions? Go ahead.

8 MR. JOYCE: One clarification. In terms of records
9 in electronic or other formats that may have to be retransferred
10 because of the passage of time, the obsolescence of operating
11 software and equipment and things of that nature, would that
12 also apply to record copy or would that change its designation
13 altogether?

14 MS. WALTER: That provision is specifically included
15 because of the, as you've noted, the uniqueness of a particular
16 medium, especially in the electronic medium. And if a
17 particular disk, for example, say in WordPerfect format, which
18 may go out of existence, who knows, was the record copy, it
19 could be reformatted into some medium that would be useful and
20 is the type of medium that is used by the National Archives
21 in the future.

22 MR. JOYCE: So it need not be a copy in the way in
23 which we normally think of one? That is to say, a photographic
24 or a photocopy, but rather could be something entirely
25 reformatted?

1 MS. WALTER: If appropriate to the medium. For
2 example, to use a hypothetical, a videotape that might be in
3 VHS format. If that became obsolete in 20 years, you could
4 transfer that into a different format, if it was appropriate
5 for that medium. Which is not to say that you would necessarily
6 get rid of the original.

7 CHAIRMAN TUNHEIM: I have a question relative to
8 1400.7, subdivision (c), with respect to artifacts, and
9 obviously recognizing that the statute itself requires broad
10 public access to materials relative to the assassination. Do
11 you believe that this provision will adequately assure public
12 access to artifacts relating to the assassination?

13 MS. WALTER: I believe that it will. There are a
14 variety of ways in which access can be provided and in the past
15 the National Archives, especially recently, has instituted
16 terms and conditions that both preserve the integrity of the
17 artifacts but also allow, based on the particular research needs
18 of the researcher, accessing various types of ways.

19 So this section I believe will in fact promote access
20 as opposed to limiting it in the future.

21 CHAIRMAN TUNHEIM: Could you foresee any conditions
22 under which the National Archives could totally deny access
23 to artifacts under this provision?

24 MS. WALTER: Under this, no. I don't believe that
25 that would be within the letter or spirit of the law. What's

1 intended here is that the National Archives can use its
2 professional judgment to ensure that these things are preserved,
3 and I think it would be contrary to the spirit of what Congress
4 intended that access would ever be totally denied.

5 CHAIRMAN TUNHEIM: Other questions? Go ahead.

6 MR. HALL: Ms. Walter, we're going to have a
7 supplementary statement that goes along with this definition,
8 and under 1400.1, dealing with the scope of assassination
9 record, there is provided in that supplementary information
10 a discussion not only about this change that may have led to
11 one now reasonably related, but also a discussion of the
12 relationship of the "reasonably related to" existing theories,
13 particular theories of the assassination of President Kennedy.

14 Could you amplify a little for us the thinking that
15 went into the writing of that particular paragraph?

16 MS. WALTER: That language is intended to indicate
17 that, although particular theories related to the assassination
18 are certainly things that inform the Board's work, that the
19 Board's primary purpose as created by Congress and is explicit
20 both in terms of the statute and the legislative history, is
21 to identify and release records, not to investigate the
22 assassination.

23 So the "reasonably related to" language is intended
24 to make it clear that it's in the search for and the release
25 of records, not in the search for and release of information

1 related to any particular theories. So of course those theories
2 will inform the Board's work, that is the main focus of the
3 Board's tenure.

4 MR. HALL: Thank you.

5 CHAIRMAN TUNHEIM: Before we go forward, I think
6 we're not going to take any additional public testimony today.

7 We have held two public hearings on the draft regulation and
8 have also had the comment period, and we have a significant
9 number of responses to that request, significant number of
10 written responses and testimony at our previous hearings.

11 I just want to indicate that I appreciate certainly
12 all of you in the audience today who have participated in this
13 effort. We really have drawn upon your comments and your
14 suggestions extensively, as you can see by the new draft that
15 we're now considering today, and I just want to express my thanks
16 for your help in fashioning a workable set of guidance for what
17 an assassination record is.

18 I think we'll go ahead and move the adoption and then
19 have Board discussion on the draft. I want to point out that
20 Board member Henry Graff could not be in attendance today because
21 of a conflict, and he has indicated, and let me just read this
22 into the record. This is a letter dated May 1, 1995, to John
23 R. Tunheim, Chairman, Assassination Records Review Board, from
24 Henry F. Graff. "I herewith give you my proxy to vote in favor
25 of final interpretive regulations (as contained in the draft

1 of 26 April 1995)," which is the draft that Mr. Graff reviewed,
2 "for the implementation of the Kennedy Assassination Records
3 Collection Act of 1992. I take into account that as a result
4 of the Board's discussions, minor changes may yet be made in
5 the draft." That's in the record.

6 MS. WALTER: Mr. Chairman, could I just add also that
7 the April 26 draft is identical to the May 3rd discussion draft.

8 CHAIRMAN TUNHEIM: Thank you for clarifying that.
9 Is there a motion to approve?

10 MS. WALTER: Yes, Mr. Chairman. I move that the
11 interpretive regulations as contained in the discussion, today
12 in the discussion draft today, be adopted by the Review Board,
13 as final interpretive regulations for the guidance and in order
14 to implement the Assassination Records Collection Act of 1992.

15 CHAIRMAN TUNHEIM: Is there a second to the motion
16 to approve the final interpretive regulation?

17 MS. NELSON: Yes.

18 MR. JOYCE: Seconded.

19 CHAIRMAN TUNHEIM: Moved and seconded. The floor
20 is now open for discussion on the part of Board members. Any
21 discussion? Let's move to a vote on the motion that's on the
22 floor, recognizing that Mr. Graff has indicated his proxy.

23 All those in favor of the motion to approve the final
24 draft interpretive regulations, please say aye.

25 [Chorus of ayes.]

CHAIRMAN TUNHEIM: Opposed.

[No response.]

CHAIRMAN TUNHEIM: It's carried by a five to zero vote.

Thank you, Ms. Walter, for all of your assistance.

We are going to move now to what has been a regular feature of our public meetings, and that is a brief update on changes that have occurred since we last met to the collection at the National Archives. Steve Tilley is not with us today.

He typically makes that report. Mary Ronan from the National Archives is here and we would welcome her forward to give us a report on the status of the collection. Welcome, Mary.

MS. RONAN: Thank you, Mr. Chairman, Board members.

I appreciate the opportunity to read this to you, and apologize for Mr. Tilley who was, like Mr. Graff, unavoidably detained some place else.

I'm reading to you the statement of Steve Tilley.

Thank you for the opportunity to update the Board on the status of the JFK collection. I apologize for being unable to appear before the Board in person.

At the Board's last public hearing in Washington on March 7th, I discussed the pending transfer of additional records by the FBI. These records were investigative files regarding organized crime figure Sam Giancana and Gus Alex, and assassination-related documentations from the SOLO

1 operation, the investigation that focused on activities of the
2 Community Party of the United States. The records were released
3 to the public on March 30th and this release received a great
4 deal of media attention.

5 At the last hearing I told you that we had added the
6 first data disks received from the CIA to our master system
7 but had not completed the work necessary to transfer the data
8 to the reference system. I am now able to report that this
9 data is in the reference system and fully searchable as of today.

10 As I mentioned on March 7, these data disks contain
11 information on the portion of the Lee Harvey Oswald 201
12 Personality File that was transferred to NARA in August 1993
13 for the opening of the Collection. We have also added data
14 disks received from the House permanent subcommittee on
15 intelligence for the records of the Pike Committee and data
16 disks for the Navy's Bureau of Medicine and Surgery. The
17 addition of this information to the database has raised the
18 number of record identification forms in the database to just
19 over 117,000. We have also updated the printed subject listing
20 for the database. It is available in the research room at
21 Archives 2 in College Park.

22 On March 7 I told the Board that the CIA had
23 transferred notes taken by members of the HSCA staff as those
24 individuals reviewed CIA records during the course of the HSCA's
25 investigation. The CIA has reviewed these documents and

1 provided NARA with recommendations on postponing information
2 contained in these documents.

3 I would like to remind the Board that the ultimate
4 authority for disclosure of these documents lies with NARA
5 acting as the agent of the House of Representatives. We are
6 also responsible for entering the data from these records in
7 the database.

8 I must inform the Board that we have not yet begun
9 the data entry on these documents. After discussion with the
10 staff of our Center for Legislative Archives, it was determined
11 that the staff of the Center would first complete the processing
12 of other pending records before beginning the review of the
13 staff notes.

14 The current status of these issues is as follows.
15 First, non-federal police department records have been referred
16 to the departments for review. The referrals were sent by
17 registered mail and signed receipts were received for each
18 letter sent, so we know the packages were received by the
19 addressees.

20 So far we have received one reply from the Ft.
21 Lauderdale, Florida Police Department, which recommended that
22 one lengthy report be released in full. They referred several
23 other documents to the Dade County Police Department for further
24 review.

25 Second, I wrote to the California State Archives

1 concerning the autopsy records, including state grand jury
2 records relating to Robert F. Kennedy. I have not received
3 a reply to my letter.

4 Third, we have completed the review of most of the
5 more than 600 tape recordings among the records of the HSCA.

6 Last week a set of 33 additional tape recordings was transferred
7 to our Motion Picture, Sound, and Video Branch for researcher
8 use. Other tape recordings have been referred to the CIA for
9 review and we have not yet received a reply from the CIA on
10 these tapes.

11 We have identified approximately 75 tape recordings
12 that may need review by other agencies. The CIA has agreed
13 to send staff to the downtown building to conduct an initial
14 review there. Once the CIA review is completed, we will contact
15 other agencies as necessary or provide reference copies for
16 researcher use if no further review is required.

17 We have approximately 15 tape recordings which still
18 require some preservation work before we can begin reviewing
19 for release. When the preservation work is completed, we will
20 begin the normal review process.

21 Finally, we are prepared to begin the review of a
22 small set of documents, approximately a box and a half of
23 records, that were set aside during the initial review of the
24 HSCA records. Many of these documents present difficult
25 disclosure decisions that relate to questions of personal

1 privacy, including medical information, information concerning
2 the involvement of David Ferrie with named juveniles, and
3 interviews with witnesses that may be subject to explicit
4 confidentiality agreements.

5 There are also copies of tax returns of members of
6 the Ruby family. While the statute excludes tax return
7 information from the Collection, the Internal Revenue Service
8 has indicated that these documents may be subject to disclosure
9 if the copies among the records of the HSCA differ in some manner
10 from the official copies among the records of the IRS.

11 A meeting with a representative of the IRS will take
12 place soon. Once the review of these documents are completed,
13 we will begin the review and data entry of the HSCA staff notes.

14 I am happy to report some progress on the processing
15 of the records of the Rockefeller Commission by the staff of
16 the Ford Library. The staff of the Library told me last week
17 that they have 147 documents, for a total of 738 pages, ready
18 for referral to a number of agencies, including the FBI, the
19 Department of Defense and State. These referrals will go out
20 this week.

21 The Library has been in contact with the CIS since
22 the visit of the review team last November and has sent copies
23 of documents to the CIA for review. Once the referral to the
24 other agencies is completed, the staff will begin copying the
25 records of the commission opened by the CIA in November and

add them to the collection.

1
2 Finally, the review of withheld FBI documents among
3 the records of the Warren Commission and other agencies in our
4 custody has slowed considerably. We hope this process can
5 resume shortly to prevent the necessity of copying the remaining
6 documents that require review. Let me point out again that
7 these documents are copies of records which the FBI has already
8 reviewed in its own files.

9 This completes my statement on the status of the
10 Collection. I will be pleased to provide responses to any
11 questions the Board may have at the earliest opportunity.

12 CHAIRMAN TUNHEIM: Any questions for Ms. Ronan while
13 she's here with us?

14 MS. NELSON: I have one. You said that you're going
15 to have to move, what was it, tape recordings downtown to the
16 CIA?

17 MS. RONAN: I believe the tape recordings are HSCA
18 so they are at the moment downtown.

19 MS. NELSON: They are downtown. So that's why the
20 CIA --

21 MS. RONAN: That's why the CIA will come down there.

22 MS. NELSON: So the way you sounded, they would go
23 down there, originally up to College Park.

24 MS. RONAN: They have been up to College Park.

25 CHAIRMAN TUNHEIM: Do you know, Mary, are those

HSCA-originated recordings, or are they originated by the CIA?

1 MS. RONAN: I believe they are HSCA-originated
2 recordings.

3 MR. JOYCE: I gather after the review is completed
4 that that material will be in fact integrated in College Park?

5 MS. RONAN: Yes, it will be.

6 MR. MARWELL: I was a little confused about the tax
7 returns issue, the Ruby family. Are those tax returns that
8 were gotten originally from the IRS, or were they obtained from
9 the estate or from the family? Do you know?

10 MS. RONAN: I don't know.

11 CHAIRMAN TUNHEIM: I believe they were obtained by
12 the family. They volunteered them.

13 MR. MARWELL: And that's why the IRS is taking the
14 position that it's taking, then?

15 MS. RONAN: I think that's part of it.

16 CHAIRMAN TUNHEIM: Any other questions?

17 Thank you, Mary. Thank you for your help as well
18 as Steve's as you've gone through this process and continued
19 to.

20 I want to point out that the interpretive regulation
21 that we approve today is not yet ready for publication in the
22 Federal Register. It needs to be reviewed by the Office of
23 Management and Budget and that has to take place before final
24 publication.
25

1 I am hopeful that the guidance provided in that
2 regulation will be helpful to agencies, will be helpful to the
3 public in understanding the type of information that this Board
4 feels is important for us to look for, to gather and collect
5 as part of the overall collection at the National Archives.
6 I think it will be, and I hope the public finds it very useable
7 and helpful as well.

8 I have just a couple of announcements before we close
9 and then I'll ask whether Board members or Mr. Marwell have
10 anything in addition to add. Since our last public meeting
11 in Washington, we had an excellent public meeting and hearing
12 in Boston in March, and we also had a very fruitful and I think
13 helpful day at the JFK Presidential Library talking with library
14 officials about the records that are there.

15 The Board is currently planning on a public hearing
16 and meeting in New Orleans. We're looking at possibly the day
17 of June 28th for that hearing. We haven't finalized that yet
18 but it will be in that time frame, a hearing very similar to
19 the one that we conducted in Boston, again with a focus on a
20 search for relevant records that may be present in the New
21 Orleans area.

22 The staff is working on finalizing the process by
23 which the Board will begin its review of records, and we hope
24 that that process will be ready soon and the Board can begin
25 implementing that and reviewing the records that are awaiting

our attention.

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Mr. Marwell, do you have anything to report today?

MR. MARWELL: I'd just like to note that the staff has grown to almost full strength. There's a couple of positions that have yet to be filled. I believe seven or eight of our employees currently have received their necessary security clearances and are out in the field doing the review of documents so that we are actually under way in the main phase of our operation. I think by another six weeks we should have the full complement of analysts cleared and out in the field.

CHAIRMAN TUNHEIM: Board members, anything you wish to add today? Is there any other business to come before the Review Board today?

If not, is there a motion to adjourn?

MR. JOYCE: I move the adjournment of this meeting.

CHAIRMAN TUNHEIM: Is there a second to the motion?

MS. NELSON: Yes.

CHAIRMAN TUNHEIM: All those in favor of adjournment, please say aye.

[Chorus of ayes.]

CHAIRMAN TUNHEIM: The meeting is adjourned. Thank you.

[Whereupon, at 1:53 p.m. the above-entitled matter was concluded.]