

1 UNITED STATES OF AMERICA  
2 ASSASSINATION RECORDS REVIEW BOARD

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4 PUBLIC MEETING

5 Assassination Records Review Board  
6 600 E Street, N.W.  
7 Suite 208  
8 Washington, D.C.

9  
10 Wednesday, December 14, 1994

11  
12 The above-entitled proceedings commenced, pursuant to notice,  
13 at 2:00 p.m., John R. Tunheim, chairman, presiding.  
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## PRESENT FOR ASSASSINATION RECORDS REVIEW BOARD:

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JOHN R. TUNHEIM, Chairman

HENRY F. GRAFF, Member

KERMIT L. HALL, Member

WILLIAM L. JOYCE, Member

ANNA K. NELSON, Member

DAVID G. MARWELL, Executive Director

## PRESENT FOR THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION:

MIRIAN NISBET

MICHAEL McREYNOLDS

STEVE TILLEY

## P R O C E E D I N G S

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[2:00 p.m.]

CHAIRMAN TUNHEIM: I will call to order this meeting of the Assassination Records Review Board and welcome everyone here today to this public meeting.

Several items that we are going to address today: First, after some brief announcements, we are going to have a briefing from the National Archives and Records Administration on the issue of artifacts and whether artifacts should be included in our definition of assassination records.

And we are also going to have an update from Steve Tilley on the changes that have been made to the JFK collection at the National Archives.

We have, since our last public meeting, held two public hearings as a board. The first of those was held in Washington in October, a meeting devoted to examining advice from individuals on how we should define the term "assassination record."

It was a very helpful hearing from the Board's standpoint, and we are working on that definition. Hopefully, we will be ready to have a public meeting late in January, the 25th or the 26th, at which we will debate and arrive at a conclusion on how we plan to define the term "assassination record." We set that as the deadline for ourselves.

We also held a public hearing last month in Dallas and -- addressing both the issue of what is an assassination record and, probably more importantly for that location, where assassination records can be located that this Board should be seeking. That also was a very helpful hearing from the Board's standpoint.

1           It was a lengthy hearing, a lot of interest, a lot of people  
2 attended and provided us with testimony.

3           Before we go into the substance of today's meeting, a couple  
4 of things. We are not tape recording today's meeting like we have past  
5 meetings. We are having the meeting transcribed, however; so since we are  
6 operating without a microphone system, I would appreciate everyone speaking  
7 loudly, particularly our witnesses, providing your name and spell it so  
8 that it can be adequately transcribed.

9           I would like to ask our executive director, David Marwell, to  
10 give us a brief update on the staffing decisions that have been made in  
11 the last month for the board.

12           MR. MARWELL: Since the last public meeting, we have five  
13 additional staff members. Four of them are here in the room right now.  
14 I would ask them to identify themselves as I call their name: Tracy  
15 Shycoff -- in order of their joining the staff. She is our administrative  
16 officer who had been the administrative officer for the AIDS Commission  
17 before that went out of business and before she joined the Review Board.

18           Tom Samaluk back here; Tom was an Assistant Attorney General  
19 and director of communications for the Attorney General's office in the  
20 State of Massachusetts before he joined our office. He has the  
21 responsibility for our present public affairs program.

22           Cheryl Walter was the general counsel for the National Security  
23 Archive and is our general counsel.

24           And Jerry Gunn was with the law firm of Covington & Burling.  
25 He will be running our review and analysis program.

1 Kevin Tiernen, I think is still down in the lobby of the building,  
2 to help guests get through security. Kevin had been with the National  
3 Archives and was involved with the review of the HSCA records and is our  
4 first staff analyst.

5 In addition to that, we have made, I believe, five additional  
6 decisions. I would like to introduce those people when they come on board;  
7 so at the next public meeting, we will announce their hires.

8 CHAIRMAN TUNHEIM: Thank you. Let me also acknowledge the  
9 Board has been meeting yesterday and earlier today and basically being  
10 briefed on a wide range of housekeeping-related matters in advance of our  
11 public meeting today. It is our hope as a Board that we can actually begin  
12 the review process, the review of documents by February or March of 1995.

13 We are looking forward to beginning this process and actually very anxious  
14 to be in the process, look forward to providing you all with notice about  
15 that.

16 Any Board members have additional statements to make before  
17 we begin?

18 [No response.]

19 CHAIRMAN TUNHEIM: Okay. I would like to call on the  
20 representatives of the National Archives and Records Administration to  
21 provide us with a briefing on the artifacts issue. Welcome.

22 MS. NISBET: I am Miriam Nisbet, special counsel to the  
23 Archivist of the United States. With me is Michael McReynolds, director  
24 of the Textual Reference Division at the National Archives; and,  
25 additionally, should we need to get into this, Steve Tilley who is very

well known to you as NARA's JFK liaison.

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2 We asked to address the Board on the issue of artifacts because  
3 we have quite a bit of experience and history with artifacts and objects  
4 that are preserved at the National Archives for historical purposes. These  
5 include a wide range of objects of all different kinds, including, of course,  
6 the materials considered by the Warren Commission and that which came to  
7 the National Archives in 1966.

8 Very briefly, the position of the National Archives has been  
9 and remains that objects or artifacts are not records within the meaning  
10 of the various records laws. We believe this is the correct interpretation,  
11 for example, of the Federal Records Act. The Federal Records Act at 44  
12 USC Section 3301 defines records as all books, papers, maps, photographs,  
13 machine-readable materials or other documentary materials regardless of  
14 physical form or characteristics; and then goes on to explain that for the  
15 Federal Records Act, these are terms that were made or received by the Federal  
16 Government, by agencies in the transaction of their business, that are  
17 preserved or appropriate for preservation of evidence of the agency's  
18 activities, operations and so on or because of the informational value of  
19 them, the data in those materials.

20 We think that key parts of that definition for purposes of the  
21 discussion of artifacts are the words "documentary materials" and  
22 "informational value."

23 We believe that the intended coverage of the Federal Records  
24 Act, like the Assassination Records Collection Act, like the Freedom of  
25 Information Act really is of documentary materials; media that record

1 information. Certainly objects -- artifacts are of informational value,  
2 but we think that we are really looking for, in terms of records, something  
3 on which information is recorded. Some media on which information is  
4 recorded.

5 We also think this is a practical common sense approach, again  
6 to those laws that deal with giving citizens access to government information  
7 by allowing for copies of records; and as a practical matter, it would be  
8 very difficult to imagine how you can make a copy of an object. You can  
9 certainly make copies of photographs, copies of descriptions of objects;  
10 but not the objects themselves.

11 There really are a couple of different bases for our position.

12 One of them is legal in the sense we are looking at the actual words of  
13 the statute trying to figure out what those words mean; but additionally,  
14 basing the legal considerations on court cases.

15 Believe it or not, we are only aware of two cases that have  
16 actually addressed this particular issue. One, a very, very early case  
17 testing the old version of the Freedom of Information Act was a 1971 United  
18 States District Court case -- I have a copy of it I would like to leave  
19 with the Board -- that actually was testing some of the same materials that  
20 you all are concerned with. The request there was for a number of the Warren  
21 Commission materials, a bullet, the shirt President Kennedy wore when he  
22 was shot, fragments, metal fragments removed from his body.

23 The court in that case concluded -- looking at again the statute,  
24 looking at the definition, looking at the dictionary for some  
25 guidance -- concluded that objects were not records; that was the holding

of the case.

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2 Surprisingly enough, there has not been another decision from  
3 1971 until 1994. During that period of time, the position of the government  
4 has been that objects were not records. I would like to point out that  
5 this has been the position not just of the National Archives but really  
6 across-the-board with government agencies. I was at the Department of  
7 Justice for 15 years in the Office of Information and Privacy. That has  
8 been the consistent policy of the government through all of this time.

9 The 1994 case I mentioned -- again I have a copy here for the  
10 Board -- without very much discussion simply concluded exactly the same  
11 way that the 1971 case did; and that was, in that case, the request involved  
12 a request for the -- they were seeking access to a piece of computer hardware.

13 The court concluded that that was not a record for purposes of the Freedom  
14 of Information Act. I wouldn't suggest that a dearth of court cases on  
15 this issue was determinative in any way; but I think it perhaps illustrates  
16 that there has been very, very much a general acceptance of and perhaps  
17 a comfort level with this particular position and policy of the government  
18 during all this time.

19 I mention -- those are legal considerations. The National  
20 Archives also has a very serious concern in terms of preservation that  
21 underlies this policy. I think in your consideration, it is very important  
22 for you to remember and keep in mind that any decision that would exclude  
23 objects in the definition of assassination records does not mean that the  
24 materials the National Archives has, these objects, for example, from the  
25 Warren Commission, that they are not available to the public. They are,

1 and they have been available; so there is nothing -- there is nothing about  
2 excluding them from the definition that means people are not going to have  
3 access to them.

4 The policy of the National Archives has, however -- and we  
5 certainly want to be very clear about this -- that there is limited access  
6 to these materials, and that is based upon a concern for long-term  
7 preservation of these particular items, there was a time when anyone who  
8 came in, whether it was a group of high school students or anyone just walking  
9 in off the street, was able to look at the Warren Commission items that  
10 came to the National Archives; and in the mid-1980s, as Mike will explain  
11 in more detail, we determined that in order to preserve these objects, we  
12 simply were not going to be able to accommodate that kind of an access.  
13 Consequently, the policy changed to one in which the materials would be  
14 available to researchers when they could not satisfy their research needs  
15 through looking at photographs, descriptions from the materials that were  
16 available to them; and that simple viewing of an object would in fact enhance  
17 and help them in their research. Under those circumstances, the materials  
18 were made available; they are carefully handled by the staff of the National  
19 Archives.

20 There also -- and I am only mentioning this again in an effort  
21 to just give you some of the background on this -- there were some concerns  
22 that the staff at the National Archives was spending an inordinate amount  
23 of time showing objects to people; and we found, in fact, that most people  
24 coming in to look at these objects were doing so really out of curiosity.

25 They were not researchers, they were not there for a research purpose;

1 but they merely wanted to see the objects which is all perfectly well and  
2 good; but again it was the continuing handling of the objects and the staff  
3 time that was a concern.

4 That is not the primary consideration the National Archives  
5 has. It is really concern for the fragility of these items which we have  
6 understood over time to be imperilled by continual handling. I would like  
7 to let Mike speak to a bit from his personal experience.

8 BRIEFING BY MICHAEL McREYNOLDS

9 MR. McREYNOLDS: I am Mike McReynolds, director of the Textual  
10 Reference Division of the National Archives, responsible for the reference  
11 service to the records and artifacts of the Warren Commission. I will speak  
12 briefly on the archival considerations related to preservation and reference  
13 service.

14 There are two separate archival processes, but they are  
15 entwined. The National Archives for a number of years was concerned about  
16 the preservation of the Warren Commission artifacts; and over the years  
17 we talked with various Smithsonian preservationists whose advice was to  
18 leave the objects alone in their present state.

19 When we began the preparation for moving records to our new  
20 building in College Park, Maryland five years ago, we sought more definitive  
21 advice from our own much improved preservation staff and other  
22 preservationists.

23 Their advice was essentially the same as the previous less formal  
24 comments. The artifacts should not be cleaned or otherwise protected, but  
25 they should be rehoused, reboxed. They also reiterated that the objects

1 should not be moved or handled any more than necessary. We had a special  
2 report done on the windshield by an expert from the National Gallery of  
3 Art; and we are building a special cage around the windshield in a stack  
4 area in our downtown building where it has been for many years. Special  
5 boxes were made for the artifacts and they were sent to Archives II in College  
6 Park earlier this year. The one archival activity that would necessitate  
7 further handling and moving of the artifacts thus threatening their  
8 preservation would be providing reference service for the general public,  
9 i.e., showing them as records on demand.

10 At one time, the National Archives policy was to show the objects  
11 on demand. We did not advertise that they were available; but, if asked,  
12 archivists would take them to the central research room or an office in  
13 the National Archives to show them. We did not question the requestors  
14 as to why they wanted to see a specific object or objects. This service  
15 was provided approximately once a week for many years; sometimes included  
16 high school and college classes and groups sent to the National Archives  
17 by congressional staffs.

18 At one point, the tour bus company on the Mall included in its  
19 script for the tour guides a statement that the Oswald rifle could be seen  
20 at the National Archives. For two days, we were overwhelmed with tourists  
21 asking to see the rifle. We learned eventually how they knew of the showing  
22 of the rifle and called the company asking that it take the statement out  
23 of their script. They did.

24 It may have been after that incident or another warning about  
25 the preservation of the artifacts that sometime between 1980 and '85, we

1 decided to limit reference service to the Warren Commission artifacts.  
2 We established a policy that requestors had to write to us stating why they  
3 wanted to see the artifacts, and it could not be mere curiosity, why a  
4 photograph of the object would not suffice for their research; and what  
5 they hoped to learn by seeing the object itself. Requests were and are  
6 reviewed by a archivist and branch chief and sometimes by higher officials  
7 in the National Archives or conservationists or lawyers.

8 The policy greatly reduced the movement and handling of the  
9 Warren Commission artifacts. No longer did we produce them for the curious  
10 and often prurient interests of members of the public, and the policy has  
11 been generally accepted by researchers and the public.

12 The National Archives does not want to return to its previous  
13 procedures. Undoubtedly it would threaten the preservation of the objects  
14 and take personnel resources that could be better used in other reference  
15 services.

16 MS. NISBET: May I add one more thing? I want to be sure you  
17 also are aware that all of these objects have been photographed; there are  
18 written descriptions of them; and these photographs and descriptions are  
19 already part of the collection of the assassination records. So those are  
20 absolutely available, and copies of those can certainly be made available  
21 to anyone.

22 MR. GRAFF: You are confining your statement now to the Warren  
23 Commission artifacts; is that right? You don't include, let us say, the  
24 window of the Texas Book Depository?

25 MS. NISBET: I am speaking generally of the Warren Commission

1 because that's the bulk of the objects. I am referring to any of the objects  
2 dealing with the assassination that the National Archives does have. Let  
3 me stress the policy we are talking about isn't just confined to assassination  
4 objects but any of the objects that the National Archives has, you know,  
5 of any kind that we preserve.

6 MR. JOYCE: I infer from what you say that making the artifacts  
7 part of the assassination records, the JFK assassination records collection  
8 somehow will make these objects more susceptible to a greater level of  
9 reference use than they are where they currently are? Or, to put it another  
10 way, why is it a transfer to the JFK collection puts the items at more peril  
11 than they are now from a preservation and reference point of view.

12 MS. NISBET: We can't say they necessarily would be; but we  
13 think that that might very well be the implication of it. Since anything  
14 that is an assassination record under the act is to be disclosed to anyone  
15 upon request unless it's a postponed item, we fear that the implication  
16 of it could be that, again, anyone coming in and asking for -- to view,  
17 to look at an object would be required under the act because there would  
18 be no exception we can see under the act that would take into account the  
19 policy that we currently have.

20 That's what we are concerned about. It is not being designated  
21 as such but rather the implication of being designated that way in terms  
22 of perhaps having to return to the system that used to exist.

23 MR. JOYCE: That's the reason you have taken the position?

24 MS. NISBET: Two reasons. That certainly is the preservation  
25 concern.

MR. JOYCE: Right.

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2 MS. NISBET: The other concern I think is simply one that anyone  
3 from the government who deals with the access laws would have; and that  
4 is the precedent perhaps for objects being considered under this act to  
5 be a record is certainly -- I think very much would be at variance with  
6 the position the government has taken with regard to other access laws.  
7 We are simply expressing our concern as any other government agency would  
8 be in terms of the precedent of that.

9 MR. HALL: A couple of questions. One, I am -- like Bill I  
10 have a little difficulty, but I am sure it is because I don't know enough  
11 here -- trying to understand why you wouldn't be in the position for purposes  
12 of preserving the materials of the JFK collection to restrict their use  
13 in such a way as to preserve them over the long term.

14 Surely there is nothing in this legislation that says unlimited  
15 numbers of researchers can go in and essentially destroy the archive by  
16 overusing them. The Archives still would retain authority to ensure the  
17 proper safekeeping of the material which is part of its charge; would it  
18 not be the case, therefore, that you could restrict in terms of the existing  
19 regulation in the Archives access to the materials in this collection as  
20 you would restrict access to terms in any other collection?

21 I don't see anything in the statute that means that anybody  
22 who wants to get at this can get at it any time, any place, any way they  
23 want. It is not a cafeteria or supermarket you walk into and pluck it off.

24 MS. NISBET: On the other hand, the act is clear that anyone  
25 is entitled to copies of anything that is designated an assassination record.

1 That is what we are concerned about. The implication is that we would  
2 not necessarily be able to maintain the policy we have which is a restricted  
3 access policy, to be frank.

4 MR. HALL: I can understand restricted access in terms of making  
5 sure the materials are preserved. It seems you can do that under the act  
6 or outside the act as you presently are. I guess I would solicit the advice  
7 of our general counsel in that regard. I understand what you are saying.

8 I guess I have not got to the point where I can see where your argument  
9 ends in a conclusive enough fashion to persuade me that, for example, the  
10 rifle that is alleged to have been the instrument by which the President  
11 died should not be in a collection of materials dealing with the assassination  
12 of the President.

13 The other question I have goes to the legal side, and I have  
14 not read the two cases you mentioned; but just to inform me, the wording  
15 in our statute tracks the wording in the Federal Records Act?

16 MS. NISBET: It is very similar.

17 MR. HALL: The pertinent materials you pulled out are very,  
18 very helpful. Other documentary material regardless of its physical form  
19 or characteristics. Now what I am trying to understand is other documentary  
20 material and why this essentially broadening clause "regardless of physical  
21 form or characteristics".

22 MS. NISBET: Well, I think the way that phrase "regardless of  
23 physical form or characteristic" has been interpreted by the courts not  
24 in dealing with the issue of objects but in terms of what a record is to  
25 include -- make sure that people understand that records can be digital

1 recordings or sound recordings, video, computer disks, computer records  
2 of any kind, that that is the intent of that or at least that is the way  
3 it has been interpreted.

4 MR. HALL: Some of those are specific.

5 MS. NISBET: Some are specifically, but particularly as  
6 technology changes there are always things that come along that are not  
7 necessarily clearly encompassed within that.

8 As I mentioned, the only two cases I am aware of that actually  
9 speak to this were dealing with objects themselves.

10 MR. HALL: Sure.

11 Last question: Just so I understand it, is the position of  
12 the Archives that the John F. Kennedy collection can be complete without  
13 material pieces of evidence relating to the assassination itself?

14 MS. NISBET: Yes.

15 CHAIRMAN TUNHEIM: Ms. Nelson?

16 MS. NELSON: I guess I have two questions. One is how  
17 many -- are there great numbers of artifacts that are not in the Warren  
18 Commission or are there just a few things that have come to you that were  
19 not in the Warren Commission?

20 MS. NISBET: I think Steve or Mike would be better able to speak  
21 to that.

22 MR. McREYNOLDS: Related to the assassination? Just in  
23 general?

24 MS. NELSON: Related to the assassination.

25 MR. McREYNOLDS: I think most of them are in the Warren

Commission collection.

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MR. TILLEY: Yes.

MS. NISBET: I think there are a few things.

MR. TILLEY: A couple of items have come to us outside of that.

Recently the --

MS. NELSON: Which are indeterminate ownership.

My second question goes to the heart of your decision on artifacts which affects the JFK ones, of course. That is that you say basically that artifacts -- the National Archives is saying that artifacts do not document agencies' activities? Never?

MS. NISBET: I certainly would not say never.

MS. NELSON: There are historians who think artifacts do, in fact, document.

MS. NISBET: Yes.

MS. NELSON: Then I have a second question. If they are not records under the Federal Records Act, what are they doing in the Archives?

MR. McREYNOLDS: We have had a program of deaccessioning artifacts with the Smithsonian in the seventies. There was a program to do that; and it was done. So that interpretation is not a new one as far as artifacts are concerned.

MS. NELSON: It is a really tricky question. If they, in fact -- if they are documentary term of any kind, if they are of any informational value, it is hard to remove them from a collection. By the way, I understand it would be a pain in the neck -- not the Warren Commission ones but some of the documents -- artifacts you all could probably get.

But that is beside the point.

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MS. NISBET: Certainly.

MS. NELSON: The point is that there are -- there probably are other artifacts you have that document agency activity you probably have deaccessioned because they probably didn't belong there. But they do, in fact, probably document.

MS. NISBET: We would certainly not say that objects do not have informational value. They do. The only question here is whether or not they constitute records as records have been considered, you know, legally throughout the years.

MR. HALL: There is a kind of interesting puzzle in other ways.

Because if we accept your view that an artifact is not a record, then much of the pertinent physical evidence would fall outside the scope of an assassination record. If on the other hand -- and we so define it in the terms you are giving to us. If, on the other hand, we have a broadened definition of what an assassination record is and it is something commonsensical, speaks to me, says if I have the weapon that the alleged perpetrator used, that somehow or other fits into the bigger puzzle, that ought to be part of the net cast by us to make sure there is a complete coherent collection.

So I'm trying to understand why -- I understand -- I understand on practical grounds why the Archives wouldn't want these materials; it escapes me why on common sense grounds the Archives would not want them.

MS. NISBET: We certainly believe there is a common sense approach to that.

1           Again, the -- all of these objects certainly are available;  
2 they are available to the public. They are being cared for; they are, you  
3 know, part of the collection of archives. They are just not, as we are  
4 saying, part of the collection of the assassination records. But  
5 additionally, in terms of information about the objects themselves, those  
6 are already part of the collection; photographs, descriptions, in many cases  
7 enhanced photographs, that sort of thing. Certainly they are part of that.

8           I think that, you know, we looked, for example, again common  
9 sense approach to many of the records of the courts, for example, that end  
10 upcoming to the National Archives in photo records. You certainly have  
11 objects that may become -- they are evidentiary, they become part of a record  
12 of the case that is heard before the court. A gun for example; the murder  
13 weapon, that sort of thing. Yes, it is part of the record. Is it in itself  
14 a record? That simply is where we are departing here. We don't believe  
15 that it is in itself a record; and we believe that the legal precedent on  
16 that is correct as well.

17           MR. HALL: The legal precedent may be correct, but that strikes  
18 me as a distinction, for the purposes of the legislation and the  
19 responsibilities we have, one that would put us in a position of essentially  
20 setting outside the collection materials that are clearly pertinent to what  
21 goes on, or what went on. At any rate --

22           MS. NISBET: That is very much the decision you are going to  
23 have to make. We would only urge that you do consider the precedent. You  
24 would be saying that objects are records. It would be hard to say they  
25 are just assassination records for this particular case and that has no

meaning or implication for any other objects.

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MR. HALL: A Hollerith card.

MS. NISBET: I don't know what this is.

MR. HALL: It is an older term, from an older era. A computer card run through, a data card.

MS. NISBET: Keypunch?

MR. HALL: Yes. Is a keypunch card an artifact or a record?

MS. NISBET: I don't know.

MR. JOYCE: A machine-readable record.

MR. McREYNOLDS: A media like videos.

MS. NISBET: A computer back-up tape.

MR. HALL: The interpretation of it is subject to use. I would guess the interpretation of the rifle is subject to some use. Balancing, aiming, perhaps even firing.

MS. NISBET: Absolutely. It certainly is.

MR. HALL: It strikes me as a record.

MS. NISBET: Don't make up your mind too soon.

MR. HALL: All I am saying is it strikes me as a record.

CHAIRMAN TUNHEIM: If the Warren Commission exhibits were considered artifacts and not assassination records pursuant to this act, would it be more likely that eventually they would be transferred to the Smithsonian under the common practices the National Archives has relegated to other artifacts that you mentioned?

MR. McREYNOLDS: That would be a decision down the road. A decision was made to try to rid the shelves of the National Archives of

a lot of artifacts, we might say junk; and an agreement was --

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2 CHAIRMAN TUNHEIM: The Smithsonian was a good place to send  
3 it?

4 MR. HALL: I am sure the Smithsonian will be glad to hear that.

5 MR. McREYNOLDS: An agreement was made with the Smithsonian  
6 to review the list of artifacts we developed. There was an exchange of  
7 some of them, not all of them. I doubt if the National Archives would be --

8 MS. NISBET: I don't believe we could or -- I think it would  
9 take -- they came to -- they came to the National Archives as a result of  
10 a law that was passed directing that those terms be given to the National  
11 Archives. It seems to me it might take some much more serious action for  
12 that ever to happen. I believe by law, in other words, the place they are  
13 to reside is the National Archives, without question.

14 MR. JOYCE: Isn't it the case -- and this is subject to  
15 interpretation perhaps -- but is it not the case that our law directs that  
16 the Warren Commission files be part of the assassination records collection?

17 So in the same way that you may feel that you have custody over those  
18 artifacts by reason of legislation, so, too, do we perceive that this is  
19 part of the larger collection of which this is specified.

20 MS. NISBET: Of records.

21 MR. JOYCE: That may be subject to interpretation. I think  
22 the language of the legislation may not say it.

23 MR. HALL: I think Bill's question is a good one.

24 MS. NISBET: I do, too. I would have to look more carefully  
25 at the language.

1 MR. HALL: If Congress provided you take care of the physical  
2 evidence brought forward by the Warren Commission, then, in essence, it  
3 seems to me Congress made a decision about whether or not these terms are  
4 records since under the interpretation of the Federal Records Act, only  
5 the -- the Archives can only hold records and Congress directed you to take  
6 these materials; therefore, they are records.

7 MS. NISBET: I think that that is too circular. As a matter  
8 of fact, the National Archives does have custody of -- and I would certainly  
9 think legally so -- of any number of objects that never got there because  
10 they were records of -- necessarily of any particular federal agency or  
11 court.

12 MR. HALL: The good news would be then you are in the position  
13 of being able to say this is no precedent at all?

14 MS. NISBET: That would be nice.

15 MR. HALL: I don't know what the statute says. If the statute  
16 said that, there is no precedent. They just float over to us.

17 CHAIRMAN TUNHEIM: Is the definition of record in the Federal  
18 Records Act and FOIA the same as the definition of a record in the JFK  
19 Collection Act?

20 MS. NISBET: The definition of record in the Federal Records  
21 Act and JFK Act is very much the same. Virtually the same. A little  
22 difference, but very, very close.

23 CHAIRMAN TUNHEIM: Other documentary?

24 MS. NISBET: The FOIA does not define a record. As I mentioned  
25 under the FOIA, of course, the indications I mentioned are cases that resulted

1 from requests under the Freedom of Information Act. But, for example, in  
2 the 1971 case that I mentioned, the court in trying to define what a record  
3 is did look to the word "Federal Records Act" in trying to figure it out.

4 CHAIRMAN TUNHEIM: In terms of the desire not to create a  
5 precedent which I certainly understand is a very viable issue for the National  
6 Archives, we do have the definition of a record which does apparently track  
7 closely the federal records act. There also is a definition of assassination  
8 record that does include materials that have come into the possession of  
9 the Warren Commission essentially. So it goes a little bit beyond that.

10 MS. NISBET: That might be what makes a difference in your minds.

11 CHAIRMAN TUNHEIM: Tell me, is there a catalogue of the material  
12 that you would consider to be artifacts related to the assassination of  
13 President Kennedy that currently exists, a catalogue of what is there right  
14 now?

15 MR. McREYNOLDS: Yes.

16 MS. NELSON: That would be helpful to have.

17 MS. NISBET: That can be provided.

18 CHAIRMAN TUNHEIM: Second question: how often are these  
19 artifacts shown to the public now? I recognize they were shown frequently  
20 before 1985. How frequently would you say they are shown now to someone  
21 who wrote a letter to you requesting them?

22 MR. McREYNOLDS: It is several times a year now.

23 MR. TILLEY: I think in the last year, we did five or six.  
24 We agreed to and accepted five or six applications.

25 MR. McREYNOLDS: I think that that is more since the movie than

1 it was prior to 1992.

2 MR. MARWELL: How many did you deny in that time?

3 MR. TILLEY: Well, I denied portions of one major one that is  
4 currently pending right now. We denied several parts of that request because  
5 of previous lack of need for it or other reasons; but we denied some, too.

6 For the most part, an inquiry from a researcher results in me  
7 telling him what our policy is; and usually people don't pursue it after  
8 that. But for those that are serious, they make a written inquiry and the  
9 ones that have made a written inquiry pretty much are accepted. They tend  
10 to be people who are doing either work on some of the publicity for the  
11 30th anniversary of the assassination last November or people currently  
12 involved in writing books or articles about some aspect of the assassination.

13 CHAIRMAN TUNHEIM: Other questions?

14 One more while we have you here. We really appreciate this  
15 briefing.

16 MS. NISBET: You can certainly call us, too. You don't have  
17 to limit your questions to today.

18 CHAIRMAN TUNHEIM: Has there been consideration given to  
19 putting the artifacts into some kind of form where they could be viewed  
20 by the public without necessarily affecting the preservation issue such  
21 as some type of climate-controlled environment?

22 MS. NISBET: Like a display case?

23 CHAIRMAN TUNHEIM: I am sure there are sensitivities associated  
24 with that; but is that an issue that is contemplated at some point in the  
25 future?

1 MR. McREYNOLDS: It has been talked about in the past. I don't  
2 know what plans would be in the future.

3 CHAIRMAN TUNHEIM: No plans right now?

4 MR. McREYNOLDS: No. Not at all.

5 MR. HALL: It is fair to say the Archives itself is not a museum?

6 MR. McREYNOLDS: Yes.

7 MR. GRAFF: On the other hand, there are things on display there?

8 MR. McREYNOLDS: We do exhibit. We have an exhibit of posters  
9 now. But we exhibit records and not artifacts.

10 CHAIRMAN TUNHEIM: Ah-ha. It gets back to the central  
11 question.

12 Any further questions?

13 MS. NELSON: That's because you don't get artifacts to support  
14 you.

15 MS. NISBET: Not true.

16 CHAIRMAN TUNHEIM: Further questions?

17 [No response.]

18 CHAIRMAN TUNHEIM: Thank you very much. We really appreciate  
19 it.

20 MS. NISBET: Thank you.

21 Next on our agenda for today is a report from Steve Tilley on  
22 the additions and changes to the records collection. We will not ask you  
23 about the artifacts collection.

24 BRIEFING BY STEVE TILLEY

25 MR. TILLEY: Thanks.

1           As you know, I am Steve Tilley. I am the JFK liaison for NARA  
2 and also the individual in charge of the JFK collection.

3           There have been two major additions to the collection since  
4 the last public meeting. In the end of July, we received and opened more  
5 than 44,000 pages of FBI field office records. These field office records  
6 were records of the assassination investigation; and they consisted of the  
7 field office records of all the field offices that had a role in the field  
8 office investigation beyond the Dallas and New Orleans field office records  
9 which were transferred previously.

10          Also in that collection of records that we opened on that day  
11 were also the FBI files related to their work with the Church and Pike  
12 Committees and also liaison with the House Select Committee on  
13 Assassinations.

14          At the same time, as that -- those records were opened, we also  
15 made available new Church Committee records. We opened 11 new boxes of  
16 Church Committee records at that time which raised the total number of Church  
17 Committee boxes at that time to 38; and those 11 boxes contained some very  
18 interesting records; and it was the first significant opening of testimony  
19 taken by the Church Committee which -- most of which or a lot of which was  
20 taken in closed session and included among that testimony were some of the  
21 following individuals: Edward Lansdale, General Maxwell Taylor, General  
22 Goodtaster, William Colby, Richard Helms, Dean Rusk, Walt Rostow, L. Fletcher  
23 Moultry; Lawrence Houston, former general counsel of the CIA; James T.  
24 O'Connell, a CIA employee; and others. That was a fairly significant opening  
25 of Church Committee records at that time.

1           The second major opening that we had took place September 20,  
2 and that was an addition to the records of the Central Intelligence Agency.

3           As I discussed with the Board before, part of what we called the segregated  
4 collection of CIA recording, the records brought together by the CIA for  
5 the work of the House Select Committee at the time this committee was sitting,  
6 records which became known as the segregated collection, part of that were  
7 about 72 or 73 rolls of microfilm used by the Select Committee staff and  
8 viewed by the staff at that time.

9           When the processing for the JFK Act began, the CIA faced a problem  
10 of what to do with that microfilm. What they ended up doing with that  
11 microfilm was having it printed off on paper which resulted in 150,000 pages  
12 of material.

13           The opening on September 20 was about 70,000 pages of that  
14 material, which was transferred to us at that time. The information in  
15 there covered a variety of topics; I will just take it from our press release  
16 at that time:

17           Some of the documents dealt with individuals who had been tied  
18 to Lee Harvey Oswald; documents related to the investigation of the Warren  
19 Commission; documents relating to the Jim Garrison investigation conducted  
20 in New Orleans; and other conspiracy theories. With particular interest,  
21 there were documents, a good deal of information really, concerning the  
22 activities of Lee Oswald when he was in Mexico City.

23           But the vast majority of that material, perhaps two thirds of  
24 that material dealt with -- was new material. Let me back up by saying  
25 some of that material I just described on those other topics was duplicative

1 of what had been opened before in the collection. Not all of it, but some  
2 of it.

3 But the -- perhaps two-thirds of that opening that took place  
4 on that day was new material; and this material was primarily from CIA files  
5 dealing with the activities of Cuban exile groups; many of the Cuban exile  
6 groups one of which was the Cuban Revolutionary Council, maybe the most  
7 well known, but there were others involved in that. That was about  
8 two-thirds of the opening that dealt with those topics.

9 We just received a -- we are, in fact, in the process today  
10 of receiving a third group of records which has not been opened yet. Those  
11 are the records of the Pike Committee, been transferred out to the Archives  
12 today. The Pike Committee records are not very large. There's only three  
13 boxes of records. Review has been done by the staff of the House Permanent  
14 Select Committee on Intelligence. They have the oversight, the Pike  
15 Committee records.

16 Of course, the Pike Committee, like the Church Committee, looked  
17 into a number of different issues of which the assassination was only one.

18 Their review has identified these three boxes of materials which have been  
19 turned over today. They have also turned over the data disks which, of  
20 course, we don't have from some other agencies.

21 Those are the items that have been added to the collection since  
22 our last meeting. But let me -- I would like to cover a couple of other  
23 issues that occurred since that time that I think would be of interest to  
24 the Board. First is that in the second week of November, the CIA sent a  
25 team of three reviewers to the Ford Library to begin the review of the records

of the Rockefeller Commission that had not been opened before.

1  
2 And also to also look at related records that are in the  
3 possession of the Ford Library including the records of the White House  
4 staff that related to this issue.

5 I am informed by the staff of both the CIA and Ford Library  
6 that review resulted in the release of many records, that they could open  
7 on the spot and have, in fact, been opened by the CIA reviewers, although  
8 I have no hard and fast volume figures at this time. The indication I was  
9 given was that approximately between one-quarter and one-third the documents  
10 have been opened by the reviewers at that site.

11 My recollection is there are approximately 11- to 12,000 pages  
12 of records to be reviewed out there. So that is a good bit of material.

13 Other documents after the CIA review need to be coordinated with other  
14 agencies, particularly with the FBI and NSC. That coordination is being  
15 started by the staff of the Ford Library.

16 The documents have been opened and will be copied in the next  
17 few weeks and provided to the staff of the Archives for inclusion in the  
18 collection. So we hope to have those materials shortly. The last object  
19 I would like to mention is the fact that the Archives has recently changed  
20 the software which has run our database, our searching database at the  
21 Archives out in College Park. We now have been able to come up with a program  
22 which is now able to search the database much more rapidly than we were  
23 able to before.

24 As you are aware, as several in the audience are aware, the  
25 search process was rather slow the way it was before, often taking as long

1 as -- actually almost every search took approximately 20 minutes as the  
2 program sequentially went through the documents sequentially. The new  
3 software we are running now is able to conduct even the most complicated  
4 searches within five seconds. Obviously, increasing the efficiency of our  
5 staff to be able to search for records and to provide service to the general  
6 public and others.

7 So this is very, very good news for us. And I think for the  
8 public, too. So the database is coming along to where it can be a great  
9 deal of -- much more efficient use of it can be made by the public.

10 We continue to work toward making the database available to  
11 the public in our reading rooms out at the new building. I was informed  
12 yesterday that the server, the computer server which will make that possible  
13 has arrived and the process for establishing that on our network has begun;  
14 and, hopefully, within a couple of months -- hopefully -- we will have a  
15 terminal or two set up in the research room so the public can search the  
16 database itself and don't have to work through my office any more.

17 The final step of that process will be somewhere down the line  
18 eventually the database will be available on the Internet or some other  
19 service of that sort where it will be searchable across the Nation. So  
20 there is progress being made on that issue also, and it is substantive  
21 progress finally we are able to announce. So that is the status of the  
22 situation, Mr. Chairman.

23 CHAIRMAN TUNHEIM: Questions? David?

24 MR. MARWELL: Yes. You mentioned before some agencies have  
25 not supplied you with diskettes yet.

1 MR. TILLEY: That's correct.

2 MR. MARWELL: What is the status of that problem?

3 MR. TILLEY: The major problem there is with the CIA. We have  
4 no diskette from the CIA. Sometime ago, earlier this year, they provided  
5 us with two sample disks. We looked at them and had a meeting with them,  
6 telling them where they needed to make changes as far as they had incorrect  
7 information in some of the fields and then -- they needed to change the  
8 programming to make it look like the other record identification forms we  
9 had in the collection.

10 We have been back to them on that. We have been in contact  
11 with them on the issue, but still we have not received any data disks from  
12 them at this time. So there are no CIA records -- CIA-originated documents  
13 within the collection at this time. We are pursuing that; but there is  
14 still nothing on that.

15 MS. NELSON: You mean nothing in the database?

16 MR. TILLEY: In the database. We have the collection. We have  
17 made traditional finding aids for those records so we can, in fact, search  
18 them.

19 MR. MARWELL: With the exception of the CIA, are there records  
20 in the collection not listed in the database with the exception of the CIA  
21 records?

22 MR. TILLEY: The most recent FBI accessions don't have disks  
23 yet. What has happened with the FBI is that they give us their disks in  
24 segments; so we are waiting for the -- they have a checking process they  
25 go through. As they finish major blocks of their records they then turn

1 over the disks to us so we are always a little ahead on records as opposed  
2 to disks with them.

3 MR. MARWELL: It is very useful for us to have that data so  
4 we can plan our own review process, so we know the scope of the problem,  
5 how many records are postponed and for what reasons.

6 MR. TILLEY: Well, we have no Church Committee disks either  
7 for the records of the Church Committee. My understanding from the staff  
8 up there is they are still working on it. They have a small amount of terms  
9 to review. When that review is completed, they will be turning over their  
10 data disks. But the Church Committee records we have no data disks.

11 MR. MARWELL: With the new system, will you be getting the disks?  
12 The same format?

13 MR. TILLEY: It will not affect that at all.

14 MR. MARWELL: We can get them as soon as they are available?

15 MR. TILLEY: Yes.

16 MS. NELSON: Who reviews the Church Committee and the Pike  
17 Committee? Is it the current staff?

18 MR. TILLEY: The staff of the Senate Select Committee on  
19 Intelligence, the Church Committee.

20 MS. NELSON: Which part of the staff? You see what I mean?  
21 In other words, if a new group of staffers come, as a practical matter,  
22 they have to learn --

23 MR. TILLEY: That could be a problem.

24 MS. NELSON: -- the reviewing. You get into the review process.

25 MR. TILLEY: I have not been in contact with the staff up there.

1 I do not know if the possible changes on the Hill are -- Capitol Hill are  
2 going to have affect on those folks. Basically we dealt with one or two  
3 people. Fortunately, the Pike Committee records are completed. So that  
4 will not have an affect there. The Church Committee records are virtually  
5 completed.

6 MS. NELSON: It may be they will let those people stay there.

7 I don't know why they wouldn't. That can delay, having new reviewers.

8 MR. TILLEY: Absolutely. To start over would be a real down.  
9 That's for sure.

10 CHAIRMAN TUNHEIM: Steve, how many researchers are out using  
11 the collection each week?

12 MR. TILLEY: The number varies. Some weeks, frankly, we don't  
13 not have many people in the building at all. We might have one or two  
14 researchers and that's all. But two weeks ago we were full. We had about  
15 six to eight people there, all of whom are experienced researchers, making  
16 rather inordinate demands upon us it would seem at times.

17 We had three people show up this week; three ladies came in  
18 from Florida I believe whom I had never spoken to before. They just showed  
19 up. They spent four days going through the records. Obviously had done  
20 their homework, had very specific questions, very specific list of  
21 individuals that they were interested in.

22 Luckily, we had a much faster data base which allowed us to  
23 do the searches for them in a very quick order and provide the service for  
24 them.

25 At -- some of the other researchers we have had have been the

1 people we have dealt with for over the last 16 to 18 months on a regular  
2 basis. It varies. But it is a steady -- has been steady.

3 The other thing that doesn't change is the written inquiries.

4 We are on a -- last year, we received 607 written inquiries, last fiscal  
5 year, the fiscal year just ended in September of this year. We are on a  
6 pace this year for 900 written inquiries this year. So the interest at  
7 least among the general public who write in to us as opposed to coming into  
8 the building seems to be on the increase.

9 MR. GRAFF: Did it pick up after the recent showing of the Oliver  
10 Stone movie? Are you sensitive to that kind of thing?

11 MR. TILLEY: I don't think that had a -- the week we were very  
12 busy were many of our regular researchers who came back and following up  
13 on some things. Interestingly enough, what one individual was doing was  
14 following up leads on a recently-published book which had a chapter that  
15 dealt with the assassination. So he was following up on some leads from  
16 the footnotes in that book.

17 So it is interesting what brings the researchers in. But I  
18 don't think the movie really brought in so many people as just the verities  
19 of the way things are done.

20 MR. JOYCE: Steve, I know when the legislation was passed you  
21 had a number of meetings with departmental and agency liaisons to get  
22 background implementation of the act. Obviously, in the cases of those  
23 agencies with large volumes of records, they come in on an incremental basis.

24 Are there agencies or government units from which you expect a large influx  
25 of material or that you anticipated additional holdings from at any time?

1 MR. TILLEY: Well, obviously we still have FBI records which  
will be coming in.

2 MR. JOYCE: Right.

3 MR. TILLEY: We still have CIA records, perhaps, to come in.  
4 Where I am expecting records but I don't know what is going to happen yet  
5 is we still have received nothing from the Immigration and Naturalization  
6 Service. We know they have records. We have, in fact, been in touch with  
7 their staff about the review. Yet we have no records from them.

8 We still have not received any records from the Department of  
9 the Army even though we know they are reviewing documents. We provided  
10 them with data disks in September of last -- September of 1992. Yet we  
11 still have received nothing from -- September of 1993. I am sorry.  
12 September of 1993. We still have no records from them. At the time they  
13 told us they only had five feet; so it is not like it is an inordinate amount  
14 of material.

15 There are agencies we are expecting records from; records,  
16 frankly, there is a great deal of interest in, expressed by the research  
17 public about those records.

18 MR. JOYCE: You have not had contact with any of these in the  
19 recent past, I take it?

20 MR. TILLEY: No. I don't spend a lot of time bugging these  
21 people about where things are. I make periodic phone calls occasionally  
22 to some agencies to see where things are going. I don't spend a lot of  
23 time doing that.

24 MR. JOYCE: I think that is of importance to us.  
25

1 MR. TILLEY: The Board has a role in that. The Archives has  
2 been careful of our role as a policeman, if you will, of enforcing the statute.

3 We provided advice and the information that was needed and beyond that,  
4 we have let the agency pretty much make the decisions as to how they want  
5 to work on these programs.

6 CHAIRMAN TUNHEIM: It is up to us to take on the role of bugging  
7 people.

8 MR. TILLEY: I hope so.

9 MR. JOYCE: Right.

10 CHAIRMAN TUNHEIM: Give me, Steve, just a characterization of  
11 the total scope of the collection at this point in time, total documents,  
12 pages, cubic feet, an estimate of just where the total collection is?

13 MR. TILLEY: I think we are probably getting close to 1,500  
14 cubic feet of records and over 3 million pages with some of the more recent  
15 influx of material. By archival standards, a collection, if you will, in  
16 many respects; but one that -- where there is so much interest in individual  
17 documents that it is sort of a different type of research that we are doing  
18 here where people know about something, they have heard about something,  
19 and it is our job to try to find it.

20 Often we are talking about one document or a document they are  
21 not even sure exists in many instances. But we really have not had that  
22 much increase in the last few months. We have been getting small amounts  
23 of material but nothing really exploded. I think the explosion in the size  
24 of the collection is probably going to be more a factor of this Board's  
25 work as opposed to anything else that is going on out there right now.

1           The records that are still being reviewed are fairly small.  
2 I think we have the major groups of records that are out there already as  
3 part of this collection.

4           CHAIRMAN TUNHEIM: Do you have any current estimate of the  
5 number of pages on which postponements have occurred? In what you have  
6 right now?

7           MR. TILLEY: Mr. Chairman, I would not like to make an estimate  
8 on that really because I simply don't know. There's been so many pages  
9 where there simply are portions deleted; and I'm not really sure about in  
10 some instances how many pages a postponed document has because the withdrawal  
11 notice doesn't give that. But I will say this, that I have a large amount  
12 of material that has been sent to me by the CIA in the last couple of months  
13 that has been released under -- after coordination with other agencies or  
14 follow-up on their own investigation; so there are documents coming to me  
15 that have been previously postponed that now have been opened in a later  
16 review process and those documents will be added to the collection.

17           So there is some movement on that front also. But that is a  
18 very minor percentage of the matters still out for postponement.

19           CHAIRMAN TUNHEIM: Further questions for Steve?

20           [No response.]

21           MS. NELSON: The written requests, Steve, that you get, are  
22 they for information on documents? Do the people want you to send them  
23 documents? That is to say there are two different kinds of requests: the  
24 kind that wanted to burden you with doing their research and the kind that  
25 don't. What are the nature of the requests? Very sophisticated?

1 MR. TILLEY: A large majority are fairly specific requests  
2 asking for documents about certain individuals or events.

3 MS. NELSON: So they are quite answerable?

4 MR. TILLEY: Yes. For the most part, the people who write to  
5 us are fairly knowledgeable about the events surrounding the assassination  
6 and have done their homework to a certain extent.

7 MS. NELSON: So the responses are time consuming?

8 MR. TILLEY: Yes. I would say the number of requests we can  
9 answer with a -- we do have form responses. We have a couple of general  
10 form responses, but the percentage that can be answered by that is very  
11 small. Most of them are substantive responses.

12 CHAIRMAN TUNHEIM: Okay. Thank you, Steve. Appreciate it,  
13 as always, your help and advice for this Board.

14 As we approach the time where we are going to begin as a Board  
15 the process of reviewing documents, one of the priorities that we are going  
16 to give as the statute suggests that we give is a priority to records that  
17 have been the subject of FOIA requests. We are in the process of trying  
18 to make sure we have a complete catalogue of all such potential records  
19 so we can give them priority. If anyone knows of FOIA requested documents  
20 that should be part of this priority that the Board gives, I would ask you  
21 to let the Board's staff know about that. It is important, I think, for  
22 a number of reasons, not the least of which the law requires to us do so  
23 and also because I think it will assist agencies which have FOIA requests  
24 before them.

25 Again, in terms of our plans for the next several months, we

1 do hope by the 25th or 26th of January, we will be ready to meet and make  
2 a determination of our definition of assassination record and publish that  
3 proposed definition for a 30-day comment period in the Federal register.

4 Hope we hope in February or March to begin the review process and also  
5 hope that we will be able to have an open house in our offices here once  
6 the construction period has been completed.

7 We are also considering sometime after the new year our next  
8 public hearing and considering a number of different cities; have not settled  
9 on one yet. We are considering Boston, New Orleans, Miami, or Los Angeles  
10 for our next public hearing. We hope to make a decision on that item soon.

11 Is there any other matter to come before the Board today?

12 [No response.]

13 CHAIRMAN TUNHEIM: Seeing none, is there a motion to adjourn?

14 MR. GRAFF: So move.

15 CHAIRMAN TUNHEIM: Is there a second?

16 MR. JOYCE: Second.

17 CHAIRMAN TUNHEIM: Those in favor say aye; those opposed, so  
18 state.

19 [A chorus of ayes.]

20 CHAIRMAN TUNHEIM: The meeting is adjourned. Thank you for  
21 coming.

22 [Whereupon, at 3:00 p.m., the meeting was concluded.]  
23  
24  
25