

MEMORANDUM OF UNDERSTANDING

between

*The Security and Emergency Planning Staff of the U.S. Department of
Justice*

and

The Assassination Records Review Board

for

Security Clearance Adjudication Support

*The Assassination Records Review Board (ARRB) has requested the
advice and counsel of the Department of Justice Security and Emergency
Planning Staff (DOJ/SEPS) in support of the ARRB's review of completed
background investigation files for adjudicating security clearances for
candidates for permanent employment by the ARRB. This advice and
counsel will be provided in accordance with the terms of this Memorandum
of Understanding (MOU).*

*The ARRB and DOJ/SEPS acknowledge that the ARRB has the sole
authority to grant security clearances for the ARRB's employees under
Executive Order 10450 (1953), which governs "Security Requirements for*

Government Employees," and that the ARRB is not under this MOU delegating to DOJ/SEPS the authority to adjudicate and grant clearances to ARRB staff. DOJ/SEPS' advice and counsel to the ARRB under this MOU will consist of the review by DOJ/SEPS staff of Sensitive Background Investigations (SBIs) that have been or will be conducted by the Office of Personnel Management (OPM) by separate agreement with the ARRB. DOJ/SEPS will make written recommendations to the ARRB's Security Officer for the granting or denial of clearances on a case by case basis, based on DOJ/SEPS' experience and expertise in these matters. In each instance that DOJ/SEPS makes a recommendation for the granting or denial of a clearance, the recommendation will set out the facts on which it is based and its underlying rationale. DOJ/SEPS staff will also be available

to ARRB's Security Officer or his designated representative to discuss or explain its written recommendations. DOJ/SEPS will not be asked or expected to render

final adjudications on any candidates whose files are reviewed under this MOU.

DOJ/SEPS' assistance to the ARRB under this MOU will be limited to review of SBIs conducted by OPM and any additional relevant information in the candidates' security files. No office of DOJ shall conduct or be required to conduct separate or additional background investigations on the candidates whose files are reviewed under this MOU. It is anticipated that the ARRB will ask DOJ/SEPS to provide advice and counsel in the ARRB's adjudication of the SBI files of approximately twenty candidates in total. Requests for advice and counsel from DOJ/SEPS under this MOU shall be made in writing by the ARRB's Security Officer to [D. Jerry Rubino, Director of DOJ/SEPS]. The ARRB will arrange for the forwarding to DOJ/SEPS of a copy of each candidate's SBI and any related materials in the candidate's security file. [To comply with the Privacy Act of 1974 (5 U.S.C. § 552a), the written request shall also be accompanied by a statement signed by the candidate who was the subject of each investigation for which a recommendation has been requested acknowledging that he or she is

aware of and consents to ARRB's consultation with DOJ/SEPS with the knowledge that facts or information evaluated shall be retained consistent with applicable statutes.]

The ARRB's Security Officer or his designated representative will ensure that access to these recommendations is restricted to persons directly involved in making a determination as to the candidate's access to classified material. The ARRB's Security Officer or his designated representative shall maintain records of the identities of persons receiving access to the recommendations and such records shall be furnished to DOJ/SEPS upon request. No person having access to DOJ/SEPS' recommendations will reproduce or disseminate the recommendations except in accordance with procedures agreed to by the ARRB's Security Officer or his designated representative and the [Director of SEPS].

The ARRB agrees not to allow the candidate or any person outside of its security clearance process direct access to the recommendations. In all cases in which DOJ/SEPS makes a recommendation under this MOU, the recommendation and explanation of the basis for the recommendation will become a permanent part of the employee's security file. Any request by the candidate for access to the recommendation will, however, be referred to DOJ for processing that request in accordance with the Privacy Act and with the Freedom of Information Act (5 U.S.C. §552).

In view of the ARRB's limited term of existence under the provisions of its enabling legislation, The President John F. Kennedy Records Collection Act of 1992 (44 U.S.C. §2107 note), and the ARRB's corresponding need to complete expeditiously its adjudication of candidates' security clearances, DOJ/SEPS agrees to provide the ARRB with a recommendation no later than [10 working] days after DOJ/SEPS' receipt of a written request for that assistance from the ARRB and the complete background investigation file on which DOJ/SEPS will

base its recommendation.

For the Department of Justice:

*For the Assassination Records Review
Board:*

*[D. Jerry Rubino, Director
Security and Emergency
Planning Staff]*

David G. Marwell, Executive Director

Date

Date