

Chapter 3
The Review Process

A. Introduction

This chapter will explain the JFK Act's processing requirements of federal agencies holding assassination records, and the actions of these agencies under the JFK Act. This chapter will also explain what the JFK Act required of the Review Board regarding the processing of assassination records, and the general process developed by the Review Board for processing records under the JFK Act. This chapter is concerned primarily with the general mechanics of the review process under the JFK Act, as the Review Board's specific actions are thoroughly explained in other parts of this Final Report.

1. Processing Requirements of the JFK Act on Federal Government Agencies

The JFK Act broadly describes the responsibilities of Federal Government agencies who have records related to the assassination and the various inquiries into the assassination of President Kennedy among their agency records. Generally these agencies held records on prominent figures relating to the assassination prior to the assassination, conducted assassination investigations, assisted in the investigation of the assassination, or were subject to congressional inquiries related to the assassination in the 1970s. The CIA, the FBI and the component parts of the Department of Defense are the major agencies of the U.S. Government affected by the JFK Act. The National Archives, in its responsibilities as: 1) the holder of the Warren Commission records; 2) the archive of legislative records; 3) as the parent agency of the Presidential Library system; and 4) as the final repository of the JFK Assassination Records Collection, was also dramatically affected by the passage of the JFK Act.

Every agency had peculiar problems in complying with the JFK Act

(both before and after the creation of the Review Board), but the general mechanics of the review process developed by the Review Board are broad enough to address each of these problems.

B. The JFK Collection Before the Assassination Records Review Board was fully Functioning.

The National Archives officially opened the John F. Kennedy Records Collection (as legislated, three hundred days after the passage of the JFK Act) on August 23, 1993. The Assassination Records Review Board did not hold its first meeting until the summer of 1994, and the Review Board did not have a fully functioning staff until the spring of 1995. At first, the JFK Collection consisted of records from the Warren Commission, the House Select Committee on Assassinations, the Secret Service, the Securities and Exchange Commission, the United States Information Agency, and the Criminal, Civil and Civil Rights Divisions of the Department of Justice. Many of these records were in the National Archives, released in full before the passage of the JFK Act. All records processed for inclusion in the JFK Collection after the passage of the JFK Act are required by the JFK Act to have attached to them an identification aid.

The JFK Act states that the JFK Collection should include a "central directory comprised of identification aids created for each record transmitted to the Archivist..." This central directory was envisioned by the National Archives as a database system in which each document would have a unique number assigned to it (as well as other information unique to that document such as the date, number of pages, originator, recipient, etc.), and this database system would be used by any government agency processing assassination records for inclusion in the JFK Collection. The National Archives developed this system, which uses a thirteen digit number as the unique identifier, and has seventeen "fields" for identifying document specific information to be filled in

by the originating agency. The National Archives refers to the identification aids described in the JFK Act as "record identification forms" (or RIF's), and the unique numbers as "RIF numbers".

The database system developed by the National Archives allows Archives employees and the general public access to an identifier of every document in the JFK Collection. Tracking a large collection of records such as the JFK Collection document by document is alien to conventional archival practice. However the Congress required this level of control over the JFK Collection to ensure accountability for every postponement claimed by agencies processing assassination records for inclusion into the JFK Collection.

C. The JFK Collection after the Assassination Records Review Board was fully functioning

1. Review Board desire to see every document at first

The JFK Act is a novel approach to government declassification. The appointment of five distinguished citizens to a Review Board which would oversee the declassification of a specific set of government records represents a radical break from previous Congressional efforts to make closed government documents accessible. The Freedom of Information Act gives government agencies originating a document broad control over access to that document by private citizens. The JFK Act gives the power to open documents to a Review Board made up of five private citizens. The Assassination Records Review Board recognized the potential of this new approach to declassification as stipulated in the JFK Act. The success of the Review Board depended on faithfully applying the JFK Act to every assassination record. The Review Board decided at its earliest meetings that it was necessary to make its decisions on a document by document basis, rather than the more general issue by issue approach favored by the originating agencies. The Review Board believed that

by being judicious at its early meetings, it would more faithfully apply the JFK Act to the every assassination record, and it would ultimately have a better understanding of the relevant issues. Faithful application of the JFK Act meant requesting specific evidence for every postponement claimed by a Government agency under Section 6. At its earliest meetings, the Review Board heard general arguments on issues put forward by the FBI and the CIA. The Review Board decided that those general arguments were insufficient to sustain any claimed postponements. Instead of evaluating postponement of information in assassination records based on these general arguments, the Review Board asked the agencies to provide specific evidence on every claimed postponement, and further the Review Board decided to review and formally vote on every claimed postponement in a formal review board meeting. Reviewing and evaluating every postponement at these early meetings allowed the Review Board to streamline the review process later with complete confidence that the Review Board staff would apply their guidance faithfully.

At its meetings in the summer of 1995, the Review Board began receiving postponement specific evidence from the CIA and the FBI for their claimed postponements. The Review Board evaluated agency-provided evidence using Section 6 of the JFK Act to balance the public interest in disclosure versus the postponement of the information. At first, the Review Board spent a great deal of time reviewing a small number of documents. As the Review Board gained an understanding of the types of documents slated for review under the JFK Act (and an understanding of the types of postponements presented in assassination records), they were more willing to allow the Review Board staff to evaluate the evidence presented and to make recommendations on sustaining or releasing the claimed postponements.

D. Reviewing Assassination Records

1. Paper Sheet Review

The Review Board staff's earliest experiences in reviewing assassination records provided a basic knowledge of the required elements of any review system. The FBI and CIA provided copies of assassination records as they wanted them to be released to the public. The agencies had reviewed their assassination records without the benefit of any guidance from Congress or the Review Board. Information that the agencies wanted protected under Section 6 of the JFK Act was blacked out. The agencies also provided unmarked copies so that the Review Board staff could read the "postponed" information. The Review Board staff reviewed the documents and took notes on prepared forms. The Review Board staff evaluated the agencies' claimed postponements under the JFK Act and balanced the agencies' claim for postponement against the public interest in release of the information. The agencies did not yet prepare evidence for every claimed postponement, but expected that an assertion of the need to postpone the information and the citation of a section of the JFK Act would suffice to win a Review Board vote to sustain the postponement. The agencies expected the Review Board staff to evaluate the agencies claimed postponements without the benefit of sufficient evidence. The Review Board staff pressed the agencies for more information about claimed postponements, but continued to receive sketchy evidence and general agency principles for protection of information. On evaluating the agencies's general assertions of principle as evidence for postponing information in assassination records, the Review Board staff inevitably recommended release and the Review Board inevitably agreed with that recommendation.

The FBI appealed to the President the Review Board's vote to release FBI documents at its July 1995 meeting. Subsequent negotiations between the Review Board, the FBI and the White House produced an agreement that the agencies would provide specific evidence to support any claimed postponement.

The standard for release and the evidence necessary to sustain postponements are fully discussed in Chapter 4 of this report.

2. Agency RIF Databases

The Review Board staff developed database systems for reviewing assassination records and tracking Review Board votes in the summer and fall of 1995. This system was flexible enough to apply to any assassination record, regardless of its originating agency. The main tracking system is built on the foundation of the National Archives RIFs database system. The main tracking database is called Review Track. The system also facilitated the JFK Act requirement to publish all Review Board votes in the Federal Register following each Review Board meeting.

The Review Board staff developed the Review Track system based on the RIFs database system developed by the National Archives and the staff's early "analog" processing efforts. The intent was to have a flexible system which could track the documents all the way through the process. The requirements of the JFK Act necessitated a process which included the following steps: 1) initial processing by the agency; 2) review and recommendation of agency claimed postponements by the Review Board staff; 3) review of agency claimed postponements and vote to postpone or release by the Review Board; 4) notification of the Review Board's votes to the agency and to the public in the Federal Register; 5) transfer of the document to the JFK Collection at the National Archives.

The RIF database system developed by the National Archives is not perfect. Its flaws lie in the complex requirements of the JFK Act and the need for a system that could be use by any government agency (taking into account that many agencies had rather unsophisticated computer systems). Despite these challenges, the JFK Act required the Archives to develop this system

within forty-five days of the passage of the JFK Act. The most basic medium

of all government computer systems in 1992 was the 5 and 1/4 inch floppy disk.

The Archives developed a system which could be sent to any government office,

loaded onto any computer, produce RIFs (on data disks) for every assassination

record, these disks could then be sent back to the National Archives, where they

would be integrated into a large database of every RIF for every assassination

record in the JFK Collection.

Following the development of the RIFs database system, it was the

responsibility of the agencies to: 1) review their records and identify

assassination records; 2) review their assassination records and claim

postponements where applicable; and 3) create a RIF for each document

identified for eventual transfer to the JFK Collection.

As soon as the Review Board staff was established, it secured copies of

all available RIF data disks from the National Archives. The Review Board staff

set up a database for each agency on its office network. Every Review Board

staff member has access to a source database for every agency. The source

databases serve as research tools for information on records in the JFK

Collection. The source databases also serve as the basic model on which the

Review Board staff built its databases for tracking records electronically, first in

the Review Track database and later in the Fast Track database.

3. Review Track

The Review Track database is a modified RIF database on which Review

Board staff analysts processed assassination records which contain agency-claimed postponements. The Review Track system evolved out of the Review

Board staff's early on-paper review process, and it continued to evolve as the

staff's review process changed. Review Track was flexible enough to allow

Review Board staff processing of various agency's documents in different ways

depending on the agency's initial review of its assassination records.

The CIA, the FBI, the National Archives and others had defined large groups of records for inclusion into the JFK Collection. These agencies also had defined review processes in place before the Review Board staff was fully functioning. And while the Review Board staff found additional assassination records for these agencies' to process for inclusion in the JFK Collection, and these review processes were modified in significant ways during the Review Board's tenure, the point is that the CIA, the FBI and the National Archives were reviewing lots of assassination records before the Review Board staff began its processing of assassination records. Many other agencies, primarily the various components of the Department of Defense had not searched for, found or processed any assassination records. The Review Track system had to be flexible enough to accomodate the review of records that were already released to the National Archives with redactions in place, records that had only been through initial agency review and had RIF numbers assigned to them, records that were identified as assassination records by the agency but had not yet been review for Section 6 postponements, and records that were designated as assassination records by the Review Board.

The most common type of record which came before the Review Board staff for processing was one where the agency's initial review was complete, a RIF number had been assigned, and Section 6 postponements had been claimed by the originating agency. The Review Board staff then reviewed the document using the Review Track system. The RIF was copied from the source database, and each claimed postponement was reviewed along with the agency provided evidence against the public interest in disclosure stipulated in the JFK Act. As stated above, at its earliest meetings, the Review Board reviewed every agency-claimed postponement in every document. The Review Board knew that it

would not be able to sustain such detailed review as the number of documents processed by the staff increased. However, the Review Board also knew that in order to gain a real understanding of the issues it faced, it needed to consider issues in a small number of documents, and approve guidelines which could be applied to all assassination records by the Review Board staff.

The Review Board staff developed guidelines based on previous Review Board votes whereby recommendations to sustain or release claimed postponements would be consistent within the JFK Collection. The Staff developed these guidelines in two ways. The Review Board staff presented general issues to the Review Board in the form of staff memos when such issues appeared repeatedly in large numbers of documents. The Review Board's response to these memos (sometimes in the form of a vote) would determine whether the Review Board staff would subsequently recommend sustaining or releasing similar postponements. The Review Board staff also closely tracked the Review Board's voting record, and applied the Review Board's votes to its recommendations where appropriate. The Review Board staff developed internal processing tools to utilize the Board's guidelines. If the Review Board staff had no understanding of the Review Board's position on a particular document (or a postponement within a document), that document (or postponement) would be tagged as a "Red" issue document. The "Red" label was also applied to documents which contained information that the Review Board would generally postpone, but the Staff believed the public interest in release might tip the balance in favor of release. A label of "Yellow" would be applied to documents and postponements on which the Review Board staff was unsure of the Review Board's position. The usefulness of the "Yellow" label waned as the Review Board staff and the agencies more clearly understood the Review Board's guidelines, and as fewer new issues arose. A label of a "Green" was applied to documents and issues on which there was no

question as to how the Review Board would vote. As the number of documents processed at each meeting increased dramatically through 1996 and 1997, the incidence of "Red" documents became less frequent, and "Green" documents dominated every meeting.

4. Fast Track

The Review Board's meetings in 1995 and 1996 were concerned primarily with records from the FBI's Core and Related files, the CIA's Oswald

201 file and the HSCA's Numbered File series. The Review Board believed that

these were the most important records affected by the JFK Act, and the Board's

scrutiny of claimed postponements in these files would set the standards for

release of all assassination records. The next set of documents facing the

Review Board were the so-called "segregated collections." The Review Board

adopted regulations on November 13, 1996 which established guidelines for

processing and reviewing the "segregated collections". These guidelines also

formally defined the "segregated collections". The Review Board adopted

revised guidelines on April 23, 1997 with the intent of streamlining the review

process of postponements in the "segregated collections", and ensuring a page

by page review of all documents in the "segregated collections." These

guidelines state, "...even with the assumption that our operations may be

extended through Fiscal Year 1998, the Review Board cannot hope to complete

review of postponements in the Segregated Collections under the current

method of review." Under the revised guidelines, the Review Board staff

would apply the same standards of release as were applied in the FBI's Core and

Related files and the CIA's Oswald 201. But the burden of providing evidence

would be lifted for postponements in the "Segregated Collections" unless the

Review Board staff decided that the records were clearly assassination related.

The revised guidelines gave the Review Board staff the discretion to apply the

Review Board's standards for release to the records of the "Segregated Collections."

The Review Board staff also streamlined the mechanics of its review and tracking system. The Fast Track system is a modification of the Review Track system. Review Board analysts and their agency counterparts conducted the primary review of documents on the documents themselves. The agencies mark a photocopy of a document with postponements as they believe it should be released. The Review Board analyst then reviews those claimed postponements to determine whether the claimed postponements fit in with the Review Board's standards for release. Uniform substitute language codes were written which could be noted in the margins of a document (in the case of FBI records) or in the place of the actual redactions (in the case of CIA records). Substitute language codes for military postponements sometimes are written in the margins and sometimes are written directly over the redaction.

The CIA document reviewers were quicker than the FBI document reviewers to integrate the Review Board's standards into their routine review of assassination records in the segregated collections. The FBI document reviewers believed their principle of protecting sources of information would be better served in the long term by continuing to claim postponements that the Review Board would not sustain.

A document is processed as a "Green" issue as soon as the Review Board's standards of release are applied to it. If the agency does not agree with a Review Board analyst's application of the standards of release, the document is presented to the Review Board as a "Red" issue for a formal vote at the next Review Board meeting.

Following the on-the-document review by the Review Board analysts, the record identification number, and the number of postponements are entered

into the Fast Track database. All of the "Green" issue documents are presented to the Board as a block for a vote to accept the Review Board staff's recommendations at the Review Board meeting.

5. Consent Release database

A large number of assassination records have been released in full by the originating agencies because of the mere presence of the Assassination Records Review Board and the Review Board's strong record of releasing assassination records. Early in its review of the FBI's Core and Related files, the Review Board staff identified assassination records that could be released in full without being presented to the Review Board for a formal vote. The Review Board staff labeled these documents "Consent Releases." A database of Consent Releases was developed based on the source database model.

E. Problems (and bottlenecks) and Solutions.

1. Keeping data updated

The process of creating and updating record identification forms for the source databases is cumbersome. Record identification forms are created on floppy disks by the originating agency. The floppy disks are sent to the JFK Collection to be loaded onto the National Archives database network. Copies of these floppy disks are also sent to the offices of the Review Board to be loaded onto the Review Board's office network. When a document with claimed postponements is modified by a Review Board vote (e.g. a vote to release the document in full, or a vote to release certain postponements but not others, etc.), the record identification form needs to be modified also. And the JFK Collection version needs to be updated as well as the Review Board's version. This same situation applies when a new record identification form is created for a newly processed assassination record. One primary concern of the Review Board staff was to have the most up-to-date data on the Review Board's

office network at all times. The Review Board staff tried several ways of copying the originating agencies data, but was never able to get around the simple act of periodically copying hundreds of floppy disks to get the information.

2. Duplicates

Almost all of the documents in the JFK Collection have a duplicate copy somewhere else in the Collection. The Review Board tried to consistently process each duplicate document as its original version had been processed.

Where possible, the Review Board and the originating agencies used record identification form information to identify duplicates prior to Review Board processing. FBI documents are indexed in such a way that the initial processing identified a document as a duplicate on the RIF.

[CIA duplicate paragraph insert:]

In processing CIA records, the Review Board encountered a dozen copies or more of some records. Early in the review process, each record was reviewed and noticed under its unique RIF number, but as the Review Board began to work on the Sequestered Collection, it became clear the the number of duplicates would further increase and that the process needed to be streamlined. To accomplish this, the Review Board agreed that the CIA could process, after the Review Board finished its work, exact duplicates of records already addressed by the Review Board. The CIA identified the duplicates in its re-review of the collection. The role of the Review Board staff was to spot check to verify that the records selected by the CIA were, in fact, duplicates. The CIA will, in turn, process these records and send them to NARA by September 1999.

The Review Board also tried to consistently release or sustain identical information in multiple documents.

3. Referrals

Under traditional, non-JFK Act declassification review, an agency's equities in another agency's documents are referred to the originating agency prior to releasing that information. Agencies which share information with one another have a strong incentive to protect information which originates with another agency. If an agency does not protect another agency's information, these other agencies are less likely to share their information in the future. Also if there is no incentive on the part of the receiving agency to process its information for release, the referral process can be an impediment to declassification review. As agencies reviewed their assassination records, they continued this practice. Generally the referrals were returned in a timely manner, and the Review Board considered documents with multiple agency equities only one time. But as the Review Board started the process of reviewing the "segregated collections" and certain military records which contained multiple agency equities, it became clear that the Review Board needed to accelerate the referral process if it hoped to vote on every claimed postponement in the JFK Collection.

a. ARRB-Sponsored Joint Declassification Sessions

In early 1997, following the location and identification at the National Archives of the Califano Papers (Army records on Cuba policy from 1963) and selected documents (from 1961-1964) culled from the papers of the Joint Chiefs of Staff, and the Central Files of the Joint Staff (on Cuba and Vietnam policy), it became clear that there was insufficient time remaining in the Review Board's lifetime to utilize the normal referral process (i.e., sending multiple equity documents such as these to one agency at a time for declassification review) to complete processing of these documents and place them in the JFK Collection prior to ARRB shut-down.

Consequently, the Review Board's Military Records Team sponsored a

series of Joint Declassification Sessions--six in all--commencing in June of 1997, and terminating in July of 1998, in order to expedite declassification review of documents with multiple agency equities. Participating agencies included representatives of the CIA, NSC, Joint Staff Secretariat, OSD, Army Declassification Activity, and State Department. Without the benefit of this approach, processing of the Califano Papers, selected JCS documents, and selected Presidential Library papers would likely not have been completed by the end of the Review Board's tenure. The synergistic effect of placing representatives of different agencies in the same room while they reviewed identical documents undoubtedly speeded up the release of assassination records, since one agency that was unsure of another's position was much more likely to agree to open a record when others had already done so.

b. Dunning Letters

The Review Board also realized that applying the normal third-agency referral process to the FBI's HSCA Subjects would not allow sufficient time to achieve its goal of voting on every claimed postponement in all assassination records before September 30, 1998. The Review Board decided to place time limits on agency's receiving referred documents. Dunning letters from the Review Board accompanied every FBI referral from the HSCA Subjects. These letters placed the burden of responding to a referred document on the receiving agency. If no response was received by a certain date, the agency was notified that the Review Board would vote to open their information in full. Agencies who received these letters from the Review Board took the letters seriously and almost always responded.

c. Foreign government equities

4. Agency and review board staff processing following review board vote

The Review Board's document processing responsibilities did not end

with a Board vote to sustain or release agency-claimed postponements in assassination records. The Review Board monitored the processing of assassination records following Board vote to ensure that all assassination records were transferred to the JFK Collection consistent with the Board's standards of release. The JFK Act states that assassination records are to be delivered to the JFK Collection within forty-five days of a Review Board vote. The Review Board and the agencies almost never adhered to the forty-five day time frame.

The Review Board also attached "final determination forms" to records which were subject to Review Board votes. Assassination records processed under the more detailed Review Track processing scheme, the final determination form identifies each postponement, its location within the document, and the substitute language for the postponement. Under the streamlined Fast Track system, the final determination form identifies the number of Review Board approved postponements in the document and lists the substitute language options which correspond to codes noted directly onto the document.

a. Review Track Archive

The Review Track Archive is a database where record identification forms for all Review Board processed documents are stored following Review Board vote. Review Track Archive is modeled on the identification aid system developed by the National Archives. It contains all assassination records in which there were agency-claimed postponements, and subsequently a Review Board vote to sustain or release the postponement. Documents entered into the Review Track Archive have gone all the way through the assassination records process, and go to the JFK Collection as the Review Board voted to release them.

F. Processing Additional Assassination Records Identified by the Review

Board

The Review Board requested additional searches for the records of

several agencies. These searches are detailed in Chapter Six of this report. The

Review Board processed newly identified assassination records as the records

from the FBI's core and related files and CIA's Oswald 201 had been processed.

Specific evidence for every claimed postponement was required from an agency

claiming postponements. And the evidence provided to sustain a postponement

had to show that the requirements of Section 6 of the JFK Act were met before

the Review Board would vote to sustain any claimed postponement.