

## Conclusion -- Chapter 2

The statutory framework of the JFK Act was intended to provide for a neutral and independent body that would ensure complete disclosure of Federal Government records on the Kennedy assassination and, in the process, restore the public's confidence that no relevant information was being withheld from them. The disclosure of records was to be comprehensive, quick, and unimpeded by the usual obstacles to release. Each of the statutory provisions were crafted to accomplish these objectives.

Thus, the JFK Act required agencies to transmit, under a definite and short timetable, their records on the assassination to the National Archives for public disclosure. But the Act went further and did not rely exclusively on the agencies to fully implement the goals of the statute. Thus, the JFK Act specified the creation of an independent Presidential Board and required that the individuals selected to serve would not be employees of the Federal Government nor would they be affiliated with any prior investigation of President Kennedy's death.

Furthermore, the Act purposefully defined "assassination record" sufficiently broadly so that the Board, rather than the agencies, could make the ultimate judgement as to what materials were relevant. And the Act sought to do away with the usual Federal Government prerogatives that precluded public release. Thus, unlike FOIA, the statute provided that only narrow categories of information could be withheld from release, and it placed on the agencies the burden of demonstrating with "clear and convincing" evidence that continued secrecy was necessary. All proposed redactions had to be presented to the Board, which had the final authority (short of an agency appeal to the President) to decide whether information could remain non-public. This was in contrast to traditional practice under FOIA in which agencies unilaterally applied the FOIA exemptions and themselves determined what should be withheld from the public.

Finally, the statute recognized that identification by the agencies of only the most obvious files on the assassination was not sufficient to secure maximum disclosure of all relevant information. Thus, the Board was given the power to request additional records and information, including the power to subpoena testimony, to ascertain the existence and identity of records relating to President Kennedy's assassination. Through this provision, the JFK Act sought to instill public confidence that agencies were not unilaterally withholding, or discounting the relevance of, information on the assassination.

In sum, the JFK Act was an unusual legislative remedy to the problem of Government secrecy. It required Federal agencies to disclose, forthwith, their records on the assassination and it empaneled an independent Board to ensure the full identification and release of those records. The practical application and results of this legislative remedy are discussed in the next chapters of this Report.