

Under the present circumstances, the ARRB believes that further steps are required to ensure that the purpose of the subpoena is not thwarted, and that any assassination records in Mr. Nagell's estate are identified and preserved.

The California courts have a procedural device for precisely this situation. A party may apply, on an *ex parte* basis, for special letters of administration designating an appropriate person as administrator for a particular portion of a decedent's estate that would likely perish or be dispersed before more elaborate probate proceedings have run their course. In this case, the appointment of a special administrator and subsequent service of an administrative subpoena would nullify any questions as to the efficacy of the attempted service on the Executor believed to have been named by Mr. Nagell.

The ARRB requests that DOJ file the appropriate forms seeking designation of a special administrator on whom the subpoena for any assassination records in Mr. Nagell's estate could be served. We believe that it is appropriate for DOJ to provide this assistance for the following reasons:

*First*, Congress plainly intended that the ARRB have a broad and effective subpoena authority. Indeed, the ARRB independently has the authority to "subpoena witnesses and documents" under Section 7(j)(1)(F) of the JFK Act. Section 7(j)(2) of the JFK Act authorizes the Review Board to seek enforcement of its subpoenas in Federal courts. Although, not surprisingly, the JFK Act does not specifically address the procedural mechanics of subpoenaing records from a decedent's estate, we believe that the authority meaningfully to issue and enforce such subpoenas was intended.

*Second*, the JFK Act unmistakably calls upon DOJ to represent the ARRB in judicial actions seeking access to assassination records. Section 10(a)(1) of the JFK Act authorizes the ARRB to "request the Attorney General to petition any court . . . to release any information relevant to the assassination . . . held under seal of the court." Section 10(a)(2)(A) describes a similar role for the Attorney General regarding assassination-related material "under the injunction of secrecy of a grand jury." Section 10(b)(1) emphasizes "the sense of Congress" that the Attorney General "should assist the Review Board in good faith to unseal any [grand jury] records that the Review Board determines to be relevant." Section 10(b)(3) further states the sense of Congress that "all Executive agencies should cooperate in full with the Review Board to seek the disclosure of all information relevant to the assassination." Where, as here, seeking appointment of a special administrator is required for effective service and enforcement of a proper ARRB subpoena, the "full cooperation" of DOJ surely extends to filing the necessary court papers.

*Third*, in our view, the question whether the ARRB, as such, the general capacity “to sue and be sued” is irrelevant to this request. As explained above, the ARRB clearly has the authority to issue and to enforce subpoenas, and DOJ is obligated to render assistance in this regard. The United States, duly represented by DOJ, can and should seek the appointment of a special administrator for any assassination records in the Estate of Richard Case Nagell.