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UNITED STATES OF AMERICA

2

ASSASSINATION RECORDS REVIEW BOARD

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4

GUIDANCE ON INTERPRETING AND IMPLEMENTING THE

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PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS

6

COLLECTION ACT OF 1992

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Assassination Records Review Board

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600 E Street, N.W.

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Room 208

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Washington, D.C.

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Wednesday, May 3, 1995

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*The above-entitled proceedings commenced, pursuant to*

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*notice, at 1:10 p.m.*

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

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[1:10 p.m.]

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CHAIRMAN TUNHEIM: I'll call to order this public meeting of the Assassination Records Review Board. Welcome everyone who is here in attendance today. The primary purpose of today's meeting is to consider final action in adoption of the interpretive rules governing the Board's guidance on the definition of an assassination record.

We'll get right into that issue by asking the Board's general counsel, Sheryl Walter, who has administered this process, to give the Board an overview of the processes we've gone forward thus far, and to be ready to answer questions from the Board before we move the adoption. Sheryl?

MS. WALTER: Thank you, Mr. Chairman, and members

1 of the Board. What I would like to do right now is to give you some  
2 background on the process of the finalization of the interpretive  
3 regulations and to discuss some of the changes that have been made  
4 to the proposed regulations that were published in the Federal  
5 Register.

6 In establishing a process for public disclosure of all records  
7 relating to the assassination of President John F. Kennedy, Congress  
8 created this Review Board and empowered it to decide whether a  
9 record constitutes an assassination record. In the Senate report to  
10 the President John F. Kennedy Assassination Records Collection Act,  
11 which of course created this Board, Congress also indicated its intent  
12 that the Review Board issue guidance to assist in articulating the  
13 scope or universe of assassination records.

14 The interpretive regulation discussion draft that you have

1 before you, and which has been distributed to the members of the  
2 public who are attending this meeting, will be the focus of what I'm  
3 going to talk about right now. The proposed version was published  
4 at Volume 60 of the Federal Register, page 7506, on February 8th,  
5 1995, and was published to comply with Congress's mandate.

6 As a supplementary information that accompanied the  
7 proposed interpretive regulations stated, the principle underlying  
8 these interpretive regulations is to implement congressional intent  
9 that the JFK collection contain the most comprehensive disclosure of  
10 records relating to the assassination of President Kennedy.

11 Congress instructed that the Board apply a broad and  
12 encompassing working definition of assassination record in order to  
13 achieve the goal of assembling the fullest historical record on this  
14 tragic event in American history, and into the investigations that

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1 were undertaken in the assassination's aftermath.

2           Many agencies have already begun to organize and review  
3 records responsive to the act, even before the Board was appointed  
4 and began its work. Nevertheless, the aim of the interpretive  
5 regulations is that they will aid in the ultimate assembly and public  
6 disclosure of the fullest possible historical record on the tragedy and  
7 on the subsequent investigations and inquiries into it.

8           These final regulations that you are to vote on today are  
9 also intended to aid in the consistent, effective, and efficient  
10 implementation of the act, and to establish procedures for including  
11 assassination records in the President John F. Kennedy Assassination  
12 Records Collection, which is housed, as you know, at College Park,  
13 Maryland in the National Archives facility there.

14           This Board sought public comment on its proposed  
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1 *interpretive regulations and set a 30-day period which ended on*  
2 *March 10th, 1995, for the purpose of receiving written comments.*

3 *The Review Board also heard testimony at public hearings on aspects*  
4 *of the proposed regulations.*

5 *In addition, this Review Board sent copies of the proposed*  
6 *interpretive regulations to agencies known to have an interest in and*  
7 *be affected by this Board's work, particularly those who hold or*  
8 *created assassination records, and to the appropriate oversight*  
9 *committees in Congress, as well as to OMB.*

10 *The Review Board also sent notice of the proposed*  
11 *regulations and a request for comments, or sent copies of the Federal*  
12 *Register notice itself to many organizations and individuals who have*  
13 *demonstrated an interest in the release of materials under the Act, or*  
14 *who have engaged in research into the assassination.*

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1           The Review Board received written comments on the  
2           proposed interpretive regulations from numerous federal agencies,  
3           state and local government entities, and individuals. Some of the  
4           federal agencies providing written comments included the Federal  
5           Bureau of Investigation, Central Intelligence Agency, the National  
6           Archives and the Department of State.

7           State and local government entities providing written  
8           comments included the Dallas, Texas county commissioner's court, the  
9           Dallas County Historical Foundation, and the city of Dallas records  
10          management division of the office of the city secretary. Altogether,  
11          approximately 30 sets of written comments were received.

12          Prior to publication of the proposed interpretive  
13          regulations, the Review Board heard testimony at a public hearing  
14          held in this building on December 14, 1994, from representatives of

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1 the National Archives on the question of including artifacts in the  
2 scope of the term assassination record.

3 After publication of the proposed interpretive regulations  
4 and before expiration of the comment period, Review Board heard  
5 testimony at a public hearing on March 7th, 1995. It was held in  
6 the auditorium of the main building of the National Archives.

7 Testimony was heard from the FBI and from several  
8 individuals and representatives of private organizations on their views  
9 regarding the text of the proposed regulations. Copies of all written  
10 comments that were received and transcripts of the public testimony  
11 on the proposed regulations were placed in the Board's public reading  
12 room at the Review Board's offices here at this building, and made  
13 available for inspection and copying by the public upon request.

14 The Board should also be aware that copies of comments

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1 and transcripts that were requested were all provided to the public at  
2 no charge to the public.

3           The comments received were very thoughtful and in many  
4 cases very detailed. Nearly all the comments expressed support for  
5 what was characterized as the proposed regulations'  
6 comprehensiveness and flexibility. All comments that were received  
7 were carefully studied and considered. Submitters made both  
8 technical and substantive suggestions and as I will shortly describe,  
9 many of these suggestions were incorporated in the discussion draft of  
10 the interpretive regulations now before you.

11           Some comments did express concern at the broad scope of  
12 the Review Board's proposed regulations. A few comments also  
13 questioned the inclusion of records not in the possession of federal  
14 agencies, especially in the scope of the terms "assassination record"

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1 and additional records and information.

2           However, the broad scope of the Act directs the Review  
3 Board to identify and make available to the public all documents that  
4 will enhance, enrich, and broaden the historical record of the  
5 assassination.

6           The interpretive regulations thus seek to have fulfilled  
7 Congress' intent and emphasis that the search and disclosure of  
8 records under this Act must go beyond the records of previous  
9 commissions and committees established to investigate the  
10 assassination.

11           The Review Board may, as provided in Section 1400.6 of  
12 these interpretive regulations, exercise discretion in the acceptance of  
13 copies where appropriate in lieu of originals of records for inclusion in  
14 the collection. This flexibility addresses concerns that some

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1 commenters expressed about the removal of original records already  
2 housed, for example, in the archives of state and local institutions.

3 In addition, many comments from individual researchers  
4 requested enumeration of specific records or record groups in several  
5 sections of the interpretive regulations, especially those sections that  
6 deal with the scope of the terms "assassination records" and  
7 "additional records and information."

8 Many helpful suggestions in this regard have been provided  
9 to the Review Board already, identifying particular record groups for  
10 review and inclusion in the collection. It is hoped that there will be  
11 continued correspondence from researchers and the general public in  
12 this regard.

13 However, to ensure that the final interpretive regulations  
14 are interpreted broadly and to avoid duplication or potentially too

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1 narrow interpretation or implementation of these regulations,  
2 individual records or record groups were not enumerated further in  
3 this discussion draft of the regulations.

4 To ensure that the public is aware of the Review Board's  
5 knowledge of and pursuit of specific records and record groups, such  
6 as those that were identified in the public comments received on the  
7 proposed interpretive regulations, and in other correspondence with  
8 or testimony before the Review Board, Section 1400.8 has been  
9 revised to create a notice of assassination record designations.

10 With this mechanism, to notify the public of records it has  
11 designated as assassination records to be included in the collection, it  
12 should be unnecessary and would be duplicative to include in the final  
13 regulations a more detailed enumeration of those specific records or  
14 record groups.

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1 I'd like to move on briefly to describe changes that were  
2 made to each of the sections, starting with Section 1400.1, now  
3 titled "Scope of Assassination Record." The Review Board received  
4 many comments on the text of this section. Some were technical in  
5 nature and some were more substantive. The final regulations  
6 incorporate the suggested technical changes, including, as you can see,  
7 revision of the section's title to make it more precise, as well as the  
8 addition of other clarifying edits.

9 Many comments focused on the wording of subparagraph  
10 (a) as it was original proposed. Of particular concern to many  
11 commenters was the portion of this subparagraph that provides that  
12 an assassination record includes records that, as it was originally  
13 drafted, may have led to the assassination. Comments from both  
14 government agencies and individuals suggested alternative language,

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1 some because they read the proposed regulation's scope as too  
2 narrow, and others because they construed it as being too broad.

3           There was a consensus, however, that inserting a phrase  
4 similar to "reasonably related to" would be an acceptable and  
5 appropriate alternative to the "may have led to" construction that  
6 originally appeared. Therefore, this change was made.

7           Again, many comments suggested in terms of this  
8 particular section that specific individuals, events, or groups of records  
9 be added and enumerated in particularity. However, as I just  
10 discussed, it was determined that including these records or record  
11 groups at this level of specificity in these interpretive regulations,  
12 which are intended to provide general guidance on the scope of the  
13 Act and of its key terms, could potentially limit the scope of the  
14 regulations as applied and might prove confusing and would be

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1 duplicative.

2           However, again, such suggestions are to be taken into  
3 account from the public and they'll be followed up on an ongoing  
4 basis.

5           Sections 1400.2, now titled "Scope of additional records  
6 and information." Again, this title was revised to conform both to  
7 the new title of 1400.1 and to be more specific. There were also  
8 additional editing changes made for clarity.

9           A new sub-part 6 was added to subparagraph (e), and a  
10 new subparagraph (f) was added after consideration of comments  
11 that noted the potential exclusion of certain categories in the scope of  
12 this section in the proposed regulations.

13           This section is intended to be used to obtain access to a  
14 wide variety of materials, classified and unclassified, which may not

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1 fall into the definition of assassination record, but which will lead to  
2 the identification of assassination records. Some commenters  
3 expressed concern as to the broader scope of this section. Language  
4 was added to clarify that the purpose of this section is to identify,  
5 evaluate, or interpret assassination records, including assassination  
6 records that may not initially have been identified by an agency.

7 Language was also added to indicate that an intent to  
8 implement this section through requests in writing will be made.  
9 These written requests will be signed by the Review Board's executive  
10 director.

11 In implementing this section, the Review Board staff will  
12 work closely with entities to whom such requests are addressed to  
13 promote the Act's effective and efficient implementation.

14 Moving on to Section 1400.3, "Sources of assassination  
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1 records and additional records and information." A new  
2 subparagraph, which is now subparagraph (g), was added after  
3 consideration of comments noting the potential exclusion of records  
4 created by individuals or corporations or obtained from sources other  
5 than those already identified in the previous subparagraphs.

6 Other comments suggesting the inclusion of additional  
7 specific sources were considered but not included in the final version  
8 because they were determined to replicate language already in  
9 existing subparagraphs.

10 The Section 1400.4, "Types of materials included in the  
11 scope of assassination record and additional records and information."

12 The National Archives and Records Administration provided oral  
13 testimony and written comments objecting to the inclusion of  
14 artifacts in this section. Other comments received strongly

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1 supported inclusion of this type of material within the scope of  
2 assassination record.

3 NARA's comments, as contained in its written submission  
4 and as presented in oral testimony by NARA representatives at a  
5 public hearing of the Review Board on December 14th, 1994, were  
6 carefully considered. However, this section of the interpretive  
7 regulations was retained without any change.

8 Review Board I think believes that the unique nature of  
9 issues of public trust and credibility of government processes that  
10 prompted enactment of the Act require that artifacts be included in  
11 the scope of items to be included in the collection.

12 Included in the proposed regulations retained in Section  
13 1400.7 is language intended to address NARA's concerns about  
14 potential copying requirements related to artifacts and to

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1 presentation issues. NARA's comments on the proposed regulations  
2 noted its approval of the inclusion of that language.

3 In Section 1400.5, the requirement that assassination  
4 records be released in their entirety. This section is intended to  
5 provide guidance to agencies if they are to produce for the Review  
6 Board's review records in their entirety and except in rare instances  
7 and with the assent of the Review Board, withhold information and  
8 documents only under the proposed provisions of Section 6 of the Act.

9 The purpose of requiring that records be produced in their  
10 entirety is to ensure that the context and integrity of the records be  
11 preserved and to clarify that the Review Board has the sole discretion  
12 to determine what records or portion thereof are or are not  
13 assassination records.

14 Some federal agencies expressed concern about the scope

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1 of this provision and those concerns were taken into consideration.

2 There may be records responsive to provisions of the Act that are  
3 many hundreds of pages long, or contain only a small amount of  
4 information related to the assassination. In such cases, if an agency  
5 reasonably believes that review of the entire record for postponement  
6 and determinations would not further the disclosure purposes of the  
7 Act, the agency may request the Review Board allow the agency to  
8 process under the Act only the portion that relates to the Act,  
9 including materials sufficient to provide context for the postponed  
10 portion.

11 However, in such cases the Review Board will retain sole  
12 discretion to determine whether review for inclusion in the collection  
13 of a portion of the record will fulfill the purposes of the Act or  
14 whether the entire record must be processed under the postponement

1 provisions of the Act.

2 In Section 1400.6, the regulations address the issue of  
3 originals and copies. Many comments were received on this section  
4 requesting that portions be clarified and extensive changes were made  
5 to this section in response to these comments. Revisions were also  
6 made for purposes of internal consistency.

7 The intent in this section is to express a strong preference  
8 for including original materials and original records in the JFK  
9 assassination records collection, but also an understanding that for a  
10 variety of reasons there may be situations where a copy instead of the  
11 original of an assassination record may be more appropriate for  
12 inclusion in the collection.

13 Incorporated in this version is language that is responsive  
14 to comments made particularly by the National Archives, requesting

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1 clarification that record copies of federal agency records may be  
2 included in the collection.

3 In response to other comments from the National  
4 Archives, revisions were also made to take into consideration the  
5 important issue of preservation, especially given that many of the  
6 records at issue are over three decades old. In this respect, the  
7 regulations treat records in various media in a means appropriate to  
8 the unique characteristics of that medium.

9 In Section 1400.7, which provides additional guidance,  
10 the Review Board received a variety of comments on this section,  
11 which is intended, as I said, to provide additional guidance for  
12 implementation of the Act. All of the comments on this section were  
13 carefully considered and, except where the comments appear to  
14 duplicate what was covered in this section already or was addressed

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1 elsewhere, the section was revised to reflect many of the suggested  
2 changes and to add clarity.

3 For example, subparagraph (d) as it appeared in the  
4 proposed regulations, has been broken into three subparagraphs, new  
5 subparagraph (d), (e) and (f), to eliminate potential confusion and  
6 add clarity. The intent of these subparagraphs is to make clear that  
7 all files in an individual event or activity are to be made available to  
8 the Review Board, regardless of the labels on the files where they may  
9 be found, or whether the records reflect the individual events or  
10 activity's true name or identifier.

11 As I stated earlier regarding Section 1400.4,  
12 subparagraphs (b) and (c) of 1400.7 were included in the proposed  
13 regulations and retained here in order to address concerns expressed  
14 by the National Archives regarding the inclusion of artifacts and the

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1 *scope of materials deemed assassination records.*

2 *These subparagraphs are intended to make it clear that*  
3 *the Act establishes unique standards as to the records to be included*  
4 *in the collection. By including artifacts as a type of assassination*  
5 *record, the Review Board seeks to fulfill its mandate from Congress to*  
6 *assemble all materials reasonably related to the assassination in the*  
7 *collection.*

8 *It is not intended that the inclusion of artifacts here for*  
9 *purposes of implementing the Act should be construed to affect the*  
10 *implementation of other records collections. Subparagraph (c) is*  
11 *intended to insure that all artifacts in the collection are preserved for*  
12 *posterity and that public access be provided to those artifacts in a*  
13 *manner consistent with their preservation.*

14 *In this regard, the National Archives should be encouraged*

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1 to set out in writing the terms and conditions under which access to  
2 such material may be allowed.

3 Finally, as to Section 1400.8, now called "Notice of  
4 Assassination records determination." The comments received on this  
5 section as it appeared in the proposed interpretive regulations  
6 indicated a great deal of confusion as to the intent and operation of  
7 the mechanism that is established in this section. For this reason, the  
8 original term "catalog of assassination records," which appeared in the  
9 proposed regulations, was replaced and this section substantially  
10 redrafted.

11 In the discussion draft version, the term "notice of  
12 assassination record determination" was substituted for prior  
13 references to a catalog. This mechanism is not intended as a  
14 mechanism to list all assassination records. The records identified by

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1 federal agencies in the review of their own records will not, for  
2 example, be listed.

3 Nor is it intended to replace the database and finding aids  
4 that have been compiled by agencies at NARA's direction, as required  
5 by Congress. Rather, this notice of assassination record  
6 determination is intended to document the Review Board's ongoing  
7 determinations, that in addition to records explicitly enumerated in  
8 the Act as assassination records, or identified by federal agencies in  
9 the searches they undertook in the future pursuant to the Act, certain  
10 other records are also assassination records and are to be included in  
11 the collection.

12 This is a summary of the changes that were made to the  
13 proposed interpretive regulations that were published in February and  
14 I'd be happy to answer any questions you may have.

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1                   CHAIRMAN TUNHEIM: Thank you, Ms. Walter, and  
2 thank for all the staff that worked so hard on these regulations.

3                   Questions that Board members have for Sheryl. Go  
4 ahead.

5                   MR. JOYCE: Ms. Walter, for the final section that was  
6 headed, you correctly observed that this section is added to help in  
7 the enumeration of assassination records and those identified in  
8 searches undertook by other investigations, certain other records are  
9 also assassination records and ought to be included.

10                   Could you give us a little bit more information about what  
11 certain other records might be entailed and what led to that  
12 formulation?

13                   MS. WALTER: In 1400.8?

14                   MR. JOYCE: Right.

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1 MS. WALTER: The mechanism is intended to provide  
2 public notice of the vast variety of records that may be out in the  
3 public domain in various capacities, as well as to identify records in  
4 agencies that may not have been identified by an agency as an  
5 assassination record and this will be an ongoing process with the staff  
6 and with the agencies. But it will also include records that may be  
7 in private hands as well.

8 MR. JOYCE: So this is a mechanism by which we can  
9 identify records in private hands?

10 MS. WALTER: Exactly.

11 MS. NELSON: I wonder if for the purpose of clarification  
12 you'd go back over why the term "record copies" was inserted and I  
13 think the original documents, and now it's record copies.

14 MS. WALTER: Certainly. The comments that were

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1 received by the National Archives on this score brought the point that  
2 was not really addressed in the proposed interpretive regulations and  
3 that is that it's often a practice in many federal agencies that a copy  
4 of an original document is included and used in agency files as the  
5 record copy, as the copy that the agency treats as its --

6 MS. NELSON: That's the federal record.

7 MS. WALTER: That that's the federal record, exactly.

8 And in some cases it may be that the original no longer exists. There  
9 is, of course, in Section 1400.6 a strong preference for originals, but  
10 especially when you're talking about documents that are over 30  
11 years old, it may be difficult or impossible to find that original.

12 Especially in cases where that copy is treated and has  
13 been treated by the agency as the record copy that it used to do  
14 business, it seemed to make sense and the National Archives point

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1       seemed very logical and sensible, that that also be something that  
2       could be included in the collection.

3               CHAIRMAN TUNHEIM:   Further questions?   Go ahead.

4               MR. JOYCE:   One clarification.   In terms of records in  
5       electronic or other formats that may have to be retransferred because  
6       of the passage of time, the obsolescence of operating software and  
7       equipment and things of that nature, would that also apply to record  
8       copy or would that change its designation altogether?

9               MS. WALTER:   That provision is specifically included  
10       because of the, as you've noted, the uniqueness of a particular  
11       medium, especially in the electronic medium.   And if a particular  
12       disk, for example, say in WordPerfect format, which may go out of  
13       existence, who knows, was the record copy, it could be reformatted  
14       into some medium that would be useful and is the type of medium

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1 that is used by the National Archives in the future.

2 MR. JOYCE: So it need not be a copy in the way in  
3 which we normally think of one? That is to say, a photographic or a  
4 photocopy, but rather could be something entirely reformatted?

5 MS. WALTER: If appropriate to the medium. For  
6 example, to use a hypothetical, a videotape that might be in VHS  
7 format. If that became obsolete in 20 years, you could transfer that  
8 into a different format, if it was appropriate for that medium.  
9 Which is not to say that you would necessarily get rid of the original.

10 CHAIRMAN TUNHEIM: I have a question relative to  
11 1400.7, subdivision (c), with respect to artifacts, and obviously  
12 recognizing that the statute itself requires broad public access to  
13 materials relative to the assassination. Do you believe that this  
14 provision will adequately assure public access to artifacts relating to

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1 the assassination?

2 MS. WALTER: I believe that it will. There are a variety  
3 of ways in which access can be provided and in the past the National  
4 Archives, especially recently, has instituted terms and conditions that  
5 both preserve the integrity of the artifacts but also allow, based on  
6 the particular research needs of the researcher, accessing various  
7 types of ways.

8 So this section I believe will in fact promote access as  
9 opposed to limiting it in the future.

10 CHAIRMAN TUNHEIM: Could you foresee any conditions  
11 under which the National Archives could totally deny access to  
12 artifacts under this provision?

13 MS. WALTER: Under this, no. I don't believe that that  
14 would be within the letter or spirit of the law. What's intended here

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1 is that the National Archives can use its professional judgment to  
2 ensure that these things are preserved, and I think it would be  
3 contrary to the spirit of what Congress intended that access would  
4 ever be totally denied.

5 CHAIRMAN TUNHEIM: Other questions? Go ahead.

6 MR. HALL: Ms. Walter, we're going to have a  
7 supplementary statement that goes along with this definition, and  
8 under 1400.1, dealing with the scope of assassination record, there is  
9 provided in that supplementary information a discussion not only  
10 about this change that may have led to one now reasonably related,  
11 but also a discussion of the relationship of the "reasonably related to"  
12 existing theories, particular theories of the assassination of President  
13 Kennedy.

14 Could you amplify a little for us the thinking that went

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1 into the writing of that particular paragraph?

2 MS. WALTER: That language is intended to indicate  
3 that, although particular theories related to the assassination are  
4 certainly things that inform the Board's work, that the Board's  
5 primary purpose as created by Congress and is explicit both in terms  
6 of the statute and the legislative history, is to identify and release  
7 records, not to investigate the assassination.

8 So the "reasonably related to" language is intended to  
9 make it clear that it's in the search for and the release of records, not  
10 in the search for and release of information related to any particular  
11 theories. So of course those theories will inform the Board's work,  
12 that is the main focus of the Board's tenure.

13 MR. HALL: Thank you.

14 CHAIRMAN TUNHEIM: Before we go forward, I think

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1 we're not going to take any additional public testimony today. We  
2 have held two public hearings on the draft regulation and have also  
3 had the comment period, and we have a significant number of  
4 responses to that request, significant number of written responses and  
5 testimony at our previous hearings.

6 I just want to indicate that I appreciate certainly all of  
7 you in the audience today who have participated in this effort. We  
8 really have drawn upon your comments and your suggestions  
9 extensively, as you can see by the new draft that we're now  
10 considering today, and I just want to express my thanks for your help  
11 in fashioning a workable set of guidance for what an assassination  
12 record is.

13 I think we'll go ahead and move the adoption and then  
14 have Board discussion on the draft. I want to point out that Board

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1 member Henry Graff could not be in attendance today because of a  
2 conflict, and he has indicated, and let me just read this into the  
3 record. This is a letter dated May 1, 1995, to John R. Tunheim,  
4 Chairman, Assassination Records Review Board, from Henry F. Graff.  
5 "I herewith give you my proxy to vote in favor of final interpretive  
6 regulations (as contained in the draft of 26 April 1995)," which is  
7 the draft that Mr. Graff reviewed, "for the implementation of the  
8 Kennedy Assassination Records Collection Act of 1992. I take into  
9 account that as a result of the Board's discussions, minor changes may  
10 yet be made in the draft." That's in the record.

11 MS. WALTER: Mr. Chairman, could I just add also that  
12 the April 26 draft is identical to the May 3rd discussion draft.

13 CHAIRMAN TUNHEIM: Thank you for clarifying that. Is  
14 there a motion to approve?

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1 MS. WALTER: Yes, Mr. Chairman. I move that the  
2 interpretive regulations as contained in the discussion, today in the  
3 discussion draft today, be adopted by the Review Board, as final  
4 interpretive regulations for the guidance and in order to implement  
5 the Assassination Records Collection Act of 1992.

6 CHAIRMAN TUNHEIM: Is there a second to the motion  
7 to approve the final interpretive regulation?

8 MS. NELSON: Yes.

9 MR. JOYCE: Seconded.

10 CHAIRMAN TUNHEIM: Moved and seconded. The floor  
11 is now open for discussion on the part of Board members. Any  
12 discussion? Let's move to a vote on the motion that's on the floor,  
13 recognizing that Mr. Graff has indicated his proxy.

14 All those in favor of the motion to approve the final draft

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1 *interpretive regulations, please say aye.*

2 *[Chorus of ayes.]*

3 *CHAIRMAN TUNHEIM: Opposed.*

4 *[No response.]*

5 *CHAIRMAN TUNHEIM: It's carried by a five to zero vote.*

6 *Thank you, Ms. Walter, for all of your assistance.*

7 *We are going to move now to what has been a regular*  
8 *feature of our public meetings, and that is a brief update on changes*  
9 *that have occurred since we last met to the collection at the National*  
10 *Archives. Steve Tilley is not with us today. He typically makes that*  
11 *report. Mary Ronan from the National Archives is here and we*  
12 *would welcome her forward to give us a report on the status of the*  
13 *collection. Welcome, Mary.*

14 *MS. RONAN: Thank you, Mr. Chairman, Board members.*

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1 I appreciate the opportunity to read this to you, and apologize for  
2 Mr. Tilley who was, like Mr. Graff, unavoidably detained some place  
3 else.

4 I'm reading to you the statement of Steve Tilley.

5 Thank you for the opportunity to update the Board on  
6 the status of the JFK collection. I apologize for being unable to  
7 appear before the Board in person.

8 At the Board's last public hearing in Washington on March  
9 7th, I discussed the pending transfer of additional records by the FBI.

10 These records were investigative files regarding organized crime  
11 figure Sam Giancana and Gus Alex, and assassination-related  
12 documentations from the SOLO operation, the investigation that  
13 focused on activities of the Community Party of the United States.  
14 The records were released to the public on March 30th and this

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1 release received a great deal of media attention.

2 At the last hearing I told you that we had added the first  
3 data disks received from the CIA to our master system but had not  
4 completed the work necessary to transfer the data to the reference  
5 system. I am now able to report that this data is in the reference  
6 system and fully searchable as of today.

7 As I mentioned on March 7, these data disks contain  
8 information on the portion of the Lee Harvey Oswald 201 Personality  
9 File that was transferred to NARA in August 1993 for the opening of  
10 the Collection. We have also added data disks received from the  
11 House permanent subcommittee on intelligence for the records of the  
12 Pike Committee and data disks for the Navy's Bureau of Medicine and  
13 Surgery. The addition of this information to the database has raised  
14 the number of record identification forms in the database to just over

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1 117,000. We have also updated the printed subject listing for the  
2 database. It is available in the research room at Archives 2 in  
3 College Park.

4 On March 7 I told the Board that the CIA had transferred  
5 notes taken by members of the HSCA staff as those individuals  
6 reviewed CIA records during the course of the HSCA's investigation.  
7 The CIA has reviewed these documents and provided NARA with  
8 recommendations on postponing information contained in these  
9 documents.

10 I would like to remind the Board that the ultimate  
11 authority for disclosure of these documents lies with NARA acting as  
12 the agent of the House of Representatives. We are also responsible  
13 for entering the data from these records in the database.

14 I must inform the Board that we have not yet begun the

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1 data entry on these documents. After discussion with the staff of  
2 our Center for Legislative Archives, it was determined that the staff  
3 of the Center would first complete the processing of other pending  
4 records before beginning the review of the staff notes.

5 The current status of these issues is as follows. First,  
6 non-federal police department records have been referred to the  
7 departments for review. The referrals were sent by registered mail  
8 and signed receipts were received for each letter sent, so we know the  
9 packages were received by the addressees.

10 So far we have received one reply from the Ft.  
11 Lauderdale, Florida Police Department, which recommended that one  
12 lengthy report be released in full. They referred several other  
13 documents to the Dade County Police Department for further review.

14 Second, I wrote to the California State Archives  
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1 concerning the autopsy records, including state grand jury records  
2 relating to Robert F. Kennedy. I have not received a reply to my  
3 letter.

4 Third, we have completed the review of most of the more  
5 than 600 tape recordings among the records of the HSCA. Last  
6 week a set of 33 additional tape recordings was transferred to our  
7 Motion Picture, Sound, and Video Branch for researcher use. Other  
8 tape recordings have been referred to the CIA for review and we have  
9 not yet received a reply from the CIA on these tapes.

10 We have identified approximately 75 tape recordings that  
11 may need review by other agencies. The CIA has agreed to send staff  
12 to the downtown building to conduct an initial review there. Once  
13 the CIA review is completed, we will contact other agencies as  
14 necessary or provide reference copies for researcher use if no further

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1 review is required.

2 We have approximately 15 tape recordings which still  
3 require some preservation work before we can begin reviewing for  
4 release. When the preservation work is completed, we will begin the  
5 normal review process.

6 Finally, we are prepared to begin the review of a small set  
7 of documents, approximately a box and a half of records, that were  
8 set aside during the initial review of the HSCA records. Many of  
9 these documents present difficult disclosure decisions that relate to  
10 questions of personal privacy, including medical information,  
11 information concerning the involvement of David Ferrie with named  
12 juveniles, and interviews with witnesses that may be subject to explicit  
13 confidentiality agreements.

14 There are also copies of tax returns of members of the

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1 Ruby family. While the statute excludes tax return information from  
2 the Collection, the Internal Revenue Service has indicated that these  
3 documents may be subject to disclosure if the copies among the  
4 records of the HSCA differ in some manner from the official copies  
5 among the records of the IRS.

6 A meeting with a representative of the IRS will take place  
7 soon. Once the review of these documents are completed, we will  
8 begin the review and data entry of the HSCA staff notes.

9 I am happy to report some progress on the processing of  
10 the records of the Rockefeller Commission by the staff of the Ford  
11 Library. The staff of the Library told me last week that they have  
12 147 documents, for a total of 738 pages, ready for referral to a  
13 number of agencies, including the FBI, the Department of Defense and  
14 State. These referrals will go out this week.

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1           The Library has been in contact with the CIS since the  
2 visit of the review team last November and has sent copies of  
3 documents to the CIA for review. Once the referral to the other  
4 agencies is completed, the staff will begin copying the records of the  
5 commission opened by the CIA in November and add them to the  
6 collection.

7           Finally, the review of withheld FBI documents among the  
8 records of the Warren Commission and other agencies in our custody  
9 has slowed considerably. We hope this process can resume shortly to  
10 prevent the necessity of copying the remaining documents that  
11 require review. Let me point out again that these documents are  
12 copies of records which the FBI has already reviewed in its own files.

13           This completes my statement on the status of the  
14 Collection. I will be pleased to provide responses to any questions the

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1 Board may have at the earliest opportunity.

2 CHAIRMAN TUNHEIM: Any questions for Ms. Ronan  
3 while she's here with us?

4 MS. NELSON: I have one. You said that you're going to  
5 have to move, what was it, tape recordings downtown to the CIA?

6 MS. RONAN: I believe the tape recordings are HSCA so  
7 they are at the moment downtown.

8 MS. NELSON: They are downtown. So that's why the  
9 CIA --

10 MS. RONAN: That's why the CIA will come down there.

11 MS. NELSON: So the way you sounded, they would go  
12 down there, originally up to College Park.

13 MS. RONAN: They have been up to College Park.

14 CHAIRMAN TUNHEIM: Do you know, Mary, are those

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1 HSCA-originated recordings, or are they originated by the CIA?

2 MS. RONAN: I believe they are HSCA-originated  
3 recordings.

4 MR. JOYCE: I gather after the review is completed that  
5 that material will be in fact integrated in College Park?

6 MS. RONAN: Yes, it will be.

7 MR. MARWELL: I was a little confused about the tax  
8 returns issue, the Ruby family. Are those tax returns that were  
9 gotten originally from the IRS, or were they obtained from the estate  
10 or from the family? Do you know?

11 MS. RONAN: I don't know.

12 CHAIRMAN TUNHEIM: I believe they were obtained by  
13 the family. They volunteered them.

14 MR. MARWELL: And that's why the IRS is taking the

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1 position that it's taking, then?

2 MS. RONAN: I think that's part of it.

3 CHAIRMAN TUNHEIM: Any other questions?

4 Thank you, Mary. Thank you for your help as well as  
5 Steve's as you've gone through this process and continued to.

6 I want to point out that the interpretive regulation that  
7 we approve today is not yet ready for publication in the Federal  
8 Register. It needs to be reviewed by the Office of Management and  
9 Budget and that has to take place before final publication.

10 I am hopeful that the guidance provided in that regulation  
11 will be helpful to agencies, will be helpful to the public in  
12 understanding the type of information that this Board feels is  
13 important for us to look for, to gather and collect as part of the  
14 overall collection at the National Archives. I think it will be, and I

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1 hope the public finds it very useable and helpful as well.

2 I have just a couple of announcements before we close and  
3 then I'll ask whether Board members or Mr. Marwell have anything in  
4 addition to add. Since our last public meeting in Washington, we  
5 had an excellent public meeting and hearing in Boston in March, and  
6 we also had a very fruitful and I think helpful day at the JFK  
7 Presidential Library talking with library officials about the records  
8 that are there.

9 The Board is currently planning on a public hearing and  
10 meeting in New Orleans. We're looking at possibly the day of June  
11 28th for that hearing. We haven't finalized that yet but it will be in  
12 that time frame, a hearing very similar to the one that we conducted  
13 in Boston, again with a focus on a search for relevant records that  
14 may be present in the New Orleans area.

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1           The staff is working on finalizing the process by which the  
2 Board will begin its review of records, and we hope that that process  
3 will be ready soon and the Board can begin implementing that and  
4 reviewing the records that are awaiting our attention.

5           Mr. Marwell, do you have anything to report today?

6           MR. MARWELL: I'd just like to note that the staff has  
7 grown to almost full strength. There's a couple of positions that have  
8 yet to be filled. I believe seven or eight of our employees currently  
9 have received their necessary security clearances and are out in the  
10 field doing the review of documents so that we are actually under  
11 way in the main phase of our operation. I think by another six  
12 weeks we should have the full complement of analysts cleared and out  
13 in the field.

14           CHAIRMAN TUNHEIM: Board members, anything you

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1 wish to add today? Is there any other business to come before the  
2 Review Board today?

3 If not, is there a motion to adjourn?

4 MR. JOYCE: I move the adjournment of this meeting.

5 CHAIRMAN TUNHEIM: Is there a second to the motion?

6 MS. NELSON: Yes.

7 CHAIRMAN TUNHEIM: All those in favor of  
8 adjournment, please say aye.

9 [Chorus of ayes.]

10 CHAIRMAN TUNHEIM: The meeting is adjourned.

11 Thank you.

12 [Whereupon, at 1:53 p.m. the above-entitled matter was  
13 concluded.]

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