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UNITED STATES OF AMERICA
ASSASSINATION RECORDS REVIEW BOARD

PUBLIC MEETING

Assassination Records Review Board

600 E Street, N.W.

Suite 208

Washington, D.C.

Wednesday, December 14, 1994

*The above-entitled proceedings commenced, pursuant to notice, at
2:00 p.m., John R. Tunheim, chairman, presiding.*

1 PRESENT FOR ASSASSINATION RECORDS REVIEW BOARD:

2 JOHN R. TUNHEIM, *Chairman*

3 HENRY F. GRAFF, *Member*

4 KERMIT L. HALL, *Member*

5 WILLIAM L. JOYCE, *Member*

6 ANNA K. NELSON, *Member*

7 DAVID G. MARWELL, *Executive Director*

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9 PRESENT FOR THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION:

10 MIRIAN NISBET

11 MICHAEL McREYNOLDS

12 STEVE TILLEY

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P R O C E E D I N G S

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[2:00 p.m.]

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CHAIRMAN TUNHEIM: I will call to order this meeting of the Assassination Records Review Board and welcome everyone here today to this public meeting.

Several items that we are going to address today: First, after some brief announcements, we are going to have a briefing from the National Archives and Records Administration on the issue of artifacts and whether artifacts should be included in our definition of assassination records. And we are also going to have an update from Steve Tilley on the changes that have been made to the JFK collection at the National Archives.

We have, since our last public meeting, held two public hearings as a board. The first of those was held in Washington in October, a meeting devoted to examining advice from individuals on how we should define the term "assassination record."

It was a very helpful hearing from the Board's standpoint, and we are working on that definition. Hopefully, we will be ready to have a public meeting

1 late in January, the 25th or the 26th, at which we will debate and arrive at a
2 conclusion on how we plan to define the term "assassination record." We set that as
3 the deadline for ourselves.

4 We also held a public hearing last month in Dallas and -- addressing
5 both the issue of what is an assassination record and, probably more importantly for
6 that location, where assassination records can be located that this Board should be
7 seeking. That also was a very helpful hearing from the Board's standpoint.

8 It was a lengthy hearing, a lot of interest, a lot of people attended
9 and provided us with testimony.

10 Before we go into the substance of today's meeting, a couple of things.

11 We are not tape recording today's meeting like we have past meetings. We are
12 having the meeting transcribed, however; so since we are operating without a
13 microphone system, I would appreciate everyone speaking loudly, particularly our
14 witnesses, providing your name and spell it so that it can be adequately transcribed.

15 I would like to ask our executive director, David Marwell, to give us a
16 brief update on the staffing decisions that have been made in the last month for the
17 board.

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1 MR. MARWELL: Since the last public meeting, we have five
2 additional staff members. Four of them are here in the room right now. I would
3 ask them to identify themselves as I call their name: Tracy Shycoff -- in order of
4 their joining the staff. She is our administrative officer who had been the
5 administrative officer for the AIDS Commission before that went out of business and
6 before she joined the Review Board.

7 Tom Samaluk back here; Tom was an Assistant Attorney General and
8 director of communications for the Attorney General's office in the State of
9 Massachusetts before he joined our office. He has the responsibility for our present
10 public affairs program.

11 Cheryl Walter was the general counsel for the National Security
12 Archive and is our general counsel.

13 And Jerry Gunn was with the law firm of Covington & Burling. He
14 will be running our review and analysis program.

15 Kevin Tiernen, I think is still down in the lobby of the building, to help
16 guests get through security. Kevin had been with the National Archives and was
17 involved with the review of the HSCA records and is our first staff analyst.

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1 In addition to that, we have made, I believe, five additional decisions.
2 I would like to introduce those people when they come on board; so at the next
3 public meeting, we will announce their hires.

4 CHAIRMAN TUNHEIM: Thank you. Let me also acknowledge the
5 Board has been meeting yesterday and earlier today and basically being briefed on a
6 wide range of housekeeping-related matters in advance of our public meeting today.
7 It is our hope as a Board that we can actually begin the review process, the review
8 of documents by February or March of 1995. We are looking forward to beginning
9 this process and actually very anxious to be in the process, look forward to providing
10 you all with notice about that.

11 Any Board members have additional statements to make before we
12 begin?

13 [No response.]

14 CHAIRMAN TUNHEIM: Okay. I would like to call on the
15 representatives of the National Archives and Records Administration to provide us
16 with a briefing on the artifacts issue. Welcome.

17 MS. NISBET: I am Miriam Nisbet, special counsel to the Archivist of
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1 the United States. With me is Michael McReynolds, director of the Textual
2 Reference Division at the National Archives; and, additionally, should we need to get
3 into this, Steve Tilley who is very well known to you as NARA's JFK liaison.

4 We asked to address the Board on the issue of artifacts because we
5 have quite a bit of experience and history with artifacts and objects that are
6 preserved at the National Archives for historical purposes. These include a wide
7 range of objects of all different kinds, including, of course, the materials considered
8 by the Warren Commission and that which came to the National Archives in 1966.

9 Very briefly, the position of the National Archives has been and
10 remains that objects or artifacts are not records within the meaning of the various
11 records laws. We believe this is the correct interpretation, for example, of the
12 Federal Records Act. The Federal Records Act at 44 USC Section 3301 defines
13 records as all books, papers, maps, photographs, machine-readable materials or
14 other documentary materials regardless of physical form or characteristics; and then
15 goes on to explain that for the Federal Records Act, these are terms that were made
16 or received by the Federal Government, by agencies in the transaction of their
17 business, that are preserved or appropriate for preservation of evidence of the

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1 agency's activities, operations and so on or because of the informational value of
2 them, the data in those materials.

3 We think that key parts of that definition for purposes of the
4 discussion of artifacts are the words "documentary materials" and "informational
5 value."

6 We believe that the intended coverage of the Federal Records Act, like
7 the Assassination Records Collection Act, like the Freedom of Information Act really
8 is of documentary materials; media that record information. Certainly
9 objects -- artifacts are of informational value, but we think that we are really
10 looking for, in terms of records, something on which information is recorded. Some
11 media on which information is recorded.

12 We also think this is a practical common sense approach, again to
13 those laws that deal with giving citizens access to government information by
14 allowing for copies of records; and as a practical matter, it would be very difficult to
15 imagine how you can make a copy of an object. You can certainly make copies of
16 photographs, copies of descriptions of objects; but not the objects themselves.

17 There really are a couple of different bases for our position. One of

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1 them is legal in the sense we are looking at the actual words of the statute trying to
2 figure out what those words mean; but additionally, basing the legal considerations
3 on court cases.

4 Believe it or not, we are only aware of two cases that have actually
5 addressed this particular issue. One, a very, very early case testing the old version
6 of the Freedom of Information Act was a 1971 United States District Court
7 case -- I have a copy of it I would like to leave with the Board -- that actually was
8 testing some of the same materials that you all are concerned with. The request
9 there was for a number of the Warren Commission materials, a bullet, the shirt
10 President Kennedy wore when he was shot, fragments, metal fragments removed
11 from his body.

12 The court in that case concluded -- looking at again the statute,
13 looking at the definition, looking at the dictionary for some guidance -- concluded
14 that objects were not records; that was the holding of the case.

15 Surprisingly enough, there has not been another decision from 1971
16 until 1994. During that period of time, the position of the government has been
17 that objects were not records. I would like to point out that this has been the

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1 position not just of the National Archives but really across-the-board with
2 government agencies. I was at the Department of Justice for 15 years in the Office
3 of Information and Privacy. That has been the consistent policy of the government
4 through all of this time.

5 The 1994 case I mentioned -- again I have a copy here for the
6 Board -- without very much discussion simply concluded exactly the same way that
7 the 1971 case did; and that was, in that case, the request involved a request for
8 the -- they were seeking access to a piece of computer hardware. The court
9 concluded that that was not a record for purposes of the Freedom of Information
10 Act. I wouldn't suggest that a dearth of court cases on this issue was determinative
11 in any way; but I think it perhaps illustrates that there has been very, very much a
12 general acceptance of and perhaps a comfort level with this particular position and
13 policy of the government during all this time.

14 I mention -- those are legal considerations. The National Archives
15 also has a very serious concern in terms of preservation that underlies this policy. I
16 think in your consideration, it is very important for you to remember and keep in
17 mind that any decision that would exclude objects in the definition of assassination

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1 records does not mean that the materials the National Archives has, these objects,
2 for example, from the Warren Commission, that they are not available to the public.

3 They are, and they have been available; so there is nothing -- there is nothing
4 about excluding them from the definition that means people are not going to have
5 access to them.

6 The policy of the National Archives has, however -- and we certainly
7 want to be very clear about this -- that there is limited access to these materials,
8 and that is based upon a concern for long-term preservation of these particular
9 items, there was a time when anyone who came in, whether it was a group of high
10 school students or anyone just walking in off the street, was able to look at the
11 Warren Commission items that came to the National Archives; and in the
12 mid-1980s, as Mike will explain in more detail, we determined that in order to
13 preserve these objects, we simply were not going to be able to accommodate that
14 kind of an access. Consequently, the policy changed to one in which the materials
15 would be available to researchers when they could not satisfy their research needs
16 through looking at photographs, descriptions from the materials that were available
17 to them; and that simple viewing of an object would in fact enhance and help them

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1 in their research. Under those circumstances, the materials were made available;
2 they are carefully handled by the staff of the National Archives.

3 There also -- and I am only mentioning this again in an effort to just
4 give you some of the background on this -- there were some concerns that the staff
5 at the National Archives was spending an inordinate amount of time showing objects
6 to people; and we found, in fact, that most people coming in to look at these objects
7 were doing so really out of curiosity. They were not researchers, they were not
8 there for a research purpose; but they merely wanted to see the objects which is all
9 perfectly well and good; but again it was the continuing handling of the objects and
10 the staff time that was a concern.

11 That is not the primary consideration the National Archives has. It is
12 really concern for the fragility of these items which we have understood over time to
13 be imperilled by continual handling. I would like to let Mike speak to a bit from his
14 personal experience.

15 BRIEFING BY MICHAEL McREYNOLDS

16 MR. McREYNOLDS: I am Mike McReynolds, director of the Textual
17 Reference Division of the National Archives, responsible for the reference service to

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1 the records and artifacts of the Warren Commission. I will speak briefly on the
2 archival considerations related to preservation and reference service.

3 There are two separate archival processes, but they are entwined.

4 The National Archives for a number of years was concerned about the preservation
5 of the Warren Commission artifacts; and over the years we talked with various
6 Smithsonian preservationists whose advice was to leave the objects alone in their
7 present state.

8 When we began the preparation for moving records to our new
9 building in College Park, Maryland five years ago, we sought more definitive advice
10 from our own much improved preservation staff and other preservationists.

11 Their advice was essentially the same as the previous less formal
12 comments. The artifacts should not be cleaned or otherwise protected, but they
13 should be rehoused, reboxed. They also reiterated that the objects should not be
14 moved or handled any more than necessary. We had a special report done on the
15 windshield by an expert from the National Gallery of Art; and we are building a
16 special cage around the windshield in a stack area in our downtown building where
17 it has been for many years. Special boxes were made for the artifacts and they

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1 were sent to Archives II in College Park earlier this year. The one archival activity
2 that would necessitate further handling and moving of the artifacts thus threatening
3 their preservation would be providing reference service for the general public, i.e.,
4 showing them as records on demand.

5 At one time, the National Archives policy was to show the objects on
6 demand. We did not advertise that they were available; but, if asked, archivists
7 would take them to the central research room or an office in the National Archives
8 to show them. We did not question the requestors as to why they wanted to see a
9 specific object or objects. This service was provided approximately once a week for
10 many years; sometimes included high school and college classes and groups sent to
11 the National Archives by congressional staffs.

12 At one point, the tour bus company on the Mall included in its script
13 for the tour guides a statement that the Oswald rifle could be seen at the National
14 Archives. For two days, we were overwhelmed with tourists asking to see the rifle.
15 We learned eventually how they knew of the showing of the rifle and called the
16 company asking that it take the statement out of their script. They did.

17 It may have been after that incident or another warning about the
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1 preservation of the artifacts that sometime between 1980 and '85, we decided to
2 limit reference service to the Warren Commission artifacts. We established a policy
3 that requestors had to write to us stating why they wanted to see the artifacts, and
4 it could not be mere curiosity, why a photograph of the object would not suffice for
5 their research; and what they hoped to learn by seeing the object itself. Requests
6 were and are reviewed by a archivist and branch chief and sometimes by higher
7 officials in the National Archives or conservationists or lawyers.

8 The policy greatly reduced the movement and handling of the Warren
9 Commission artifacts. No longer did we produce them for the curious and often
10 prurient interests of members of the public, and the policy has been generally
11 accepted by researchers and the public.

12 The National Archives does not want to return to its previous
13 procedures. Undoubtedly it would threaten the preservation of the objects and take
14 personnel resources that could be better used in other reference services.

15 MS. NISBET: May I add one more thing? I want to be sure you also
16 are aware that all of these objects have been photographed; there are written
17 descriptions of them; and these photographs and descriptions are already part of the

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1 collection of the assassination records. So those are absolutely available, and copies
2 of those can certainly be made available to anyone.

3 MR. GRAFF: You are confining your statement now to the Warren
4 Commission artifacts; is that right? You don't include, let us say, the window of
5 the Texas Book Depository?

6 MS. NISBET: I am speaking generally of the Warren Commission
7 because that's the bulk of the objects. I am referring to any of the objects dealing
8 with the assassination that the National Archives does have. Let me stress the
9 policy we are talking about isn't just confined to assassination objects but any of the
10 objects that the National Archives has, you know, of any kind that we preserve.

11 MR. JOYCE: I infer from what you say that making the artifacts
12 part of the assassination records, the JFK assassination records collection somehow
13 will make these objects more susceptible to a greater level of reference use than they
14 are where they currently are? Or, to put it another way, why is it a transfer to
15 the JFK collection puts the items at more peril than they are now from a
16 preservation and reference point of view.

17 MS. NISBET: We can't say they necessarily would be; but we think

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1 that that might very well be the implication of it. Since anything that is an
2 assassination record under the act is to be disclosed to anyone upon request unless
3 it's a postponed item, we fear that the implication of it could be that, again, anyone
4 coming in and asking for -- to view, to look at an object would be required under
5 the act because there would be no exception we can see under the act that would
6 take into account the policy that we currently have.

7 That's what we are concerned about. It is not being designated as
8 such but rather the implication of being designated that way in terms of perhaps
9 having to return to the system that used to exist.

10 MR. JOYCE: That's the reason you have taken the position?

11 MS. NISBET: Two reasons. That certainly is the preservation
12 concern.

13 MR. JOYCE: Right.

14 MS. NISBET: The other concern I think is simply one that anyone
15 from the government who deals with the access laws would have; and that is the
16 precedent perhaps for objects being considered under this act to be a record is
17 certainly -- I think very much would be at variance with the position the

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1 government has taken with regard to other access laws. We are simply expressing
2 our concern as any other government agency would be in terms of the precedent of
3 that.

4 MR. HALL: A couple of questions. One, I am -- like Bill I have a
5 little difficulty, but I am sure it is because I don't know enough here -- trying to
6 understand why you wouldn't be in the position for purposes of preserving the
7 materials of the JFK collection to restrict their use in such a way as to preserve
8 them over the long term.

9 Surely there is nothing in this legislation that says unlimited numbers
10 of researchers can go in and essentially destroy the archive by overusing them. The
11 Archives still would retain authority to ensure the proper safekeeping of the material
12 which is part of its charge; would it not be the case, therefore, that you could
13 restrict in terms of the existing regulation in the Archives access to the materials in
14 this collection as you would restrict access to terms in any other collection?

15 I don't see anything in the statute that means that anybody who
16 wants to get at this can get at it any time, any place, any way they want. It is
17 not a cafeteria or supermarket you walk into and pluck it off.

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1 MS. NISBET: On the other hand, the act is clear that anyone is
2 entitled to copies of anything that is designated an assassination record. That is
3 what we are concerned about. The implication is that we would not necessarily be
4 able to maintain the policy we have which is a restricted access policy, to be frank.

5 MR. HALL: I can understand restricted access in terms of making
6 sure the materials are preserved. It seems you can do that under the act or outside
7 the act as you presently are. I guess I would solicit the advice of our general counsel
8 in that regard. I understand what you are saying. I guess I have not got to the
9 point where I can see where your argument ends in a conclusive enough fashion to
10 persuade me that, for example, the rifle that is alleged to have been the instrument
11 by which the President died should not be in a collection of materials dealing with
12 the assassination of the President.

13 The other question I have goes to the legal side, and I have not read
14 the two cases you mentioned; but just to inform me, the wording in our statute
15 tracks the wording in the Federal Records Act?

16 MS. NISBET: It is very similar.

17 MR. HALL: The pertinent materials you pulled out are very, very

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1 helpful. Other documentary material regardless of its physical form or
2 characteristics. Now what I am trying to understand is other documentary
3 material and why this essentially broadening clause "regardless of physical form or
4 characteristics".

5 MS. NISBET: Well, I think the way that phrase "regardless of physical
6 form or characteristic" has been interpreted by the courts not in dealing with the
7 issue of objects but in terms of what a record is to include -- make sure that people
8 understand that records can be digital recordings or sound recordings, video,
9 computer disks, computer records of any kind, that that is the intent of that or at
10 least that is the way it has been interpreted.

11 MR. HALL: Some of those are specific.

12 MS. NISBET: Some are specifically, but particularly as technology
13 changes there are always things that come along that are not necessarily clearly
14 encompassed within that.

15 As I mentioned, the only two cases I am aware of that actually speak
16 to this were dealing with objects themselves.

17 MR. HALL: Sure.

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1 Last question: Just so I understand it, is the position of the Archives
2 that the John F. Kennedy collection can be complete without material pieces of
3 evidence relating to the assassination itself?

4 MS. NISBET: Yes.

5 CHAIRMAN TUNHEIM: Ms. Nelson?

6 MS. NELSON: I guess I have two questions. One is how many -- are
7 there great numbers of artifacts that are not in the Warren Commission or are
8 there just a few things that have come to you that were not in the Warren
9 Commission?

10 MS. NISBET: I think Steve or Mike would be better able to speak to
11 that.

12 MR. McREYNOLDS: Related to the assassination? Just in general?

13 MS. NELSON: Related to the assassination.

14 MR. McREYNOLDS: I think most of them are in the Warren
15 Commission collection.

16 MR. TILLEY: Yes.

17 MS. NISBET: I think there are a few things.

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1 MR. TILLEY: A couple of items have come to us outside of that.

2 Recently the --

3 MS. NELSON: Which are indeterminate ownership.

4 My second question goes to the heart of your decision on artifacts

5 which affects the JFK ones, of course. That is that you say basically that

6 artifacts -- the National Archives is saying that artifacts do not document agencies'

7 activities? Never?

8 MS. NISBET: I certainly would not say never.

9 MS. NELSON: There are historians who think artifacts do, in fact,
10 document.

11 MS. NISBET: Yes.

12 MS. NELSON: Then I have a second question. If they are not
13 records under the Federal Records Act, what are they doing in the Archives?

14 MR. McREYNOLDS: We have had a program of deaccessioning
15 artifacts with the Smithsonian in the seventies. There was a program to do that;
16 and it was done. So that interpretation is not a new one as far as artifacts are
17 concerned.

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1 MS. NELSON: It is a really tricky question. If they, in fact -- if
2 they are documentary term of any kind, if they are of any informational value, it is
3 hard to remove them from a collection. By the way, I understand it would be a
4 pain in the neck -- not the Warren Commission ones but some of the
5 documents -- artifacts you all could probably get. But that is beside the point.

6 MS. NISBET: Certainly.

7 MS. NELSON: The point is that there are -- there probably are
8 other artifacts you have that document agency activity you probably have
9 deaccessioned because they probably didn't belong there. But they do, in fact,
10 probably document.

11 MS. NISBET: We would certainly not say that objects do not have
12 informational value. They do. The only question here is whether or not they
13 constitute records as records have been considered, you know, legally throughout the
14 years.

15 MR. HALL: There is a kind of interesting puzzle in other ways.
16 Because if we accept your view that an artifact is not a record, then much of the
17 pertinent physical evidence would fall outside the scope of an assassination record.

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1 If on the other hand -- and we so define it in the terms you are giving to us. If, on
2 the other hand, we have a broadened definition of what an assassination record is
3 and it is something commonsensical, speaks to me, says if I have the weapon that
4 the alleged perpetrator used, that somehow or other fits into the bigger puzzle, that
5 ought to be part of the net cast by us to make sure there is a complete coherent
6 collection.

7 So I'm trying to understand why -- I understand -- I understand on
8 practical grounds why the Archives wouldn't want these materials; it escapes me
9 why on common sense grounds the Archives would not want them.

10 MS. NISBET: We certainly believe there is a common sense approach
11 to that.

12 Again, the -- all of these objects certainly are available; they are
13 available to the public. They are being cared for; they are, you know, part of the
14 collection of archives. They are just not, as we are saying, part of the collection of
15 the assassination records. But additionally, in terms of information about the
16 objects themselves, those are already part of the collection; photographs,
17 descriptions, in many cases enhanced photographs, that sort of thing. Certainly

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1 they are part of that.

2 I think that, you know, we looked, for example, again common sense
3 approach to many of the records of the courts, for example, that end up coming to
4 the National Archives in photo records. You certainly have objects that may
5 become -- they are evidentiary, they become part of a record of the case that is
6 heard before the court. A gun for example; the murder weapon, that sort of thing.

7 Yes, it is part of the record. Is it in itself a record? That simply is where we are
8 departing here. We don't believe that it is in itself a record; and we believe that
9 the legal precedent on that is correct as well.

10 MR. HALL: The legal precedent may be correct, but that strikes me
11 as a distinction, for the purposes of the legislation and the responsibilities we have,
12 one that would put us in a position of essentially setting outside the collection
13 materials that are clearly pertinent to what goes on, or what went on. At any
14 rate --

15 MS. NISBET: That is very much the decision you are going to have to
16 make. We would only urge that you do consider the precedent. You would be
17 saying that objects are records. It would be hard to say they are just assassination

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1 records for this particular case and that has no meaning or implication for any
2 other objects.

3 MR. HALL: A Hollerith card.

4 MS. NISBET: I don't know what this is.

5 MR. HALL: It is an older term, from an older era. A computer
6 card run through, a data card.

7 MS. NISBET: Keypunch?

8 MR. HALL: Yes. Is a keypunch card an artifact or a record?

9 MS. NISBET: I don't know.

10 MR. JOYCE: A machine-readable record.

11 MR. McREYNOLDS: A media like videos.

12 MS. NISBET: A computer back-up tape.

13 MR. HALL: The interpretation of it is subject to use. I would guess
14 the interpretation of the rifle is subject to some use. Balancing, aiming, perhaps
15 even firing.

16 MS. NISBET: Absolutely. It certainly is.

17 MR. HALL: It strikes me as a record.

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1 MS. NISBET: Don't make up your mind too soon.

2 MR. HALL: All I am saying is it strikes me as a record.

3 CHAIRMAN TUNHEIM: If the Warren Commission exhibits were
4 considered artifacts and not assassination records pursuant to this act, would it be
5 more likely that eventually they would be transferred to the Smithsonian under the
6 common practices the National Archives has relegated to other artifacts that you
7 mentioned?

8 MR. McREYNOLDS: That would be a decision down the road. A
9 decision was made to try to rid the shelves of the National Archives of a lot of
10 artifacts, we might say junk; and an agreement was --

11 CHAIRMAN TUNHEIM: The Smithsonian was a good place to send it?

12 MR. HALL: I am sure the Smithsonian will be glad to hear that.

13 MR. McREYNOLDS: An agreement was made with the Smithsonian
14 to review the list of artifacts we developed. There was an exchange of some of
15 them, not all of them. I doubt if the National Archives would be --

16 MS. NISBET: I don't believe we could or -- I think it would
17 take -- they came to -- they came to the National Archives as a result of a law

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1 that was passed directing that those terms be given to the National Archives. It
2 seems to me it might take some much more serious action for that ever to happen.
3 I believe by law, in other words, the place they are to reside is the National Archives,
4 without question.

5 MR. JOYCE: Isn't it the case -- and this is subject to interpretation
6 perhaps -- but is it not the case that our law directs that the Warren Commission
7 files be part of the assassination records collection? So in the same way that you
8 may feel that you have custody over those artifacts by reason of legislation, so, too,
9 do we perceive that this is part of the larger collection of which this is specified.

10 MS. NISBET: Of records.

11 MR. JOYCE: That may be subject to interpretation. I think the
12 language of the legislation may not say it.

13 MR. HALL: I think Bill's question is a good one.

14 MS. NISBET: I do, too. I would have to look more carefully at the
15 language.

16 MR. HALL: If Congress provided you take care of the physical
17 evidence brought forward by the Warren Commission, then, in essence, it seems to

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1 me Congress made a decision about whether or not these terms are records since
2 under the interpretation of the Federal Records Act, only the -- the Archives can
3 only hold records and Congress directed you to take these materials; therefore, they
4 are records.

5 MS. NISBET: I think that that is too circular. As a matter of fact,
6 the National Archives does have custody of -- and I would certainly think legally
7 so -- of any number of objects that never got there because they were records
8 of -- necessarily of any particular federal agency or court.

9 MR. HALL: The good news would be then you are in the position of
10 being able to say this is no precedent at all?

11 MS. NISBET: That would be nice.

12 MR. HALL: I don't know what the statute sells. If the statute said
13 that, there is no precedent. They just float over to us.

14 CHAIRMAN TUNHEIM: Is the definition of record in the Federal
15 Records Act and FOIA the same as the definition of a record in the JFK Collection
16 Act?

17 MS. NISBET: The definition of record in the Federal Records Act and
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1 JFK Act is very much the same. Virtually the same. A little difference, but very,
2 very close.

3 CHAIRMAN TUNHEIM: Other documentary?

4 MS. NISBET: The FOIA does not define a record. As I mentioned
5 under the FOIA, of course, the indications I mentioned are cases that resulted from
6 requests under the Freedom of Information Act. But, for example, in the 1971
7 case that I mentioned, the court in trying to define what a record is did look to the
8 word "Federal Records Act" in trying to figure it out.

9 CHAIRMAN TUNHEIM: In terms of the desire not to create a
10 precedent which I certainly understand is a very viable issue for the National
11 Archives, we do have the definition of a record which does apparently track closely
12 the federal records act. There also is a definition of assassination record that does
13 include materials that have come into the possession of the Warren Commission
14 essentially. So it goes a little bit beyond that.

15 MS. NISBET: That might be what makes a difference in your minds.

16 CHAIRMAN TUNHEIM: Tell me, is there a catalogue of the material
17 that you would consider to be artifacts related to the assassination of President

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1 Kennedy that currently exists, a catalogue of what is there right now?

2 MR. McREYNOLDS: Yes.

3 MS. NELSON: That would be helpful to have.

4 MS. NISBET: That can be provided.

5 CHAIRMAN TUNHEIM: Second question: how often are these
6 artifacts shown to the public now? I recognize they were shown frequently before
7 1985. How frequently would you say they are shown now to someone who wrote
8 a letter to you requesting them?

9 MR. McREYNOLDS: It is several times a year now.

10 MR. TILLEY: I think in the last year, we did five or six. We agreed
11 to and accepted five or six applications.

12 MR. McREYNOLDS: I think that that is more since the movie than it
13 was prior to 1992.

14 MR. MARWELL: How many did you deny in that time?

15 MR. TILLEY: Well, I denied portions of one major one that is
16 currently pending right now. We denied several parts of that request because of
17 previous lack of need for it or other reasons; but we denied some, too.

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1 For the most part, an inquiry from a researcher results in me telling
2 him what our policy is; and usually people don't pursue it after that. But for those
3 that are serious, they make a written inquiry and the ones that have made a
4 written inquiry pretty much are accepted. They tend to be people who are doing
5 either work on some of the publicity for the 30th anniversary of the assassination
6 last November or people currently involved in writing books or articles about some
7 aspect of the assassination.

8 CHAIRMAN TUNHEIM: Other questions?

9 One more while we have you here. We really appreciate this briefing.

10 MS. NISBET: You can certainly call us, too. You don't have to limit
11 your questions to today.

12 CHAIRMAN TUNHEIM: Has there been consideration given to putting
13 the artifacts into some kind of form where they could be viewed by the public
14 without necessarily affecting the preservation issue such as some type of
15 climate-controlled environment?

16 MS. NISBET: Like a display case?

17 CHAIRMAN TUNHEIM: I am sure there are sensitivities associated

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1 with that; but is that an issue that is contemplated at some point in the future?

2 MR. McREYNOLDS: It has been talked about in the past. I don't
3 know what plans would be in the future.

4 CHAIRMAN TUNHEIM: No plans right now?

5 MR. McREYNOLDS: No. Not at all.

6 MR. HALL: It is fair to say the Archives itself is not a museum?

7 MR. McREYNOLDS: Yes.

8 MR. GRAFF: On the other hand, there are things on display there?

9 MR. McREYNOLDS: We do exhibit. We have an exhibit of posters
10 now. But we exhibit records and not artifacts.

11 CHAIRMAN TUNHEIM: Ah-ha. It gets back to the central question.

12 Any further questions?

13 MS. NELSON: That's because you don't get artifacts to support you.

14 MS. NISBET: Not true.

15 CHAIRMAN TUNHEIM: Further questions?

16 [No response.]

17 CHAIRMAN TUNHEIM: Thank you very much. We really appreciate

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1 it.

2 MS. NISBET: Thank you.

3 Next on our agenda for today is a report from Steve Tilley on the
4 additions and changes to the records collection. We will not ask you about the
5 artifacts collection.

6 BRIEFING BY STEVE TILLEY

7 MR. TILLEY: Thanks.

8 As you know, I am Steve Tilley. I am the JFK liaison for NARA and
9 also the individual in charge of the JFK collection.

10 There have been two major additions to the collection since the last
11 public meeting. In the end of July, we received and opened more than 44,000
12 pages of FBI field office records. These field office records were records of the
13 assassination investigation; and they consisted of the field office records of all the
14 field offices that had a role in the field office investigation beyond the Dallas and
15 New Orleans field office records which were transferred previously.

16 Also in that collection of records that we opened on that day were
17 also the FBI files related to their work with the Church and Pike Committees and

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1 also liaison with the House Select Committee on Assassinations.

2 At the same time, as that -- those records were opened, we also
3 made available new Church Committee records. We opened 11 new boxes of
4 Church Committee records at that time which raised the total number of Church
5 Committee boxes at that time to 38; and those 11 boxes contained some very
6 interesting records; and it was the first significant opening of testimony taken by
7 the Church Committee which -- most of which or a lot of which was taken in closed
8 session and included among that testimony were some of the following individuals:

9 Edward Lansdale, General Maxwell Taylor, General Goodtaster, William Colby,
10 Richard Helms, Dean Rusk, Walt Rostow, L. Fletcher Moultry; Lawrence Houston,
11 former general counsel of the CIA; James T. O'Connell, a CIA employee; and others.

12 That was a fairly significant opening of Church Committee records at that time.

13 The second major opening that we had took place September 20, and
14 that was an addition to the records of the Central Intelligence Agency. As I
15 discussed with the Board before, part of what we called the segregated collection of
16 CIA recording, the records brought together by the CIA for the work of the House
17 Select Committee at the time this committee was sitting, records which became

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1 known as the segregated collection, part of that were about 72 or 73 rolls of
2 microfilm used by the Select Committee staff and viewed by the staff at that time.

3 When the processing for the JFK Act began, the CIA faced a problem
4 of what to do with that microfilm. What they ended up doing with that microfilm
5 was having it printed off on paper which resulted in 150,000 pages of material.

6 The opening on September 20 was about 70,000 pages of that
7 material, which was transferred to us at that time. The information in there
8 covered a variety of topics; I will just take it from our press release at that time:

9 Some of the documents dealt with individuals who had been tied to
10 Lee Harvey Oswald; documents related to the investigation of the Warren
11 Commission; documents relating to the Jim Garrison investigation conducted in New
12 Orleans; and other conspiracy theories. With particular interest, there were
13 documents, a good deal of information really, concerning the activities of Lee Oswald
14 when he was in Mexico City.

15 But the vast majority of that material, perhaps two thirds of that
16 material dealt with -- was new material. Let me back up by saying some of that
17 material I just described on those other topics was duplicative of what had been

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1 opened before in the collection. Not all of it, but some of it.

2 But the -- perhaps two-thirds of that opening that took place on
3 that day was new material; and this material was primarily from CIA files dealing
4 with the activities of Cuban exile groups; many of the Cuban exile groups one of
5 which was the Cuban Revolutionary Council, maybe the most well known, but there
6 were others involved in that. That was about two-thirds of the opening that dealt
7 with those topics.

8 We just received a -- we are, in fact, in the process today of receiving
9 a third group of records which has not been opened yet. Those are the records of
10 the Pike Committee, been transferred out to the Archives today. The Pike
11 Committee records are not very large. There's only three boxes of records. Review
12 has been done by the staff of the House Permanent Select Committee on Intelligence.

13 They have the oversight, the Pike Committee records.

14 Of course, the Pike Committee, like the Church Committee, looked
15 into a number of different issues of which the assassination was only one. Their
16 review has identified these three boxes of materials which have been turned over
17 today. They have also turned over the data disks which, of course, we don't have

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1 from some other agencies.

2 Those are the items that have been added to the collection since our
3 last meeting. But let me -- I would like to cover a couple of other issues that
4 occurred since that time that I think would be of interest to the Board. First is
5 that in the second week of November, the CIA sent a team of three reviewers to the
6 Ford Library to begin the review of the records of the Rockefeller Commission that
7 had not been opened before.

8 And also to also look at related records that are in the possession of
9 the Ford Library including the records of the White House staff that related to this
10 issue.

11 I am informed by the staff of both the CIA and Ford Library that
12 review resulted in the release of many records, that they could open on the spot and
13 have, in fact, been opened by the CIA reviewers, although I have no hard and fast
14 volume figures at this time. The indication I was given was that approximately
15 between one-quarter and one-third the documents have been opened by the
16 reviewers at that site.

17 My recollection is there are approximately 11- to 12,000 pages of

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1 records to be reviewed out there. So that is a good bit of material. Other
2 documents after the CIA review need to be coordinated with other agencies,
3 particularly with the FBI and NSC. That coordination is being started by the staff
4 of the Ford Library.

5 The documents have been opened and will be copied in the next few
6 weeks and provided to the staff of the Archives for inclusion in the collection. So
7 we hope to have those materials shortly. The last object I would like to mention is
8 the fact that the Archives has recently changed the software which has run our
9 database, our searching database at the Archives out in College Park. We now have
10 been able to come up with a program which is now able to search the database
11 much more rapidly than we were able to before.

12 As you are aware, as several in the audience are aware, the search
13 process was rather slow the way it was before, often taking as long as -- actually
14 almost every search took approximately 20 minutes as the program sequentially
15 went through the documents sequentially. The new software we are running now is
16 able to conduct even the most complicated searches within five seconds. Obviously,
17 increasing the efficiency of our staff to be able to search for records and to provide
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1 service to the general public and others.

2 So this is very, very good news for us. And I think for the public, too.

3 So the database is coming along to where it can be a great deal of -- much more
4 efficient use of it can be made by the public.

5 We continue to work toward making the database available to the
6 public in our reading rooms out at the new building. I was informed yesterday that
7 the server, the computer server which will make that possible has arrived and the
8 process for establishing that on our network has begun; and, hopefully, within a
9 couple of months -- hopefully -- we will have a terminal or two set up in the
10 research room so the public can search the database itself and don't have to work
11 through my office any more.

12 The final step of that process will be somewhere down the line
13 eventually the database will be available on the Internet or some other service of
14 that sort where it will be searchable across the Nation. So there is progress being
15 made on that issue also, and it is substantive progress finally we are able to
16 announce. So that is the status of the situation, Mr. Chairman.

17 CHAIRMAN TUNHEIM: Questions? David?

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1 MR. MARWELL: Yes. You mentioned before some agencies have not
2 supplied you with diskettes yet.

3 MR. TILLEY: That's correct.

4 MR. MARWELL: What is the status of that problem?

5 MR. TILLEY: The major problem there is with the CIA. We have no
6 diskette from the CIA. Sometime ago, earlier this year, they provided us with two
7 sample disks. We looked at them and had a meeting with them, telling them
8 where they needed to make changes as far as they had incorrect information in
9 some of the fields and then -- they needed to change the programming to make it
10 look like the other record identification forms we had in the collection.

11 We have been back to them on that. We have been in contact with
12 them on the issue, but still we have not received any data disks from them at this
13 time. So there are no CIA records -- CIA-originated documents within the
14 collection at this time. We are pursuing that; but there is still nothing on that.

15 MS. NELSON: You mean nothing in the database?

16 MR. TILLEY: In the database. We have the collection. We have
17 made traditional finding aids for those records so we can, in fact, search them.

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1 MR. MARWELL: With the exception of the CIA, are there records in
2 the collection not listed in the database with the exception of the CIA records?

3 MR. TILLEY: The most recent FBI accessions don't have disks yet.
4 What has happened with the FBI is that they give us their disks in segments; so we
5 are waiting for the -- they have a checking process they go through. As they finish
6 major blocks of their records they then turn over the disks to us so we are always a
7 little ahead on records as opposed to disks with them.

8 MR. MARWELL: It is very useful for us to have that data so we can
9 plan our own review process, so we know the scope of the problem, how many
10 records are postponed and for what reasons.

11 MR. TILLEY: Well, we have no Church Committee disks either for the
12 records of the Church Committee. My understanding from the staff up there is
13 they are still working on it. They have a small amount of terms to review. When
14 that review is completed, they will be turning over their data disks. But the
15 Church Committee records we have no data disks.

16 MR. MARWELL: With the new system, will you be getting the disks?
17 The same format?

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1 MR. TILLEY: It will not affect that at all.

2 MR. MARWELL: We can get them as soon as they are available?

3 MR. TILLEY: Yes.

4 MS. NELSON: Who reviews the Church Committee and the Pike
5 Committee? Is it the current staff?

6 MR. TILLEY: The staff of the Senate Select Committee on
7 Intelligence, the Church Committee.

8 MS. NELSON: Which part of the staff? You see what I mean? In
9 other words, if a new group of staffers come, as a practical matter, they have to
10 learn --

11 MR. TILLEY: That could be a problem.

12 MS. NELSON: -- the reviewing. You get into the review process.

13 MR. TILLEY: I have not been in contact with the staff up there. I
14 do not know if the possible changes on the Hill are -- Capitol Hill are going to have
15 affect on those folks. Basically we dealt with one or two people. Fortunately, the
16 Pike Committee records are completed. So that will not have an affect there. The
17 Church Committee records are virtually completed.

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1 MS. NELSON: It may be they will let those people stay there. I
2 don't know why they wouldn't. That can delay, having new reviewers.

3 MR. TILLEY: Absolutely. To start over would be a real down.
4 That's for sure.

5 CHAIRMAN TUNHEIM: Steve, how many researchers are out using
6 the collection each week?

7 MR. TILLEY: The number varies. Some weeks, frankly, we don't not
8 have many people in the building at all. We might have one or two researchers and
9 that's all. But two weeks ago we were full. We had about six to eight people
10 there, all of whom are experienced researchers, making rather inordinate demands
11 upon us it would seem at times.

12 We had three people show up this week; three ladies came in from
13 Florida I believe whom I had never spoken to before. They just showed up. They
14 spent four days going through the records. Obviously had done their homework,
15 had very specific questions, very specific list of individuals that they were interested
16 in.

17 Luckily, we had a much faster data base which allowed us to do the

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1 searches for them in a very quick order and provide the service for them.

2 At -- some of the other researchers we have had have been the people
3 we have dealt with for over the last 16 to 18 months on a regular basis. It varies.
4 But it is a steady -- has been steady.

5 The other thing that doesn't change is the written inquiries. We are
6 on a -- last year, we received 607 written inquiries, last fiscal year, the fiscal year
7 just ended in September of this year. We are on a pace this year for 900 written
8 inquiries this year. So the interest at least among the general public who write in
9 to us as opposed to coming into the building seems to be on the increase.

10 MR. GRAFF: Did it pick up after the recent showing of the Oliver
11 Stone movie? Are you sensitive to that kind of thing?

12 MR. TILLEY: I don't think that had a -- the week we were very busy
13 were many of our regular researchers who came back and following up on some
14 things. Interestingly enough, what one individual was doing was following up leads
15 on a recently-published book which had a chapter that dealt with the assassination.
16 So he was following up on some leads from the footnotes in that book.

17 So it is interesting what brings the researchers in. But I don't think

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1 the movie really brought in so many people as just the verities of the way things are
2 done.

3 MR. JOYCE: Steve, I know when the legislation was passed you had a
4 number of meetings with departmental and agency liaisons to get background
5 implementation of the act. Obviously, in the cases of those agencies with large
6 volumes of records, they come in on an incremental basis. Are there agencies or
7 government units from which you expect a large influx of material or that you
8 anticipated additional holdings from at any time?

9 MR. TILLEY: Well, obviously we still have FBI records which will be
10 coming in.

11 MR. JOYCE: Right.

12 MR. TILLEY: We still have CIA records, perhaps, to come in. Where
13 I am expecting records but I don't know what is going to happen yet is we still have
14 received nothing from the Immigration and Naturalization Service. We know they
15 have records. We have, in fact, been in touch with their staff about the review.
16 Yet we have no records from them.

17 We still have not received any records from the Department of the

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1 Army even though we know they are reviewing documents. We provided them
2 with data disks in September of last -- September of 1992. Yet we still have
3 received nothing from -- September of 1993. I am sorry. September of 1993.
4 We still have no records from them. At the time they told us they only had five
5 feet; so it is not like it is an inordinate amount of material.

6 There are agencies we are expecting records from; records, frankly,
7 there is a great deal of interest in, expressed by the research public about those
8 records.

9 MR. JOYCE: You have not had contact with any of these in the
10 recent past, I take it?

11 MR. TILLEY: No. I don't spend a lot of time bugging these people
12 about where things are. I make periodic phone calls occasionally to some agencies
13 to see where things are going. I don't spend a lot of time doing that.

14 MR. JOYCE: I think that is of importance to us.

15 MR. TILLEY: The Board has a role in that. The Archives has been
16 careful of our role as a policeman, if you will, of enforcing the statute. We provided
17 advice and the information that was needed and beyond that, we have let the

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1 agency pretty much make the decisions as to how they want to work on these
2 programs.

3 CHAIRMAN TUNHEIM: It is up to us to take on the role of bugging
4 people.

5 MR. TILLEY: I hope so.

6 MR. JOYCE: Right.

7 CHAIRMAN TUNHEIM: Give me, Steve, just a characterization of the
8 total scope of the collection at this point in time, total documents, pages, cubic feet,
9 an estimate of just where the total collection is?

10 MR. TILLEY: I think we are probably getting close to 1,500 cubic
11 feet of records and over 3 million pages with some of the more recent influx of
12 material. By archival standards, a collection, if you will, in many respects; but one
13 that -- where there is so much interest in individual documents that it is sort of a
14 different type of research that we are doing here where people know about
15 something, they have heard about something, and it is our job to try to find it.

16 Often we are talking about one document or a document they are not
17 even sure exists in many instances. But we really have not had that much increase

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1 in the last few months. We have been getting small amounts of material but
2 nothing really exploded. I think the explosion in the size of the collection is
3 probably going to be more a factor of this Board's work as opposed to anything else
4 that is going on out there right now.

5 The records that are still being reviewed are fairly small. I think we
6 have the major groups of records that are out there already as part of this
7 collection.

8 CHAIRMAN TUNHEIM: Do you have any current estimate of the
9 number of pages on which postponements have occurred? In what you have right
10 now?

11 MR. TILLEY: Mr. Chairman, I would not like to make an estimate on
12 that really because I simply don't know. There's been so many pages where there
13 simply are portions deleted; and I'm not really sure about in some instances how
14 many pages a postponed document has because the withdrawal notice doesn't give
15 that. But I will say this, that I have a large amount of material that has been sent
16 to me by the CIA in the last couple of months that has been released under -- after
17 coordination with other agencies or follow-up on their own investigation; so there
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1 are documents coming to me that have been previously postponed that now have
2 been opened in a later review process and those documents will be added to the
3 collection.

4 So there is some movement on that front also. But that is a very
5 minor percentage of the matters still out for postponement.

6 CHAIRMAN TUNHEIM: Further questions for Steve?

7 [No response.]

8 MS. NELSON: The written requests, Steve, that you get, are they for
9 information on documents? Do the people want you to send them documents?
10 That is to say there are two different kinds of requests: the kind that wanted to
11 burden you with doing their research and the kind that don't. What are the
12 nature of the requests? Very sophisticated?

13 MR. TILLEY: A large majority are fairly specific requests asking for
14 documents about certain individuals or events.

15 MS. NELSON: So they are quite answerable?

16 MR. TILLEY: Yes. For the most part, the people who write to us
17 are fairly knowledgeable about the events surrounding the assassination and have

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1 done their homework to a certain extent.

2 MS. NELSON: So the responses are time consuming?

3 MR. TILLEY: Yes. I would say the number of requests we can
4 answer with a -- we do have form responses. We have a couple of general form
5 responses, but the percentage that can be answered by that is very small. Most of
6 them are substantive responses.

7 CHAIRMAN TUNHEIM: Okay. Thank you, Steve. Appreciate it, as
8 always, your help and advice for this Board.

9 As we approach the time where we are going to begin as a Board the
10 process of reviewing documents, one of the priorities that we are going to give as the
11 statute suggests that we give is a priority to records that have been the subject of
12 FOIA requests. We are in the process of trying to make sure we have a complete
13 catalogue of all such potential records so we can give them priority. If anyone
14 knows of FOIA requested documents that should be part of this priority that the
15 Board gives, I would ask you to let the Board's staff know about that. It is
16 important, I think, for a number of reasons, not the least of which the law requires
17 to us do so and also because I think it will assist agencies which have FOIA requests
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1 before them.

2 Again, in terms of our plans for the next several months, we do hope
3 by the 25th or 26th of January, we will be ready to meet and make a
4 determination of our definition of assassination record and publish that proposed
5 definition for a 30-day comment period in the Federal register. Hope we hope in
6 February or March to begin the review process and also hope that we will be able to
7 have an open house in our offices here once the construction period has been
8 completed.

9 We are also considering sometime after the new year our next public
10 hearing and considering a number of different cities; have not settled on one yet.
11 We are considering Boston, New Orleans, Miami, or Los Angeles for our next public
12 hearing. We hope to make a decision on that item soon.

13 Is there any other matter to come before the Board today?

14 [No response.]

15 CHAIRMAN TUNHEIM: Seeing none, is there a motion to adjourn?

16 MR. GRAFF: So move.

17 CHAIRMAN TUNHEIM: Is there a second?

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1 MR. JOYCE: *Second.*

2 CHAIRMAN TUNHEIM: *Those in favor say aye; those opposed, so*

3 *state.*

4 *[A chorus of ayes.]*

5 CHAIRMAN TUNHEIM: *The meeting is adjourned. Thank you for*

6 *coming.*

7 *[Whereupon, at 3:00 p.m., the meeting was concluded.]*

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