

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

EMORY L. BROWN, JR., :

Plaintiff, :

Civil Action 44-71

-vs- :

JOHN MITCHELL, etc., et :

al, :

Defendants. :

PLAINTIFF'S BRIEF IN OPPOSITION TO MOTION OF THE GOVERNMENT FOR
DISMISSAL AND IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDG-
MENT

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TABLE OF CONTENTS

TITLE	PAGE
1. Table of Cases	ii
2. Statement of Case	1-3
3. Argument	4-
4. POINT I: Affidavit of Henry A. Schutz, Jr. A Special Agent of the Federal Bureau of Investigation	5-8
5. POINT II: Plaintiff Has Not Failed To Request "Identifiable Records" Within The Meaning of the Freedom Of Information Act.	9-12
6. POINT III: The Material Sought is Not Part Of An Investigatory File Compiled For Law Enforcement Purposes	13-19
7. POINT IV: The Government Has Waived Any Claim It Might Have Toward Nondisclosure Of The Material Sought	20-21
8. CONCLUSION	22
9. EXHIBITS:	
Executive Order 11130	1a-2a
Joint Resolution	3a
Department of Justice Order	4a

TABLE OF CASES

CASE	PAGE
1. <u>Alderman v. U.S.</u> , 394 U.S. 165, 89 Sup. Ct. 961 (1969)	7
2. <u>BarcelonaShoe Corp. v. Compton</u> , 271 Fed. Supp. 591 (D.P.R. 1967)	11
3. <u>Benson v. U.S.</u> 399, Fed. Supp. 1144 (D.Neb.1970)	17
4. <u>Black v. Sheraton Corp. of America</u> , 50 FRD 130 (D.C.,D.C.,1970)	17
5. <u>Bristol Myers Company v. F.T.C.</u> , 424 F. 2d 934 (C.A.,D.C.,1970)	8
6. <u>Clement Bros. Co. v. NLRB</u> , 282 Fed. Supp. 540 (N.D.Ga.1968); 407 F.2d 1027 (5th Cir.1969)	17
7. <u>Cooney v. Sun Shipbuilding Co.</u> 288 Fed. Supp. 708 (E.D.Pa.1968)	18
8. <u>General Service Administration v. Benson</u> , 415 F.2d 878 (C.A.9, 1969)	6
9. <u>Swanner v. U.S.</u> , 406, F. 2d, 716 (C.A.5,1969)	16
10. <u>Tuchinsky v. Selective Service System</u> , 418 F.2d 155 (7th Cir.1969)	10
11. <u>U.S. v. Reynolds</u> , 345 U.S. 1, 73 Sup. Ct. 528, (1953)	18
12. <u>Wellford v. Hardin</u> , 315 Fed. Supp. 175 (D.Md.,1970)	10

OTHER REFERENCES:

Freedom of Information Act, 5 USC, 552	1
28 C.F.R. 16	1
Warren Commission Report	2
House Report 1497, 2426, 2 U.S. Congress and Administrative News 1966-37	9

STATEMENT OF THE CASE

This is an action brought pursuant to the Freedom of Information Act, 5 USC 552. The Affidavit of plaintiff, Emory L. Brown, Jr., shows that he is now seeking information relating to four specific incidents which are described in paragraph 9 of the complaint as 9(b), (c), (f) and (g).

This information is being sought in furtherance of Mr. Brown's own investigation into the assassination of President John F. Kennedy. Pursuant to the regulations governing the Freedom of Information Act as found in 28 C.F.R. 16, plaintiff has submitted a request for this information. Deputy Attorney General Kleindienst denied that information on the basis that such information was part of an investigatory file compiled for law enforcement purposes. This action was approved by the Attorney General.

This law suit followed taking issue with the position taken by the Department of Justice. At the outset the complaint requested eight areas of information but after filing the complaint plaintiff became aware that information surrounding four of the eight areas has been released and he has obtained same. Thus, he expressly abandons the demand for information shown by paragraph 9(a), (d), (e) and (h).

Paragraph 9(b) requests information surrounding the ownership of the vehicle bearing Texas license plate number HS1877 and for a copy of the investigatory report concerning that vehicle's participation or nonparticipation into the assassination. The number is found in the Warren Commission Report Exhibit 1974-82.

Plaintiff is also seeking information surrounding the ownership of a vehicle bearing license plate number 3E9087 and for a copy of the investigation into the participation or lack of participation of the occupants of that vehicle in the assassination of President John F. Kennedy. This license plate number is found in numerous places in Exhibit 1974 and Exhibit 705 found in the Warren Commission Report.

Plaintiff is also seeking information relative to a 1963 Chevrolet Impala bearing Georgia license plate number 52J1033. Plaintiff would also like to see the investigatory report showing the participation or nonparticipation of the occupants in this vehicle in the assassination of John F. Kennedy. Mention of this vehicle is found in the Warren Commission Report

Exhibit 705-16.

Finally, and most importantly, plaintiff is seeking the report of the investigation compiled as a result of the arrest of three men by the Dallas Police Department immediately after the assassination and immediately west of the Texas Book Depository. Reference to these arrests is found in Decker Exhibit 5323, and the Warren Commission Report, Volume 19, page 540. These two references fail to contain an explanation of what investigation was done to establish the participation or non-participation by any of these three men in the President's assassination.

Plaintiff has continuously sought this information and has exhausted all available remedies in attempting to obtain same. Therefore, he has called upon this Court to enter an appropriate order so that he can obtain this important information.

ARGUMENT

The thrust of the Brief submitted by the Government raises two issues:

A. That the records sought are not identifiable records within the meaning of the Freedom of Information Act; and

B. In any event, the material is contained in an investigatory file compiled for law enforcement purposes.

The Affidavit of Agent Schutz has been submitted which seems to raise issues somewhat broader than those raised by the brief on behalf of the Government.

It is respectfully submitted that for reasons which should become apparent shortly, the Court should ignore the Affidavit in its entirety. We will address ourselves to the Affidavit of Agent Schutz, the two issues generated by the Government's brief and the additional issue which is raised on behalf of our Motion for Summary Judgment which is that the Government has waived any argument in favor of secrecy in connection with any portion of the investigation into the assassination of President John F. Kennedy.

POINT I

AFFIDAVIT OF HENRY A. SCHUTZ, JR.,
A SPECIAL AGENT OF THE FEDERAL
BUREAU OF INVESTIGATION.

The Court should conclude that Mr. Schutz's affidavit adds absolutely nothing to its decision on this motion. There is no background set forth in the affidavit as to what, if any, relationship or participation the affiant had into the investigation surrounding the assassination of President Kennedy. Without even conceding that the information in fact exists the affidavit attempts to suggest to the Court that it would be unduly burdensome upon the Government to compile the information sought.

To deny access to the information on this basis would be to carve out a new exception to 5 USC 552 (b). It seems, however, that the affidavit seeks to have it both ways. First it attempts to say that to find the information would be burdensome and secondly that the information that exists, if it exists, should be kept secret because of certain other compelling interests, to wit: A) Protection of future Presidents; B) Protection of private and confidential relationships; and C) Because the investigation is continuing.

The affidavit of Mr. Brown takes issue with the fact that Mr. Schutz says that the file is maintained in an open status. If that is to be the crux of the Court's decision in the case it is respectfully submitted that there is a dispute as to a material fact and that the Government should be ordered to come forward at a plenary hearing to establish the fact that the investigation is open and continuing. However, this will be further discussed under the other headings.

As to the thought that a confidential relationship or a violation of a right to privacy will be trod upon if the Court orders the release of the information it is submitted that in order to justify a conclusion denying the release on that basis the Government must be able to show that the information was obtained on the basis that the person giving the information would be protected in return for his cooperation. See General Service Administration v. Benson, 415 F. 2d, 878 (C.A.9, 1969).

In the absence of such a demonstration the Court can not accept a statement in general conclusion form found in Agent Schutz's affidavit. In addition, it should be noted that the Government released names and other information

pertaining to its investigation surrounding four of the eight areas of material sought in this action. Did the Government obtain a release or permission to release that information from the persons involved in the investigation prior to the issuance of the publication order?

Without an answer to that query it is submitted that the Government can not be allowed to invoke this type of general privilege. To do so would be to completely nullify the legislative purpose behind the Freedom of Information Act and to allow the procedure disapproved in Alderman v. United States, 394 U.S. 164, 89 Sup. Ct., 961 (1969).

In Alderman the Court refused to accept an ex parte determination by the Department of Justice on the relevance of information vis a vis the question of whether or not it was tainted by an illegal search. The point is that the Court and not the Executive Branch will determine whether a privilege will be successfully invoked.

It is submitted that the affidavit of Mr. Schutz does not set forth any facts from which the Court can form a judgment as to whether the privilege is properly invoked.

The affidavit also argues that to release the information may be harmful to the protection of other presidents.

It is positively unbelievable to accept this as a basis for denying the relief herein.

We are seeking information into four specific areas. We are not seeking techniques regarding the protection of presidents or other important public figures. Certainly this Court could tailor any judgment so as to protect the Government from possible prejudice which could result from our obtaining access into these four areas. However, one wonders how this protection concept could possibly be prejudicial in view of the fact that Mr. Schultz's affidavit does not concede that the material sought exists. If he has not looked at the material then how does he know that it contains information adverse to the protection of other presidents. Who is fooling who here?

It is respectfully submitted that the Court should completely ignore the affidavit of Mr. Schutz as having no bearing on the decision of the Motion and should deny the Government's motion on the basis of failure of the Government of carrying their burden of the nonproduction of the information. c.f. Bristol Myers Company v. F.T.C., 424 F. 2d, 934 (D.C., D.C., 1970).

POINT II

PLAINTIFF HAS NOT FAILED TO REQUEST
"IDENTIFIABLE RECORDS" WITHIN THE
MEANING OF THE FREEDOM OF INFORMATION
ACT.

The first argument raised in the brief of the Government is that the action should be dismissed because the plaintiff has failed to request "identifiable records" within the meaning of the Freedom of Information Act.

5 USC 552 (a) (3) provides that the agency shall make available information upon a timely request for an identifiable record. The Congressional history into the Congress' intent with respect to this section provides:

"The person requesting records must provide a reasonable description enabling Government employees to locate the requested material, but the identification requirement must not be used as a method for withholding."

This excerpt comes from House Report 1497 at page 2426 of the Report, 2 U.S. Congress and Administrative News, 1966-37.

In addition to this legislative history Courts have made it clear that the identifiable records concept should not become an obstacle for the Government to assert in denying access to records. Bristol Myers Company v. F.T.C., Supra., provided that satisfaction of

the identifiable records requirements was met when the applicant merely provided a reasonable description enabling the Government agency to locate the requested record. Also, the Court indicated that this concept should not be used as a means of denying a citizen access to his Government's records. See also the discussion of the United States District Court in Wellford v. Hardin, 315 Fed. Supp. 175 (D.Md.,1970). Tuchinsky v. Selective Service System, 418 F.2d 155 (7th Cir.1969) cited by the Government does not supply any aid for the Government's position in this case.

Tuchinsky was a suit to obtain personal information on the members of all draft boards in the State of Illinois. The granting of the relief in the case would have required the Government to contact every draft board and obtain that information. The Court ruled against the applicants since it appeared that each draft board did, in fact, make available this information on the bulletin board at the office of the draft boards. Consequently the information was available to the applicant and the Court declined to order the Government to go from draft board to draft board to get the information.

The point with respect to identifiable records made by the Court in Tuchinsky was that the record must be in existence and that the Court could order the Government

to prepare a new record for the applicant. In fact, the Court, in Wellford v. Hardin, Supra. distinguished Tuchinsky on this very ground.

Likewise, the Government should obtain no comfort from the decision in Barceloneta Shoe Corp. v. Compton, 271 Fed. Supp. 591 (D.C., P.R., 1967). This case was distinguished as was Tuchinsky by the Court in Wellford. Since it appears that in Barceloneta the applicant was a party to pending litigation with the Government involving a national labor relations board action, the Court merely indicated that the Freedom of Information Act would not be used to expand a litigant's source of information when that litigant was in litigation with the Government. See 5 USC, 4 (b) (7).

The information we have requested is clearly identifiable in that we have contained a description of where the information is mentioned in the Warren Commission Report and exactly the nature of the material sought. Under the circumstances we can not see how we could possibly give the Government a more precise identification of the information requested.

It is respectfully submitted that the Government has not carried the burden of demonstrating a failure to provide a reasonable identification of the records sought. This is especially so with respect to the information sought

in paragraph 9(g) of the complaint since that information pertains to the arrest made of three suspects. Surely the Federal Bureau of Investigation does not wish this Court to accept the idea that they would not have a record of that arrest since we all know that the Federal Bureau of Investigation maintains a nationwide arrest identification system which is made available to all State law enforcement agencies on request.

Under these circumstances it is respectfully submitted that no showing has been made to justify a denial of the request.

POINT III

THE MATERIAL SOUGHT IS NOT PART OF
AN INVESTIGATORY FILE COMPILED FOR
LAW ENFORCEMENT PURPOSES.

The Government contends that in any event the material sought is part of an investigatory file which has been compiled for law enforcement purposes. It is respectfully submitted that this is not the case for at least two reasons.

First, this material was not compiled for law enforcement purposes but was compiled at the request and direction of the President of the United States and the Warren Commission which was then authorized to make conclusions and release the records and conclusions.

Second, assuming that there was some valid law enforcement purpose to be served, the time has long since passed for the Government to contend that it was seriously considering some concrete action along the lines of prosecution or other grand jury action.

Executive Order number 11130 dated November 29, 1963 appointed a Commission to ascertain, evaluate and report upon the facts relating to the assassination of President Kennedy, and the death of Lee Harvey Oswald. A copy of this

Executive Order is annexed to this brief and marked Exhibit A.

The Congress of the United States, not to be outdone by the Executive Branch, passed a joint resolution on December 13, 1963 authorizing the Warren Commission to report upon the assassination of the President. A copy of that joint resolution is annexed to this brief and marked Exhibit B.

In accordance with the direction of the Government the Warren Commission commenced work and produced a twenty-six volume work covering the information it had uncovered and sifted into the events of November 22, 1963 in Dallas, Texas. This information was published and revealed to the general public and citizenry of the United States and, in fact, the World.

The importance of this information in the historic context of our nation was emphasized by Attorney General Ramsey Clark in his order dated October 31, 1966 providing for the obtaining and preserving of all evidence considered by the Commission pertaining to the assassination of the President. A copy of the Order is annexed hereto and marked Exhibit C.

The Court should also take official notice of the fact that at the time of the assassination it was not

a Federal offense to assassinate the President. The prosecution arising out of this assassination has long since been complete with the conviction of Jack Ruby by the Court in Dallas, Texas. It should therefore become apparent to this Court that there was no law enforcement purpose behind the creation of the Warren Commission, its obtaining of evidence, its issuance of a report through the work of the Department of Justice and more specifically the Federal Bureau of Investigation into the facts surrounding the incident.

This agency was ordered by the Congress and the President and the Commission to obtain the information so that the American people could find out what had actually transpired on that fateful day in Dallas on November 22, 1963. This purpose may be considered historical or perhaps political but it can not by any stretch of the imagination be considered for law enforcement.

In any event it is submitted that if at one time it may have been for law enforcement that time has long since expired and that this information is now quite properly considered as historical information.

The opinion in Bristol Myers, Supra., at 939 dealt specifically with this thought.

"But the agency cannot, consistent with the broad disclosure mandate of the Act, protect all its files with the label 'investigatory' and a suggestion that enforcement proceedings may be launched at some unspecified future date."

The Court must decide if the prospect of enforcement, through prosecution or otherwise, is concrete enough to bar release of the data. In Bristol Myers the Court ordered the release of the information.

Likewise, in Swanner v. United States, 406 F.2d 716 (C.A.5, 1969) the Court concluded that the time element abrogated the availability of the privilege against revelation based upon the fact that the information was contained in an investigatory file for law enforcement purposes.

Swanner was an action by an informant against the Government for personal injuries suffered as a result of the alleged failure of the Government to protect the informant as a quid pro quo for his cooperation. The Court ruled that the applicant should have access to the investigatory files relating to the cases in which he cooperated.

Benson v. United States, 309 Fed. Supp., 1144 (D.Neb. 1970) gives no support to the Government's position in this case. Benson merely held that in a situation where an applicant was the subject of a pending action that applicant could not obtain information in the investigatory files where he was the subject of the investigation. Unless the Government, under oath, can state that Emory L. Brown, Jr. is a suspect in the investigation surrounding the death of President Kennedy, Benson offers no authority for the position taken by the Government herein.

Likewise, the opinion of the Court in Barceloneta and in Clement Bros., Co. v. NLRB 282 Fed. Supp. 540 (N.D.Ga. 1968), 407 F.2d 1027 (5th Cir. 1969) and Black v. Sheraton Corp. of America, 50 FRD 130 (D.C., D.C. 1970)

In Black the Court was not faced with a situation of a claim under the Freedom of Information Act. Instead the situation arose on the Government's motion to quash a subpoena issued as a result of discovery in a civil action between an individual, the Government and other third parties. The Federal Bureau of Investigation had already made available to the plaintiff all its information received from an allegedly improper surveillance including the notes of the agents, memorandums prepared by agents and even two memorandums prepared from the Director to the Attorney General concerning

the information developed. Apparently the proponent in Black was attempting to get access to other files not related to the specific cause of action bottoming the law suit by the plaintiff. There is nothing in Black which gives aid to the position of the Government in this case other than the thought that a citizen does not have the right to peruse through the investigation files of the Federal Bureau of Investigation.

We concur in that thought but merely wish to point out that that is not what is involved in this case.

It is also interesting to note the comment of the Government in this case in the footnote number two at page six of the brief in which an opinion of a Court in this circuit is dismissed as being "plainly wrong".

Cooney v. Sun Shipbuilding Co., 288 Fed. Supp. 708 (E.D. Pa., 1968) went off on the point that a claim of an executive privilege could be validly made only after the head of a particular agency or department had engaged in the personal consideration of a particular file prior to the invocation of the privilege. This holding is entirely consistent with our Supreme Court in U.S. v. Reynolds, 345 U.S. 1, 73 Sup. Ct. 528 (1953).

In summary, the Courts have made it clear that the exemption from release of information set forth in Section 7 is not to be used carte blanche by the Government

to deny a citizen access to identifiable records.

In the case under consideration the Government takes a position that it has an investigatory file compiled for law enforcement purposes notwithstanding the existence of the Warren Commission Report and notwithstanding the fact that it is now eight years since the event and notwithstanding the fact that the Government has not even admitted that the information sought is part of its files.

Under these circumstances to deny the relief would be to fly in the face of the United States Supreme Court holding in Reynolds, Supra. and Alderman, Supra. and allow the Government, on its own, to determine when information is to be released.

POINT IV

THE GOVERNMENT HAS WAIVED ANY CLAIM
IT MIGHT HAVE TOWARD NONDISCLOSURE
OF MATERIAL SOUGHT.

It is respectfully submitted that in view of the following policy considerations the Government has waived any privilege:

- A. Nature of the material sought;
- B. Its historical value;
- C. Its political value;
- D. The right of the citizens to know; and
- E. The release of other information as outlined in paragraph 9 (a), (d), (e) and (h) of the complaint.

Keeping in mind the thought that the burden of persuasion is upon the Government to justify the non-production of the information and in view of the fact that nothing concrete is before the Court, it is respectfully submitted that the Court has no alternative but to enter Judgment in favor of the plaintiff. The information which is contained in paragraphs 9 (a), (d), (e) and (h) of the complaint and which was released separate and apart from the Report of the Warren Commission is tantamount

to a waiver of an objection to release other information. To allow the Government to pick and chose the information it wishes to release in connection with such an important national event would be to allow the Government to manage the news and information that the citizenry is entitled to have before them.

Consequently, in order to justify the denial of the relief sought herein it is essential that the Government come forward with a strong showing made up of either an admission that these leads into the assassination of the President were never followed through to completion and the information sought does not exist, or that the release of the information would be contrary to the national security for a specific and identified reason..

CONCLUSION

Based upon the foregoing, it is respectfully submitted that the Court should deny the Government's motion for dismissal of plaintiff's claim and grant plaintiff's motion for summary judgment.

Respectfully submitted,
CHAMLIN AND SCHOTTLAND,
Attorneys for Plaintiff,

BY: 

MICHAEL D. SCHOTTLAND

Executive Order 11130

APPOINTING A COMMISSION TO REPORT UPON THE ASSASSINATION
OF PRESIDENT JOHN F. KENNEDY

Pursuant to the authority vested in me as President of the United States, I hereby appoint a Commission to ascertain, evaluate and report upon the facts relating to the assassination of the late President John F. Kennedy and the subsequent violent death of the man charged with the assassination. The Commission shall consist of—

The Chief Justice of the United States, Chairman;
 Senator Richard B. Russell;
 Senator John Sherman Cooper;
 Congressman Hale Boggs;
 Congressman Gerald R. Ford;
 The Honorable Allen W. Dulles;
 The Honorable John J. McCloy.

The purposes of the Commission are to examine the evidence developed by the Federal Bureau of Investigation and any additional evidence that may hereafter come to light or be uncovered by federal or state authorities; to make such further investigation as the Commission finds desirable; to evaluate all the facts and circumstances surrounding such assassination, including the subsequent violent death of the man charged with the assassination, and to report to me its findings and conclusions.

The Commission is empowered to prescribe its own procedures and to employ such assistants as it deems necessary.

Necessary expenses of the Commission may be paid from the "Emergency Fund for the President".

All Executive departments and agencies are directed to furnish the Commission with such facilities, services and cooperation as it may request from time to time.

LYNDON B. JOHNSON

THE WHITE HOUSE,
 November 29, 1963.

Executive Order 11131

CREATING AN EMERGENCY BOARD TO INVESTIGATE DISPUTES BETWEEN THE BRANIFF AIRWAYS, INC., CONTINENTAL AIRLINES, INC., EASTERN AIR LINES, INC., NATIONAL AIRLINES, INC., NORTHWEST AIRLINES, INC., AND TRANS WORLD AIRLINES, INC., AND CERTAIN OF THEIR EMPLOYEES

WHEREAS disputes exist between the Braniff Airways, Inc., Continental Airlines, Inc., Eastern Air Lines, Inc., National Airlines, Inc., Northwest Airlines, Inc., and Trans World Airlines, Inc., air carriers, and certain of their employees represented by the International Association of Machinists, AFL-CIO, a labor organization; and

WHEREAS these disputes have not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same. Witnesses summoned before the Commission, its members, agent, or agency, shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(e) No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to a subpoena, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture (except demotion or removal from office) for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Privilege against self-incrimination.

(f) All process of any court to which application may be made under this Act may be served in the judicial district wherein the person required to be served resides or may be found.

Place of service.

Approved December 13, 1963.

Public Law 88-203

AN ACT

December 13, 1963
[S. 1703]

To amend title V of the Agricultural Act of 1949, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 510 of the Agricultural Act of 1949, as amended, is amended by striking "December 31, 1963" and inserting "December 31, 1964".

Mexican farm labor program. Extension. 75 Stat. 761. 7 USC 1461note.

Approved December 13, 1963.

Public Law 88-204

AN ACT

December 16, 1963
[H. R. 6143]

To authorize assistance to public and other nonprofit institutions of higher education in financing the construction, rehabilitation, or improvement of needed academic and related facilities in undergraduate and graduate institutions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Higher Education Facilities Act of 1963".

Higher Education Facilities Act of 1963.

FINDINGS AND DECLARATION OF POLICY

SEC. 2. The Congress hereby finds that the security and welfare of the United States require that this and future generations of American youth be assured ample opportunity for the fullest develop-

(2) The term "motor vehicle" means any other vehicle or machine propelled or drawn by mechanical power and used on the highways principally in the transportation of passengers.

(3) The term "seat belt" means any strap, webbing, or similar device designed to secure a passenger in a motor vehicle in order to mitigate the results of any accident, including all necessary buckles, and other fasteners, and all hardware designed for installing such seat belt in a motor vehicle.

Effective date.

SEC. 4. This Act shall take effect on the date of its enactment except that section 2 shall take effect on such date as the Secretary of Commerce shall determine but such date shall be not less than one hundred and eighty days nor more than one year after the date of publication of standards first established under the first section of this Act. If such standards first established are thereafter changed, such standards as so changed shall take effect on such date as the Secretary of Commerce shall determine but such date shall be not less than one hundred and eighty days nor more than one year after the date of their publication in accordance with the provisions of the first section of this Act.

Approved December 13, 1963.

Public Law 88-202

JOINT RESOLUTION

December 13, 1963
[S. J. Res. 137]

Authorizing the Commission established to report upon the assassination of President John F. Kennedy to compel the attendance and testimony of witnesses and the production of evidence.

Commission Investigating assassination of President John F. Kennedy. Subpena power. 28 F.R. 12789.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for the purposes of this joint resolution, the term "Commission" means the Commission appointed by the President by Executive Order 11130, dated November 29, 1963.

(b) The Commission, or any member of the Commission when so authorized by the Commission, shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. The Commission, or any member of the Commission or any agent or agency designated by the Commission for such purpose, may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing.

(c) In case of contumacy or refusal to obey a subpoena issued to any person under subsection (b), any court of the United States within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, its member, agent, or agency, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

Manner of service.

(d) Process and papers of the Commission, its members, agent, or agency, may be served either upon the witness in person or by registered mail or by telegraph or by leaving a copy thereof at the residence or principal office or place of business of the person required to be served. The verified return by the individual so serving the same, setting forth the manner of such service, shall be proof of the same, and

3a

DEPARTMENT OF JUSTICE

Office of the Attorney General

PROVIDING FOR THE ACQUISITION AND PRESERVATION BY THE UNITED STATES OF ITEMS OF EVIDENCE PERTAINING TO THE ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

Under the authority vested in me by the Act of November 2, 1955 (Public Law 59-316; 70 Stat. 1185), I have determined that the national interest requires the entire body of evidence considered by the President's Commission on the Assassination of President Kennedy and now in the possession of the United States to be preserved intact.

Accordingly, pursuant to section 2(a) of the Act, I hereby determine that all of the items of evidence not owned by the United States which were considered by the Commission, and were not returned by the Commission to the person who furnished them, should be acquired by the United States and be preserved together with all of the items of evidence already owned by the United States.

The items acquired hereunder are more particularly described in the appendix annexed to and made a part of this notice. This notice and appendix shall be published in the Federal Register, and title to the items acquired pursuant to the foregoing determinations shall thereupon vest in the United States pursuant to section 2(b) of the Act.

Dated: October 31, 1959.

RAMSEY CLARK, Acting Attorney General.

APPENDIX

1. The following weapons:

(a) One 0.6 mm. Mannlicher-Carcano rifle, with telescopic sight, Serial No. 02739, including sling and cartridge clip. (Commission Exhibit No. 139.)

(b) One .38 Special Smith and Wesson Revolver Serial No. V510310, Assembly No. 65248, with appurtenances. (Commission Exhibit No. 143.)

2. (a) All other items of evidence which were assigned exhibit numbers by the Commission or its staff (such items being listed, described, and reproduced in Volumes XVI through XXVI of the Hearings before the President's Commission on the Assassination of President Kennedy, United States Government Printing Office, 1958, hereinafter referred to as the "Commission's Hearings"), other than those items which were returned by the Commission to the person who had furnished them.

(b) For the purposes of the preceding paragraph, the term "exhibit numbers" shall be deemed to include (1) Commission exhibit numbers 1 through 8163, including all such numbers with suffixes, listed in Volumes XVI through XXVI and Volumes XXXI through XXXVI of the Commission's Hearings, and (2) all exhibit numbers listed in Volumes XXXI through XXXI of the Commission's Hearings under the names of specific individuals beginning with the name "J. V. Allen" and ending with the name "Ralph W. Yarborough."

3. Other items of evidence collected for the Commission by the Federal Bureau of Investigation, as hereinafter described, designated by the exhibit numbers originally assigned to such items by the Bureau. Items originally assigned FBI exhibit numbers which were subsequently given Commission exhibit numbers are generally omitted from the list below since they are included in the items covered by paragraph 2 of this Appendix. Unless marked with an asterisk, items listed below were collected under circumstances indicating they were in the possession of or attributable to Lee Harvey Oswald or his wife, Marina.

Table with 2 columns: FBI exhibit No. and Description. Includes items 1-43 (Photos and pictures), 44-64 (Postcards), 65 (Negatives), 66 (Christmas cards), 67 (Christmas card with picture of "mother"), 68 (Christmas card from "mother"), 69 (Photographs), 70 (Oswald's Marine Corps class book), 71 (Hammond Doubleday World Atlas), 72 (Modern Postage Stamp Album), 73 (Zemlika Russian magazine), 74-83 (Russian books), 84 (Copy of Militant), 85 (Copy of Worker), 86 (Copy of Friend's World News), 87 (Copy of Pocketbook), 88 (Russian pamphlets), 89 (Application for FPCC), 90 (Kandills entitled "Hands Of Cubal Join the FPCC"), 91 (Receipt for fine for 2d Mun. Court), 92 (Pamphlets by Corliss Lamont), 93 (Road map "Eastern States"), 94 (Texas Highway Map), 95 (Map of Moscow), 96 (Map of Leningrad), 97 (Map of City of New Orleans), 98 (Map of "Beautiful Russia"), 99 (Map of the world), 100 (No Admittance sign), 101 (Notebook with diagrams), 102 (Red Russian stamp folder), 103 (Pocket size blue book), 104 (Extra stamps with group photographs), 105 (Fair Play For Cuba Committee), 106 (Sheet of Russian writing), 107 (Sheet of lined paper), 108 (Negative of Russian city), 109 (Brown Manila envelope).

Table with 2 columns: FBI exhibit No. and Description. Includes items 122 (Single sheet in black ink printing), 123 (Pages of blue ink handwriting), 124 (Sheets of blue ink handwriting), 125 (Sheets of blue ink handwriting), 126 (Folder captioned "Bloknots"), 127-155 (Letters in Russian script), 156 (Withholding Tax Statements), 157 (Withholding Tax Statements), 158 (Withholding Tax Statements), 159 (Deposit slip FPO Public Service), 160 (Deposit slip Dallas City Water Works), 161 (Texas Employment Commission slip), 162 (Rent receipt), 163 (Receipt from U.S. Department of Justice), 164 (Birth certificate for Audrey Marina Rachel Oswald), 165 (Social Security Receipt), 166 (Withholding Tax for 1958), 167 (Invoice No. 0000 USA), 168 (A promise by Oswald to pay), 169 (Remittance slip), 170 (Receipt from U.S. Department of State), 171 (Receipt from U.S. Department of State), 172 (Receipt from U.S. Department of State), 173 (Receipt from U.S. Department of State), 174 (Receipt from U.S. Department of State), 175 (Receipt from U.S. Department of State), 176 (Receipt from U.S. Department of State), 177 (Receipt from U.S. Department of State), 178 (Receipt from U.S. Department of State), 179 (Receipt from U.S. Department of State), 180 (Receipt from U.S. Department of State), 181 (Receipt from U.S. Department of State), 182 (Receipt from U.S. Department of State), 183 (Receipt from U.S. Department of State), 184 (Receipt from U.S. Department of State), 185 (Receipt from U.S. Department of State), 186 (Receipt from U.S. Department of State), 187 (Receipt from U.S. Department of State), 188 (Receipt from U.S. Department of State), 189 (Receipt from U.S. Department of State), 190 (Receipt from U.S. Department of State), 191 (Receipt from U.S. Department of State), 192 (Receipt from U.S. Department of State), 193 (Receipt from U.S. Department of State), 194 (Receipt from U.S. Department of State), 195 (Receipt from U.S. Department of State), 196 (Receipt from U.S. Department of State), 197 (Receipt from U.S. Department of State), 198 (Receipt from U.S. Department of State), 199 (Receipt from U.S. Department of State), 200 (Receipt from U.S. Department of State).