

MAYOR'S ADVISORY COMMITTEE REGARDING THE ROBERT F. KENNEDY
ASSASSINATION INVESTIGATION MATERIALS

MINUTES - AUGUST 4, 1986

Chairperson Diane Nixon called the Committee to order at 9:10 A.M. The following members were present: Diane Nixon, Barbara Clark, John Gordon, Stephen Horn, Robert Lind, Amarjit Marwah, Jerry Pacht, Leonard Pitt, Morris Polan, Hynda Rudd, Russell Shank. Late arrival: Robert Dallek. City staff members present to assist the Committee were Michael Broderick (Mayor's Office), Bill Moran (Police Department), Lew Unger (City Attorney) and Robert B. Freeman (Management Assistant).

Chairperson Nixon identified the purpose of the meeting as discussion of the adequacy of the proposed questionnaire including public comment. She asked the Committee members to introduce themselves which they did. Ms. Nixon reviewed the Committee's progress to date concerning the inventory and analysis of the Kennedy materials and the drafting of a questionnaire. She informed the audience that a draft of the questionnaire had been sent to interested repositories and individuals, and that the Committee had received six responses.

After reviewing the various questions contained in the questionnaire Ms. Nixon invited members of the audience to address the Committee. The first to speak was Mr. Gregory Stone, a doctoral candidate in political science at the University of Wisconsin at Madison. Mr. Stone has corresponded with the Committee, his most recent letter dated July 31, 1986. His letter and comments were directed to the proposed questionnaire and attachments. He questioned the need to transcribe tape recordings in the RFK files and the costs involved, as well as the approach to microfilming and the processing of photographs. He suggested that the questionnaire did not contain sufficient information on the contractual obligations and liabilities of repositories interested in the Kennedy materials and asked that more details be provided in this area. Finally, Mr. Stone suggested that the questionnaire address the concept of an impartial expert panel which would supervise the redaction of the files, and that a sample contract be included with the questionnaire.

Ms. Nixon invited comments from the Committee. Mr. Pacht asked Mr. Stone to articulate his concerns over the contractual obligations. Stone raised the possibility of lawsuits being filed by individuals, and the affect of the California Public Records Act on the files if they are transferred from the City. In response to questions from Mr. Lind he suggested that complete access to the Kennedy files had previously been granted to former Chief Houghton and a writer for the publication of the book Special Unit Senator.

The next member of the audience to address the Committee was David Cross, a National Intern of the Allen Lowenstein Fellowship Project sponsored by Americanists for Democratic Action. He thanked the Committee for opening the meeting to the public and questioned the Committee's cost estimate for processing the tape recordings in the Kennedy materials. He suggested the duplication of the tapes onto cassettes prior to transcription in order to save time, money and facilitate research use. Cross questioned the actual number of tape recorded interviews and suggested that those who perform the redaction of the files be knowledgeable about the Kennedy case. He asked who would perform the redaction to which Ms. Nixon answered that the Committee did not know as of yet.

Mr. Moran responded that the tapes contained more than one interview each and that not all interviews had been transcribed. Mr. Pacht voiced a preference for the use of transcriptions of the tape recordings as opposed to the recordings which are subject to contamination. Mr. Gordon asked the Committee to ascertain what condition the tapes were in. Ms. Nixon suggested that the City Archives, where the Kennedy files are temporarily stored, sample some of the tapes to determine their condition. Ms. Rudd said she would have the Archives sample the tapes.

The next member of the audience to address the Committee was Zeta Graham, a reporter for radio station KPFK FM. She informed the Committee that she had produced a radio program concerning the Kennedy files which aired on KPFK. She voiced her support for the full disclosure of the materials. Mr. Polan asked if the Committee could obtain a tape recording of the program. Graham indicated that a thirty minute version was available. Ms. Nixon concluded the portion of the meeting devoted to public comment and then addressed the six written responses to the questionnaire.

A letter from James Hart, Director of the Bancroft Library at the University of California, Berkeley, was read indicating no desire to obtain the Kennedy materials.

A letter from Bernard Fensterwald of the Assassination Archives and Research Center expressed a desire to have the records located in Washington D.C. and an interest in obtaining them. Fensterwald suggested that the expense of transcribing tape recordings be passed on to the researchers. Mr. Pitt supported the Committee's estimate of the cost of transcription. Mr. Lind supported the idea of copying the tapes onto cassettes for research use.

A letter from Cyril Wecht of the Department of Pathology, Central Medical Center and Hospital, Pittsburgh, Pennsylvania supported the Committee's actions but did not wish to obtain the materials.

A letter from David Wrone of the University of Wisconsin at Stephens Point suggested that the questionnaire ask interested repositories if they understood the importance of the Kennedy

case. Mr. Horn voiced his opposition to such an approach. Ms. Nixon read the other comments from Wrone concerning the issues of copyright, the time frame for processing and redacting the files, the importance of a proper index to the materials, mail replies to document requests and the need for the repository chosen to process the materials to be familiar with the case.

At 9:50 A.M. Committee member Robert Dallek arrived. Mr. Gordon suggested that the more information the repositories provide on the knowledge of their staff the better. Mr. Horn said the Committee must make sure to differentiate between the existing index to the records and whatever new indexes are generated. Ms. Nixon concurred. Mr. Lind suggested that the Committee wait to see the responses before evaluating indexes or finding aids.

Ms. Nixon next read a letter from Philip Melanson of Southeastern Massachusetts University which expressed concern over the public status of the files, the copyright issue, and the need to process "case crucial" materials first. Mr. Horn asked what was meant by case crucial, suggesting you cannot make such a determination until all the evidence is reviewed and tapes are transcribed. Mr. Lind addressed the issue of physical tests on certain materials which might be destructive.

Ms. Nixon next read a letter from Gregory Stone who earlier addressed the Committee. Stone's letter asked whether or not the repository will permit a panel of experts to oversee the redaction process. Mr. Unger stated that he understood the purpose of the Committee was to find a repository that had scholars on staff who would perform the redaction. Mr. Lind asked the Committee about the liabilities and precise requirements placed on repositories in terms of possible law suits, suggesting the City may not want the redaction process to end with the repository.

Mr. Unger informed the Committee that once the documents are out of public possession, the California Public Records Act will not apply. The potential for liability will remain an issue. Dr. Pitt offered to submit a motion, the Chair advised him to wait. Mr. Pacht suggested the questionnaire include a policy declaration concerning redaction procedures. He supports a policy which limits redaction to material which affects privacy or City policy. Mr. Gordon stated that knowledge of the Kennedy case would be essential for the redactors. Mr. Broderick asked the Committee if placing requirements on repositories concerning redaction would discourage them from responding to the questionnaire.

Mr. Unger then suggested that the questionnaire include a preamble stating the Committee's interest in maximum and rapid disclosure. Redaction should be limited to those items whose disclosure would constitute an unwarranted invasion of privacy or affect present or future police procedures. The repository chosen should perform the redaction. Mr. Horn expressed his support for the fullest possible disclosure, for an advisory

committee to work on redaction by mail, and believes that the City of Los Angeles should give up ownership of the Kennedy files but set standards for redaction.

Mr. Gordon proposed that any advisory committee should not be limited to scholars but should consist of historians, legal experts and library science experts as well. Mr. Dallek said that the questionnaire should make clear to repositories what is required of them and that clear instructions would make an advisory committee superfluous.

Mr. Polan suggested that the questionnaire should address two concerns: technical issues and access issues. He supported the idea of a draft agreement being included with the questionnaire. Ms. Nixon then asked the Committee if they wanted to finalize both the questionnaire and the suggested contract. Mr. Unger felt that the responses to the questionnaire would influence the terms of the contract and suggested waiting to draft such a document as this process would not be too difficult or time consuming.

At this juncture a member of the audience, Mr. Jack Kimborough, asked to address the Committee. He informed the Committee that an article appearing in the 1975 edition of The People's Almanac had dealt with the RFK case and that no lawsuits had resulted. Ms. Nixon informed him that these comments were not relevant to the focus of the current Committee meeting. Mr. Lind commented that while many people feel that privacy suits concerning disclosure would be unlikely, Paul Hoffman of the ACLU advised him that the City may be subject to lawsuits if the title to the Kennedy materials is transferred to an agency where the California Public Records Act would no longer be in force. Mr. Gordon asked Mr. Lind if such a transfer would take the records out of the California Public Records Act. Mr. Lind replied that the Act does not apply to private institutions but deferred to Mr. Unger. Unger replied that giving up title to the records would be similar to destroying them, but that such a transfer would not preclude the fullest possible disclosure similar to the terms of the Public Records Act.

Mr. Lind reminded the Committee that the Kennedy files as historical records cannot be destroyed under the terms of the City's Administrative Code. Mr. Unger suggested that the contract with the repository would prohibit destruction. Mr. Horn suggested that "destruction" was meant as an analogy and that the fullest possible disclosure should be sought. He also stated that he did not believe the Kennedy materials were records of the City of Los Angeles, that they were not historical records as defined in the City Administrative Code, and that they should be processed as soon as possible to allow research use.

Mr. Unger voiced agreement with Mr. Horn's comments and stated that the City government is less likely to be concerned with historical issues than a reputable repository. Dr. Pitt responded by stating that he believed the records to be of

historical value and that he did not understand why the Committee is trying to send them elsewhere. Mr. Broderick, Mr. Unger, and Mr. Polan commented that the Committee is not trying to get rid of the records, rather they are addressing broader issues involved. Mr. Polan suggested that historical records are not proprietary and Mr. Unger stated that the City Archives had not been eliminated as a choice. Ms. Nixon then returned discussion to Mr. Stone's letter.

Further discussion centered on Stone's comments concerning audio, video and photographic materials, clarification of a contract versus a deed of gift, questions regarding the need to transcribe all of the tape recordings, and photocopying policies. Mr. Lind supported the idea of mail responses to requests and asking repositories if they allow the use of portable photocopying machines. Mr. Unger reminded the Committee that in the event of another criminal investigation into the Kennedy case the records would be subject to subpoena.

After some discussion the Committee agreed to leave the question regarding copyright in the questionnaire. Stone's suggestions regarding a list of evidence and microfilming of the records were discussed next. Mr. Horn suggested that both the redacted and unredacted records be microfilmed. Ms. Nixon concluded discussion of the Stone letter and asked the Committee if they wished to finalize the questionnaire at this meeting. Mr. Dallek voiced his support for completing the work and suggested that the Committee send repositories a letter rather than a questionnaire concerning the files. Ms. Nixon supported the questionnaire, Mr. Shank spoke in favor of a shorter questionnaire.

At the suggestion of Mr. Unger the Committee agreed to review the questionnaire one question at a time and that both a letter and questionnaire would be sent to repositories. The following comments were made concerning individual questions:

No. 1 - Mr. Shank spoke in favor of rewording the question. Mr. Dallek suggested dropping the second part of the question. Mr. Lind and Mr. Horn suggested leaving it intact. At this juncture Mr. Pacht suggested that a subcommittee be established to handle revision of the questionnaire. The Committee agreed to this and a subcommittee of Ms. Nixon, Mr. Lind, Mr. Gordon and Mr. Unger was set up. Members who wish to suggest changes are to forward their corrected questionnaires to Mr. Lind for inclusion.

No. 2 - Mr. Shank suggested the question regarding work backlog be eliminated. Mr. Unger stated there was no need for a question concerning size and diversity.

No. 3 - Mr. Shank suggested a more simple format limited to a "yes, no and other" response. Mr. Lind disagreed with this favoring a format which allows repositories to structure their own answers. Mr. Unger spoke in favor of Mr. Shank's proposal. Mr. Horn indicated that he prefers questionnaires that allow space for responses and that are not overly time-consuming to

complete. Ms. Clark stated that repositories will act according to their own interests. If they are serious they will not object to a detailed questionnaire and will take time to respond. Mr. Lind supported this idea.

No. 4 - Mr. Shank suggested eliminating the question regarding a repository's annual budget. Mr. Dallek spoke in favor of eliminating superfluous questions which may be perceived by certain repositories as parochial or offensive. Ms. Nixon asked Mr. Dallek if he thought it appropriate to subject all repositories to the same questions. Mr. Dallek responded he did not. Ms. Clark stated that in the interest of fairness each repository should be asked the same questions. Mr. Pacht supported the elimination of the question on annual budgets. Ms. Nixon agreed with this suggestion but felt that all repositories should have to answer the same questions. Ms. Clark suggested that the Committee not be so worried about offending repositories with the wording or tone of the questionnaire.

No. 5 - Mr. Gordon spoke in favor of eliminating the requirement of submitting a vita. Mr. Horn objected to this idea stating it is standard practice and a valid means of evaluating the capabilities of the repository's staff. Ms. Clark also supported the idea of requiring vitas.

No. 6 - Mr. Horn suggested that the questionnaire include space for a response to this question in the interest of convenience. Mr. Lind asked the Committee to clarify what it wanted the recipient to do with this question. Mr. Pacht supported the idea of providing space for an answer and the Committee concurred.

No. 7 - Dr. Pitt suggested removing the question mark at the end of a sentence in section 7b and replacing it with a period. Mr. Polan questioned whether the phrase "reference facilities" was generic or implied archival reference facilities. Mr. Horn suggested inserting the later phrase. Mr. Lind spoke in favor of including questions on the repository's policies regarding the use of portable photocopying machines and mail reply to document requests. The Committee supported these suggestions.

No. 8 - Mr. Shank favored elimination of the term sanitizing. Mr. Unger supported the use of the term redaction. Dr. Pitt commented that he considered both terms inadequate and that "censoring" would be a more accurate word. There was some difference of opinion as to the definition of the word redaction. Mr. Shank spoke of a definition common to the publishing world which denotes editing. Mr. Unger reiterated his support for the term redaction and suggested that the questionnaire include an acceptable definition. The Committee agreed on this.

Mr. Horn questioned the use of the California Public Records Act in the wording of question 8a. Mr. Unger suggested the drafting of a preamble to the questionnaire which would define such standards concerning public records and redaction. Mr. Shank expressed dissatisfaction with the wording of the question, and

Mr. Dallek suggested using the terms "classified" and "declassified" in the same way the Federal government does. Mr. Dallek also spoke in favor of leaving 8b intact as it addresses the central issue of the questionnaire.

Mr. Unger supported the inclusion of 8b citing the need of a repository to be familiar with other published works concerning the Kennedy case in order to properly redact the Police Department records. Mr. Lind asked if the contract will require that the California Public Records Act be used as a minimum standard for redaction. Mr. Unger supported this view including the specific exemptions regarding personal privacy and threat to current or future police procedures. After some discussion as to the appropriateness of the use of the term "California Public Records Act" in the wording of the question, Mr. Dallek suggested that this phrase be included in the preamble.

Mr. Dallek suggested that provisions be established for granting an appeal to scholars who request the review of redacted material. Dr. Pitt supported the concept of an appeal process and voiced his support for the question regarding a repository's annual budget. Mr. Horn stated he thought the issue of central importance is whether or not an agency can come up with the money required to process the records.

Mr. Lind asked if the letter from the Los Angeles City Historical Society included in his package of information was distributed to the interested repositories and individuals. Ms. Nixon and Mr. Unger replied that it was not. This concluded the discussion on individual questions in the questionnaire.

Ms. Nixon asked the Committee if they thought it was possible to finalize the questionnaire within two weeks. Mr. Lind suggested that comments from individual Committee members should be forwarded to him promptly. Ms. Nixon requested that a complete set of minutes be prepared and distributed to the members.

Mr. Broderick suggested that the cover letter be expressed in a positive tone. Ms. Nixon asked the Committee to set up a time table for the generation of a cover letter. Mr. Unger suggested including a suspense date in the questionnaire for repositories responses. Ms. Clark asked that the finished questionnaire be distributed to Committee members. Ms. Nixon agreed and suggested that all further comments be forwarded to her prior to the actual mailing.

Ms. Nixon expressed a desire to schedule the next public meeting six to eight weeks from present. Dr. Marwah spoke in favor of making the questionnaire as short and simple as possible. A working group for the drafting of a cover letter and preamble was established consisting of Mr. Dallek and Mr. Unger. After some discussion the Committee agreed to meet again on Monday, October 27, 1986. At the suggestion of Mr. Dallek it was agreed that repositories be given one month to respond to the questionnaire.

Ms. Nixon suggested that the questionnaire be finalized within two weeks. Mr. Unger felt confident that a cover letter and preamble could be drafted within one week. Mr. Lind suggested that comments on the questionnaire be forwarded to him by the end of the day. The Committee agreed that the questionnaire and cover letter should be mailed to repositories three weeks from present.

This concluded the discussion of the proposed questionnaire. Ms. Nixon recognized Dr. Pitt who made the following motion:

WHEREAS Los Angeles Administrative Code Section 12.1 (e) defines historical records as those records which "depict persons or phenomena which significantly affect or have affected the City, its functional activities, its heritage, growth and/or development; and,

WHEREAS under this definition the Robert F. Kennedy Assassination Investigation materials are historical records; and,

WHEREAS according to Los Angeles Administrative Code Section 12.3 (d) (2) historical records shall be "permanently preserved" by the City of Los Angeles;

THEREFORE BE IT RESOLVED that regardless of which repository it selects for the Robert F. Kennedy assassination Investigation materials, the City of Los Angeles shall maintain permanent ownership over those materials.

The motion was seconded by Ms. Rudd. Mr. Horn stated that the Committee should be concerned with the fullest and fastest disclosure of the materials so that they can reach the public as soon as possible. The records should go to the City of Los Angeles only if the chosen repository fails to execute the contract. Mr. Lind considered the motion premature, and that it would be better to consider it when discussing repository responses. Mr. Polan moved to table the motion until the next meeting.

Dr. Pitt expressed his desire to have the Committee vote on the motion. Ms. Clark asked the Committee if they had authority to pass such a motion. Ms. Nixon stated that any such motion would merely be advisory in nature. Ms. Clark seconded Mr. Polan's motion to table Dr. Pitt's motion until the next meeting.

The motion was approved by the following vote: Ayes - Clark, Dallek, Gordon, Horn, Lind, Marwah, Nixon, Pacht, Polan and Shank. (10); Noes - Pitt, Rudd (2).

Mr. Polan motioned to adjourn, Ms. Nixon seconded. Motion was approved unanimously.