

Memorandum

TO : Mr. Frank Wozencraft  
Assistant Attorney General  
Office of Legal Counsel

DATE: October 4, 1966

FROM : ~~W.F. Reis~~ F. Reis  
Executive Assistant to the Attorney General

SUBJECT: Warren Commission--Kennedy Materials

Transmitted herewith is a draft prepared by Stephenson after discussion with me. In general, I am in agreement with it. I am, in addition, very anxious to get your reaction so that we can get this matter moving by sending copies of whatever we wish to propose to Bahmer and Burke Marshall.

Attachment

*Superseded*

129-012-3

DEPARTMENT OF JUSTICE		RECORD
1	DEC 5 1966	
R.A.O.		

~~DRAFT 10/3/66~~

Dear Dr. Bahmer:

129-012-3 BSB.

The family of the late President, <sup>John F.</sup> Kennedy share ~~to~~

the concern of the Government of the United States ~~of~~  
~~that~~ that the personal effects of the late President  
which were utilized as evidence before the Warren Com-  
mission, as well as certain other materials relating to  
the assassination, ~~of the late President,~~ should be de-  
posited, safeguarded and preserved in the Archives of the  
United States as materials of historical importance. The  
family desires, and the Government we know is determined,  
to prevent the undignified or sensational use ~~or display~~  
(such as public display)  
of these materials, or any other use which would tend in  
any way to dishonor the memory of the late President or  
to cause unnecessary grief or suffering to the members  
of his family <sup>and</sup> ~~or~~ those closely associated with him.

In consideration of the mutual interest of the  
family of the late President and of the Government of the  
United States in achieving the aforesaid objectives, the

*agents*  
of the *estate of the* late President, with the approval of the

members of his family, named in paragraph (2), hereby *transfer* and deposit with the Archivist of the United States to the United States of America all the personal *items*

*(their right, title and interest in,*

clothing of the late President now in the possession of the United States Government and *identified* enumerated in Appendix

A, together with those x-rays and photographs connected

with the autopsy of the late President *identified* as listed in

Appendix B, and the Archivist of the United States,

in accordance with the provisions of 44 U.S.C. 397(e) <sup>(1)</sup> and ADM-

F 5450.39 dated May 5, 1964, ch. 8, para. 1, accepts *the same,*

~~them~~, for and in the name of the United States, for de-

posit in the Archives of the United States, subject

to the following *restrictions as to their use:* ~~conditions~~

*During the term of this agreement,*  
(1) Access <sup>to</sup> and inspection of the material referred

to in Appendix A and Appendix B shall be *permitted only* made available to

(a) Any *person authorized to act for a* committee of the Congress or ~~the~~ other

official agency of the United States Government

having appropriate authority to investigate matters

relating to the death of the late President, for  
purposes within <sup>the</sup> ~~his~~ investigative jurisdiction <sup>f</sup>

~~and any person authorized to act for such com-  
mittee or agency.~~

(b) Any recognized expert in the field of medicine,  
ballistics, textiles or any other area of science  
or technology, <sup>for purposes</sup> relevant to the investigation of  
matters relating to the death of the late President,  
provided, however, that the decision of the Archivist  
shall be final as to who may qualify as a recognized  
expert and provided, further, that the Archivist  
may consult with appropriate professional and techni-  
cal organizations in making such determination. The  
Archivist <sup>shall</sup> may limit the scope of access and inspection  
<sup>by</sup> of any expert to that portion of the materials re-  
ferred to in Appendix A and Appendix B as may in the  
judgment of the Archivist be of legitimate technical  
or professional concern to such expert.



Access to and inspection of <sup>any</sup> the material shall be

*referred to in Appendix A and Appendix B*

subject to such restrictions and limitations as may be

legally imposed by the Archivist ~~(or his successor)~~ and

<sup>which</sup> as he may deem appropriate for their safekeeping and

preservation, for the proper administration of the National

Archives, or for the effectuation of his obligations under

paragraph (2) hereof.

<sup>during the term of this agreement,</sup>  
(2) <sup>transferred</sup> None of the materials herein given to the Govern-

~~ment of the United States~~ <sup>and deposited with the Archivist</sup> shall be placed on public dis-

play, nor shall photographs or other reproductions of any of

such materials, <sup>the same are</sup> (unless heretofore published as part of the

Warren Commission report or otherwise publicly distributed)

be published or otherwise publicly distributed or displayed,

<sup>the survivors or survivors</sup> ~~damaging~~ the lives of <sup>the survivors or survivors</sup> Jacqueline Bouvier Kennedy, ~~(Mrs. John F.~~

~~Kennedy)~~ Robert F. Kennedy, Edward Moore Kennedy, Patricia

Kennedy Lawford, ~~(Mrs. Peter Lawford)~~, Eunice Kennedy Shriver

~~(Mrs. Sargent Shriver)~~ and Jean Kennedy Smith, ~~(Mrs. Stephen~~

~~Smith)~~, without the <sup>written</sup> consent of all of <sup>the individuals named in paragraph (1) then living</sup> them ~~or~~

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*last page*

*the Kennedy family* ~~of a representative empowered to act for them.~~ *disappointed pursuant to paragraph (7).* It shall be

the obligation of the Archivist to exercise his best efforts to enforce the foregoing restrictions *and, in furtherance thereof,*

~~exercise of that obligation the Archivist shall be~~

~~authorized to~~ obtain advance agreement to the foregoing

restrictions from all persons permitted access to or

inspection of the material; *pursuant to paragraph (1) or paragraph (2),* in accordance with conditions

~~set forth herein,~~ and to take such further actions *(including legal action to restrain violations of said restrictions)*

*and to* impose such further restrictions and conditions upon

access and inspection, as he may deem appropriate.

(4) In the event of a wilful violation of this agreement by any official acting or purporting to act on behalf

of the United States, ~~it is understood that the under-~~

signed executors or any of the *individuals* persons named in paragraph

~~may~~ sue in the district court of the United States for

the District of Columbia, for the purpose of enforcing

the provisions of this agreement.

*with respect to Warren Commission report of June 1964 worked in the Archives by Public Law 89-318*

(3) All duties, obligations and discretions herein imposed upon the Archivist of the United States shall inure to each holder of that office from time to time, and to any official of the United States Government who may, hereinafter, become the successor to the position.



If these <sup>proposed</sup> conditions are acceptable to the Government of the United States, please execute this agreement by signing on behalf of the Government the approval clause set forth below, and this agreement shall become effective

upon the deposit in the Archives of all the materials listed in Appendix A and Appendix B, and shall remain in force

Sincerely,

Executors of the estate of John F. Kennedy

Approved:

United States of America  
by Robert H. Bahmer  
Acting Archivist of the  
United States

for a ~~letter~~ ~~report~~ consisting of 4

~~Section of this agreement~~

(6) This agreement may be amended, modified or terminated only by the written consent of the Archivist and either all of the individuals named in paragraph (5) then living or the Kennedy family representative designated pursuant to paragraph (5).  
(7) The Archivist shall be entitled to consult with ~~and to rely upon~~ the Kennedy family representative designated pursuant to this paragraph, and to rely upon his ~~statements~~ in writing as representing the views of the Kennedy family in connection with the construction or application

APPENDIX A

Clothing worn by the late President at the time of his assassination, identified by the following exhibit numbers:

FBI No. G 26, 27, 28, 30, 33, 34, 35, 36.

~~FBI No. G 27~~

~~FBI No. G 28~~

~~FBI No. G 30~~

~~FBI No. G 33~~

~~FBI No. G 34~~

~~FBI No. G 35~~

~~FBI No. G 36~~

Commission Exhibit No. 393, 394, 395.

~~Commission Exhibit No. 394~~

~~Commission Exhibit No. 395~~

If this agreement in particular cases.

The Kennedy family representative shall

be [redacted], provided, however,

that he or any successor designated as such may be replaced at any time by notice in writing to the Archivist signed by all of the individuals named in paragraph (5) then living (and, if the estate of the late President shall not then have been closed by the executors).



APPENDIX B

  
Autopsy photographs and X-Rays.

[Number of each to be inserted]

*Memorandum*

TO : Mr. Frank Wozencraft  
Assistant Attorney General  
Office of Legal Counsel

FROM : *HFR* Harold F. Reis  
Executive Assistant to the  
Attorney General

SUBJECT: Agreement with President  
Kennedy's Executors

DATE: October 12, 1966  
HFR:mhl

129-012-3		RECORD
DEPARTMENT OF JUSTICE		
1	DEC 5 1966	
R.A.O.		

In the event you have not seen it, I am attaching a copy of a memorandum prepared in the Civil Division concerning the provision relating to a judicial remedy by the executors to enforce the conditions of the agreement. As I read the memorandum, it concludes (1) that, absent a provision for reverter, it is extremely doubtful that the executors could in fact sue to enforce the conditions of the contract, but (2) if a reverter provision should be inserted and a breach occur, the executors could sue for return of the property.

Assuming these conclusions are correct--and I assume they are--I think we have two possible courses available to us. The first is to attempt to convince the executors that, even though the conditions are not judicially enforceable, there is no reason they should not rely upon the good faith of the Government. If this is not satisfactory to the executors, I would not be averse to the insertion of a reverter clause.

With respect to the later conclusion, I believe that the most important job we have to do is to get possession of the X-rays and photographs and that the insertion of a reverter clause is not too high a cost if necessary to obtain possession. While, as you have pointed out, future recapture of these items by the estate might cause substantial problems, I think as a practical matter the likelihood is remote. I am led to this view by the belief that a breach by the Government so flagrant as to justify reverter is highly unlikely and, even if that should occur, institution by the executors of a suit to replevy is even more remote. The whole course of conduct of the executors has been to avoid any undignified display or notoriety with respect to these materials. The institution of suit would be wholly inconsistent with that course.

Attachment