

Mr. J. Kevin O'Brien, chief  
FOIPA Section  
FBI  
Washington, DC 20535

4/17/94

Dear Mr. O'Brien,

Please excuse my typing. It cannot be any better.

Your letter of April 14 misstates what I wrote you about on March 25. What you refer to as my request was not only "for material pertaining to Lee Harvey Oswald." It was for what the FBI had improperly withheld from me over the years and in all that litigation <sup>none</sup> ~~none~~ of which was "pertaining to Lee Harvey Oswald." What I sought was JFK assassination information and information relating to the official investigations of it.

You next say that "The FBI files regarding this request are being transmitted to" NARA. With regard to your formulation, mine is not a new request. It is for compliance with the old requests. I ask for nothing new. You also imply that all your records are going to NARA. This is not only impossible, it would violate Section 2 (a)(1) which requires their preservation <sup>for</sup> ~~for~~ "governmental purposes." The FBI's founding director, in sworn testimony to the Warren Commission, stated that the JFK assassination would forever be an open case for the FBI.

The new Act, as it says on the first page, is required because agencies like the FBI have not complied with ~~FOIA~~ FOIA. (In (5))

Whether or not you realize it, and I presume that you are new or relatively new in your present responsibilities, your letter states forthrightly that the FBI is not complying with this new Act and does not intend to:

"The files transmitted to NARA are the same files we processed under FOIA prior to the Act."

My requests under FOIA quite a few of which the FBI forced me to take to court were rather inclusive in the JFK assassination information sought. In the course of those efforts, in court and in the appeals I was asked to file by the Department, I specified relevant information that was not exempt and remained withheld and what was withheld under unwarranted assertion of exemptions.

I also note that your language does not state that all relevant FBI records are transmitted to NARA. As for example, those of the FBI's field offices. *And others.*

You also suggest that the only way I can now obtain what the FBI withheld improperly from me is through NARA. Section 11 (d) says this is not so.

If you are not aware of it, my litigation was <sup>§</sup> tainted by FBI departures from the truth, to the point where I considered it necessary to state what was material under oath myself to confront the FBI's false attestations. I made myself subject to prosecution if I swore falsely in stating that the FBI swore falsely to withhold relevant



not sent to FBIHQ. It is dated the day of the assassination and was annotated by Heitman early the next morning. What was not redacted under of all things a claim to privacy states that Dallas had been informed by the Mexico City (I add this) legal attache that "SA ELDON RUDD (later a Congressman I also add) is proceeding to Dallas" when Heitman met him at Love Field and took him to the field office.

Other of those Dallas records, and at least one disclosed in the form of a letter to the Director of the Secret Service of the day after the assassination, state that Rudd had with him at least one tape and at least one picture provided to the Legat by the CIA's Mexico City station said to be of Oswald.

After listening to that tape Dallas cabled or teletyped HQ with a paraphrase of what it heard on that tape. In response FBIHQ asked for a transcription of it and pursuant to those instructions Dallas sent a transcript by the same means.

The paraphrase and the transcription were withheld from me under an obviously spurious claim to "national security" when the only thing for which such a claim might be made was waived by the <sup>official</sup> public acknowledgement of the taping.

Not only was I and through me the people entitled to know what was intercepted and taped, the claim to withhold it was invalid and improper. That information has not, to the best of my knowledge, ever been <sup>all</sup> disposed.

Are you now telling me that because the FBI behaved improperly in the federal courts that I, at 81 and in impaired health, am ~~not~~ required to go to the bottom of the list that can be used only after you transfer whatever you will transfer or have transferred to NARA and then it gets its act in order, however long that may be?

My request included all tapes and I even told the FBI where its Dallas office had them stored, not in the files but in a special cabinet.

No claim to withhold that and the other tapes was made. Their existence was just denied, and that under oath. (I was offered the FBI's tapes on Marina Oswald but knowing what it disclosed improperly to me about their content I declined to accept them and for the FBI to be able to use that as a means <sup>to use that</sup> of giving them to others who might enjoy how the FBI violated her privacy.)

What has been in the news in recent months is the obviously untruthful claim that all such tapes were routinely destroyed in about a week. That one existed two months later and the FBI Dallas office had it. I do not believe that Dallas would have destroyed it or <sup>would</sup> not have made and kept a dub. It had been ordered by the President to make an all-inclusive investigation and that required it to preserve that tape. If there then was only one.

But in all the controversy over whether or not all those tapes were destroyed I have neither seen nor heard a word about this attributed to the FBI. And that after the new Act was effective,

A different tape is also involved by being withheld from me in C.A. 78-0322 in which it was requested and about which the FBI swore falsely with steadfastness. That is the recording of the Dallas police at the time of the assassination. To illustrate the determination to withhold by false swearing, first the FBI denied that it had ever had a tape of those broadcasts. When I told the court that it had in fact transcribed the broadcasts for the Warren Commission, which published the FBI's transcription, which I then notified the court, citing the FBI's own records, was made in Dallas, I still did not get them. When I told the court and the FBI the name of the agent who went to the police broadcast room and made them and even identified, as I did from the FBI's own records, the make of the office tape recorder he took there for that purpose, the FBI's response was that he had done that for personal reasons only.

As the FBI's persistence in improper withhold continued, with an imaginative assortment of invalid attestations, I finally told it and the appeals office where the originals were at FBIHQ. Their existence there was denied.

And a year later the office of appeals attorney Phyllis Hubbell wrote me in great excitement. They had been found by "accident" where I had stated they were.

The last I heard from the FBI about that is that it was sent to the Archives, and that was some time later. My request of the Archives for it has not been met after at least more than a decade.

This is, I believe, a fair reflection of those appeals I filed having been asked to do that by the Department's appeals office. My copies fill three file drawers. And aside from making a record for our history because they were thoroughly documented with the FBI's own relevant records, it was a waste of my time.

The FBI was determined to withhold and it withheld what was relevant and the relev relevance and existence of which I proved.

When it amended FOIA's investigatory files exemption in 1974 the Congress cited my first suit for the results of the FBI's scientific testing in the JFK assassination as requiring that amending. I refiled that suit as the first under the amended act. It is C.A. 75-226. The agents involved then retired and when I sought to depose them the FBI objected on the ground that they had retired! The agent who replaced them in that and in other litigation was John W. Kitty. There is not much more relevant in FOIA than whether a record sought exists and is searched for. On this Kitty swore in contradiction to himself! When I referred to that as perjury the FBI's response was that I could make such charges ad infinitum because I knew more about that assassination and its investigation than anyone then working for the FBI. And got away with it.

Let me give you an example of what was and remains withheld after I proved its existence in one of those depositions the FBI sought to prevent.

The pictures of much of the President's clothing, prime evidence, that the FBI gave

the Commission were, in the words of the Archives photographer who was about to retire and thus considered himself safe from retaliation, of the most professional incompetence. They obscured even the pattern of the President's shirt to the point where ~~these~~ three parallel stripes in it appeared to be a single stripe. The FBI had for its own purposes the kind of competent pictures it can and does make. But those it did not give the Commission and thus it withheld information important in addressing and solving the crime from the Commission.

But in its exhibit 60 to the report the President ordered of it it included a very clear picture of the short collar. When I requested it of the ~~Vice~~ Deputy, when required by the regulations, he asked the FBI to let him see them. Once he examined them he was so moved he sent me those FBI original pictures, not copies. That was Richard Kleindienst.

The shirt collar picture shows that, contrary to the official explanation of the crime, no bullet passed through <sup>it or</sup> the knot of the tie. As the ignored Warren Commission testimony established, the damage to the knot of the tie was by a scalpel in the hands of a nurse. I confirmed this with the doctor under whose directions they did that.

I want that ~~I~~ not be misunderstood on this. The FBI's own picture proved that the official solution to the assassination, particularly that magical single-bullet theory, is both untrue and impossible. That picture the FBI did not give the Commission.

When I deposed then-retired SA Robert Frazier, who gave most of the FBI's testimony to the Commission, not first-hand with regard to the testing in most instances when those who could give first-hand testimony were readily available, we showed him that ~~picture~~ <sup>picture</sup> picture in questioning designed to show the ~~existence~~ <sup>existence</sup> of records not provided.

Frazier testified that that picture raised questions in his mind and that he had asked for an interpretation of it <sup>what shows</sup> by a Lab hair-and-fibers expert, I believe he said Paul Stombaugh, but it might have been another Lab agent. Only that hair-and-fibers report was not provided. We <sup>raised</sup> raised this when we later deposed SA Kilty. We were then promised that would be provided. What I was given is an entirely different and very short memo by Frazier, not the agent who made the test, to which there is no reference in the irrelevancy I was given.

Now if you think this is not relevant and if you think that the new Act removes all obligation for you to comply with FOIA in response to my requests, having frustrated compliance with what amounts to nonstop perjury, and that I must ~~not~~ <sup>now</sup> start all over with NARA, I suggest that you give a print of that picture, as I can, to the chairman of the House oversight committee, and of the phony report given me in substitution for the ~~actual~~ actual scientific testing that without <sup>question</sup> ~~question~~ ~~question~~ proved the solution to the assassination was known to the FBI to be false, and ask his opinion.



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535

April 14, 1994

Mr. Harold Weisberg  
7627 Old Receiver Rd.  
Frederick, Maryland 21702

Dear Mr. Weisberg:

This is in reference to your letter dated March 25, 1994, regarding your closed Freedom of Information Act (FOIA) request for material pertaining to Lee Harvey Oswald.

The FBI files regarding this request are being transmitted to the National Archives and Records Administration (NARA) pursuant to the President John F. Kennedy Assassination Records Collection Act of 1992 (the Act). Transmission of these records was mandated by the Act and public access to them is available through NARA. The files are being processed for transmittal to NARA by a special FBI task force that is separate and apart from the Freedom of Information-Privacy Acts Section. The files transmitted to NARA are the same files we processed under the FOIA prior to the Act.

Enclosed herewith please find a copy of the Act which may be of interest to you.

If you wish to access these records through NARA, we ask that you send your request directly to NARA at the following address:

National Archives at College Park  
8601 Adelphi Road  
College Park, Maryland 20740

Sincerely yours,

J. Kevin O'Brien, Chief  
Freedom of Information-Privacy  
Acts Section  
Information Resources Division

Enclosure

I had my experiences with the Archives once the nature of my writing was known to it. Under the then applicable regulations it was required to take pictures for those studying the assassination and give them at the prevailing rates copies of those pictures in substitution for their examination of the clothing. When the Archives did not do that, I filed under FOIA, broke, in debt and without counsel. The Archives, then changed its own regulations and gave the court the replacement for the one in effect at the time of my request. And on that basis denied me copies of the pictures I requested. However, ~~the~~ judge directed it to take and show me the pictures I required. When some time passed and I had nothing I wrote the judge, with a copy to the Archivists. He then invited me in. And the first thing I got was an apology- they could not take a picture of the knot of the tie for me because when they received it from the FBI the knot was untied! And the knot is the <sup>one</sup> place <sup>where</sup> the evidence is on the tie-it does not have the required bullet-hole through it. By manipulating it the FBI posed a picture presenting the ~~knick~~ made by the scalpel as the bullet hole.

I had hoped that at long last, so many years having passed, that the FBI had finally decided to live within the law. Your letter makes clear that it has not and will not. All you are giving the Archives is what you have already been compelled by the courts to make public! And what you withheld improperly from them, only <sup>scantily</sup> indicated above, you tell me to start all over again?

There is no telling the number of relevant files the FBI has kept secret and from your own letter will continue to keep secret. Let me indicate a few.

The FBI disclosed only its "Liaison With the President's Commission" file. It not only obviously has other Warren Commission files, I identified at least one of them by its number and it remained withheld. The two field office records I <sup>was</sup> provided as all their Warren Commission ~~files~~ <sup>are those</sup> files that were opened when that Report was issued.

The FBI has files on the "Dossiers" it prepared on the members of the Commission as soon as they were appointed. It prepared dossiers, its word, on the staff twice, once on appointment and then after the report was out. It prepared what it referred to as "sex" dossiers on the critics. Yes, I have the FBI'd record from which I quote.

Now as I read this new law, it requires you to by <sup>to</sup> ~~to~~ <sup>now</sup> have transferred to the Archives copies of all relevant records. Your letter assures me that you have not and will ~~not~~ not. Law or no law, which has always been the FBI's position.

The only <sup>apparent</sup> reason is to deter or prevent what surely will be embarrassing to the FBI.

About the President's assassination and its investigations and the right of the people to know? What the hell, he's dead anyway isn't <sup>he</sup> ~~it~~? Nothing will bring him back, will it?

With sincere regrets,

*Harold Weisberg*  
Harold Weisberg

# One Hundred Second Congress of the United States of America

## AT THE SECOND SESSION

*Began and held at the City of Washington on Friday, the third day of January,  
one thousand nine hundred and ninety-two*

### An Act

To provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "President John F. Kennedy Assassination Records Collection Act of 1992".

#### SEC. 2. FINDINGS, DECLARATIONS, AND PURPOSES.

(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) all Government records related to the assassination of President John F. Kennedy should be preserved for historical and governmental purposes;

(2) all Government records concerning the assassination of President John F. Kennedy should carry a presumption of immediate disclosure, and all records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination;

(3) legislation is necessary to create an enforceable, independent, and accountable process for the public disclosure of such records;

(4) legislation is necessary because congressional records related to the assassination of President John F. Kennedy would not otherwise be subject to public disclosure until at least the year 2029;

(5) legislation is necessary because the Freedom of Information Act, as implemented by the executive branch, has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy;

(6) legislation is necessary because Executive Order No. 12356, entitled "National Security Information" has eliminated the declassification and downgrading schedules relating to classified information across government and has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy; and

(7) most of the records related to the assassination of President John F. Kennedy are almost 30 years old, and only in the rarest cases is there any legitimate need for continued protection of such records.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide for the creation of the President John F. Kennedy Assassination Records Collection at the National Archives and Records Administration; and

(2) to require the expeditious public transmission to the Archivist and public disclosure of such records.

WHITE H.N.



## SEC. 3. DEFINITIONS.

In this Act:

(1) "Archivist" means the Archivist of the United States.

(2) "Assassination record" means a record that is related to the assassination of President John F. Kennedy, that was created or made available for use by, obtained by, or otherwise came into the possession of—

(A) the Commission to Investigate the Assassination of President John F. Kennedy (the "Warren Commission");

(B) the Commission on Central Intelligence Agency Activities Within the United States (the "Rockefeller Commission");

(C) the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the "Church Committee");

(D) the Select Committee on Intelligence (the "Pike Committee") of the House of Representatives;

(E) the Select Committee on Assassinations (the "House Assassinations Committee") of the House of Representatives;

(F) the Library of Congress;

(G) the National Archives and Records Administration;

(H) any Presidential library;

(I) any Executive agency;

(J) any independent agency;

(K) any other office of the Federal Government; and

(L) any State or local law enforcement office that provided support or assistance or performed work in connection with a Federal inquiry into the assassination of President John F. Kennedy,

but does not include the autopsy records donated by the Kennedy family to the National Archives pursuant to a deed of gift regulating access to those records, or copies and reproductions made from such records.

(3) "Collection" means the President John F. Kennedy Assassination Records Collection established under section 4.

(4) "Executive agency" means an Executive agency as defined in subsection 552(f) of title 5, United States Code, and includes any Executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government, including the Executive Office of the President, or any independent regulatory agency.

(5) "Government office" means any office of the Federal Government that has possession or control of assassination records, including—

(A) the House Committee on Administration with regard to the Select Committee on Assassinations of the records of the House of Representatives;

(B) the Select Committee on Intelligence of the Senate with regard to records of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities and other assassination records;

(C) the Library of Congress;

(D) the National Archives as custodian of assassination records that it has obtained or possesses, including the Commission to Investigate the Assassination of President

John F. Kennedy and the Commission on Central Intelligence Agency Activities in the United States; and

(E) any other executive branch office or agency; and any independent agency.

(6) "Identification aid" means the written description prepared for each record as required in section 4.

(7) "National Archives" means the National Archives and Records Administration and all components thereof, including Presidential archival depositories established under section 2112 of title 44, United States Code.

(8) "Official investigation" means the reviews of the assassination of President John F. Kennedy conducted by any Presidential commission, any authorized congressional committee, and any Government agency either independently, at the request of any Presidential commission or congressional committee, or at the request of any Government official.

(9) "Originating body" means the Executive agency, government commission, congressional committee, or other governmental entity that created a record or particular information within a record.

(10) "Public interest" means the compelling interest in the prompt public disclosure of assassination records for historical and governmental purposes and for the purpose of fully informing the American people about the history surrounding the assassination of President John F. Kennedy.

(11) "Record" includes a book, paper, map, photograph, sound or video recording, machine readable material, computerized, digitized, or electronic information, regardless of the medium on which it is stored, or other documentary material, regardless of its physical form or characteristics.

(12) "Review Board" means the Assassination Records Review Board established by section 7.

(13) "Third agency" means a Government agency that originated an assassination record that is in the possession of another agency.

**SEC. 4. PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS COLLECTION AT THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.**

(a) **IN GENERAL.**—(1) Not later than 60 days after the date of enactment of this Act, the National Archives and Records Administration shall commence establishment of a collection of records to be known as the President John F. Kennedy Assassination Records Collection. In so doing, the Archivist shall ensure the physical integrity and original provenance of all records. The Collection shall consist of record copies of all Government records relating to the assassination of President John F. Kennedy, which shall be transmitted to the National Archives in accordance with section 2107 of title 44, United States Code. The Archivist shall prepare and publish a subject guidebook and index to the collection.

(2) The Collection shall include—

(A) all assassination records—

(i) that have been transmitted to the National Archives or disclosed to the public in an unredacted form prior to the date of enactment of this Act;

(ii) that are required to be transmitted to the National Archives; or

(iii) the disclosure of which is postponed under this Act;

(B) a central directory comprised of identification aids created for each record transmitted to the Archivist under section 5, and

(C) all Review Board records as required by this Act.

(b) DISCLOSURE OF RECORDS.—All assassination records transmitted to the National Archives for disclosure to the public shall be included in the Collection and shall be available to the public for inspection and copying at the National Archives within 30 days after their transmission to the National Archives.

(c) FEES FOR COPYING.—The Archivist shall—

(1) charge fees for copying assassination records; and

(2) grant waivers of such fees pursuant to the standards established by section 552(b)(4) of title 5, United States Code.

(d) ADDITIONAL REQUIREMENTS.—(1) The Collection shall be preserved, protected, archived, and made available to the public at the National Archives using appropriations authorized, specified, and restricted for use under the terms of this Act.

(2) The National Archives, in consultation with the Information Security Oversight Office, shall ensure the security of the postponed assassination records in the Collection.

(e) OVERSIGHT.—The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate shall have continuing oversight jurisdiction with respect to the Collection.

**SEC. 5. REVIEW, IDENTIFICATION, TRANSMISSION TO THE NATIONAL ARCHIVES, AND PUBLIC DISCLOSURE OF ASSASSINATION RECORDS BY GOVERNMENT OFFICES.**

(a) IN GENERAL.—(1) As soon as practicable after the date of enactment of this Act, each Government office shall identify and organize its records relating to the assassination of President John F. Kennedy and prepare them for transmission to the Archivist for inclusion in the Collection.

(2) No assassination record shall be destroyed, altered, or mutilated in any way.

(3) No assassination record made available or disclosed to the public prior to the date of enactment of this Act may be withheld, redacted, postponed for public disclosure, or reclassified.

(4) No assassination record created by a person or entity outside government (excluding names or identities consistent with the requirements of section 6) shall be withheld, redacted, postponed for public disclosure, or reclassified.

(b) CUSTODY OF ASSASSINATION RECORDS PENDING REVIEW.—During the review by Government offices and pending review activity by the Review Board, each Government office shall retain custody of its assassination records for purposes of preservation, security, and efficiency, unless—

(1) the Review Board requires the physical transfer of records for purposes of conducting an independent and impartial review;

(2) transfer is necessary for an administrative hearing or other Review Board function; or

(3) it is a third agency record described in subsection (c)(2)(C).

(c) REVIEW.—(1) Not later than 300 days after the date of enactment of this Act, each Government office shall review, identify and organize each assassination record in its custody or possession for disclosure to the public, review by the Review Board, and transmission to the Archivist.

(2) In carrying out paragraph (1), a Government office shall—

(A) determine which of its records are assassination records;

(B) determine which of its assassination records have been officially disclosed or publicly available in a complete and unredacted form;

(C)(i) determine which of its assassination records, or particular information contained in such a record, was created by a third agency or by another Government office; and

(ii) transmit to a third agency or other Government office those records, or particular information contained in those records, or complete and accurate copies thereof;

(D)(i) determine whether its assassination records or particular information in assassination records are covered by the standards for postponement of public disclosure under this Act; and

(ii) specify on the identification aid required by subsection (d) the applicable postponement provision contained in section 6;

(E) organize and make available to the Review Board all assassination records identified under subparagraph (D) the public disclosure of which in whole or in part may be postponed under this Act;

(F) organize and make available to the Review Board any record concerning which the office has any uncertainty as to whether the record is an assassination record governed by this Act;

(G) give priority to—

(i) the identification, review, and transmission of all assassination records publicly available or disclosed as of the date of enactment of this Act in a redacted or edited form; and

(ii) the identification, review, and transmission, under the standards for postponement set forth in this Act, of assassination records that on the date of enactment of this Act are the subject of litigation under section 552 of title 5, United States Code; and

(H) make available to the Review Board any additional information and records that the Review Board has reason to believe it requires for conducting a review under this Act.

(3) The Director of each archival depository established under section 2112 of title 44, United States Code, shall have as a priority the expedited review for public disclosure of assassination records in the possession and custody of the depository, and shall make such records available to the Review Board as required by this Act.

(d) IDENTIFICATION AIDS.—(1)(A) Not later than 45 days after the date of enactment of this Act, the Archivist, in consultation with the appropriate Government offices, shall prepare and make available to all Government offices a standard form of identification or finding aid for use with each assassination record subject to review under this Act.

(B) The Archivist shall ensure that the identification aid program is established in such a manner as to result in the creation of a uniform system of electronic records by Government offices that are compatible with each other.

(2) Upon completion of an identification aid, a Government office shall—

(A) attach a printed copy to the record it describes;

(B) transmit to the Review Board a printed copy; and

(C) attach a printed copy to each assassination record it describes when it is transmitted to the Archivist.

(3) Assassination records which are in the possession of the National Archives on the date of enactment of this Act, and which have been publicly available in their entirety without redaction, shall be made available in the Collection without any additional review by the Review Board or another authorized office under this Act, and shall not be required to have such an identification aid unless required by the Archivist.

(e) TRANSMISSION TO THE NATIONAL ARCHIVES.—Each Government office shall—

(1) transmit to the Archivist, and make immediately available to the public, all assassination records that can be publicly disclosed, including those that are publicly available on the date of enactment of this Act, without any redaction, adjustment, or withholding under the standards of this Act; and

(2) transmit to the Archivist upon approval for postponement by the Review Board or upon completion of other action authorized by this Act, all assassination records the public disclosure of which has been postponed, in whole or in part, under the standards of this Act, to become part of the protected Collection.

(f) CUSTODY OF POSTPONED ASSASSINATION RECORDS.—An assassination record the public disclosure of which has been postponed shall, pending transmission to the Archivist, be held for reasons of security and preservation by the originating body until such time as the information security program has been established at the National Archives as required in section 4(e)(2).

(g) PERIODIC REVIEW OF POSTPONED ASSASSINATION RECORDS.—

(1) All postponed or redacted records shall be reviewed periodically by the originating agency and the Archivist consistent with the recommendations of the Review Board under section 9(c)(3)(B).

(2)(A) A periodic review shall address the public disclosure of additional assassination records in the Collection under the standards of this Act.

(B) All postponed assassination records determined to require continued postponement shall require an unclassified written description of the reason for such continued postponement. Such description shall be provided to the Archivist and published in the Federal Register upon determination.

(C) The periodic review of postponed assassination records shall serve to downgrade and declassify security classified information.

(D) Each assassination record shall be publicly disclosed in full, and available in the Collection no later than the date that is 25 years after the date of enactment of this Act, unless the President certifies, as required by this Act, that—

(i) continued postponement is made necessary by an identifiable harm to the military defense, intelligence operations, law enforcement, or conduct of foreign relations; and

(b) the identifiable harm is of such gravity that it outweighs the public interest in disclosure.

(h) FEES FOR COPYING.—Executive branch agencies shall—

(1) charge fees for copying assassination records; and

(2) grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code.

**SEC. 6. GROUNDS FOR POSTPONEMENT OF PUBLIC DISCLOSURE OF RECORDS.**

Disclosure of assassination records or particular information in assassination records to the public may be postponed subject to the limitations of this Act if there is clear and convincing evidence that—

(1) the threat to the military defense, intelligence operations, or conduct of foreign relations of the United States posed by the public disclosure of the assassination is of such gravity that it outweighs the public interest, and such public disclosure would reveal—

*record?*

(A) an intelligence agent whose identity currently requires protection;

(B) an intelligence source or method which is currently utilized, or reasonably expected to be utilized, by the United States Government and which has not been officially disclosed, the disclosure of which would interfere with the conduct of intelligence activities; or

(C) any other matter currently relating to the military defense, intelligence operations or conduct of foreign relations of the United States, the disclosure of which would demonstrably impair the national security of the United States;

(2) the public disclosure of the assassination record would reveal the name or identity of a living person who provided confidential information to the United States and would pose a substantial risk of harm to that person;

(3) the public disclosure of the assassination record could reasonably be expected to constitute an unwarranted invasion of personal privacy, and that invasion of privacy is so substantial that it outweighs the public interest;

(4) the public disclosure of the assassination record would compromise the existence of an understanding of confidentiality currently requiring protection between a Government agent and a cooperating individual or a foreign government, and public disclosure would be so harmful that it outweighs the public interest; or

(5) the public disclosure of the assassination record would reveal a security or protective procedure currently utilized, or reasonably expected to be utilized, by the Secret Service or another Government agency responsible for protecting Government officials, and public disclosure would be so harmful that it outweighs the public interest.

**SEC. 7. ESTABLISHMENT AND POWERS OF THE ASSASSINATION RECORDS REVIEW BOARD.**

(a) ESTABLISHMENT.—There is established as an independent agency a board to be known as the Assassinations Records Review Board.

(b) APPOINTMENT.—(1) The President, by and with the advice and consent of the Senate, shall appoint, without regard to political

affiliation, 5 citizens to serve as members of the Review Board to ensure and facilitate the review, transmission to the Archivist, and public disclosure of Government records related to the assassination of President John F. Kennedy.

(2) The President shall make nominations to the Review Board not later than 90 calendar days after the date of enactment of this Act.

(3) If the Senate votes not to confirm a nomination to the Review Board, the President shall make an additional nomination not later than 30 days thereafter.

(4)(A) The President shall make nominations to the Review Board after considering persons recommended by the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association.

(B) If an organization described in subparagraph (A) does not recommend at least 2 nominees meeting the qualifications stated in paragraph (5) by the date that is 45 days after the date of enactment of this Act, the President shall consider for nomination the persons recommended by the other organizations described in subparagraph (A).

(C) The President may request an organization described in subparagraph (A) to submit additional nominations.

(5) Persons nominated to the Review Board—

(A) shall be impartial private citizens, none of whom is presently employed by any branch of the Government, and none of whom shall have had any previous involvement with any official investigation or inquiry conducted by a Federal, State, or local government, relating to the assassination of President John F. Kennedy;

(B) shall be distinguished persons of high national professional reputation in their respective fields who are capable of exercising the independent and objective judgment necessary to the fulfillment of their role in ensuring and facilitating the review, transmission to the public, and public disclosure of records related to the assassination of President John F. Kennedy and who possess an appreciation of the value of such material to the public, scholars, and government; and

(C) shall include at least 1 professional historian and 1 attorney.

(c) SECURITY CLEARANCES.—(1) All Review Board nominees shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(2) All nominees shall qualify for the necessary security clearance prior to being considered for confirmation by the Committee on Governmental Affairs of the Senate.

(d) CONFIRMATION HEARINGS.—(1) The Committee on Governmental Affairs of the Senate shall hold confirmation hearings within 30 days in which the Senate is in session after the nomination of 3 Review Board members.

(2) The Committee on Governmental Affairs shall vote on the nominations within 14 days in which the Senate is in session after the confirmation hearings, and shall report its results to the full Senate immediately.

(3) The Senate shall vote on each nominee to confirm or reject within 14 days in which the Senate is in session after reported by the Committee on Governmental Affairs.

(e) VACANCY.—A vacancy on the Review Board shall be filled in the same manner as specified for original appointment within 30 days of the occurrence of the vacancy.

(f) CHAIRPERSON.—The Members of the Review Board shall elect one of its members as chairperson at its initial meeting.

(g) REMOVAL OF REVIEW BOARD MEMBER.—(1) No member of the Review Board shall be removed from office, other than—

(A) by impeachment and conviction; or

(B) by the action of the President for inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the member's duties.

(2)(A) If a member of the Review Board is removed from office, and that removal is by the President, not later than 10 days after the removal the President shall submit to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate a report specifying the facts found and the grounds for the removal.

(B) The President shall publish in the Federal Register a report submitted under paragraph (2)(A), except that the President may, if necessary to protect the rights of a person named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report until the completion of such pending cases or pursuant to privacy protection requirements in law.

(3)(A) A member of the Review Board removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia.

(B) The member may be reinstated or granted other appropriate relief by order of the court.

(h) COMPENSATION OF MEMBERS.—(1) A member of the Review Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Review Board.

(2) A member of the Review Board shall be allowed reasonable travel expenses, including per diem in lieu of subsistence, at rates for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Review Board.

(i) DUTIES OF THE REVIEW BOARD.—(1) The Review Board shall consider and render decisions on a determination by a Government office to seek to postpone the disclosure of assassination records.

(2) In carrying out paragraph (1), the Review Board shall consider and render decisions—

(A) whether a record constitutes an assassination record;

and

(B) whether an assassination record or particular information in a record qualifies for postponement of disclosure under this Act.



(j) **POWERS.**—(1) The Review Board shall have the authority to act in a manner prescribed under this Act including authority to—

(A) direct Government offices to complete identification aids and organize assassination records;

(B) direct Government offices to transmit to the Archivist assassination records as required under this Act, including segregable portions of assassination records, and substitutes and summaries of assassination records that can be publicly disclosed to the fullest extent;

(C)(i) obtain access to assassination records that have been identified and organized by a Government office;

(ii) direct a Government office to make available to the Review Board, and if necessary investigate the facts surrounding, additional information, records, or testimony from individuals, which the Review Board has reason to believe is required to fulfill its functions and responsibilities under this Act; and

(iii) request the Attorney General to subpoena private persons to compel testimony, records, and other information relevant to its responsibilities under this Act;

(D) require any Government office to account in writing for the destruction of any records relating to the assassination of President John F. Kennedy;

(E) receive information from the public regarding the identification and public disclosure of assassination records; and

(F) hold hearings, administer oaths, and subpoena witnesses and documents.

(2) A subpoena issued under paragraph (1)(C)(iii) may be enforced by any appropriate Federal court acting pursuant to a lawful request of the Review Board.

(k) **WITNESS IMMUNITY.**—The Review Board shall be considered to be an agency of the United States for purposes of section 6001 of title 18, United States Code.

(l) **OVERSIGHT.**—(1) The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate shall have continuing oversight jurisdiction with respect to the official conduct of the Review Board and the disposition of postponed records after termination of the Review Board, and shall have access to any records held or created by the Review Board.

(2) The Review Board shall have the duty to cooperate with the exercise of such oversight jurisdiction.

(m) **SUPPORT SERVICES.**—The Administrator of the General Services Administration shall provide administrative services for the Review Board on a reimbursable basis.

(n) **INTERPRETIVE REGULATIONS.**—The Review Board may issue interpretive regulations.

(o) **TERMINATION AND WINDING UP.**—(1) The Review Board and the terms of its members shall terminate not later than 2 years after the date of enactment of this Act, except that the Review Board may, by majority vote, extend its term for an additional 1-year period if it has not completed its work within that 2-year period.

(2) Upon its termination, the Review Board shall submit reports to the President and the Congress including a complete and accurate

accounting of expenditures during its existence, and shall complete all other reporting requirements under this Act.

(3) Upon termination and winding up, the Review Board shall transfer all of its records to the Archivist for inclusion in the Collection, and no record of the Review Board shall be destroyed.

#### SEC. 8. ASSASSINATION RECORDS REVIEW BOARD PERSONNEL.

(a) EXECUTIVE DIRECTOR.—(1) Not later than 45 days after the initial meeting of the Review Board, the Review Board shall appoint one citizen, without regard to political affiliation, to the position of Executive Director.

(2) The person appointed as Executive Director shall be a private citizen of integrity and impartiality who is a distinguished professional and who is not a present employee of any branch of the Government and has had no previous involvement with any official investigation or inquiry relating to the assassination of President John F. Kennedy.

(3)(A) A candidate for Executive Director shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(B) A candidate shall qualify for the necessary security clearance prior to being approved by the Review Board.

(4) The Executive Director shall—

(A) serve as principal liaison to Government offices;

(B) be responsible for the administration and coordination of the Review Board's review of records;

(C) be responsible for the administration of all official activities conducted by the Review Board; and

(D) have no authority to decide or determine whether any record should be disclosed to the public or postponed for disclosure.

(5) The Executive Director shall not be removed for reasons other than by a majority vote of the Review Board for cause on the grounds of inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the responsibilities of the Executive Director or the staff of the Review Board.

(b) STAFF.—(1) The Review Board may, in accordance with the civil service laws but without regard to civil service law and regulation for competitive service as defined in subchapter 1, chapter 33 of title 5, United States Code, appoint and terminate additional personnel as are necessary to enable the Review Board and its Executive Director to perform its duties.

(2) A person appointed to the staff of the Review Board shall be a private citizen of integrity and impartiality who is not a present employee of any branch of the Government and who has had no previous involvement with any official investigation or inquiry relating to the assassination of President John F. Kennedy.

(3)(A) A candidate for staff shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(B) A candidate for the staff shall qualify for the necessary security clearance prior to being approved by the Review Board.

(c) COMPENSATION.—The Review Board shall fix the compensation of the Executive Director and other personnel in accordance with title 5, United States Code, except that the rate of pay for the Executive Director and other personnel may not exceed

the rate payable for level V of the Executive Schedule under section 5316 of that title.

(d) **ADVISORY COMMITTEES.**—(1) The Review Board shall have the authority to create advisory committees to assist in fulfilling the responsibilities of the Review Board under this Act.

(2) Any advisory committee created by the Review Board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

**SEC. 9. REVIEW OF RECORDS BY THE ASSASSINATION RECORDS REVIEW BOARD.**

(a) **CUSTODY OF RECORDS REVIEWED BY BOARD.**—Pending the outcome of the Review Board's review activity, a Government office shall retain custody of its assassination records for purposes of preservation, security, and efficiency, unless—

(1) the Review Board requires the physical transfer of records for reasons of conducting an independent and impartial review; or

(2) such transfer is necessary for an administrative hearing or other official Review Board function.

(b) **STARTUP REQUIREMENTS.**—The Review Board shall—

(1) not later than 90 days after the date of its appointment, publish a schedule for review of all assassination records in the Federal Register; and

(2) not later than 180 days after the date of enactment of this Act, begin its review of assassination records under this Act.

(c) **DETERMINATIONS OF THE REVIEW BOARD.**—(1) The Review Board shall direct that all assassination records be transmitted to the Archivist and disclosed to the public in the Collection in the absence of clear and convincing evidence that—

(A) a Government record is not an assassination record;

or

(B) a Government record or particular information within an assassination record qualifies for postponement of public disclosure under this Act.

(2) In approving postponement of public disclosure of an assassination record, the Review Board shall seek to—

(A) provide for the disclosure of segregable parts, substitutes, or summaries of such a record; and

(B) determine, in consultation with the originating body and consistent with the standards for postponement under this Act, which of the following alternative forms of disclosure shall be made by the originating body:

(i) Any reasonably segregable particular information in an assassination record.

(ii) A substitute record for that information which is postponed.

(iii) A summary of an assassination record.

(3) With respect to each assassination record or particular information in assassination records the public disclosure of which is postponed pursuant to section 6, or for which only substitutions or summaries have been disclosed to the public, the Review Board shall create and transmit to the Archivist a report containing—

(A) a description of actions by the Review Board, the originating body, the President, or any Government office (including a justification of any such action to postpone disclosure of any record or part of any record) and of any official proceedings

conducted by the Review Board with regard to specific assassination records; and

(B) a statement, based on a review of the proceedings and in conformity with the decisions reflected therein, designating a recommended specified time at which or a specified occurrence following which the material may be appropriately disclosed to the public under this Act.

(4)(A) Following its review and a determination that an assassination record shall be publicly disclosed in the Collection or postponed for disclosure and held in the protected Collection, the Review Board shall notify the head of the originating body of its determination and publish a copy of the determination in the Federal Register within 14 days after the determination is made.

(B) Contemporaneous notice shall be made to the President for Review Board determinations regarding executive branch assassination records, and to the oversight committees designated in this Act in the case of legislative branch records. Such notice shall contain a written unclassified justification for public disclosure or postponement of disclosure, including an explanation of the application of any standards contained in section 6.

(d) **PRESIDENTIAL AUTHORITY OVER REVIEW BOARD DETERMINATION.**—

(1) **PUBLIC DISCLOSURE OR POSTPONEMENT OF DISCLOSURE.**—After the Review Board has made a formal determination concerning the public disclosure or postponement of disclosure of an executive branch assassination record or information within such a record, or of any information contained in an assassination record, obtained or developed solely within the executive branch, the President shall have the sole and nondelegable authority to require the disclosure or postponement of such record or information under the standards set forth in section 6, and the President shall provide the Review Board with an unclassified written certification specifying the President's decision within 30 days after the Review Board's determination and notice to the executive branch agency as required under this Act, stating the justification for the President's decision, including the applicable grounds for postponement under section 6, accompanied by a copy of the identification aid required under section 4.

(2) **PERIODIC REVIEW.**—Any executive branch assassination record postponed by the President shall be subject to the requirements of periodic review, downgrading and declassification of classified information, and public disclosure in the collection set forth in section 4.

(3) **RECORD OF PRESIDENTIAL POSTPONEMENT.**—The Review Board shall, upon its receipt, publish in the Federal Register a copy of any unclassified written certification, statement, and other materials transmitted by or on behalf of the President with regard to postponement of assassination records.

(e) **NOTICE TO PUBLIC.**—Every 30 calendar days, beginning on the date that is 60 calendar days after the date on which the Review Board first approves the postponement of disclosure of an assassination record, the Review Board shall publish in the Federal Register a notice that summarizes the postponements approved by the Review Board or initiated by the President, the House of Representatives, or the Senate, including a description

of the subject, originating agency, length or other physical description, and each ground for postponement that is relied upon.

(f) **REPORTS BY THE REVIEW BOARD.**—(1) The Review Board shall report its activities to the leadership of the Congress, the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the President, the Archivist, and the head of any Government office whose records have been the subject of Review Board activity.

(2) The first report shall be issued on the date that is 1 year after the date of enactment of this Act, and subsequent reports every 12 months thereafter until termination of the Review Board.

(3) A report under paragraph (1) shall include the following information:

(A) A financial report of the expenses for all official activities and requirements of the Review Board and its personnel.

(B) The progress made on review, transmission to the Archivist, and public disclosure of assassination records.

(C) The estimated time and volume of assassination records involved in the completion of the Review Board's performance under this Act.

(D) Any special problems, including requests and the level of cooperation of Government offices, with regard to the ability of the Review Board to operate as required by this Act.

(E) A record of review activities, including a record of postponement decisions by the Review Board or other related actions authorized by this Act, and a record of the volume of records reviewed and postponed.

(F) Suggestions and requests to Congress for additional legislative authority needs.

(G) An appendix containing copies of reports of postponed records to the Archivist required under section 9(c)(3) made since the date of the preceding report under this subsection.

(4) At least 90 calendar days before completing its work, the Review Board shall provide written notice to the President and Congress of its intention to terminate its operations at a specified date.

#### SEC. 10. DISCLOSURE OF OTHER MATERIALS AND ADDITIONAL STUDY.

##### (a) **MATERIALS UNDER SEAL OF COURT.**—

(1) The Review Board may request the Attorney General to petition any court in the United States or abroad to release any information relevant to the assassination of President John F. Kennedy that is held under seal of the court.

(2)(A) The Review Board may request the Attorney General to petition any court in the United States to release any information relevant to the assassination of President John F. Kennedy that is held under the injunction of secrecy of a grand jury.

(B) A request for disclosure of assassination materials under this Act shall be deemed to constitute a showing of particularized need under Rule 6 of the Federal Rules of Criminal Procedure.

##### (b) **SENSE OF CONGRESS.**—It is the sense of the Congress that—

(1) the Attorney General should assist the Review Board in good faith to unseal any records that the Review Board

determines to be relevant and held under seal by a court or under the injunction of secrecy of a grand jury;

(2) the Secretary of State should contact the Government of the Republic of Russia and seek the disclosure of all records of the government of the former Soviet Union, including the records of the Komitet Gosudarstvennoy Bezopasnosti (KGB) and the Glavnoye Razvedyvatelnoye Upravleniye (GRU), relevant to the assassination of President Kennedy, and contact any other foreign government that may hold information relevant to the assassination of President Kennedy and seek disclosure of such information; and

(3) all Executive agencies should cooperate in full with the Review Board to seek the disclosure of all information relevant to the assassination of President John F. Kennedy consistent with the public interest.

#### SEC. 11. RULES OF CONSTRUCTION.

(a) PRECEDENCE OVER OTHER LAW.—When this Act requires transmission of a record to the Archivist or public disclosure, it shall take precedence over any other law (except section 6103 of the Internal Revenue Code), judicial decision construing such law, or common law doctrine that would otherwise prohibit such transmission or disclosure, with the exception of deeds governing access to or transfer or release of gifts and donations of records to the United States Government.

(b) FREEDOM OF INFORMATION ACT.—Nothing in this Act shall be construed to eliminate or limit any right to file requests with any executive agency or seek judicial review of the decisions pursuant to section 552 of title 5, United States Code.

(c) JUDICIAL REVIEW.—Nothing in this Act shall be construed to preclude judicial review, under chapter 7 of title 5, United States Code, of final actions taken or required to be taken under this Act.

(d) EXISTING AUTHORITY.—Nothing in this Act revokes or limits the existing authority of the President, any executive agency, the Senate, or the House of Representatives, or any other entity of the Government to publicly disclose records in its possession.

(e) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—To the extent that any provision of this Act establishes a procedure to be followed in the Senate or the House of Representatives, such provision is adopted—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

#### SEC. 12. TERMINATION OF EFFECT OF ACT.

(a) PROVISIONS PERTAINING TO THE REVIEW BOARD.—The provisions of this Act that pertain to the appointment and operation of the Review Board shall cease to be effective when the Review Board and the terms of its members have terminated pursuant to section 7(o).

(d) OTHER PROVISIONS.—The remaining provisions of this Act shall continue in effect until such time as the Archivist certifies to the President and the Congress that all assassination records have been made available to the public in accordance with this Act.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

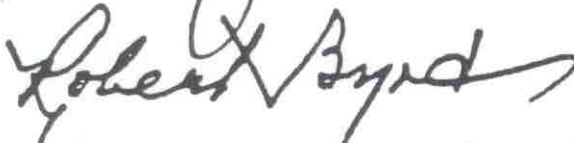
(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act, to remain available until expended.

(b) INTERIM FUNDING.—Until such time as funds are appropriated pursuant to subsection (a), the President may use such sums as are available for discretionary use to carry out this Act.

SEC. 14. SEVERABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of that provision to other persons not similarly situated or to other circumstances shall not be affected by the invalidation.

  
Speaker of the House of Representatives *pro tempore*

  
~~Vice President of the United States and~~  
President of the Senate *pro tempore*