Missing from chapter 4: how the Board did ***its*** review and voting. I know this is discussed in Chapter 5, but we probably ought to put some of it in here. Kermit asks Kermit asks: "do we need to address the way te Board voted? What the rules were?"

Chapter 4
Developing the Review Process

A. Introduction

When the Review Board and its staff began to process assassination records in late 1994, they realized they would need a streamlined process to track thousands of documents. It took two years, but with the help of a computer consultant, the staff transformed an unwieldy, paper-driven, labor-intensive system into a document-based, computerized system that automatically tracked each document through the review process.

Developing a tracking system was just one logistical problem, however. Each federal executive agency and government office had its own particular problems complying with the *John F. Kennedy Assassination Records Collection Act of 1992 (*"JFK Act.") This reality forced the Review Board to develop a review process that was broad enough to address each agency's specific needs. This chapter explains how that review process worked.

B. JFK Act Requirements for Processing Documents

Section 3(2) of the JFK Act defines assassination record to include any records "created or made available for use by, obtained by, or otherwise came into possession of" the federal government (or state or local law enforcement offices that assisted in an investigation of President Kennedy's assassination.) To ensure "expeditious public transmission to the archivist and public disclosure of such records," Section 5 of the JFK Act required each government agency to identify and organize all records it had pertaining to the Kennedy assassination and send them to the National Archives and Records Administration (NARA) along with an electronic finding aid to ensure easier public access. The entire process, including each agency's review of its records, was to take no more than 300 days.

Generally, federal government agencies and offices held one or more of the following types of records:

(1) records relating to an agency's assassination investigation;
(2) records relating to an individual or to a subject that is relevant to the assassination;
(3) records that one of the official investigative entities used in an official assassination investigation, or
(4) records relating to an agency's assistance to another agency in an official assassination investigation.

The JFK Act placed the largest burden on such agencies as the FBI, CIA, Secret Service and the Department of Defense, because those agencies were deeply involved in the investigation of the assassination.[i] The JFK Act required the FBI, for example, to review, process and transfer more than **[Kevin: please insert here the approximate total number of pages from the core & related AND the HSCA subjects]** pages to NARA, with identification aids, within 300 days.

After the agencies had identified and reviewed every assassination record, the JFK Act required them to create an electronic identification aid for each assassination record. Congress believed this identification system would allow NARA to build a central directory of identification aids, making it easier for the public to access every assassination record in the JFK Collection.[ii] Unfortunately, it also slowed down the process.[iii]

NARA provided each agency with the computer software to create its identification aids. NARA wanted each assassination record to bear a unique identification number (as well as other document-specific information, such as the date, number of pages, originator, recipient, subjects, etc.). This unique number has 13 digits divided into three parts. The first 3 digits identify the agency (all CIA records begin with "104"), the middle five digits identify the floppy disk number on which the agency created the identification aid, and the last five digits identify the particular record on the agency's floppy disk.

Kevin: both Elliott and Kermit were confused by the "alien to conventional archival practice." I know what you mean, but if you are going to say it, you need to have a paragraph that explains what conventional archival practice is. Actually, I think it is worth saying -- and explaining -- but I'm no archivist. Elliott commented that the paragraph does not hold together, the 2nd sentence is a non-sequitor, and he said section B does not address postponement issue.

Tracking a large collection of records such as the JFK Collection is alien to conventional archival practice. However, to ensure accountability for every postponement claimed by the executive agencies, Congress required that the agencies, the Review Board, and NARA track the documents on a postponement-by-postponement basis.

C. Basic Elements of the Review Process

The JFK Act was a novel approach to government declassification, and the Review Board wanted the process to reflect the fact that five American citizens would judge whether government secrets should continue to remain hidden. The Review Board decided at its earliest meetings that it would meet often and make decisions on a document-by-document basis, rather than on an issue-by-issue basis.[iv] In other words, rather than immediately making "Review Board policy" on postponements relating to protecting the privacy of individuals, the Review Board chose to review every privacy postponement claimed by an agency. The Review Board believed that its cautious approach would fulfill the JFK Act's objective -- to instill public confidence that all information that could be released would be released. The detailed review also allowed the Board to educate itself about the information in the record, something that could not be done except on a document-by-document basis.

As part of its document-by-document review, the Review Board required agencies to provide specific evidence supporting their postponement claims -- as the JFK Act required.[v] (The JFK Act required release of all information in assassination records in the year 2017, 25 years after the passage of the act, so the Review Board employs the term "postponed" to mean "redacted until the year 2017.") By reviewing and evaluating every postponement at its earliest meetings, the Review Board developed a full understanding of the issues and of the types of evidence the agencies would provide. Once the Review Board became comfortable with the issues and with the quality of agency evidence, it could delegate more authority to the staff to present recommendations for full Board action.

The Review Board staff realized its review system would need the following elements:

First, the federal agency would review its records and tell the Review Board the location of its proposed postponements.

Second, the Board staff would then review the record and recommend that the Review Board either sustain or overrule the agency's request for postponement.

Third, after making its recommendation, the staff would schedule the document for the Review Board's next meeting. To issue its *Federal Register* notices in a timely way -- as the JFK Act required -- the staff tracked the document number, the agency's request for postponements within the document, and the staff's recommendation before the Review Board voted on the record.

Once the Review Board voted on the record, the Review Board staff could notify the agency of its determination, publish the Review Board vote in the *Federal Register*, and transmit the record to NARA, unless the agency requested the Review Board to reconsider its decision.

In the summer and fall of 1995, the Review Board staff developed database systems for reviewing assassination records and tracking Review Board votes. The system allowed the staff to review any assassination record, regardless of its originating agency. The staff, with the help of a computer consultant, designed its primary tracking system, called "Review Track," to resemble NARA's electronic identification aid database.

Given that the JFK Act required the Review Board to publish all board votes in the *Federal Register*, the staff designed the Review Track database to be able to generate *Federal Register* notices.

D. Electronic Identification Aids

NARA's electronic identification aid database system has its flaws, although these do not lie in faulty computer programming. Instead, the JFK Act's well-intentioned requirements that the Review Board track documents on a postponement-by-postponement basis was, at times, the "tail that wagged the dog." Further, it is not clear that the best way to create an accessible, easy-to-use JFK Collection was to require agencies to attach a separate piece of paper to each

record they processed. Because of these and other problems, the Review Board urges Congress to think twice before including the type of "electronic identification aid" language that exists in the JFK Act in future records management legislation.

In compliance with sections 5(d)(1)(A) and (B) of the JFK Act, NARA created its database system and loaded it onto 5-inch floppy disks. NARA assumed that any government office could load data from the disk onto a computer, produce electronic identification aids to accompany its assassination records, and then send the same disks back to NARA. The archives then would integrate the disks into the main database for the JFK Collection.

Despite the predictable problems, such as agencies' lack of appropriate computer equipment, or, more often, agencies' lack of employees to enter the data, most government agencies managed to create electronic identification aids.

The Review Board secured copies of all available disks from NARA and installed agency-specific databases on its computer network. Every Review Board staff member had access to these databases, while the disks served as a foundation for the Review Board's computer consultant to build the Review Track database.

The Review Board and the federal agencies quickly learned that creating electronic identification aids and keeping databases updated was a time-consuming, confusing and cumbersome process. Usually the originating agency would create its electronic identification forms on NARA's floppy disks. But in some cases the originating agencies -- primarily the Army and the Joint Chiefs of Staff -- were so perplexed by the electronic identification aid process that Review Board staff simply agreed to create the electronic identification aids for them.

As to above paragraph, Kermit says, “key” and suggests we provide an example.

The agencies typically created electronic identification aids during their initial review of records. Ideally, the agencies would have created identification aids and sent them to NARA without modification. But, because the electronic identification aids contained information relating to the Review Board's actions -- or votes -- on the records, the agencies and the Review Board were constantly modifying and updating the data on the disks.

A number of problems plagued the creation of the NARA electric identification aid database. Generating an identification aid for each record placed a heavy burden on NARA and on every Agency that reviewed records under the JFK Act. Resources that the Review Board and the agencies allocated to electronic identification aid production were resources that agencies could have applied to review and release of records. The information included on the RIF was often sketchy since indexers who created the forms were not always the individuals most knowledgeable on the subjects. Thus, the databases do not always provide completely accurate or complete search results.

The JFK databases did, however, open information on the records in the JFK collection to the public, especially when NARA made the databases available on the internet. Those

identification aids furnished useful information to researchers and facilitated the page-by-page review that the Review Board adopted.

The Review Board recommends that any future decisions concerning the indexing of records take into account the problems and the benefits of creating separate identification aids or individual records. Much of the information that agencies provided on the identification aids might have been more useful to researchers if it had been indexed according to folder, rather than to individuals documents.

E. Tracking the Review of Assassination Records

1. Review Track Database

As noted above, the Review Track database is a modified NARA electronic identification aid database that Review Board staff used to process assassination records. The Review Track system evolved out of the Review Board staff's early handwritten review, and it continued to evolve as the board and its staff streamlined the review process to meet the increasing volume of documents agencies could process.

The CIA, FBI and NARA had identified large numbers of assassination records. Each of these three agencies established JFK Act task forces and, due to the deadlines imposed by the JFK Act, developed units to process records that the JFK Act covered before the Review Board staff existed. The agencies had internal models for addressing large declassification projects, including the Freedom of Information act (FOIA) model and the model the agencies use to implement the Executive Order related to declassification. Congress, however, had expressly rejected both the FOIA and the Executive Order models in its passage of the JFK Act.

Knowing that agencies had processed records differently, the Review Track had to accommodate a number of variations in the electronic identification aids. Some agencies had released redacted assassination records to NARA without submitting the records to the Review Board for a vote. Other agencies had initially, but not completely, reviewed records, but had given the records unique identifying numbers, anyway. Still other agencies had created electronic identification numbers for records that the agency did not believe were assassination-related, and which the Review Board agreed were not related. Clearly, had the Review Board existed when the agencies began to review their records, some of the time-consuming computer glitches may have been avoided.

Even so, the Review Board staff generally received from the agencies electronic identification aids indicating that the agency had performed its duties under the JFK Act. The Review Board staff then reviewed the document using Review Track. The staff copied the agency's electronic identification aid from a disk, and evaluated each claimed postponement according to the Review Board's guidelines.

The following chapter discusses the Review Board's guidelines in great detail. In general terms, once the board became sufficiently familiar with a particular issue, it would grant the staff decisionmaking authority over it. The board called these issues "green" issues.

If analysts were unsure of the board's position on a specific postponement, they labeled the record "yellow" and put it on the agenda for the next board meeting. Similarly, if analysts did not know the board's position on a type of postponement, they would designate the record a "red" document, and put it on the next board meeting agenda. The staff also labeled a record red if it contained information the board usually agreed to postpone but the staff believed should be released.

The distinction between red and yellow records was never completely clear, but over time -- as the staff and the agencies came to better understand what the board wanted -- the staff identified fewer and fewer items for discussion. When the number of documents the Review Board processed increased dramatically through 1996 and 1997, the number of red documents decreased while green records dominated meetings.

2. Fast Track Database

The Review Board's meetings in 1995 and 1996 focused on the core assassination records, such as files regarding Lee Harvey Oswald, Jack Ruby, the Warren Commission investigation, and the assassination investigations conducted by the agencies themselves. The Review Board applied the strictest scrutiny to claimed postponements in these files, which set the tone for the release of all remaining assassination records.

After the Review Board finished reviewing the bulk of the core files, it turned its attention to the review of the thousands of pages of less relevant, but still important, files. Because of time constraints, the board decided to pare down the review process for these documents.[vi] Specifically, the board modified Review Track, calling the new system "Fast Track."

Where Review Track required analysts to enter large amounts of data into the computer concerning each record, Fast Track required analysts and administrative staff to enter only the unique identifying number and the number of claimed postponements. Board analysts and their agency counterparts documented their review of the documents on the actual documents. For example, a Review Board analyst and an FBI analyst would sit down with an assassination record, apply the board's standards of whether to release or postpone the information at issue, initial the document, and move on to the next record. This significant revision in the Review process allowed analysts to spend less time entering data and more time with the assassination records themselves.

The Review Board also developed uniform substitute language codes so that the analyst could jot the code directly onto the record, either in the margin or above the redaction.[vii]

Following the on-the-document review by a board analyst, the analyst or a board administrative staff member would enter the record identification number and the number of postponements into the Fast Track database. Then the staff would present all of its green records to the Review Board at its next meeting and ask the board to accept the staff recommendations.

F. Consent Releases

Once the Review Board established its voting patterns, the agencies recognized that the Board would not sustain postponements of certain types of information. Thus, rather than submit documents to the Review Board that the agencies knew that the Board would release, the agencies began to simply release the documents without asking the Board to postpone information in them. Many agencies ultimately released a large number of assassination records in full because they predicted that the Board would release the record if it were presented to them for a vote. When agencies released records before the board ruled on them and because they knew the Board would release the record anyway, the Board called the release a "consent release."

Most of the consent release documents had electronic identification aids and were in the Review Board's tracking system. The board created a separate database for these records, which allowed the board to determine how many agency records were released. Every agency that possessed assassination records released at least some of its records as consent releases. In fact, most of the documents released under the JFK Act were consent releases.

G. Miscellaneous Bottlenecks and Problems in the Review Process

1. Duplicates

Nearly every assassination record appears at least twice in the JFK Collection. In some cases, the originating agency had two or more copies of its own record. In other cases, two or more agencies possessed copies of the same record. The Review Board's challenge, therefore, was to attempt to ensure that it processed all copies of the same document in the same way.

Where possible, the Review Board and the originating agencies used information from the electronic identification aids to identify duplicates prior to the board's review of the record. For example, the FBI indexed its records so that it could keep track of all duplicates of a particular record. The agency also listed the record numbers of all duplicate copies on the electronic identification aid.

Other agencies were not as organized as the FBI. When processing CIA records, the board staff often encountered more than a dozen copies of records. Because the CIA has decentralized files, neither the agency nor the Review Board could determine where duplicates of particular records might be.

Since CIA files do contain so many duplicate records, the board and the agency ultimately agreed that, once the board had voted on postponements in one copy of a record, the CIA would

have to assume primary responsibility for processing duplicates to match the first copy. The CIA identified the duplicates in a re-review of the [JFK?] Collection, and the board staff made sure the records the agency identified as duplicates were in fact duplicates. The CIA has agreed to transfer all duplicates to NARA by September 1999.

2. Equities and Referrals

When one agency uses another agency's information to create a record, the other agency's information is called an "equity." Understandably, agencies try not to release other agencies' equities without first consulting with them. The process by which the agency that possesses the record consults with the agency whose equities are present in the record is called the "referral" process. Agencies also sometimes refer records to other agencies when the first agency believes that the other agency has an interest in the record of the first agency. For example, if representatives from the Customs Service and the CIA were at the same meeting and Customs created a record to memorialize the meeting, Customs would likely "refer" the meeting report to the CIA before agreeing to release the report.

In processing government records for release under the terms of the FOIA or under the terms of the Executive Order governing declassification, agencies:

(1) identify other agency's equities in their records;
(2) send to the other agency a copy of the record that contains that agency's equity; and
(3) wait patiently -- sometimes for years -- for the other agency to process its equity in the record and return the record.

Only after the other agency returns the record to the referring agency does the referring agency begin to process the record to protect its own information. For example, if the CIA provided the FBI with information about Lee Harvey Oswald's activities in Mexico City in 1963, the FBI would report, in its own document, the information that CIA provided to the FBI. When the FBI evalutes this record for release, the first thing it does is send the record to CIA, requesting the CIA to evaluate whether CIA information in the record can be released. CIA evaluates its information and eventually returns the record to the FBI. Only then does the FBI begin to evaluate whether it can release the FBI information in the record.

The agencies are reluctant to change this process and they protect information that originates with another agency. Using the above example, if the FBI does not consult with the CIA before releasing the information, the CIA then may choose to release FBI information without consulting with FBI. Because the agencies guard their own information so carefully, they have strong incentives not to modify the referral process.

Because the JFK Act did not consider or address the referral issue, the process impeded the pace of review and the Review Board's ability to release records. The Review Board realized that, to complete its work, it could not allow the agencies to engage in their traditional referral process. Instead, the board would have to engineer the referral process in one of three ways:

(1) managing the referrals itself;
(2) sending "dunning letters" to agencies that were delinquent in returning referred documents; or
(3) sponsoring joint declassification sessions at the Review Board offices.

a. Managing Referrals. When the Review Board controlled the referral process, as it did with the Warren Commission, the House Select Committee on Assassinations, and presidential library records, agencies tended to return referred records much more quickly than if the record came from another agency through traditional channels. Managing the referrals, however, took an enormous amount of staff time and forced the Review Board to spend much of its time managing records rather than reviewing them.

b. Dunning Letters. When agencies were delinquent in returning referred documents, the Review Board mailed letters to the agencies simply stating that if the agency did not process and return the record by a specified deadline, the Review Board would automatically vote to release the record. The dunning letters proved to be very effective in convincing agencies to return their referrals.

c. Review Board Joint Declassification Sessions. "Joint declassification sessions" emerged as the Review Board's most effective rool in addressing the problems caused by the referral process. The Review Board staff invited to these sessions representatives from each agency that had equities in a given group of records. The representatives came to the Review Board's office to review the records. By the end of the one- or two-day session, the referral process was complete.

The Review Board sponsored six joint declassification sessions. An unforeseen advantage of the sessions was that agencies were more likely to agree to release a record when they realized that other agencies had already agreed to do so.

G. Document Processing After Review Board Votes

The JFK Act stated that agencies must deliver records to NARA within 45 days of a Review Board vote. The 45-day limit proved to be unreasonable and, as such, the agencies rarely, if ever, adhered to the deadline.

After the Review Board voted on an assassination record, the JFK Act required the staff to attach a "final determination form" to the record. For Review Track records, the final determination form identified each postponement, its location within the document, and the substitute language for the postponement. For Fast Track records, the final determination form identified the number of Review Board approved postponements in the document and listed the substitute language options that corresponded to codes noted on the document.

Review Track Archive. Finally, after the Review Board staff completed its final determination forms and attached the forms to the records, they would put the document's

electronic identification aid into a database called the "Review Track Archive." The Review Track Archive contains all assassination records on which the Review Board voted.

H. Conclusion

The Review Board's most basic tasks were to review postponements claimed by agencies in their assassination records and to vote either to sustain or release the information at issue. The review of claimed postponements consumed more Review Board staff hours than any other task and was the primary focus of most of the Review Board's interactions with the agencies. The Review Board voted on approximately 25,000 documents in which the agencies had requested that the Review Board postpone information. Each of these documents required the attention of a Review Board analyst to shepherd the document through the process of: 1) evaluating the postponed information the Board's guidelines; 2) presenting the document to the Review Board for a vote; 3) recording the Review Board's vote on the postponed information; 4) notifying the agency of the Review Board's decision; 5) publishing the decision in the Federal Register; and 6) preparing the document for transfer to the JFK Collection. The Review Board’s review process ensured that it scrutinized each piece of withheld information so that the American public could have confidence that it did not postpone any significant information.

CHAPTER 4
ENDNOTES

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i. The National Archives and Records Administration ("NARA"), of course, also was affected by Congress' passage of the JFK Act, as they were responsible for establishing the John F. Kennedy Assassination Records Collections ("JFK Collection.")

ii. JFK Act at § 4(a)(2)(B).

iii. JFK Act at § 4(a)(2).

iv. For a group of five citizens who were otherwise fully employed, the Review Board members met as a group very often -- once or twice each month. The Review Board held the majority of its regular meetings in Washington, D.C. Due to the Review Board's need to discuss classified and privacy protected material, the Review Board voted to close most of its meetings to the public. During its tenure, the Review Board held 48 closed meetings and processed for release XXXXXXX documents. All of these documents are now a part of the JFK Collection at NARA.

v. Section 6 of the JFK Act lists criteria that agencies can cite when requesting postponements. The criteria and the Review Board's standards for sustaining claimed postponements are fully explained in Chapter 4 of this report.

vi. The next chapter explains in detail the standards that the Review Board established for the review of the "Segregated Collections."

vii. *FBI Substitute Language Codes* are as follows: A. Informant Name; B. Informant Identifying Information; C. Informant Symbol Number; D. Informant File Number; E. Operational Detail; F .Identifying Information to Protect the Privacy of an Individual; G. File Number; H. Classified Case Caption. *CIA Substitute Language Codes* are as follows: 01 Crypt; 02 Digraph; 03 CIA Employee; 04 Asset; 05 Source; 06 Name of Person; 07 Pseudonym; 08 Identifying Information; 09 Date; 10 Location; 11 Country; 12 CIA Installation in Africa/Near East*; 13 CIA Installation in East Asia/ Pacific*; 14 CIA Installation in Northern Europe*; 15 CIA Installation in Western Europe*; 16 CIA Installation in Western Hemisphere*; 17 Cable Prefix for Africa/Near East*; 18 Cable Prefix for East Asia/ Pacific*; 19 Cable Prefix for Northern Europe*; 20 Cable Prefix for Western Europe*; 21 Cable Prefix for Western Hemisphere*; 22 Dispatch Prefix; 23 File Number; 24 Operation Details; 25 None; 26 Scelso; 27 CIA Job Title; 28 CIA; 29 Name of Organization; 30 Social Security Number; 31 Alias Documentation; 32 Official Cover (Details of Official Cover) [*-a second number is included with this type of postponement to facilitate tracking individual locators throughout the Collection.] *Military Substitute Language Codes* are as follows: A. Operational Details; B. Name of Person; C. Source/Asset; D. Identifying information to Protect the Privacy of an Individual; E. Location; F. Country/Nationality; G. Name of Organization; H. Intelligence/Counterintelligence Officer; I. No Suitable Substitute Language