

MEMORANDUM

TO: T. Jeremy Gunn

FROM: Frank P. Menna

DATE: June 16, 1995

RE: Chronology of Legislative History and Breakdown of Key Topics Mentioned Therein.

Chronology of Documents

1. Assassination Materials Disclosure Act of 1992: Hearings on H.J. Res. 454 Before the Legislation and National Security Subcommittee of the House Committee on Government Operations, 102d Cong., 2d Sess. (Apr. 28, May 15, July 22, 1992) (House Government Operations Committee Hearing).
2. Assassination Materials Disclosure Act of 1992: Hearing on S.J. Res. 282 Before the Senate Committee on Governmental Affairs, 102d Cong., 2d Sess. (May 12, 1992) (Senate Hearings).
3. Assassination Materials Disclosure Act of 1992: Hearing on H.J. Res. 454 Before the House Committee on the Judiciary, 102d Cong., 2d Sess. (May 20, 1992) (House Judiciary Committee Hearings).
4. H. Rep. No. 625, 102d Cong., 2d Sess., pt. 1 (June 29, 1992) (House Report, 6/29/92).
5. S. Rep. No. 328, 102d Cong., 2d Sess. (July 22, 1992) (Senate Report).
6. H. Rep. No. 625, 102d Cong., 2d Sess., pt. 2 (Aug. 11, 1992) (House Report, 8/11/92).
7. Relyea and Cavanagh, "President John F. Kennedy Assassination Records Disclosure: An Overview," Congressional Research Service Report for Congress (Mar. 3, 1993) (CRS Report).
8. Assassination Materials Disclosure Act of 1992: Hearing on Nominations of Henry Franklin Graff, John R. Tunheim, Anna Kasten Nelson, William L. Joyce, and Kermit L. Hall to be Members of the Assassination Records Review Board Before the Senate Committee on Governmental Affairs, 103d Cong., 2d Sess. (Feb. 1, 1994) (Hearing on

Nominations).

9. H. Rep. No. 587, 103d Cong., 2d Sess. (July 12, 1994) (House Report, 7/12/94).

Memorandum Subjects (Document numbers refer to list above).

1. Deed of Gift

- a. Document 2 (Senate Hearing)

1. p. 35

Senator Specter states that Congress must balance the Kennedy family's privacy concerns with the public's need for access to materials protected by the deed of gift.

2. p. 48

Senator Boren states that access to autopsy materials given by the Kennedy deed of gift should be governed by the standards of propriety established by the Kennedy trustee.

3. p. 167 - "Senator Glenn's Memorandum on Kennedy Deed of Gift Governing Access to Autopsy Records and Materials Related to the Assassination of President John F. Kennedy."

4. pp. 357-361 - "CRS Memorandum"
Discusses the Ford Library deed of gift.

5. pp. 385-412

Letter from President Ford conveying materials for his Presidential Library (deed of gift).

- b. Document 4 (House Report, 6/29/92)

1. p. 20

The mechanism established by the Kennedy family deed of gift provides for appropriate access to the autopsy materials and is fully consistent with the purpose of the Act.

- c. Document 5 (Senate Report)
 - 1. p. 22
The conditions of access established by the Kennedy deed of gift, especially those regarding the autopsy records, should not be disturbed.
 - 2. p. 32
Rules of Construction - deed of gift.

2. Precedence

- a. Document 2 (Senate Hearing).
 - 1. p. 21
Senator Boren states that Section 11(a) should make clear that the Act takes precedence over existing laws, executive orders, and regulations.
 - 2. p. 154 - "Background Information Regarding Records Related to the Assassination of John F. Kennedy and S.J. Res. 282."
The President may supersede the authority of the ARRB with respect to executive materials but not congressional materials.
 - 3. p. 237 - "CRS Memorandum"
The Supreme Court has ruled that Congress has the power to regulate disclosure of executive documents.
 - a. Nixon v. Administrator of General Services, 433 U.S. 425 (1977).
 - b. E.P.A. v. Mink, 410 U.S. 73 (1973).
 - 4. p. 279 - "Department of the Treasury Statement"
 - a. Section 11 provides that the Act's requirements of disclosure specifically override those laws and decisions which would otherwise prohibit such release (e.g., tax returns).
 - b. The Act should exempt certain documents from disclosure when there is such a conflict.

5. p. 290 - "NARA Statement"
 - a. The ARRB should have the power to withhold records that would otherwise be required to be released under existing law.
 - b. Precedence of the Act should permit the Board to withhold such documents.

b. Document 4 (House Report, 6/29/92)

1. p. 34
Rules of Construction - Precedence.

c. Document 5 (Senate Report)

1. p. 48
Rules of Construction - Precedence.

3. **Privacy**

a. Document 1 (House Government Operations Hearings).

1. p. 84
Reps. Conyers and English discuss the Act as it relates to the Privacy Act.

b. Document 2 (Senate Hearings).

1. p. 53
CIA Director Gates airs his views on how disclosures under the Act may potentially violate the Privacy Act.
 - a. fitness reports.
 - b. performance evaluations.
 - c. medical evaluations.
 - d. credit checks.
2. p. 285 - "NARA Statement"
Section 6(2) of the Act should be rewritten using FOIA language to limit its scope and thus avoid disclosures which would invade personal privacy.

- c. Document 4 (House Report, 6/29/92).
 - 1. pp. 28-29
Personal privacy concerns should be balanced against Act's preference for full disclosure.

4. **Seal of Court / Grand Jury**

- a. Document 4 (House Report, 6/29/92).
 - 1. p. 32
Description of the procedure the ARRB must follow in seeking the release of information not otherwise included in the scope of the Act; such materials include:
 - a. those under seal of court.
 - b. those under injunction of secrecy of grand jury.
- b. Document 5 (Senate Report).
 - 1. p. 47
The ARRB must request the Attorney General to petition any court in the U.S. or abroad for disclosure of any relevant materials; such materials include:
 - a. those under seal of court.
 - b. those under injunction of secrecy of grand jury.

5. **Subpoena**

- a. Document 2 (Senate Hearing).
 - 1. pp. 232-233 - "CRS Memorandum"
Discusses subpoena enforcement.
 - 2. pp. 242-246 - "CRS Memorandum"
Discusses subpoenas and intra-branch litigation.

