

MEMORANDUM

January 5, 1996

To: Jeremy Gunn, David Marwell
cc - Dennis Quinn

From: Joe Freeman

Subject: Chain of Custody for Inventory Item No. 9, Autopsy Materials

As requested, and in anticipation of Andy Purdy's visit next week, I have reviewed the HSCA's efforts to ascertain the whereabouts or disposition of President Kennedy's brain and related materials. The issue at hand is what -- if anything -- can the ARRB usefully do on this subject in 1996?

The HSCA made a very significant effort in this area which is reflected in Volume VII, pp. 23-36 (*Section III. Chain of Custody of the Materials Acquired During the Autopsy*, attached). The Committee was not able to determine with certainty what happened to the President's brain, but concluded that "circumstantial evidence tends to show that Robert Kennedy either destroyed these materials or otherwise rendered them inaccessible" (HSCA, Vol. 7, p. 33).

What we know for certain is that the President's brain was part of the shipment that Admiral Burkley and Robert Bouck (at RFK's written direction) transferred from the USSS's offices at EOB to Evelyn Lincoln's offices at the National Archives building on April 26, 1965. The inventory (Item No. 9) reflects the brain's presence in the shipment (as well as tissue slides), and Admiral Burkley assured HSCA investigators that the reference in Item No. 9 was, in fact, to the President's brain. This shipment was shortly afterward placed in the now-infamous "footlocker" by Evelyn Lincoln -- perhaps even the same day, but certainly within a couple days (the footlocker itself was obtained by Lincoln from NARA personnel). According to Lincoln, Angie Novello and Herman Kahn came within about a month of the material's arrival and took the footlocker and both keys to it (Kahn was the Assistant Archivist for Presidential Libraries and the chief NARA liaison with the Kennedy family; he passed away prior to the HSCA investigation). There is no record of exactly when the footlocker returned to the National Archives (for that matter, there's no record of it having left the building; conceivably, Novello and Kahn could have just relocated it that day to Robert Kennedy's separate courtesy storage vault -- Room 6-W-3 -- in the building). It was in Room 6-W-3 that the footlocker was opened on October 31, 1966, when the materials therein were transferred by Deed of Gift to the National Archives. We do know with certainty that the President's brain was not in the footlocker on this latter date.

The conclusion that Robert Kennedy disposed of the President's brain and related material sometime

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between these two dates largely arises from two pieces of circumstantial evidence: 1) the fact that Robert Kennedy's personal secretary, Angie Novello, took possession of the footlocker on his behalf shortly after it arrived at Evelyn Lincoln's office and, 2) Burke Marshall's strong suggestion to the HSCA that Robert Kennedy disposed of the material out of concern that it might someday be exhibited or misused in some tasteless way.

The HSCA rejected the theory that the President's brain was buried with the rest of his remains when the reinterment took place on March 14, 1967. No one contacted by the Committee who was present for the reinterment recalled any additional package or material being placed in the new grave. Among this group, the Committee clearly relied most heavily on its interview with John Metzler, Superintendent of Arlington Cemetery, who supervised the reinterment (attached). From his testimony, it seems absolutely certain that nothing was put in the coffin itself or the coffin's vault. The remaining possibility is that material was simply placed in the new grave outside of the vault. Metzler is adamant that this didn't happen either, though this possibility -- however remote -- is more difficult to disprove outright. I am aware that most of the Board and senior staff have seen photographs at the Kennedy Library in which a small box is seen sitting on the ground near the grave during the reinterment. (Steve Tilley has only a contact sheet for these photos out at NARA II, though he indicated to me this week that he intends to approach the Library again about getting full-size copies for the JFK Collection. Metzler told Andy Purdy that DOD photographed "every move" of the reinterment, and Metzler's recollection was that two sets of the photos were made: one for the family and one for DOD. This raises the question of which set is at the Library and whether DOD still has a set of its own. Also, Metzler told Purdy that after the reinterment he made notes about it which he left at Arlington National Cemetery when he moved on.) Notwithstanding these photos, John Metzler's interview remains convincing.

Making any progress in resolving the outstanding doubts about the disposition of President Kennedy's brain will be difficult. Even fewer principals are alive today than in 1978, and those who remain are no more approachable than they were then. The Board would have to risk the appearance of great unseemliness (along with whatever practical consequences may be attendant on such an appearance), and perhaps be no further ahead in the end. Nonetheless, if the Board wishes to proceed, there are several individuals who could be recontacted. If we assume for the sake of argument that some close to the Kennedy family may have been less than completely forthcoming when they spoke to the HSCA (Angie Novello comes to mind, see below), the question arises as to whether these individuals would be any more forthcoming now in the absence of some direction from the head of the family. This consideration may be an argument for approaching Senator Edward Kennedy sooner, rather than later. This being so, the summaries below begin with his:

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Senator Edward Kennedy. In Volume 7, the HSCA says it contacted Senator Kennedy "to determine [his] knowledge of the missing material. Senator Kennedy indicated that he did not know what happened to the materials, or who last had custody of them" (Vol. 7, p. 28). The footnote (73) in the text following this statement appears to be incorrect: there is no OCR with Senator Kennedy corresponding to the JFK Document number cited on page 35 of Volume 7. There are, however, three other relevant OCRs. None reference a *direct* contact with the Senator on the subject; nor are there any written communications to or from Senator Kennedy in the HSCA collection on this topic. The HSCA point person for this issue, insofar as Senator Kennedy's office is concerned, was Chief Counsel Bob Blakey himself. Blakey made a courtesy visit to Senator Kennedy's Senate office on October 31, 1977. Steve Smith and Kennedy Senate aide Ken Fienberg were also present (Fienberg is the spelling in Vol. 7; in Blakey's OCRs the name is also spelled Feinberg and Fenberg). "At Chairman Stokes' suggestion, the meeting was merely a matter of courtesousness," according to Blakey's OCR of the meeting (attached). Blakey's routing slip for the OCR references "Med. Evid.," so it's clear what Blakey had on his mind. There are two subsequent Blakey OCRs of phone calls with Ken Fienberg (attached). On January 31, 1978, Blakey called Fienberg "re: JFK brain." Blakey's sparse notes indicate he asked Fienberg to "find out, with discretion, if buried with body later." Fienberg indicated he would try and is referenced as "contact point, re: Senator." Another OCR, dated March 15, 1978, references another Blakey-Fienberg call and Blakey's notes consist of the following: "Ted Kennedy, John Douglas, Bert [sic] Marshall, all asked re: JFK brain. None know where it is." As far as I can make out, this is the sum total of the HSCA's "contact" with Senator Kennedy on the issue of the President's brain. The only other clue concerning Senator Kennedy's possible level of knowledge about the President's brain is found in the affidavit Evelyn Lincoln gave the HSCA (attached). She told the Committee that after Robert Kennedy's death, she "began to wonder what happened to the [autopsy] materials and what would happen to them and other materials that had been subject to Robert Kennedy's authority... I called Ken O'Donnell and told him about my concern that Robert Kennedy had a number of items that might get lost in the shuffle. It was my understanding that Mr. O'Donnell called Edward Kennedy and told him about this matter. Mr. O'Donnell called me back and said, 'Everything is under control'." Of course, this was years after Angie Novello had taken the footlocker from Evelyn Lincoln's office, well after the Deed of Gift and presumably long after Robert Kennedy did whatever he did with the materials. Moreover, O'Donnell may just have been humoring Lincoln. Nonetheless -- and it is easy to read too much into Kenny O'Donnell's response to Lincoln -- this at least suggests that Senator Kennedy may have had some knowledge of the disposition of *all* the autopsy materials. Lincoln and O'Donnell, of course, have since passed away. **Possible action items: contact Blakey and Fienberg and confirm this history and the lack of any *direct* contact with Senator Kennedy. Fienberg could be asked about the substance of his conversation (or whomever's) with Senator Kennedy on the subject.**

Burke Marshall. Marshall indicated to the HSCA that he had no first-hand knowledge regarding the disposition of the President's brain. The HSCA, in Volume 7, described Marshall's theory about Robert Kennedy's having disposed of the brain as "speculative opinion." Mark Flanagan's OCR of his discussion with Marshall on this issue (attached), however, puts it more strongly: "His [Marshall's] *informed judgment* is that RFK obtained and disposed of these materials himself... [emphasis added]." In short, it is possible that Burke Marshall may *know*, as opposed to *suspect*, the truth, and it may be worth asking him again. **Possible action items: contact Marshall, reassure him that our interest in the issue flows from the requirements of our statute and that we believe there is some value in laying this matter to rest once and for all, if it is possible to do so. He could also be advised/asked his thoughts on the Board's intention to pursue this directly with Senator Kennedy.**

Ethel Kennedy. Ethel Kennedy was *not* contacted by the HSCA. Moreover, it's unlikely that she would tell the Board something Senator Kennedy wouldn't. Nonetheless, excepting his brother Ted, there is probably no one else Robert Kennedy would have been more likely to confide in than his wife, so at least some thought should be given to the advisability of contacting her.

Angie Novello. Novello was interviewed by Purdy and Jim Kelly on August 23, 1977. She claimed to have no recollection of a footlocker (or keys to same) containing medical records. The HSCA interview summary, dated August 29th, is attached. This is the same summary that Novello's attorney characterized as inaccurate when, on October 31, 1978, he forwarded an affidavit from Novello to the Committee (also attached). In her affidavit, Novello says "I never had permission to examine or remove any presidential materials of John F. Kennedy at Archives and therefore never handled any." The last line of her affidavit, dated October 30, 1978, sums up her position: "To the best of my recollection, I have never personally received autopsy files or materials of President Kennedy, nor do I have personal knowledge of their disposition." Earlier, however, she does reference what a terrible time period it was for her and everyone associated with the Kennedy family, allowing how "It was easy therefore for me to block the memory of that sad and tragic period." The Committee was skeptical of this testimony and effectively ignored it: the Committee clearly believed that Novello and Kahn took the footlocker and autopsy material from Lincoln. Novello, therefore, who is apparently still alive (in 1978 she worked in the Civil Defense office at DOD and lived on New Mexico Avenue in DC), would be an obvious candidate for questioning, although it can be fairly asked, to what end?

Others. Former Archivist of the United States **James (Bert) Rhoads** is still alive and, according to Steve Tilley, at Western Washington University. He was involved on NARA's behalf in the 1966 Deed of Gift transfer and the subsequent NARA effort to cover itself by attempting to determine what

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had happened to the missing material. Former Acting Archivist of the United States **Trudy Peterson**, the NARA point person during the HSCA era, has recently left NARA and is now working in Budapest with some archival project relating to the former Radio Free Europe. Her name is on various attached documents from the HSCA era -- in particular note a JFK Library letter generated by one of her inquiries which cites a Burke Marshall letter to Robert Kennedy from 1965 in which the footlocker is referenced.

ATTACHED DOCUMENTS (Referenced in text)

- 1 - HSCA Volume 7, pp. 23-26.
- 2 - HSCA File Number 008148, 05/05/78 OCR, re: Jack Metzler.
- 3 - HSCA File Number 002942, 10/31/77 OCR, re: meeting with Sen. Kennedy.
- 4 - HSCA File Number 004944, 01/31/78 OCR, re: Blakey call to Fienberg.
- 5 - HSCA File Number 006333, 03/15/78 OCR, re: Blakey call w/Fienberg.
- 6 - HSCA File Number 009823, 07/05/78, Purdy summary of interview with E. Lincoln.
- 7 - HSCA File Number 012659, 10/16/78 affidavit of Evelyn Lincoln.
- 8 - HSCA File Number 008514, 05/18/78 OCR, re: Burke Marshall.
- 9 - HSCA File Number 002194, 08/29/77 Purdy/Kelly memo, re: interview w/Novello.
- 10- HSCA File Number 013982, 10/30/78 affidavit of Angie Novello.

ATTACHED DOCUMENTS (other)

- 11- Portion of HSCA File 002054, 04/26/65 Robert Bouck memo w/inventory.
- 12- HSCA File Number 002237, 08/06/77 summary memo of interview w/Bouck.
- 13- HSCA File Number 013416, 11/28/78 affidavit of George Burkley (see his cover note to Andy Purdy).
- 14- HSCA File Number 013615, 05/11/78 OCR, re: Captain Stover.
- 15- HSCA File Number 014876, NARA memo of 10/31/66 Deed of Transfer meeting.
- 16- HSCA File Number 014879, 02/13/69 Thomas J. Kelley Memo to File.
- 17- HSCA File Number 002236, 06/03/77 summary memo of interview w/T. Kelley.
- 18- HSCA File Number 008159, 05/16/78 Purdy OCR of call w/Ramsay Clark.
- 19- HSCA File Number 013273, portion of 09/96/77 report from Trudy Peterson, NARA, to Blakey in response to Purdy inquiries.
- 20- HSCA File Number 014878, 09/07/77 memo summary of Purdy/Kelly meeting w/Trudy Peterson.

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21- HSCA File Number 013273, portion of 10/18/77 report from Trudy Peterson to Blakey.

22- HSCA File Number 010317, portion of 07/26/78 report from Trudy Peterson to Purdy (see 07/18/78 letter from JFK Library to Peterson, re: 05/27/65 letter from Burke Marshall to Robert Kennedy).

23- HSCA File Number 013273, 11/22/78 affidavit of James Rhoads.

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File 4.0.2. JFK Medical