

MEMORANDUM

August 16, 1995

To: Jeremy Gunn
From: Joe Freeman
Subject: Warren Commission Referred/Withheld Documents

During a trip to Archives II yesterday I did some physical reconnaissance of Warren Commission records and had a discussion with Steve Tilley about how best to get a handle on one of the tasks we discussed Monday: isolating referred/withheld Warren Commission documents with an eye toward having the Board review and "clear" these records at some future time. These are some practical difficulties in accomplishing this task -- outlined below -- which are rooted in the way the JFK collection has been set up (both physically and in terms of the computerized database) at NARA II.

1 - The sheer number of Warren Commission documents. There are 66 boxes of Commission Documents (CD's) and 135 boxes of Commission Exhibits (CE's). The time necessary to go through these boxes document by document in order to determine, with maximum certainty, the status of each one would be substantial. In lieu of such an undertaking, the question becomes whether a reliable database, physical or computerized, already exists which will allow us to cut directly to the chase and pull for review (and -- eventually -- Board consideration) only those Warren Commission documents which have been withheld or referred.

2 - Within the JFK collection, there are some 50 boxes of physically segregated "referred" documents. These are organized first by the agency to which the

documents are referred/by which they are being withheld and, second (within each agency's referred documents), by record group. For instance, I spent some time yesterday with the cache of FBI-referred/withheld documents. There are fifteen boxes of these documents and the documents are broadly organized within the fifteen boxes by record group; ie, documents from record group 272 (Warren Commission) form the bulk of the FBI's referred documents and thus most of the 15 boxes are stuffed with WC-era FBI documents. Theoretically, then, it should be a relatively easy matter to physically access referred/withheld WC documents on an agency-by-agency basis. This would seem to be a logical way of approaching our

task, assuming we can rely on the comprehensiveness and accuracy of NARA's

physical segregation of these records (ie, that *all* of the WC referred/withheld documents are physically in the 50 referred boxes).

- 3 - **NARA II has this universe of referred documents indexed on computer.** They are working to format a hard-copy version of this information, which would presumably be helpful as the 50 referred document boxes are gone through. How their information would differ from something we could print out here (by running a search, say, for "NARA-WC" in the agency field in our referred and postponed databases), I don't know. The NARA index should be available to me by the end of the week. Steve says the ARRB could have this on disk, too.

- 4- **One major problem with the above-referenced NARA database is that it does not reflect -- and will not for the foreseeable future -- the referred/withheld documents that have recently been "opened" by the FBI and CIA.** For instance, relative to Warren Commission documents withheld by/referred to the FBI, Debbie Beatty led a squad of FBI folks out to NARA II last December and they "opened" many of the WC-era FBI documents. My spot-check of the FBI boxes yesterday indicated that *a clear majority* of the documents in them have been opened (see attached sample of the FBI stamp on these documents, dated 12/5/94). Steve estimates that the FBI has opened 65% of their previously withdrawn NARA-WC documents. The percentage may even be higher. On the one hand, that makes the universe of documents you're interested in smaller and theoretically more manageable. On the other hand, it can be confusing to go through these heretofore "Referred" FBI boxes: some documents are stamped "released in full", some are stamped as still classified (see attached sample) and some aren't stamped at all (Steve says Debbie and her crew didn't finish their work, and he presumes a document that is unstamped is one that is still under review for purposes of possible release). **You probably know a lot more about this than I do, but Steve's computer database for these WC documents can't be updated for whatever reason, so it doesn't reflect these recent FBI (and CIA, too, I guess) changes.** That partly explains why Steve has never interfiled these now-open FBI documents -- he'd rather not disaggregate them until he can first update his computer database -- and why they remain in the "Referred" boxes (the other part of the reason has to do with the usual staff/resource constraints).

Summary/Recommendations

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There seems to be two ways to go about isolating those Warren Commission documents that remain genuinely closed:

1- The most comprehensive approach would be to go through each CE and CE folder one at a time and note when the document or exhibit is withdrawn or otherwise denoted as classified. Then, the "Referred" agency boxes could be cross-referenced to make certain that: a) the document or exhibit is there, and b) the document or exhibit has not already been opened by some recent agency review process.

This approach has the virtue of double-checking the existing referred database (physical and electronic) at NARA so as to ensure that when the day finally dawns when the "Referred" boxes are empty, we can be certain that there is no WC document or exhibit still classified that we somehow "forgot" to review and open.

The downside of this approach is that it is a huge undertaking and, to the extent that the existing NARA "Referred" boxes and databases are accurate, a great deal of time will be wasted on duplicative work.

2 - Alternatively, we could work with the existing (if outdated) NARA database and the "Referred" boxes and simply go through them, cataloging and copying those documents that have not already been opened by recent agency review processes. This subtraction process thus gives us the universe of remaining WC documents still unopened, and the Board just works from them. When and if the Board clears this stack of documents, we can then announce that all WC era documents have been reviewed.

At least in the case of the FBI, this task is further facilitated in the following respect: on the same truck with the 15 FBI "Referred" boxes is an approx. 9- inch stack of documents which represents the redacted versions of those documents within the FBI Referred boxes which the FBI still wants to withhold (at least in part) subsequent to their last (12/94) review. The FBI made redacted copies for Steve to facilitate his interfiling (which has yet to be done). Thus, we could copy the redacted documents, secure their matching

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unredacted versions from the "Referred" boxes and the Board could go to work!

I should also note that Steve raised the larger issue of why we should undertake a Warren Commission-specific review at all, since (except for five documents the WC generated itself) these documents also reside in the files of their respective originating agencies.

In the short term, I would also recommend that someone from the FBI and CIA teams check with the appropriate person(s) in those agencies to get an update on where they think they are with processing NARA's referrals (ie, for the FBI, is Debbie Beatty "done", is she going back to Archives II at some point, how we should interpret unstamped documents in the Referred boxes at NARA II, etc.).

Hope this helps more than it obscures. I won't undertake the WC task we talked about on Monday until I hear back from you.

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