

Issues and Strategy
Meeting of Department of Justice Federal Programs Branch and ARRB Staff
March 15, 2017

- I. Purpose of JFK Act and the Powers and Duties of the Review Board Under the JFK Act¹
- A. The Review Board Must Preserve Records Related to the Assassination of President Kennedy
 - B. Assassination Records (including Garrison Grand Jury records) in the *Possession* of the Review Board **are** "assassination records" within the Meaning of the JFK Act.
 - C. The JFK Act "*shall take precedence over any other law . . . judicial decision construing such law, or common law doctrine that would otherwise prohibit such transmission or disclosure*"
 - D. The JFK Act Contemplates that the Review Board Will Seek Grand Jury Records.
 - E. The JFK Act Contemplates that the Review Board Will Issue Subpoenas to Obtain Assassination Records.
 - F. The JFK Act Contemplates that the Review Board Will Immunize Witnesses.
 - G. The JFK Act Contemplates that the Review Board Will Issue Appropriate Regulations

¹The President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. 2107. The legal authority for the following propositions is outlined on Exhibit A (attached).

II. Subpoena from Connick

- A. Defects of the subpoena
 - (a) adequacy of service
 - (b) power of state court to issue subpoena to Federal agency
 - (c) compliance with Louisiana law

- B. Obstacles to complying with the subpoena
 - (a) JFK Act
 - (b) Pending FOIA request

- C. Possible Responses to Connick Subpoena
 - (a) Ignore
 - (b) Move to quash in Federal court
 - (1) in Louisiana
 - (2) in D.C.
 - (c) Move to quash in State court
 - (d) Seek extension of time
 - (e) Negotiate with Connick
 - (f) Interpleader action

III. Affirmative Actions the Review Board Might Take

- A. Send letter to Connick (72 hour obligation)

- B. Issue subpoena to Connick

- C. Immunize Raymond (and others)

- D. Issue new and appropriate regulations

The President John F. Kennedy Assassination Records Collection Act of 1992
44 U.S.C. 2107
Legal Authority for Review Board Actions

Exhibit A

I. Purpose of JFK Act and the Powers and Duties of the Review Board

A. The Review Board Must Preserve Records Related to the Assassination of President Kennedy

"all Government records related to the assassination of President John F. Kennedy should be preserved for historical and governmental purposes . . ." Sec. 2(a)(1).

B. Assassination Records (including Garrison Grand Jury records) in the *Possession* of the Review Board *are* "assassination records" Within the Meaning of the JFK Act.

"'Government office' means any office of the Federal Government that has *possession* or control of assassination records . . ." Sec. 3(3)(5) (emphasis added).

"'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 . . . (J) any independent agency. . .*" Sec. 3(2) (emphasis added).

The Review Board is empowered to: "receive information from the public regarding the identification and public disclosure of assassination records" Sec. 7(j)(E).

C. The JFK Act takes "precedence over any other law"

"When this act requires transmission of a record to the Archivist or public disclosure, *it shall take precedence over any other law . . . judicial decision construing such law, or common law doctrine that would otherwise prohibit such transmission or disclosure . . .*" Sec. 11(a).

D. The JFK Act Contemplates that the Review Board Will Seek Grand Jury Records.

The Review Board is empowered to: "request the Attorney General to petition any court in the United States to release any information relevant to the assassination . . . that is held under the injunction of secrecy of a grand jury." Sec. 10(b)(1).

The Review Board is empowered to "request the Attorney General to petition any court in the United States or abroad to release any information relevant to the assassination . . ." Sec. 10(a)(1).

E. The JFK Act Contemplates that the Review Board Will Issue Subpoenas to Obtain Assassination Records.

The Senate Report on the JFK Act states that: "the Review Board . . . *has the authority to subpoena private persons and to enforce the subpoenas through the courts.*"²

The Review Board is empowered to: "hold hearings, administer oaths, *and subpoena witnesses and documents.*" Sec. 7(j)(1)(F) (emphasis added).

The Review Board is empowered to: "request the Attorney General to subpoena

²Senate Report 19 (emphasis added).

private persons to compel testimony, records, and other information." Sec. 7(j)(1)(C)(iii).

F. The JFK Act Contemplates that the Review Board May Immunize Witnesses.

"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." Sec.7(k).

G. The JFK Act Contemplates that the Review Board May Issue Appropriate Regulations

"The Review Board may issue interpretive regulations." Sec. 7(n).

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To Do

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