

**SECOND DRAFT LETTER
ATTORNEY-CLIENT COMMUNICATION
PRIVILEGED WORK PRODUCT**

BY TELECOPIER AND U.S. MAIL

William F. Wessel, Esq.
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127 Camp Street
New Orleans, Louisiana 70130-2507

Dear Mr. Wessel:

I am writing regarding Judge Livaudais's instructions to the Review Board and to Mr. Connick to seek an accommodation on the handling of the District Attorney's records from Jim Garrison's prosecution of Clay Shaw.

As you know, Review Board member Dr. William Joyce and the Board's Executive Director, Dr. David Marwell, visited Mr. Connick's office on April 26 and reviewed the five file drawers of records from the Shaw investigation. Both Dr. Joyce and Dr. Marwell are professionally trained historians and archivists. Dr. Joyce currently has administrative oversight for the manuscripts and archives of Princeton University libraries. Dr. Marwell formerly was the Director of the Berlin Document Center. They thus examined the Shaw records not only with the perspective of their expertise in issues surrounding the Kennedy assassination, but from an archival records perspective as well. During their review, they checked the files against indices that previously were prepared by the House Select Committee on Assassinations and the ARRB staff. They made the following two observations:

First, the order of the records has been seriously disturbed since the time of the HSCA review. This suggests that the records are not being maintained in an archivally appropriate manner. Furthermore, some records that were included in the collection at the time of the HSCA may be missing.

Second, the condition in which the records currently are being stored puts them at a continuing risk of deterioration or damage. This is particularly true for the numerous audio tapes that are in the collection.

Because the records are in a delicate physical condition, they should be placed in the care of a conscientious and well-equipped archival facility. In order to prevent any further loss of records or the deterioration of the extant records, the Review Board strongly believes that the Shaw records must

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be placed in the hands of a competent archival facility. Unless the records are properly handled by trained professionals, they will continue to suffer from attrition and deterioration.

The Review Board is not charged with the responsibility of evaluating the merits of Mr. Garrison's investigation. The Review Board certainly is aware that many people, including Mr. Connick, believe that the Garrison investigation was improper and an abuse of power. But regardless of the merits of the Garrison investigation, the Review Board strongly believes that the Shaw records clearly are related to the assassination of President Kennedy. They are records of the sole prosecution for the assassination which was, after all, a prosecution in which the U.S. Federal government took an active interest. (We understand that Mr. Connick himself, while an Assistant U.S. Attorney, was involved in handling matters on behalf of the U.S. government that related to the Garrison investigation.)

OPTION 1: AARB WANTS THE ORIGINALS

The Review Board, after considering the options available, believes that the original Shaw materials should be transferred to the National Archives so that they can be preserved under the best archival conditions possible. The Review Board is concerned that the material has not been and will not be maintained in a condition that would ensure maximal preservation of the records. Inasmuch as Mr. Connick previously told the Board and staff that he believed that it was a good idea to ensure that the records be preserved at the National Archives, we are simply asking that Mr. Connick adhere to his prior position. Should Mr. Connick wish to have copies of the Shaw material, the Review Board will be pleased to provide his office with photocopies or duplicates of all of the materials.

OPTION 2: AARB PROPOSES TO TAKE COPIES

Because the Review Board is a duly constituted Federal agency with lawful subpoena powers, it continues to believe that it possesses the legal authority to obtain the records. In order to seek a resolution of this issue, however, the Review Board would like to make the following offer to resolve the issue in a way consistent with Judge Livaudais's instructions. Accordingly, we offer the following two options as possible resolutions.

First, the District Attorney's office would donate the records to the JFK Collection at the National Archives, which would make the records fully available to the public (to the best extent possible, consistent with standard archival practice) and which would provide the District Attorney's office with a copy of any of the materials that the District Attorney wishes;

or

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Second, the District Attorney's office would: (a) deliver the original records to the Assassination Review Board in order for it to deliver the records to the National Archives to make archivally satisfactory copies for inclusion in the JFK Collection at the National Archives;¹ and (b) donate the records to a legitimate and properly equipped archival depository that would make the records fully available to the public (to the best extent possible, consistent with standard archival practice).

If you have another proposal that would ensure the protection of the original records, full public access to the records, and an archivally satisfactory version of the records being made available to the National Archives, we welcome any other suggestions that you may have.

We hope to hear from you [by date certain within 10 days] so that we can make the determination of whether we need to seek further participation of the Court.

Sincerely,

ARTHUR R. GOLDBERG
Assistant Director
Federal Programs Branch
Civil Division

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¹To the extent that the best-available copy of an original record is unable to reproduce all relevant information, the Review Board would reserve its right to place the original in the JFK Collection. The terms governing such situations could be developed jointly by the District Attorney and the Review Board.