

March 7, 1995

Remarks to Board at ARAB public meeting, 1:30 pm, NARA 5th Floor Theater

1. Thanks for opportunity to speak.
2. Legislative history to act, The John F. Kennedy Assassination Records Collection Act of 1992, 44 USC 2107 note, states that the Board is charged with interpreting the scope of the definitions established in the act and with implementing the act's provisions.
3. Proposed Interpretive regulations were published in the Federal Register on February 8, 1995 (60 Fed Reg 7506), for notice and comment. The comment period ends on March 10 close of business. I'd like to make a part of the hearing record a copy of the notice published in the federal record. Courtesy copies of the proposed regulations were provided to agencies and to the oversight committees in Congress. A notice was also sent out to the Board's mailing list alerting interested researchers and others of the notice's publication and requesting submission of comments. Copies are available in the Board's public reading room; extra copies are available at the hearing today.
4. The proposed interpretive regulations address several issues, including the scope of the terms "assassination record" and "additional records and information." They also address certain other implementation issues, including the proposed publication of a Catalogue of Assassination Records.

5. This board has worked through these issues and heard testimony at several public meetings or hearings on these matters, all of which are on the public record. Copies of the transcripts are available in the board's reading room. We have received about a dozen written comments as of today from federal agencies, researchers and scholars, and private citizens. We anticipate that we will receive more by the end of the week. Copies of all comments have been and will continue to be made available in the board's reading room. We appreciate the time and care taken by those who have commented. Especially appreciate the input from agencies that we have received or expect to receive.

6. Each board member has been provided with a copy of the comments received to date. I would like to summarize briefly for the record the some of the points made in comments received so far. In addition, some of the persons who previously have provided written comments are here today and available to answer any questions the board may have.

7. Summary:

a. Some comments are substantive; others are more stylistic. We welcome both kinds of comments and will consider them carefully. Many simply request clarification. All will be considered carefully as the Board takes another look at the language proposed.

b. Some think the comments too broad.

1. Concern re additional records be requested on a reasonable basis for purposes of identifying and reviewing records. Concern that request of and use of these records take into account protection where necessary of sources and methods. [FBI]

Request for clarification that requests for additional records be made in writing.[FBI]

Nonrelevance issue -- some situations where material is peripheral.

c. Some think the comments too narrow. The concern particularly is that based on past experience with agencies interpreting FOIA requests particularly for this information in a very narrow fashion, and adopt unintended restrictive views.

Concern with the "may have led to" language in the interpretation of the scope of assassination record. Historical understanding of the event does not necessarily flow from a "causation" view.

1. [Lesar]

a. May establish a "causation test" that narrows the definition considerably.

b. Pertains to "activities and events" but does not include "persons and organizations."

c. Doesn't clearly include documents related to "government programs and operations that may assist in understanding the activities and events and persons and organizations that figure into the Kennedy assassination."

Revise scope language to change "may have led" to "reasonably relate" to the "surrounding history" of the assassination. [Zaid]

Add a catchall phrase in case a record turns up that doesn't fall within the scope.

*Need to include records from government agencies or entities that do not exist. {Zaid}*

*"all material that could reasonably be expected to shed light on the circumstances surrounding the assassination of President Kennedy." [allen]*

*Caution that should not be limited to what documents were used by previous investigations. The point is to find other materials not provided to those investigations. [Judge]*

*Need to ensure that it includes foreign governments and private government subcontractors, and private individuals who have created or obtained records from sources other than identified in paras. a-e.. [judge, zaid]*

*d. Comment has been made on the artifacts issue.*

*e. Comment has also been received on the board's proposed interpretive regulations regarding originals and copies. There is some concern whether individuals may keep their original materials, presumably private and not government records, and provide the board with copies for purposes of integration of the materials into the collection.*

One commenter objected to inclusion of second generation prints or copies where photographs, motion pictures or machine readable materials are concerned. [Kistemaker]

Illegibility should be addressed, with a certified transcription of illegible language attached to each such document. [Zaid]

f. Board is referred to certain bibliographies and indices to Kennedy assassination literature and the activities of previous investigations and commissions. Are aware of those, but appreciate the referrals.

II. Additional records and information

Should include indexing symbols, marks, codes, , guidelines, methods and procedures, including search methods and procedures used in the performance of agency duties. [Lesar]

F. Some individuals have provided the board with lists of specific types of records that they believe should be included in the scope of "assassination records". These include suggestions that "all records regarding the activities of Lee Harvey Oswald and Jack Ruby be considered 'assassination related', as well as all records regarding any actual or perceived threat or attempt on the life of the President, all records regarding other suspects in the President's death or the death of Dallas Police officer J.D. Tippit." [Bill Adams]

Another comment suggests broadening the scope of the term "assassination record" to include records pertaining to people who have been mentioned in any investigation or analysis of the assassination; satellite and overhead reconnaissance photography, and signals intelligence. [Ravnitzky]

g Several comments discuss the concern that agencies be required to produce records showing previous transfer, destruction or theft of records that would now fall into the scope of the term "assassination record". A related concern is that agencies be required to report and protect all "assassination related" records in their possession regardless of the agency that generated the records, to avoid potential loss or destruction of the record. [bill adams]

h. In regard to additional records and information, one commenter suggested that the board seek out and interview witnesses and other knowledgeable people who are now elderly or ill /

i. RE the COAR, ensure that an uptodate version of the COAR shall be maintained, preserved and available for review as part of the JFK collection [Zaid]