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1/26/95 #1

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ASSASSINATION RECORDS REVIEW BOARD

xx CFR Part xxxx

*Guidance on Interpreting the Definition of "Assassination Record".*

AGENCY: *Assassination Records Review Board (AARB).*

ACTION: *Proposed guidance.*

SUMMARY: *The AARB proposes to issue guidance on the interpretation of terms defined in the "President John F. Kennedy Assassination Records Collection Act of 1992," 44 USC 2107 note (1992).*

DATES: *Comments must be received on or before (insert date 30 days after date of publication in the FR).*

ADDRESS: Comments may be mailed to the Assassination Records Review Board at 600 E Street, NW, Suite 208, Washington, D.C. 20530 or delivered in person to that address between the hours of 9:30 a.m. and 4:30 p.m., Monday through Friday. Comments may be also faxed to the Board at (202) 724-0457. Comments received may be inspected in the Board's reading room at Suite 205 between 10 a.m. and 3 p.m.

FOR FURTHER INFORMATION CONTACT: Sheryl L. Walter (General Counsel), (202) 724-0088.

SUPPLEMENTARY INFORMATION:

Background and Statutory Authority

The President John F. Kennedy Records Collection Act of 1992, 44 USC §2701, established the President John F. Kennedy Assassination Records Collection at the National Archives. In establishing the process for public disclosure of all records relating to

the assassination, Congress created an independent agency within the executive branch, the Assassination Records Review Board, which consists of five citizens appointed by the President. Under the statute, the Board is empowered to decide "whether a record constitutes an assassination record." 44 USC § 2701 Sec. 7(i)(2)(a). Congress further made clear its intent that the Board "issue guidance to assist in articulating the scope or universe of assassination records." S.Rep. 102-328, 102d Cong., 2d Sess. (1992) at 21.

In constructing the proposed guidance set out here, the Board seeks to implement congressional intent that the Collection contain "the most comprehensive disclosure of records related to the assassination of President Kennedy." *Id.* at 18. The Board is also mindful of Congress's instruction that the Board apply a "broad and encompassing" working definition of "assassination record" in order to achieve the goal of assembling the fullest historical record on this

tragic event in American history and on the investigations that were undertaken in the assassination's aftermath. The Board recognizes that many agencies have already begun to organize and review records responsive to the Act even before the Board was appointed and began its work. Nevertheless, the Board's aim is that this guidance will aid in the ultimate assembly and public disclosure of the fullest possible historical record on this tragic event in American history and on the investigations that were undertaken in its aftermath.

The Board's proposed guidance is designed to help government agencies and the Board identify and make available to the public all documents that will enhance, enrich, and broaden the historical record of the assassination of President John F. Kennedy. The Board seeks through this guidance to fulfill Congress's "inten[t] and emphasis

that the search and disclosure of records under this Act must go beyond" the records of previous commissions and committees established to investigate President Kennedy's assassination. Id. at 21. The Board also seeks to provide notice of the scope of its intended exercise of authority to seek additional information or records in order to fulfill its functions and responsibilities under the Act.

#### Request for Comments

The Board seeks public comment on its proposed guidance for interpretation of the term "assassination record" and of the intended scope of its exercise of authority to seek additional information or records. The Board will, at a public hearing to be noticed in the Federal Register and held after the period for comment established in this notice has expired, consider and address any comments submitted on this proposed guidance.

Part XX-- PROPOSED GUIDANCE FOR INTERPRETATION OF TERMS  
DEFINED IN THE "PRESIDENT JOHN F. KENNEDY ASSASSINATION  
RECORDS COLLECTION ACT OF 1992" (ARCA) AND FOR  
IMPLEMENTATION OF THE ARCA.

Interpretation of "Assassination Record"

1. An "assassination record" includes, but is not limited to, all records, public and private, regardless of how labeled or identified, that document, describe, report, analyze, or interpret activities and events that may have led to the assassination of President John F. Kennedy; the assassination itself; and investigations of the assassination or inquiries into the assassination.
2. An "assassination record" further includes, without limitation:

- (a) all records as defined in Sec. 3(2) of the Act;
- (b) all records collected by or segregated by all federal, state, and local government agencies in conjunction with any investigation or analysis of the assassination of President Kennedy (for example: any intra-agency investigation or analysis of the assassination; any inter-agency communication regarding the assassination; any request by the HSCA to collect documents; or any inter- or intra-agency collection or segregation of documents);
- (c) Other records or groups of records listed in the Catalog of Assassination Records (COAR), as described in paragraph 9, below.

Interpretation of "Additional Records and Information"

- 3. The term "additional information and records" includes:
  - (a) All documents used by agencies during their

*declassification review of JFK assassination records as well as all other documents, indices, and records that disclose cryptonyms, code names, or other identification material in assassination records.*

- (b) All training manuals, instructional materials, and guidelines created or used by the agencies in furtherance of their review of assassination records.*
- (c) All records, lists, and documents describing the procedure by which the agencies identified or selected assassination records for review.*
- (d) Organizational charts of government agencies.*
- (e) Records necessary and sufficient to describe the agency's:*
  - (1) records policies and schedules;*
  - (2) filing systems and organization;*
  - (3) storage facilities and locations.*



- (f) *Other records or groups of records listed in the Catalog of Additional Records and Information (CARI), as described in paragraph 9 below.*

*Sources of "Assassination Records" and "Additional Records and Information"*

4. *Assassination records and additional records and information may be located at, or under the control of, without limitation,*
- (a) *offices and entities of the executive, legislative, and judicial branches of the federal government;*
  - (b) *offices and entities of the executive, legislative, and judicial branches of state and local governments;*
  - (c) *record repositories and archives of federal, state, and local governments, including presidential libraries;*
  - (d) *record repositories and archives of universities, libraries, historical societies, and other similar organizations;*

- (e) individuals who possess the records by virtue of service with a government agency;
- (f) persons, including individuals and corporations, who have obtained the records from 4(a) through 4(e);
- (g) federal, state, and local courts where they are being held under seal;
- (h) foreign governments.

Types of Materials Included in Scope of "Assassination Record" and "Additional Records and Information"

5. The term "record" in "assassination record" (Sec. 3(2), et seq.) and "additional records and information" includes, for purposes of interpreting and implementing the ARCA:
- (a) papers, maps, and other documentary material;
  - (b) photographs;
  - (c) motion pictures;

(d) sound and video recordings;

(e) machine readable information in any form; and

(f) artifacts.

Requirement that Assassination Records be Released in their Entirety

Absent Statutory Postponements

6. An "assassination record" shall be disclosed in its entirety unless specifically postponed pursuant to the "Grounds for Postponement" established in Section 6 of the Act," and no portions of an "assassination records" shall be withheld from public disclosure on grounds of non-relevance.

Originals and Copies

7. Originals and Copies

(a) In the case of papers, maps, and other documentary material, the Board may determine that a copy of the original is sufficient;

- (b) *In the case of photographs, the term "record" is defined as the original negative if available, otherwise, the earliest generation print;*
- (c) *In the case of motion pictures, the term "record" is defined as the "camera original" if available, otherwise, the earliest generation print;*
- (d) *In the case of sound and video recordings, the term "record" is defined as the original recording, if available, otherwise, the earliest generation copy;*
- (e) *In the case of machine-readable information, the Board may determine that a copy of the original is sufficient;*
- (f) *In the case of artifacts, the term "record" is defined, solely for purposes of establishing the President John F. Kennedy Records Collection as required by statute, as the object itself.*

*In cases where a copy is authorized, the Board may, at its discretion, require a certified copy. In cases where an original, as defined above, is required, the Board may, at its discretion accept the best available copy.*

### *Additional Guidance*

- 8. "Government agency" or "government office" includes all departments, agencies, offices, divisions, foreign offices, and bureaus of any federal, state, or local government agency and includes all inter-agency working groups, committees, and meetings.*
- 9. The terms "and," "or," "any," "all," and the plural and singular forms of nouns shall be understood in their broadest and most inclusive sense and shall not be understood to be terms of limitation. Any records identified with respect to a particular person also includes any records for that person by any other*

name, pseudonym, code name, or alias. Any record described with respect to an operation or program includes any record pertaining to that program by any other name, code, or cryptonym.

### Implementing the Definition

#### 10. Catalog of Assassination Records (COAR)

- (a) The Catalog of Assassination Records is the official listing of records determined by the Board to meet the definition of "assassination record."
- (b) All decisions to include records in the COAR will be noticed in the Federal Register within 30 days of the decision.
- (c) In listing records or groups of records in the COAR, the Board must determine that the record or group of records will more likely than not enhance, enrich, and

*broaden the historical record of the assassination.*

*11. Catalog of Additional Records and Information (CARI)*

*The CARI is a listing of specific records or groups of records*

*(a) that facilitate the discovery of assassination records; or (b)*

*that potentially are assassination records.*

*Dated: January xx, 1995*

*David G. Marwell  
Executive Director*