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29 October 1999

MEMORANDUM FOR: Chief, Information Review Group, OIM

FROM: Charles A. Briggs
JFK Declassification Project, OIM

SUBJECT: The JFK Declassification Experience

1. My assumption in preparing the attached is that I was asked because: a) for seven-plus years I've been involved in the project; and b) my past Agency assignments, including being the first DO Information Review Officer, gave me the opportunity to see declassification from many vantage points: from a legalistic directorate-oriented, either-or standpoint (taking full advantage of allowed exemptions), to a "corporate" Agency-wide strategy to foster credibility while protecting secrets that should remain secret. My comments and conclusions reflect that experience and do not necessarily reflect the views of HRP management.

2. Historically, the Deputy Directors have not paid much attention to information management - unless there's a problem. Then the approach has been: what went wrong; who's to blame; how can we ensure that this doesn't happen again; what lessons have we learned? What this JFK experience reiterates is the need for a proactive, not just reactive, flexible strategy, with corporate Agency direction through the Deputies to their Information Review Officers. And the IROs, who, in essence, determine credibility and resource impact, should be supergrades, with experience in at least two directorates. Because information release has become a major management issue, the Executive Director is the obvious officer to ensure consistent and informed implementation of release policy.

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from Attachments

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SUBJECT: THE JFK DECLASSIFICATION EXPERIENCE

3. Considerable skepticism in the public, the media, and, unfortunately, the Congress results from the in-house conclusion that denial is justifiable in the absence of "official acknowledgment" of Executive Branch information, even though such information is already in the public domain, from senior Agency officials' publications, Congressional investigations, books by former Cabinet-level NSC members, even Presidents. This inflexible legal strategy may win the battle and lose the war. Lawsuits are a lot more expensive than negotiation.

4. The Agency Task Force that in 1992 considered some of the aspects of DCI Gates' "openness" philosophy did not have the benefit of the JFK experience. I suggest that a senior-level panel be established to consider an objective look at the need for continued classification of generic versus specific sources and methods information, particularly that already in the public domain and when dealing with matters of high public or historic interest. HR 70-14, referring as it does in paragraph e.(4) to "Guidelines for Declassification" in Executive Order 12356, does not promote the tactical approach which is suggested in the Comments section on page eight of the attached.


Charles A. Briggs

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29 October 1999

MEMORANDUM FOR: Chief, Information Review Group, OIM

FROM: Charles A. Briggs
JFK Declassification Project, OIM

SUBJECT: The JFK Declassification Experience

1. (AIUO) BACKGROUND: The impact of the JFK declassification law on Agency resources and information release decisions was dramatic and to the DO, traumatic. The resource trauma stemmed from the unanticipated number of years required to complete the project. In a memorandum for the DCI dated 11 June 1993, the then-Director of the Center for the Study of Intelligence outlined a plan for implementing the "openness philosophy" espoused by both DCIs Gates and Woolsey through a series of "Cold War Declassification" projects. He noted that priority, by virtue of a Congressionally-mandated deadline of 22 August 1993, had been given to declassification of the JFK collection; however, he said, "with the end of the JFK activity in sight," resources could be applied to the other projects. Six years later (actually seven since the project got underway), we are almost finished.

2. (AIUO) The substantive, versus administrative, trauma stemmed from the fact that the JFK Act superseded all other existing laws, including FOIA, the Privacy Act, the DCI's authorities, as well as Executive Orders and Regulations.¹ The Act presumed release. It did allow for appeal but only to the President from the DCI. It allowed "postponements" but only if clear and convincing evidence was presented for each requested postponement and that release would demonstrably impair the national security. The net effect was the release of names, crypts, pseudos, methods, station locations (within specified dates), file identifier numbers, and tradecraft generally, which are protectable under the other laws - and which the Agency had

¹ See OGC-92-5325, 14 Dec 92 and OGC-94-52916, 19 Sep 94 (Attachment B)

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learned to live with (See Appendix A for the Assassination Records Review Board (ARRB) "Standards For Review" and "Key Distinctions Between Those Under FOIA, Executive Order 12356 and the JFK Act," with examples).

3. (U) Finally, a Presidentially-appointed assassination review board (the ARRB) had the final say both on postponement and on relevance, subject only to a successful DCI appeal to the President. Although a few appeals were considered, particularly in the early period, none was made.

4. (U) The JFK Act called for each agency to review and transfer its relevant material to NARA by 22 August 1993. Thus, a significant set of materials was transferred from CIA to NARA in 1993, reflecting CIA's then-current judgment on the redactions permitted. Subsequent Board reviews and ARRB staff inquiries resulted in the addition of material to that original set of documents, as well as adjustments to the original set, to reflect Board actions - generally to release more information. Although many documents have been adjusted or added to the collection, requiring substantive HRG and DO reviews as well as administrative actions, the net number of pages in CIA's JFK Collection at NARA is about 260,000.

SIZE AND NATURE OF THE COLLECTION

5. (U) The material requiring line-by-line review included 17 boxes called the Oswald 201 File; 64 boxes called the "Segregated Collection" File, containing those documents made available to the House Subcommittee on Assassinations (HSCA) during its 1978 investigation; 23 boxes of HSCA referrals - staff notes in longhand and type, draft sections of the HSCA final report, correspondence on HSCA letterhead, trip reports - anything referred to us by the National Archives (NARA) for review of possible Agency equities; 19 boxes called "The Holmes Collection" - a reference collection used by the then-DO focal point for FOIA and other JFK queries, Russell Holmes; Presidential libraries material, Church Committee and Rockefeller Commission testimonies, National Security Council papers, PFIAB Minutes and other Community papers made available through the ARRB staff; and 13 boxes called "Miscellaneous," including follow-on questions from the ARRB, a previously overlooked Latin American Division working file, DCI calendars, some DI/OCI

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"Dailies." Box 64 of the "Segregated Collection" consisted of 72 reels of microfilm of complete files from which the material reviewed by the HSCA staffers was drawn: CIA staff personnel and security files; a duplicate Oswald 201 file; 26 reels of 201 files on Cubans, Russians, and Americans linked with Oswald, the JFK assassination, and the several investigations; DO project history files, and so on.

6. (AIUO) Included were printed text, almost illegible Thermofax, photographs, computer listings, typed 3X5 cards, buckslips, routing sheets, handwritten scraps - every imaginable form of documentation, with a tremendous amount of duplication, in one instance, 54 copies of a Mexico City cable. Every one of these pieces of paper had to be handled according to NARA instructions, as a unique document for inclusion in the NARA collection for public access and with an Identification Aid for research assistance and retrieval. Among other things, the collection reflected little attention to procedures propounded by NARA itself for Records Management, including destruction of duplicate copies.

7. (AIUO) The pressure to meet an initial Congressionally-mandated release date of 22 August, 1993 with the NARA-required Research Identification Forms, resulted in a crash effort at indexing done, mainly, by individuals on loan from the directorates on an overtime basis and generally unfamiliar with the collection and the subject matter. Thus, a major factor in inconsistent redacting of multiple copies of the same document in different boxes was a function of the quality of the indexing and the effort of the reviewers to cope with constantly changing guidelines. Inadvertent release was inevitable.

THE REVIEW PROCESS

8. (AIUO) The majority of the reviewers were independent contractors with many years of experience, in some cases senior management experience in at least two directorates. Two HRG reviewers had been Information Review Officers themselves as supergrades, one in the DO, the other in the DA. After the HRG review with suggestions for release in full or with redactions, the documents went to a DO review team. The DO agreement or disagreement was reflected on each document, and the package was returned for a senior-level HRP review prior to forwarding to the ARRB.

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9. (AIUO) As complicated and frustrating as the process was, it wouldn't have worked at all without the on-site presence of the DO team with their link to DO/IMS and the area divisions in Headquarters. Not surprisingly, the DO Headquarters tended to use the familiar FOIA standards, under which much more information could be withheld than was defensible under the JFK law. A major part of the JFK story was Oswald's trip to Mexico City; it took several months for the DO to agree to allow acknowledgment of the existence of a station in Mexico City and many more months to release the name, pseudo, and tenure of the chief of station - information, except for the pseudo, long since in the public domain.

10. (AIUO) Another long time debate concerned acknowledgment of teltap and photo surveillance by the Mexico City Station on the Soviet and Cuban embassies and consulates - both discussed in open literature but disguised as unidentified sensitive source materials in the Warren Commission report, along with a cropped photo and transcripts of telephone conversations that came to the station from somewhere. One issue, for a long time, was acknowledging that the teltaps were station activities. The ARRB insisted on nearly total release of Mexico City Station traffic, history, personnel, and project approvals because Oswald's trip to Mexico City remained one of the most controversial conspiracy theory aspects of the JFK story. Proof of Oswald's presence there, of his contact with the Soviet and Cuban embassies and consulates, and the reasons therefore, of the station's unfamiliarity with him prior to the assassination became evident through release of the detailed information on the teltap and photo operations.

11. (AIUO) After the ARRB staff received the Agency reviewed material, discussion of the validity of the deletions (the "postponements") occurred. In the early stages there was a tendency for the Agency Information Review Officers in the directorates to deny rather than release, to test using FOIA standards until challenged, then back off. In a couple of instances, assertions were made that the information that the ARRB said should be released was so sensitive that an appeal to the President would be made - but it wasn't. The net result of the deny-until-pushed approach was an absence of credibility, leading the ARRB to include the following statement in its Final Report to the President on 30 September 1998:

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"A small number of CIA staff officers, almost exclusively in the Directorate of Operations, unnecessarily impeded the process and damaged the Agency's interests by resisting compromise with all-or-nothing positions."

12. (AIUO) As time passed and both Agency and ARRB staffers became better educated in attempting the balance between the public interest and the legitimate need for secrecy, credibility improved, the ARRB members delegated the negotiation process to the staff. Previously, every postponed word, phrase, or paragraph had to be approved by the Board. Toward the end, only remaining disagreements were passed by the staff to the Board.

THE ISSUE OF RELEVANCE

13. (AIUO) The ARRB, under the law, determined relevance of file material - the Agency could not do so although it could and did, eventually quite successfully, negotiate. Because of the impact of the Oliver Stone movie "JFK," reflecting a 70-80% public view that the Warren Commission conclusion that Oswald acted on his own was wrong, the ARRB pursued all the major conspiracy theories. Thus, Agency files on the USSR's handling of American defectors, entry and departure controls on foreigners, alien employment and marriage with Soviet citizens, and, particularly, KGB interest in Oswald, and Nosenko's claim to have reviewed Oswald's KGB file in Moscow were declared relevant - as was the whole Nosenko bona fides issue. Agency contact with the Mafia to arrange for Castro's assassination, not known to the Warren Commission, were obviously relevant and, by extension, assassination as an Agency activity was considered relevant - hence, all such testimony before the Church Committee had to be reviewed. Of particular interest was the plot against Lumumba because of the involvement of the former Chief of the Technical Services Division, which division was also involved in the Castro assassination planning.

14. (U) The major conspiracy theory of interest to the Board concerned Cubans: either alleged Castro involvement because of his awareness of plotting against himself or Cuban exiles, furious with JFK for the Bay of Pigs failure. Thus, all files on Agency support to the many Cuban

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exile groups and CIA involvement in Project MONGOOSE were declared relevant. Hundreds of JMWAVE cables, Mexico City Station documents, and Cuban names, and many with their crypts, were released.

15. (U) Those records that the Board concluded "truly had no apparent relevance to the assassination" were designated "not believed relevant" (NBR). Cooperative negotiation resulted in about 50,000 pages being declared NBR.

INADVERTENT RELEASES/FOREIGN LIAISON CONCERNS

16. (AIUO) As noted above, inadvertent releases were inevitable. The contributing factors included: guidelines that changed almost continuously as negotiations with the ARRB reduced the claims of current sensitivity; inaccurate and incomplete records on the cover status of retirees; an initial tendency, consistent with FOIA practices, to deny crypts but to release true names- the crypt implying an Agency relationship- if the text did not imply same. (Later: duplicate copies plus mosaic pattern analysis made linkage of some crypts and true name quite easy.); and a surge of inexperienced reviewers loaned during the closing days to meet the agreed NARA deadline for the remaining files.

17. (S) The inadvertent releases of former employees names resulted in a few individual complaints but no known foreign government or liaison service complaints. Four foreign governments opposed release of their information. when queried, but no inadvertent releases were involved. (See Appendix C.) The worst slip appears to have been the name of a former NOC, living abroad, who, upon being informed, demanded and received compensation for the violation of his confidential relationship with CIA and the FBI. The other outraged former employee, also living abroad, threatened to contact the President if it became known in his adopted country that he had been CIA. His true name, on a great many documents, is the only redaction; he was of considerable interest to the Board as a key player in the HSCA investigation because he was the Mexico Branch chief and was initially appointed by the DDO to be the focal point for JFK assassination information and briefings. The HSCA allowed him to testify in alias, and the ARRB allowed the substitution of his alias wherever his true name appeared; however, the Board ruled that his true name should be

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released in May 2001 or on his death if before that date. Given the volume of the documents in which his name appeared, there were inadvertent releases of his true name.

IMPACT OF THE JFK RELEASES ON FUTURE DECLASSIFICATION PROGRAMS

18. (AIUO) Whether the JFK Act is, or should be considered, precedent-establishing has been argued since its passage. It addresses a unique, highly emotional event, of obvious interest to the public; and it should serve as a catalyst for future declassification policy discussion. But it should not be considered to have set a legal precedent. What should result is what the ARRB directed in the case of exact duplicate documents: that they all be handled consistently, with the same, or no, redactions. Other documents concerning the same or a similar event, not exact duplicates but relevant to the issue, and not subject to the tight legal demands of the JFK legislation, could be reviewed in accordance with the exemptions allowed under the FOIA or the Executive Order. However, the basic factor in deciding on release or denial should not be the avoidance of embarrassment through inconsistent or inadvertent release. It should be the current need for protection of sources and methods.

19. (U) The JFK experience did demonstrate that a traditional generic sources and methods denial is not always necessary, defensible, or smart. Instead of being negatively reactive, it may well be tactically smarter to be proactive to better ensure protection of important secrets. More on that below.

20. (AIUO) LESSONS LEARNED:

- Don't cut costs on indexing. Use experienced indexers. Aim for indexing all materials before review and processing begins. A key focus should be identification of duplicate documents.
- Use retirees with broad Agency experience under staff supervision. Because the most common release problems usually involve DO material, seriously consider an on site-DO team.

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- Develop and keep updating written guidelines, including those for coordinating third-agency documents
- Establish early what is already in the public domain. Take a fresh look at the "official release" philosophy, particularly as concerns former DCIs, Cabinet Officers, Presidents, and Congressional investigations.
- Develop better information on the cover status of retired employees.
- Avoid confrontation on marginal or non-relevant information. Avoid stonewalling on relevant information.
- Because the Information Review Officers are the key implementers of information release policy, ensure that the guidance given them by their Deputy Directors has Agency corporate equity.

21. (AIUO) COMMENTS: Information Management, Information Warfare, Information Handling, Information Declassification: at least three of these terms have elicited groans from senior Agency management and a preference to have someone else, some staffer, deal with the subject, keeping the boss out of trouble and minimally informed. But inflexible insistence on continued classification of dated information, particularly that known to the public, ignorance of what has already been declassified and released, and counterproductive stonewalling - these factors have caused trouble and will cause more trouble as the "Information Age" matures.

22. (C) In 1976, then DDI Ed Proctor wrote to the DCI, citing "the need to rationalize the classification process." A 1977 memorandum for the Agency's Executive Committee by two of the current HRG contract reviewers urged the development of an O/DDCI level (the Executive Director position having been abolished) policy review of flap potential in information release and a computer-supported index to released documents. At various times in the 1970s, consideration was given to establishing a fifth Directorate of Information Handling. After a good bit of internal agonizing, DCI Gates in April 1992 signed off on HR 70-14 to make "significant historical information available without

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damage to national security." Subsequently, a central management focal point was established in the Office of Information Management and a system that addresses part of the indexing goal and, with its mandatory declassification "metrics" (millions of pages of released documents), modulates some of the outside criticism alleging that CIA is reneging on "openness."

23. (AIUO) What is missing is a Year 2000 look at secrecy. When the FOIA law was passed and the Agency was traumatized by receipt of 150 public requests a day for information, we were able to make case law in the courts and protect sensitive sources and methods by non-arbitrary and non-capricious use of allowed exemptions. It is obvious today that a more forward-thinking strategy than the "no comment" of the 1950s and the "answer the question only as asked" of the 1970s is needed - the JFK experience demonstrated both the counterproductive result of an all-or-nothing defense and that credibility and compromise can be gained without current sensitivity loss. And the fact that Chairman Porter Goss has joined with Senator Moynihan in proposing the existence of an outside group on the model of the JFK Assassination Review Board as arbiter in the government declassification arena is a very clear signal.

24. (AIUO) In my view (and as was the case, briefly, in the past), this extremely complicated, frustrating, and ubiquitous topic requires the personal attention of the Executive Director with "corporate" Agency focused guidance to the Deputies for their personal attention and policy guidance to the IROs. And because the IROs, as the implementors of their Deputies' policies, determine the credibility and resource impact levels, they should be supergrades and experienced in at least two directorates.

25. (AIUO) The eventual development of a credible association with the JFK ARRB was a function of: (1) the patience and diplomacy of the HRP/JFK Project Officer, Barry Harrelson and (2) the presence, on site, of the DO team, without whom this exercise could not have been completed. Ironically, as is so often the case when an individual or group is between a rock and a hard place, as the DO team was between the DO desk officers, the DO/IRO, and the HRP reviewers, there were allegations of their having

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been co-opted. Both the DO team and HRG were seen, at times, as "the enemy." That kind of in-house idiocy needed instant quashing.

26. (AIUO) CONCLUSIONS: The JFK Project cost far too much, took far too long, produced no information to change the conclusion that Oswald acted alone. But it did make available to the public previously withheld operational material to negate what DCI Gates had called the most heinous of the conspiracy theories: that CIA was involved in the assassination of the President of the United States. The resource impact was a function of: the unique requirements of the law; the crash nature of the initial release; the National Archives decision that every duplicate must be reviewed and indexed as a unique document; less than satisfactory indexing, contributing to inadvertent releases and time wasted in checking for consistency in the handling of duplicates; problems in determining the cover status of retired employees; and stonewalling.

27. (AIUO) Although there was inconsistency and inadvertent release and some resultant retiree anger, we know of no significant national security breach. Previously withheld information from the Church Committee hearings and from the Presidential libraries declared relevant by the ARRB will be titillating and may stimulate FOIA requests, but the variance from FOIA rules was not a legal justification for withholding under the JFK law.

28. (U) If this experience leads to a serious objective look at the theory and practice of secrecy in this changed world, perhaps the cost will have been worth it.


Charles A. Briggs

Attachments:

- A. Excerpt from Final Report
of the ARRB (Standards)
- B. OGC Memorandum
- C. Foreign Government Information

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Attachment C

Friday, October 29, 1999

Foreign Government Information Contained in JFK Collection

CIA's JFK Collection includes Foreign Government Information (FGI) in a number of forms:

- First, some CIA documents in the collection contained FGI but, by general agreement with the Assassination Records Review Board, the source could be protected by redaction even when CIA and the Board agreed that substantive information could be released.
- Second, documents were provided by foreign governments in the aftermath of the assassination in response to requests from the US Government for information about the assassination or individuals whose names may have been associated with it. Such documents subsequently became a part of CIA's "sequestered collection" and thus were automatically designated by the JFK Board as "Assassination Records," subject to declassification review. A number of such documents were released in full in the early years of the project (1992-1994), with the concurrence of the DO/TRO, but OIM has no documentation regarding coordination with liaison.
- Third, in a number of documented cases, the DO consulted with liaison services regarding documents that were clearly identifiable as from a liaison service, and handling of both the substance and the sources was discussed with the liaison services and their views obtained. In all such documented cases, the BOARD agreed to protect the foreign government source and, as appropriate, to postpone the release of redacted portions or entire documents until the year 2017, reflecting the language of the JFK Act.

The information below reflects those instances of coordination with liaison services that are reflected in OIM records:

Australian

1. (S) A 1968 letter from Charles C. F. Spry, on Australian Security Intelligence Organisation letterhead, to DCI Richard Helms objected to the proposed release of a Warren Commission document in which reference is made to the 'Australian security service.' [The Warren Commission document (CD #97) was a memorandum to Mr. J. Lee Rankin from DDP Helms dated 22 May 1964 reporting an anonymous caller -- who described himself as a Polish chauffeur for the Soviet Embassy in Canberra -- to the US Embassy there. That memo was sanitized to delete the 'Australian security service.'] The Board did not accept the Agency's initial action to "deny in full" Sir Spry's letter and the Board's acceptance of substitute text provided only additional time to pursue the possibility of full release. Consultations between and among EA/PAMSI, OGC, and others and queries to the Australian desk, and, in turn, the Station and the Australian Government brought an acceptable compromise. ASIO authorized the release of a redacted and retyped version of Sir Spry's letter that did not reveal Sir Spry as the writer and that did not reveal an ASIO/CIA relationship, and ASIO further stated "this . . . should not be seen as setting any precedent in releasing ASIO documents." The Board postponed release of the original until 2017.

2. (S) Helms' response to Sir Spry and two related CIA documents were released in sanitized form that protected the liaison relationship. The release of the redacted portions are postponed until 2017.

3. (S) Cables exchanged between Headquarters and Canberra over the issue in Item 1 were declared assassination records, but release of the cables was postponed until 2017.

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1. (S) The BOARD wanted to release the 1963 British Security Service's (BSS) interview of the spouse of a West-East defector (Sloboda). The BSS advised the Station that release would be a violation of privacy rights in the UK. The BOARD agreed that the document was "not intrinsic to assassination story" and that the document could be postponed until 2017.

2. (S) Another British document in the collection provided information that as of 1982 "KOSTIKOV ... was posted in Beirut in 1978 ... and may still be there." (The author EPSTEIN in *Legend* claims KOSTIKOV was Lee Harvey Oswald's KGB case officer in Mexico City.) The British desk accepted the release of the one pertinent paragraph (one of five paragraphs in the document), and the Board agreed to postpone until 2017 the release of all other text and source originating information.

3. (S) The BOARD learned of the existence of a British document that the CIA possessed from the BOARD's examination of FBI files. One member of the BOARD reviewed the entire document and declared one portion of the document as relevant to the JFK assassination. The four-page section of the document regarding KGB Active Measures was released in full and further noted that it was from a foreign government that specifically requested not to be identified.

Canadian

(S) A report received through Canadian liaison channels on West-East defectors (Martin and Mitchell) is in the collection. As consultations with the Canadian desk were underway, the BOARD determined the document as not believed relevant and postponed its release until 2017.

Dutch

(S) The BOARD wanted to release two attachments (teltap transcripts) to a dispatch from the Dutch Station. The matter was coordinated with the Dutch desk, the Dutch Station, and the Director General of the Dutch National Security Service. As a result, translation substitutions provide the information from intercepted conversations on the topics of "Mr. Lee (sic)" and Richard Gibson, but redactions obscure the source of the transcripts, according to guidelines in a letter from the service. Release of the redacted portions is postponed until 2017.

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