

JFK ASSASSINATION SYSTEM
IDENTIFICATION FORM

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HISTORICAL REVIEW PROGRAM
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*From Agency
to Johnny*

OCA 1183-92

21 FEB 1992

MEMORANDUM FOR: Director of Central Intelligence

FROM: E. Page Moffett
Deputy Director of Congressional Affairs

SUBJECT: Position on JFK Resolution

1. Attached for your approval is a revised letter to OMB that states our position on the JFK Joint Resolution. The revised letter makes clear that we are in agreement with the basic purpose of the legislation--that efforts should be made to declassify and make available to the public documents pertaining to the JFK Resolution. The letter also indicates that should the Resolution pass, we will work with the newly established Assassination Material Review Board to ensure that the maximum amount of material is released consistent with the protection of intelligence sources and methods. We revised the letter to soften some of our criticisms of the Resolution, and also to indicate our position that the Agency must do the initial review of the material. The Agency would then provide the Review Board access to those documents that we determine cannot be released to the public. It is important that we inform OMB and DoJ of our views on the legislation since the DoJ is engaged in an effort to redraft the bill to accommodate concerns expressed by the affected agencies and departments.

2. You should also be aware that the DoJ has drafted a very tough letter to John Conyers, Chairman of the House Government Operations Committee, stating that they believe the resolution to be seriously flawed and unconstitutional. They argue that the resolution's disclosure requirements would severely encroach on the President's constitutional authority to protect confidential information, and they question the constitutionality of the process of appointment of members of the Review Board and various powers granted the Review Board. However, the strategy of the

SUBJECT: Position on JFK Resolution

Administration is to work with the Hill to resolve these issues rather than to simply oppose the bill outright.

3. With your approval, I will sign the letter to OMB.


E. Page Moffett

Attachment:
As stated

SUBJECT: Position on JFK Resolution

OCA/LEG/DMPearline:me/37915 (21 April 1992) OCA 1183-92
OCA 1162-92

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Washington D C 20505

Mr. Bernard H. Martin
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Martin:

This is in response to your request for the views of the Central Intelligence Agency on Senate Joint Resolution 282, the "Assassination Materials Disclosure Act of 1992", and the corresponding House Joint Resolution 454 ("the resolutions").

The Central Intelligence Agency fully supports the fundamental purpose underlying this legislation--that efforts should be made to declassify and make available to the public as expeditiously as possible government documents relating to the assassination of President Kennedy. In fact, the Director of Central Intelligence (DCI) has recently established and staffed a new unit within CIA responsible for review and declassification of documents of historical interest, including the JFK-related files, as part of the Agency's program of increased openness. Should Congress decide to enact a Joint Resolution, CIA will work closely with the appropriate body to ensure that the maximum amount of material possible is declassified consistent with the need to protect intelligence sources and methods. We anticipate that a significant part of our documents can be declassified for release pursuant to this process.

Although we are in agreement with the purpose of the resolutions, they contain several provisions that are of concern. We are prepared to work with the relevant Congressional committees to resolve these potential difficulties.

Our primary concern is that the resolutions provide that the initial review of all documents is vested in the Review Board and its staff. This approach is inconsistent

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with the DCI's statutory duty to protect intelligence sources and methods. In fact, as currently drafted, the resolutions contain no provision requiring security clearances or secure document handling by the Assassination Materials Review Board or its Executive Director/staff elements. In order to minimize the exposure of sensitive intelligence sources and methods, CIA proposes that the initial review of assassination materials be made by the originating agencies. Documents that could not be released to the public would then be reviewed by appropriately cleared Board members or perhaps a small number of cleared staff.

Second, we are also concerned that the resolutions do not provide the Agency with opportunity to object to the release of CIA information contained in documents originated by Congress or the Warren Commission. Under the resolutions, documents originated by these entities can be released by the Executive Director of the Assassination Materials Review Board without any review by the President or other Executive Branch agencies. We believe that the resolutions should provide that the agencies that originated information have the opportunity also to review the information and raise necessary objections prior to its release.

Third, the resolutions define "assassination material" broadly to include any records that relate "in any manner or degree to the assassination." We believe this definition should be interpreted to include only documents already identified by CIA as assassination material, and any additional documents the Board requests that have some reasonable relationship to the JFK assassination.

Fourth, the resolutions provide only a 30 day period for appealing decisions by the Executive Director to release information. This may not provide sufficient time for meaningful review of what could prove to be large volumes of material at one time. The resolutions should be amended to provide that an agency may request a reasonable extension of time to determine whether documents may be released.

Fifth, the Board's broad powers to subpoena witnesses and documents and hold hearings under the resolutions could conflict with the DCI's statutory duty to protect sensitive intelligence sources and methods from unauthorized disclosure. We believe that the Board should be required to consult with the DCI on such issues if intelligence equities are involved.

Finally, section 6 of the resolutions, which outlines the grounds for postponement of public release of a

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document, may not be adequate to protect Agency interests in certain respects. For example, there is no provision for postponing release of Executive privilege/deliberative process, attorney-client, or attorney work-product information. While such privileges are not likely to arise with respect to factual information directly related to the JFK assassination and could be waived in the public interest, they would be wholly unavailable under the resolutions in the rare case that they might be needed. We also believe that "intelligence agent" under section 6(1)(A) of the resolutions should be defined with reference to the Intelligence Identities Protection Act so as to protect the identity of covert employees of the Agency.

We appreciate the opportunity to comment on the assassination materials resolutions. Please contact Vicki Pepper of my staff at (703) 482-6126 with any questions or comments concerning the Agency's position on these resolutions.

Sincerely,

Stanley M. Moskowitz
Director of Congressional Affairs