REQUEST/RECEIPT FOR TRANSMISSION

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Classification

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EXECU VE OFFICE OF THE PRESIDENT OFFICE OF HANAGEMENT AND BUDGET

April 21, 1992

LEGISLATIVE REFERRAL MEMORANDUM

LRM #1-3337

TO: Legislative Liaison Officer -

STATE - Will Davis - 647-4463 - 225 DEFENSE - Samuel T. Brick, Jr. - 697-1305 - 325 TREASURY - Richard S. Carro - 566-8523 - 228 VA - Robert Coy - 535-8113 - 229 GSA - Lonnie P. Taylor - 501-0563 - 237 NSC - William Sittmann - 456-6534 - 249

CIA - David Pearline - 482-6126 - 258 NARA - John A. Constance - 501-5110 - 277

FROM: J

JAMES J. JUKES (for)

Assistant Director for Legislative Reference

OMB CONTACT:

Jim BROWN (395-3457) / Gerri Rathiff (395-3454)

SUBJECT:

Justice PROPOSED SUBSTITUTE RE: SJR 282,

Assasination Materials Disclosure Act of 1992

DEADLINE:

10:00 A.M. THURSDAY April 23, 1992

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular 2019.

Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Titles XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
David Haun
Bruce McConnell
Bob Damus
Boyden Gray
Cora Beebe
Kevin Scheid
Bruce Sasser
Betsy Anderson
Gene Schaerr
Steve Aitken

should be released to the public at the earliest opportunity, except where justification exists for postponing the disclosure of such records to a specified time or following a specified occurrence in the future.

(b) PURPOSE. -- The purpose of this Joint Resolution is to secure the expeditious disclosure of records relevant to the assassination of President John D. Kennedy as soon as practicable, consistent with the public interest.

In this joint resolution:

- (1) "Archivist" means the Archivist of the United States.
- germane to the assassination of President John F. Kennedy, but does not include (A) material to the extent that it pertains to personnel matters or other administrative affairs of a congressional committee, the warren Commission or other Executive agency; or (B) the materials, including the autopsy materials, donated by the Kennedy family to the National Archives pursuant to a deed of gift regulating access to those materials, addressed in subsection 10(b) of this Joint Resolution. As used in this subsection, "administrative affairs" has reference strictly to housekeeping functions.
- (3) "Committee" means the House Committee or Schate

- (8) "Records" includes all books, papers, paps,
 photographs, machine readable materials, or other
 documentary material, or parts thereof, regardless of
 physical form or characteristics, made or received by the
 House Committee, the Senate Committee, an executive agency,
 including the Warren Commission, under Pederal law or in
 connection with the transaction of public business and
 preserved or appropriate for preservation by the House
 Committee, Senate Committee, Warren Commission, the National
 Archives, or other Executive agency, as evidence of the
 organization, functions, policies, decisions, procedures,
 cperations, or other activities of the United States
 Government.
- (9) "Review Board" means the Assassination Naterial Review Board established under section 5.
- (10) "Senate Committee" means the Select Committee to Study Governmental Operations With Respect to Intelligence of the Senate and the Select Committee on Intelligence of the Senate acting under this Joint Resolution with respect to assassination materials in the custody of the Senate.
- (11) "Warren Commission" means the President's Commission on the Assassination of President John F. Kennedy.
- SEC. 4. PUBLIC DISCLOSURE OF NATERIALS BY CONGRESS AND THE EXECUTIVE BRANCE.
- (a) IN GENERAL. -- Except for assassination material or particular information in assassination material the disclosure

of Congress that such persons should be distinguished and impartial private citizens, that none should presently be employees of any branch of the Federal Government, and that none should have had any previous involvement with any investigation of inquiry relating to the assassination of President John F. Kennedy. In addition, it is the sense of Congress that persons appointed to the Review Board should be appointed without regard to political affiliation.

- (2) A vacancy on the Review Board shall be filled in the same manner as the original appointment was made under paragraph (1) of this subsection.
- (c) CHAIR -- The members of the Review Board shall elect 1 of its members as chair at its initial meeting.
- (d) COMPENSATION OF MEMBERS. -- (1) A member of the Review Board shall be compensated at a rate equal to the delly equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Review Board.
 - (2) A member of the Review Board shall be allowed reasonable travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the member's home or regular place of

such detail shall be without interruption or loss of civil service status or privilege.

- (4) The Review Board may produce temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.
- (f): INAPPLICABILITY OF CERTAIN LAWS. -- The following laws shall not apply to the Review Board:
 - (1) Subchapter II of chapter 5 of title 5, United States Code.
 - (2) Chapter 7 of title 5, United States Code.
 - (3) Section 3105 and 3344 of title 5, United States Code.
- (g) DUTIES. -- The Review Board shall consider and render decisions on referrals by the Executive Director and appeals as provided in section 7 for a determination --
 - (1) Whether a record constitutes assassination material subject to this Joint Resolution; and
 - (2) whether a record or particular information in a record qualifies for postponement of disclosure under this Joint Resolution.
- (h) REMOVAL. -- (i) A member of the Review Board may be removed from office, other than by impeachment and conviction.

to the notifications required by section s(g) of this Joint Resolution.

- (j) SUPPORT SERVICES. -- The Administrator of the General Services Administration shall provide administrative services for the Review Board on a reimbursable basis. The Archivist shall provide support services for the Review Board, including, as necessary, office space, clerical support, and other personnel support, on a reimbursable basis.
- (X) REGULATIONS. -- The Review Board is authorized to promulgate such regulations as may be necessary to implement the provisions of this Joint Resolution.
- (1) TERMINATION. -- (1) The Review Board and the terms of its members shall terminate within two years of the date upon which the Review Board is formally constituted pursuant to this Joint Resolution and begins operations: Provided, That, if the Review Board has not completed its work pursuant to this Joint Resolution within such two-year period, it may, by majority vote, extend its term for an additional one-year period for such purpose. Any additional extension of the Review Board and the terms of its members shall be authorized by law.
 - (2) At least thirty calendar days prior to the completion of its work, the Review Board shall provide written notice to the Congress of its intention to terminate its operations at a specified date.

SEC. 6. GROUNDS FOR POSTPONEMENT OF DISCLOSURE.

- (5) endanger the life or physical safety of any individual. SEC. 7. REVIEW OF MATERIALS BY THE BENCUTIVE DIRECTOR.
- (a) RELEASE OF ALL ASSASSINATION MATERIALS TO THE EXECUTIVE DIRECTOR -- Each Executive agency, including the National Archives, the Central Intelligence Agency, the Federal Bureau of Investigation, and the House and Senate Committees, shall make available to the Executive Director all assessination materials in their possession, which are not currently available for public inspection (include provision accommodating concern regarding physical production of information that discloses confidential sources; and national security information]. Where an agency or committée is uncertain if a record is assassination material, it shall make that record available to the Executive Director. The Executive Director shall have the authority and responsibility, where circumstances warrant, to inquire of any Executive agency or committee as to the existence of further records that may be assassination materials beyond those made available by that agency or committee and to obtain access to such records.
- (b) EXECUTIVE DIRECTOR RESPONSIBILITY. -- The Executive Director shall have responsibility for reviewing all assassination materials that are not currently available for public inspection.
- (c) CONSULTATION BY EXECUTIVE DIRECTOR. -- The Executive Director may consult with the originating body for advice and information in reaching a decision with respect to the disclosure or nondisclosure of assassination materials.

board first postpones release of any assassination material pursuant to section 8(g), the Board shall make available for public inspection and copying a notice of all such postponements determined over the sixty-day period, including a description of the size and nature of each assassination material concerned and the ground or grounds for postponement.

- (k) PRESIDENTIAL NOTICE TO PUBLIC. -- In any case in which a determination of the Board to release assassination material is supersaded by the President pursuant to section 8(h), the President shall within ten calendar days publish in the Federal Register notice of such action, including a description of the size and nature of the assassination material concerned and the ground or grounds for postponement.
- (1) IMMUNITY FROM SUIT. -- No person shall have a cause of action against members, employees or detailess of the Review Board arising out of any action or fatture to act with regard to assessination material under this Juint Resolution.
- SEC. 9. MARKING AND REVIEW OF MATERIALS THE DISCLOSURE OF WHICH IS POSTPONED.
- (a) MARKING. -- With respect to each assessination material or particular information in assessination material the disclosure of which is postponed pursuant to section 8, or for which only substitutions or summaries have been released to the public pursuant to subsection 8(h), the Review Board shall append to the material (1) all records of proceedings conducted pursuant to this Joint Resolution and relating to the material and (2) a statement of the Review Board designating, based on a review of

- (B) that, in the Executive Director's judgment, the record is assassination material that qualifies for postponement of disclosure under section 6 or contains particular information that qualifies for postponement of disclosure under section 6:
- (C) that full Review Board investigation and/or Review Board judgment appears appropriate for a determination as to whether the record or particular information in the record qualifies for postponement of disclosurs under section 6 and thus that this determination shall be vasted in the Review Board rather than the Executive Director; or
- (D) that, in the Executive Director's judgment, the record arguably rails within subsection 6(2) and thus that the determination as to whether the record qualifies for postponement of disclosure shall be vested in the Review Board rather than the Executive Director.

SEC. S. DETERMINATIONS BY THE REVIEW BOARD.

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- (a) APPIALS AND REFERRALS. -- The Review Board shall review and apply the standards for release set furth in this Joint Resolution to --
 - (1) all records that are the subject of apposis pursuant to section 7(4)(1); and
 - (2) all records referred to the Review Board by the Executive Director pursuant to section 7(9)(2).

section 6. Any reasonably segregable particular information in an assassination material shall be considered for release after deletion of information in that assassination material that qualifies for postponement of disclosure. Where an entire assassination material qualifies for postponement of disclosure pursuant to section 6, the Board may, after consultation with the originating body, and if consistent with and to the extent consistent with section 6, creats and prepare for release a summary of the assassination material in order to provide for the fullest disclosure feasible. Where particular information in an assassination material qualifies for postponement of disclosure pursuant to section 6, the Board may, after consultation with the originating body and if consistent with and; to the extent consistent with section 6, create and prepare for release appropriate substitutions for that information in order to provide for the fullest disclosure feasible.

(g) DECISIONS TO POSTPONE. -- Where the Board determines that a record is not assessination material, or that a record, or particular information in the record, qualifies for postponement of disclosure pursuant to section 6, the Board shall transmit to the originating body written notice of such determination, together with a copy of the record at issue. Such notice shall contain a statement of the reason or reasons for the Board's decision. Any decision of the Board that a record is not assessination material, or that disclosure of a record or

President John F. Kennedy that is held under the injunction of secrecy of a grand jury.

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- (B) A request for disclosure of assassination materials under this Joint Resolution shall be deemed to constitute a showing of particularized need under Rule 6 of the Federal Rules of Criminal Procedure.
- (b) AUTOPSY MATERIALS. -- The Review Board shall, pursuant to the terms of the applicable deed of gift, seek account to the autopsy photographs and x-rays donated to the National Archives by the Kennedy family under the deed of gift. The Review Board shall, as soon as practicable, submit to the appropriate committee of the House and the Select Committee on Intelligence of the Senate a report on the status of these materials and on access to these materials by individuals consistent with the deed of gift.
 - (C) SENSE OF CONGRESS .-- It is the sense of Congress that --
 - (1) the Attorney General should assist the Review Board in good faith to unseal any records that the Review Board datarmines to be relevant and held under seal by a court or under the injunction of secrecy of a grand jury:
 - Government of the Republic of Russia and neek the disclosure of all records of the government of the former Soviet Union, including the records of the Komitet Gosudarstvennoy Bezopasnosti (KGB) and the Glavnoya Razvedyvatelnoya Upravleniya (GRU), relevant to the assassination of

- (a) IN GENERAL .-- The provisions of this Joint Resolution Which pertain to the appointment and operation of the Review Board shall caked to be effective when the Review Board and the terms of its members have terminated pursuant to subsection 5(1). The remaining provisions of this Joint Resolution shall continue in effect until such time as the Archivist certifies to the President and the Congress that all assassination materials have been made available to the public in accordance with this Joint Resolution.
- (b) REVIEW BOARD RECORDS .-- Upon its termination, the records of the Roview Board, except such records as were appended to assassination material pursuant to section 9(a), shall be offered to the Archivist under the terms of 44 U.S.C. 2107. Prior to its termination, the Review Board shall designate for the Archivist which of its records will be made available for public disclosure upon transfer and which will be withheld from public disclosure. For each record to be withheld from public disclosure, the Review Board shall designate a data or an event upon which the record will become publicly available.

SEC. 13. AUTHORISATION OF APPROPRIATIONS.

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- (a) IN GENERAL .-- There are authorized to be appropriated such sums as are necessary to carry out this Joint Resolution, to remain available until expended.
- (b): INTERIM FUNDING .-- Until such time as funds are appropriated pursuant to subsection (a), the President may use