

From the Desk of [redacted]

NOTE FOR: John F. Pereira
J. Barry Harrelson
FROM: [redacted]
DATE: 04/09/96 01:51:24 PM
SUBJECT: HPSCI talking points

Thought you may be interested in seeing in advance an outline of what I plan to say at the HPSCI briefing. Of course, I will be ready to alter this according to the circumstances of the meeting!

Talking Points

I. Statutory Authorities of the JFK Board

1. The JFK Act states that all government records relating to the JFK assassination should carry a presumption of immediate disclosure and that all records will eventually be disclosed. Although the Act allows for the postponement of release of certain information, all records will be disclosed in full by 2017 unless the President certifies that protection is still necessary.

2. Under the JFK Act, the JFK Board determines what is an "assassination record" and whether an assassination record qualifies for postponement. The Board has the power to direct a government agency to make available to it, not only assassination records, but additional information which it believes is necessary to fulfill its duties under the Act. It has the power to request the Attorney General to subpoena private persons, records and other information relevant to its responsibilities under the Act.

II. Appeal Procedures set out in JFK Act

1. Once Board has determined whether a record shall be released or postponed, it must send a "Notification Letter" to the head of the agency (DCI)

2. Only recourse for an agency that disagrees with Board determination is to appeal to the President.

3. The President has 30 days from the date of the Notification Letter to reply to appeal

a. White House asks that agencies submit any

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appeals within 7 days of receiving Notification Letter

4. CIA has never before presented an appeal to the President; FBI presented an appeal last year but the White House told the parties to work out their difficulties.

III. February 8th Appeal

1. In November and December of 1995, the JFK Board notified DCI of the release of documents that would:

- implicate high-ranking [] officials in a joint tel-tap operation against foreign embassies - [] (December 7)

- reveal station in [] (December 27)

- identify sensitive unilateral source in the [] (November 28)

2. On February 8, DCI submitted an appeal to the President on these issues.

a. Admittedly, CIA did have problems getting appeal out on time. The JFK staff was very understanding of our time problems and arranged to give us more time. They too have recognized that the time periods set out in the Act are too short to bring an appeal.

b. The reason for CIA's delay was simply because the decision to appeal a Board determination to the President of the US is very difficult one to make, both on a procedural and a substantive level. As CIA never did an appeal before, it did not have an efficient system worked out.

c. Today, the procedure is as follows: Once HRG is notified of Board decisions, they immediately pass this on to OGC and the DO. The appropriate components within DO are asked whether the release would cause current damage to the national security or intelligence operations or sources. If so, they are tasked to provide a written assessment of that damage.

d. An appeal package is then prepared by OGC and the DO. This package must then be approved by GC, DDO, EXDIR, DDCI and DCI.

e. Although CIA's turn around time is improving, it can take several weeks to task the appropriate people, have them gather the information needed to prepare an appeal and then get this up to the DCI.

3. Despite our time problems, the JFK Staff was cooperative in the process of bringing this appeal to the President:

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a. Before submitting appeal to the President, I faxed copy of appeal to JFK Board's General Counsel with the idea that if it presented new and convincing evidence, he would present it to the Board during its session.

b. Shortly after submitting the appeal to the President, I spoke with White House Counsel and Counsel to JFK Board. We agreed to put the appeal on hold until the Board could review CIA's submission to the White House and possibly reconsider its determinations in light of additional information presented in the appeal.

c. I talked with JFK Board's Counsel and Executive Director regularly about the best way to handle the appeal. I arranged with them to have the General Counsel of CIA to come to the Board's February meeting and present new information regarding the issues on appeal.

d. On February 29, the General Counsel of CIA and I met with the JFK Board and their staff. We discussed issues on appeal as well as 3 other stations recently released [redacted]
[redacted]

e. Based on the information presented by CIA at this meeting, the Board reconsidered and agreed to protect all of the issues on appeal as well as 3 other stations.

IV. Future appeal procedures

1. Both JFK Board and CIA agree that we should never have to appeal something to the President and we should try to work out difficult issues on our own.

2. In the last 2 months, when CIA believed that a release would damage the national security, the Board has invited us to their meetings to present additional evidence on the issue. In some cases, they have reconsidered their decision and protected the information.

3. The Board also recently released [redacted] station - we are arranging to meet with them at the end of this month to present stronger arguments for protecting this station.

4. The Board is now considering the release of names of CIA employees who retired under cover. It is very important for CIA's mission that the names of its employees, especially those who remain covert, be protected even after retirement. In the spirit of cooperation and in the hopes of getting the Board to understand this, CIA helped arrange a meeting between the JFK Board's General Counsel and a retired CIA covert employee

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currently living in Europe. CIA hopes that after hearing from the employee about his objections to having his name released and the harm that may come to him, the Board will agree to protect his name, and others like him, from release.

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