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cc: FILES
7 Mr. Simms
Mrs. Copeland ✓
Mr. Reis

4 AUG 17 1966

✓ Dr. Robert H. Bahner
✓ Archivist of the United States
✓ National Archives and Records Service
Washington, D.C. 20408

*Int to
Bahner
8/17/66
[unclear]*

Dear Dr. Bahner:

I have been asked to reply to the informal inquiries which you and the Deputy Administrator of General Services, Joe E. Moody, have made to this Department concerning the authority and procedures for releasing for public disclosure certain of the documentary material that was produced or acquired by the President's Commission on the Assassination of President Kennedy (the Warren Commission).

The Commission has, of course, completed its investigation, submitted its report, and transferred all of its records, papers, and other documentary material to the National Archives for preservation. Many scholars and other persons are anxious to study that material.

Last year, the Executive departments and agencies which had furnished documentary material to the Commission developed certain guidelines for determining which of the items they had furnished could be released to the public. As a result of the applications of these guidelines, approximately two thirds of that material has been made available to the public.

Since the Commission did not provide any guidance or impose any restrictions in this regard at the time that its files were transferred to your agency, since the Commission is now out of existence, and since your agency is now the receiver and custodian of the records of the Commission, this Department believes the Administrator of General Services, acting through you and your staff, is now in the same legal and administrative position with

respect to the records, papers, and other documentary material transferred to your agency by the Commission, as the Commission was prior to that transfer.

Consequently, we believe that your agency has the authority and obligation to review that material and to determine which of it should be made available to, or withheld from, the public at this time, and to conduct subsequent reviews of such material at reasonable intervals until all of it is released. In this regard, we believe it would be appropriate for your reviews of that material to be made in conformity with the guidelines which were developed and applied by the various Executive departments and agencies with respect to the material they had contributed to the Commission. However, we do not consider those guidelines as imposing absolute standards for the release or disclosure of Commission-produced material in your custody. If in any specific case a sound legal basis exists for withholding or for releasing any such material notwithstanding provisions of the guidelines, your agency should, of course, disregard the guidelines. Similarly, if sound archival or other principles or reasons, not inconsistent with law, exist for disregarding the guidelines in some particular case, we believe that it would be appropriate for your agency to disregard the guidelines in that case. If any significant legal problem should arise in this regard, the Department of Justice will, of course, be happy to assist you in any way that we can.

/ Sincerely,

4 Frank M. Wozencraft
/ Assistant Attorney General
/ Office of Legal Counsel

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GUIDELINES FOR REVIEW OF MATERIALS SUBMITTED TO
THE PRESIDENT'S COMMISSION ON THE ASSASSINATION OF PRESIDENT KENNEDY

1. Statutory requirements prohibiting disclosure should be observed.
2. Security classifications should be respected, but the agency responsible for the classification should carefully re-evaluate the contents of each classified document and determine whether the classification can, consistently with the national security, be eliminated or downgraded.
3. Unclassified material which has not already been disclosed in another form should be made available to the public on a regular basis unless disclosure--
 - (A) Would be detrimental to the administration and enforcement of the laws and regulations of the United States and its agencies;
 - (B) Might reveal the identity of confidential sources of information and impede or jeopardize future investigations by precluding or limiting the use of the same or similar sources hereafter;
 - (C) Would be a source of embarrassment to innocent persons, who are the subject, source, or apparent source of the material in question, because it contains gossip and rumor or details of a personal nature having no significant connection with the assassination of the President;

(D) Would reveal material pertinent to the criminal prosecution of Jack Ruby for the murder of Lee Harvey Oswald, prior to the final judicial determination of that case.

Whenever one of the above reasons for nondisclosure may apply, your department should, in determining whether or not to authorize disclosure, weigh that reason against the overriding policy of the Executive Branch favoring the fullest possible disclosure.

Unless sooner released to the public, classified and unclassified material which is not now made available to the public shall, as a minimum, be reviewed by the agency concerned five years and ten years after the initial examination has been completed. The criteria applied in the initial examination, outlined above, should be applied to determine whether changed circumstances will permit further disclosure. Similar reviews should be undertaken at ten-year intervals until all materials are opened for legitimate research purposes. The Archivist of the United States will arrange for such review at the appropriate time. Whenever possible provision should be made for the automatic declassification of classified material which cannot be declassified at this time.