

Executive Documents

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Archivist of United States, see Parts 1, 2, and 20 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

§ 2105. Personnel and services

(a)(1) The Archivist is authorized to select, appoint, employ, and fix the compensation of such officers and employees, pursuant to part III of title 5, as are necessary to perform the functions of the Archivist and the Administration.

(2) Notwithstanding paragraph (1), the Archivist is authorized to appoint, subject to the consultation requirements set forth in paragraph (f)(2) of section 2203 of this title,¹ a director at each Presidential archival depository established under section 2112 of this title. The Archivist may appoint a director without regard to subchapter I and subchapter VIII of chapter 33 of title 5, United States Code, governing appointments in the competitive service and the Senior Executive Service. A director so appointed shall be responsible for the care and preservation of the Presidential records and historical materials deposited in a Presidential archival depository, shall serve at the pleasure of the Archivist and shall perform such other functions as the Archivist may specify.

(b) The Archivist is authorized to obtain the services of experts and consultants under section 3109 of title 5.

(c) Notwithstanding the provisions of section 973 of title 10 or any other provision of law, the Archivist, in carrying out the functions of the Archivist or the Administration, is authorized to utilize in the Administration the services of officials, officers, and other personnel in other Federal agencies, including personnel of the armed services, with the consent of the head of the agency concerned.

(d) Notwithstanding section 1342 of title 31, United States Code, the Archivist is authorized to accept and utilize voluntary and uncompensated services.

(Added Pub. L. 98-497, title I, §102(a)(2), Oct. 19, 1984, 98 Stat. 2281; amended Pub. L. 107-67, title VI, § 649, Nov. 12, 2001, 115 Stat. 556.)

Editorial Notes

REFERENCES IN TEXT

Paragraph (f)(2) of section 2203 of this title, referred to in subsec. (a)(2), was redesignated (g)(2) of section 2203 of this title by Pub. L. 113-187, §2(c)(3), Nov. 26, 2014, 128 Stat. 2006.

PRIOR PROVISIONS

A prior section 2105 was renumbered section 2109 of this title.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107-67 amended subsec. (a) generally, designating existing provisions as par. (1) and adding par. (2).

¹ See References in Text note below.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as an Effective Date of 1984 Amendment note under section 2102 of this title.

§ 2106. Reports to Congress

The Archivist shall submit to the Congress, in January of each year and at such other times as the Archivist finds appropriate, a report concerning the administration of functions of the Archivist, the Administration, the National Historical Publications and Records Commission, and the National Archives Trust Fund. Such report shall describe—

(1) program administration and expenditures of funds, both appropriated and non-appropriated, by the Administration, the Commission, and the Trust Fund Board;

(2) research projects and publications undertaken by Commission grantees, and by Trust Fund grantees, including detailed information concerning the receipt and use of all appropriated and nonappropriated funds;

(3) by account, the moneys, securities, and other personal property received and held by the National Archives Trust Fund Board, and of its operations, including a listing of the purposes for which funds are transferred to the National Archives and Records Administration for expenditure to other Federal agencies; and

(4) the matters specified in section 2904(c)(8) of this title.

(Added Pub. L. 98-497, title I, §102(a)(2), Oct. 19, 1984, 98 Stat. 2282.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2106 was renumbered section 2110 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as an Effective Date of 1984 Amendment note under section 2102 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to the requirement that the Archivist submit a report to Congress in January of each year, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the last item on page 179 of House Document No. 103-7.

§ 2107. Acceptance of records for historical preservation

(a) IN GENERAL.—When it appears to the Archivist to be in the public interest, the Archivist may—

(1) accept for deposit with the National Archives of the United States the records of a Federal agency, the Congress, the Architect of the Capitol, or the Supreme Court determined by the Archivist to have sufficient historical or other value to warrant their continued preservation by the United States Government;

(2) direct and effect the transfer of records of a Federal agency determined by the Archivist to have sufficient historical or other value to warrant their continued preservation by the United States Government to the National Archives of the United States, as soon as practicable, and at a time mutually agreed upon by the Archivist and the head of that Federal agency not later than thirty years after such records were created or received by that agency, unless the head of such agency has certified in writing to the Archivist that such records must be retained in the custody of such agency for use in the conduct of the regular business of the agency;

(3) direct and effect, with the approval of the head of the originating Federal agency, or if the existence of the agency has been terminated, with the approval of the head of that agency's successor in function, if any, the transfer of records, deposited or approved for deposit with the National Archives of the United States to public or educational institutions or associations; title to the records to remain vested in the United States unless otherwise authorized by Congress; and

(4) transfer materials from private sources authorized to be received by the Archivist by section 2111 of this title.

(b) EARLY TRANSFER OF RECORDS.—The Archivist—

(1) in consultation with the head of the originating Federal agency, is authorized to accept a copy of the records described in subsection (a)(2) that have been in existence for less than thirty years; and

(2) may not disclose any such records until the expiration of—

(A) the thirty-year period described in paragraph (1);

(B) any longer period established by the Archivist by order; or

(C) any shorter period agreed to by the originating Federal agency.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1287, §2103; Pub. L. 94-575, §4(a), Oct. 21, 1976, 90 Stat. 2727; Pub. L. 95-416, §1(a), Oct. 5, 1978, 92 Stat. 915; renumbered §2107 and amended Pub. L. 98-497, title I, §§102(a)(1), 107(a)(1), Oct. 19, 1984, 98 Stat. 2280, 2285; Pub. L. 113-187, §3(a), Nov. 26, 2014, 128 Stat. 2007.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §397(a) (June 30, 1949, ch. 288, title V, §507, as added Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583; and amended July 12, 1952, ch. 703, §1(o), (p), 66 Stat. 594; July 12, 1955, ch. 329, 69 Stat. 297; Aug. 12, 1955, ch. 859, 69 Stat. 695; July 3, 1956, ch. 513, §4, 70 Stat. 494; June 13, 1957, Pub. L. 85-51, 71 Stat. 69).

Editorial Notes

PRIOR PROVISIONS

A prior section 2107 was renumbered section 2111 of this title.

AMENDMENTS

2014—Pub. L. 113-187 amended section generally. Prior to amendment, section provided for the acceptance of records by and transfer of records to the National Archives for historical preservation.

1984—Pub. L. 98-497, §107(a)(1), substituted “Archivist” for “Administrator of General Services” in provisions preceding par. (1), substituted “, the Congress, the Architect of the Capitol, or the Supreme Court” for “or of the Congress” in par. (1), substituted “Archivist” for “Administrator” in par. (2), and substituted “Archivist” for “Administrator” and “section 2111” for “section 2107” in par. (4).

1978—Par. (2). Pub. L. 95-416 substituted “thirty years” for “fifty years”.

1976—Par. (4). Pub. L. 94-575 substituted reference to section “2107” for “3106”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-345, §1, Oct. 6, 1994, 108 Stat. 3128, provided that: “This Act [amending provisions set out as a note below] may be cited as the ‘President John F. Kennedy Assassination Records Collection Extension Act of 1994.’”

CIVIL RIGHTS COLD CASE RECORDS COLLECTION

Pub. L. 115-426, Jan. 8, 2019, 132 Stat. 5489, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Civil Rights Cold Case Records Collection Act of 2018’.

“SEC. 2. DEFINITIONS.

“In this Act:

“(1) ARCHIVIST.—The term ‘Archivist’ means the Archivist of the United States.

“(2) CIVIL RIGHTS COLD CASE.—The term ‘civil rights cold case’ means any unsolved case—

“(A) arising out of events which occurred during the period beginning on January 1, 1940 and ending on December 31, 1979; and

“(B) related to—

“(i) section 241 of title 18, United States Code (relating to conspiracy against rights);

“(ii) section 242 of title 18, United States Code (relating to deprivation of rights under color of law);

“(iii) section 245 of title 18, United States Code (relating to federally protected activities);

“(iv) sections 1581 and 1584 of title 18, United States Code (relating to peonage and involuntary servitude);

“(v) section 901 of the Fair Housing Act (42 U.S.C. 3631); or

“(vi) any other Federal law that was—

“(I) in effect on or before December 31, 1979; and

“(II) enforced by the criminal section of the Civil Rights Division of the Department of Justice before the date of enactment of this Act [Jan. 8, 2019].

“(3) CIVIL RIGHTS COLD CASE RECORD.—The term ‘civil rights cold case record’ means a record that—

“(A) is related to a civil rights cold case; and

“(B) was created or made available for use by, obtained by, or otherwise came into the possession of—

“(i) the Library of Congress;

“(ii) the National Archives;

“(iii) any executive agency;

“(iv) any independent agency;

“(v) any other entity of the Federal Government; or

“(vi) any State or local government, or component thereof, that provided support or assistance or performed work in connection with a Federal inquiry into a civil rights cold case.

“(4) COLLECTION.—The term ‘Collection’ means the Civil Rights Cold Case Records Collection established under section 3.

“(5) EXECUTIVE AGENCY.—The term ‘executive agency’ means an agency, as defined in section 552(f) of title 5, United States Code.

“(6) GOVERNMENT OFFICE.—The term ‘Government office’ means any office of the Federal Government that has possession or control of 1 or more civil rights cold case records.

“(7) GOVERNMENT OFFICIAL.—The term ‘Government official’ means any officer or employee of the United States, including elected and appointed officials.

“(8) NATIONAL ARCHIVES.—The term ‘National Archives’ means the National Archives and Records Administration and all components thereof, including Presidential archival depositories established under section 2112 of title 44, United States Code.

“(9) OFFICIAL INVESTIGATION.—The term ‘official investigation’ means the review of a civil rights cold case conducted by any entity of the Federal Government either independently, at the request of any Presidential commission or congressional committee, or at the request of any Government official.

“(10) ORIGINATING BODY.—The term ‘originating body’ means the executive agency, Government commission, congressional committee, or other Governmental entity that created a record or particular information within a record.

“(11) PUBLIC INTEREST.—The term ‘public interest’ means the compelling interest in the prompt public disclosure of civil rights cold case records for historical and Governmental purposes and for the purpose of fully informing the people of the United States about the history surrounding all civil rights cold cases in the United States.

“(12) RECORD.—The term ‘record’ has the meaning given the term in section 3301 of title 44, United States Code.

“(13) REVIEW BOARD.—The term ‘Review Board’ means the Civil Rights Cold Case Records Review Board established under section 5.

“SEC. 3. CIVIL RIGHTS COLD CASE RECORDS COLLECTION AT THE NATIONAL ARCHIVES AND RECORD ADMINISTRATION.

“(a) IN GENERAL.—

“(1) ESTABLISHMENT OF THE CIVIL RIGHTS COLD CASE RECORDS COLLECTION.—Not later than 60 days after the date of enactment of this Act [Jan. 8, 2019], the Archivist shall—

“(A) commence establishing a collection of civil rights cold case records to be known as the ‘Civil Rights Cold Case Records Collection’ that ensures the physical integrity and original provenance of all records in the Collection;

“(B) commence preparing and publishing the subject guidebook and index to the Collection; and

“(C) establish criteria for Government offices to follow when transmitting copies of civil rights cold case records to the Archivist, to include required metadata.

“(2) CONTENTS OF COLLECTION.—The Collection shall include—

“(A) a copy of each civil rights cold case record—

“(i) that has not been transmitted to the Archivist, which shall be transmitted to the Archivist in accordance with section 2107 of title 44, United States Code, by the entity described in section 2(3)(B) in possession of the civil rights cold case record, except in the case of a State or local government;

“(ii) that has been transmitted to the Archivist or disclosed to the public in an unredacted form before the date of the enactment of this Act;

“(iii) that is required to be transmitted to the Archivist; or

“(iv) the disclosure of which is postponed under this Act; and

“(B) all Review Board records, as required under this Act.

“(b) DISCLOSURE OF RECORDS.—All civil rights cold case records transmitted to the Archivist for disclosure to the public—

“(1) shall be included in the Collection;

“(2) not later than 60 days after the transmission of the record to the Archivist, shall be available to the public for inspection and copying at the National Archives; and

“(3) shall be prioritized for digitization by the National Archives.

“(c) FEES FOR COPYING.—The Archivist shall—

“(1) use efficient electronic means when possible;

“(2) charge fees for copying civil rights cold case records; and

“(3) grant waivers of such fees pursuant to the standard established under section 552(a)(4) of title 5, United States Code.

“(d) ADDITIONAL REQUIREMENTS.—The Archivist shall ensure the security of civil rights cold case records in the Collection for which disclosure is postponed.

“(e) TRANSMISSION TO THE NATIONAL ARCHIVES.—

“(1) IN GENERAL.—Subject to paragraph (2), each Government office shall, in accordance with the criteria established by the Archivist under subsection (a)(1)(C)—

“(A) as soon as is reasonably practicable, and in any event not later than 2 years after the date of the enactment of this Act, transmit to the Archivist, for the Archivist to make available to the public in accordance with subsection (b), a copy of each civil rights cold case record that can be publicly disclosed, including any such record that is publicly available on the date of enactment of this Act, without any redaction, adjustment, or withholding under the standards of this Act; and

“(B) transmit to the Archivist upon approval for postponement by the Review Board or upon completion of other action authorized by this Act, a copy of each civil rights cold case record for which public disclosure has been postponed, in whole or in part, under the standards of this Act, to become part of the protected Collection.

“(2) REOPENING OF CASES.—If, not later than 2 years after the date of enactment of this Act, the Attorney General submits to the Archivist a certification that the Attorney General intends to reopen and pursue prosecution of the civil rights cold case to which a civil rights cold case record relates, the Attorney General shall transmit to the Archivist the civil rights cold case record in accordance with paragraph (1)—

“(A) not later than 90 days after—

“(i) final judgment is entered in the proceedings relating to the civil rights cold case; or

“(ii) proceedings relating to the civil rights cold case are dismissed with prejudice; or

“(B) not later than the date that is 1 year after the date on which the Attorney General submits to the Archivist the certification, if an indictment or information has not been filed with respect to the civil rights cold case.

“(f) PERIODIC REVIEW OF POSTPONED CIVIL RIGHTS COLD CASE RECORDS.—

“(1) IN GENERAL.—Each civil rights cold case record that is redacted or for which public disclosure is postponed shall be reviewed not later than December 31 each year by the entity submitting the record and the Archivist, consistent with the recommendations of the Review Board under section 7(c)(3)(B).

“(2) REQUIREMENTS OF PERIODIC REVIEW.—The periodic review under paragraph (1) shall address the public disclosure of additional civil rights cold case records in the Collection under the standards of this Act.

“(3) UNCLASSIFIED WRITTEN DESCRIPTION.—Any civil rights cold case record for which postponement of public disclosure is continued shall include an unclassified written description of the reason for such continued postponement, which shall be provided to the Archivist and made available on a publicly accessible

website upon the determination to continue the postponement.

“(4) FULL DISCLOSURE OF CIVIL RIGHTS COLD CASE RECORD REQUIRED.—

“(A) IN GENERAL.—Each civil rights cold case record that is not publicly disclosed in full as of the date on which the Review Board terminates under section 5(n) shall be publicly disclosed in full and available in the Collection not later than 25 years after the date of enactment of this Act unless—

“(i) the head of the originating body, an executive agency, or other Government office recommends in writing the exemption of the record or information, the release of which would clearly and demonstrably be expected to—

“(I) cause identifiable or describable damage to national security, military defense, law enforcement, intelligence operations, or the conduct of foreign relations that is of such gravity that it outweighs the public interest in disclosure; or

“(II) reveal information described in paragraphs (1) through (9) of section 3.3(b) of Executive Order 13526 (75 Fed. Reg. 707; relating to classified national security information) [50 U.S.C. 3161 note];

“(ii) the written recommendation described in clause (i)—

“(I) is provided to the Archivist not later than 180 days before the date that is 25 years after the date of enactment of this Act; and

“(II) includes—

“(aa) a justification of the recommendation to postpone disclosure; and

“(bb) a recommended specified time at which or a specified occurrence following which the material may be appropriately disclosed to the public under this Act; and

“(iii) the Archivist agrees with the written recommendation described in clause (i).

“(B) NOTIFICATION.—If the Archivist does not agree with the recommendation described in subparagraph (A)(i), the Archivist shall notify the head of the originating body, executive agency, or other Government office making the recommendation not later than 90 days before the date that is 25 years after the date of enactment of this Act.

“(g) DIGITIZATION OF RECORDS.—Each executive agency shall make text searchable documents available to the Review Board pursuant to standards established under section 552(a)(3) of title 5, United States Code.

“(h) NOTICE REGARDING PUBLIC DISCLOSURE.—

“(1) FINDING.—Congress finds that the public release of case-related documents and information without notice may significantly affect the victims of the events to which the case relates and their next of kin.

“(2) NOTICE.—Not later than 7 days before a civil rights cold case record is publicly disclosed, the executive agency releasing the civil rights cold case record, in coordination with the Government office that had possession or control of the civil rights cold case record, shall take all reasonable efforts to provide the civil rights cold case record to the victims of the events to which the civil rights cold case record relates, or their next of kin.

“SEC. 4. GROUNDS FOR POSTPONEMENT OF PUBLIC DISCLOSURE OF RECORDS.

“Disclosure of civil rights cold case records or particular information within a civil rights cold case record to the public may be postponed subject to the limitations of this Act if disclosure would clearly and demonstrably be expected to—

“(1)(A) cause identifiable or describable damage to national security, military defense, law enforcement, intelligence operations, or the conduct of foreign relations that is of such gravity that it outweighs the public interest in disclosure; or

“(B) reveal information described in paragraphs (1) through (9) of section 3.3(b) of Executive Order 13526

(75 Fed. Reg. 707; relating to classified national security information);

“(2)(A) reveal the name or identity of a living individual who provided confidential information to the United States; and

“(B) pose a substantial risk of harm to that individual;

“(3) constitute an unwarranted invasion of personal privacy;

“(4)(A) compromise the existence of an understanding of confidentiality currently requiring protection between a Government agent and a cooperating individual or group; and

“(B) be so harmful that the understanding of confidentiality outweighs the public interest;

“(5) endanger the life or physical safety of any individual; or

“(6) interfere with ongoing law enforcement proceedings.

“SEC. 5. ESTABLISHMENT AND POWERS OF THE CIVIL RIGHTS COLD CASE RECORDS REVIEW BOARD.

“(a) ESTABLISHMENT.—There is established, as an independent agency, a board to be known as the Civil Rights Cold Case Records Review Board.

“(b) APPOINTMENT.—

“(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 5 individuals to serve as members of the Review Board, to ensure and facilitate the review, transmission to the Archivist, and public disclosure of civil rights cold case records.

“(2) INITIAL APPOINTMENT.—

“(A) IN GENERAL.—Initial appointments to the Review Board shall, so far as practicable, be made not later than 60 days after the date of enactment of this Act [Jan. 8, 2019].

“(B) RECOMMENDATIONS.—In making appointments to the Review Board, the President may consider any individuals recommended by the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association.

“(C) EXTENSION.—If an organization described in subparagraph (B) does not recommend at least 2 nominees meeting the qualifications stated in paragraph (3) within 60 days after the date of enactment of this Act, the deadline under subparagraph (A) shall be extended until the earlier of 60 days after the date on which such recommendations are made or 120 days after the date of enactment of this Act.

“(D) ADDITIONAL RECOMMENDATIONS.—The President may request that any organization described in subparagraph (B) submit additional recommended nominees.

“(3) QUALIFICATIONS.—Individuals nominated to the Review Board shall—

“(A) not have had any previous involvement with any official investigation or inquiry conducted by the Federal Government, or any State or local government, relating to any civil rights cold case;

“(B) be distinguished individuals of high national professional reputation in their respective fields who are capable of exercising the independent and objective judgment necessary to fulfill their role in ensuring and facilitating the review, transmission to the public, and public disclosure of files related to civil rights cold cases and who possess an appreciation of the value of such material to the public, scholars, and government; and

“(C) include at least 1 professional historian and 1 attorney.

“(c) SECURITY CLEARANCES.—All Review Board nominees shall be processed for the necessary security clearances in an accelerated manner by the appropriate Federal agencies and subject to the standard procedures for granting such clearances.

“(d) VACANCY.—A vacancy on the Review Board shall be filled in the same manner as the original appointment within 60 days of the occurrence of the vacancy.

“(e) CHAIRPERSON.—The members of the Review Board shall elect 1 of the members as chairperson.

“(f) REMOVAL OF REVIEW BOARD MEMBER.—

“(1) IN GENERAL.—No member of the Review Board shall be removed from office, other than—

“(A) by impeachment and conviction; or

“(B) by the action of the President for inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the member’s duties.

“(2) REPORT.—

“(A) IN GENERAL.—If a member of the Review Board is removed from office, and that removal is by the President, not later than 10 days after the removal, the President shall submit to the Committee on Oversight and Government Reform [now Committee on Oversight and Reform] of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report specifying the facts found and the grounds for the removal.

“(B) PUBLICATION.—The President shall publish in the Federal Register a report submitted under subparagraph (A), except that the President may, if necessary to protect the rights of a person named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report until the completion of such pending cases or pursuant to privacy protection requirements in law.

“(3) JUDICIAL REVIEW.—

“(A) IN GENERAL.—A member of the Review Board removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia.

“(B) RELIEF.—The member may be reinstated or granted other appropriate relief by order of the court.

“(g) COMPENSATION OF MEMBERS.—

“(1) IN GENERAL.—A member of the Review Board shall be compensated at a rate equal to the daily 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) TRAVEL EXPENSES.—A member of the Review Board shall be allowed reasonable travel expenses, including per diem in lieu of subsistence, at rates 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 business in the performance of services for the Review Board.

“(h) DUTIES OF THE REVIEW BOARD.—

“(1) IN GENERAL.—The Review Board shall consider and render decisions on a determination by a Government office to seek to postpone the disclosure of civil rights cold case records.

“(2) DECISIONS.—In carrying out paragraph (1), the Review Board shall consider and render decisions on—

“(A) whether a record constitutes a civil rights cold case record; and

“(B) whether a civil rights cold case record or particular information in a record qualifies for postponement of disclosure under this Act.

“(i) POWERS.—

“(1) IN GENERAL.—The Review Board shall have the authority to act in a manner prescribed under this Act including the authority to—

“(A) obtain access to civil rights cold case records that have been identified and organized by a Government office;

“(B) direct a Government office to make available to the Review Board, and if necessary investigate the facts surrounding, additional information, records, or testimony from individuals, which

the Review Board has reason to believe is required to fulfill its functions and responsibilities under this Act;

“(C) subpoena private persons to compel the production of documents and other records relevant to its responsibilities under this Act;

“(D) require any Government office to account in writing for the destruction of any records relating to civil rights cold cases;

“(E) receive information from the public regarding the identification and public disclosure of civil rights cold case records; and

“(F) hold hearings, administer oaths, and subpoena documents and other records.

“(2) ENFORCEMENT OF SUBPOENAS.—Any subpoena issued under this subsection may be enforced by any appropriate Federal court acting pursuant to a lawful request of the Review Board.

“(j) WITNESS IMMUNITY.—The Review Board shall be considered to be an agency of the United States for purposes of chapter 601 of title 18, United States Code.

“(k) OVERSIGHT.—

“(1) IN GENERAL.—The Committee on Oversight and Government Reform [now Committee on Oversight and Reform] of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate shall have continuing oversight jurisdiction with respect to the official conduct of the Review Board and the disposition of postponed records after termination of the Review Board, and shall have access to any records held or created by the Review Board.

“(2) COOPERATION OF REVIEW BOARD.—The Review Board shall have a duty to cooperate with the exercise of the oversight jurisdiction described in paragraph (1).

“(l) SUPPORT SERVICES.—The Administrator of General Services shall provide administrative services for the Review Board on a reimbursable basis.

“(m) INTERPRETIVE REGULATIONS.—The Review Board may issue interpretive regulations.

“(n) TERMINATION.—

“(1) IN GENERAL.—The Review Board shall terminate not later than 4 years after the date of enactment of this Act, except that the Review Board may, by majority vote, extend its term for an additional 1-year period if the Review Board has not completed its work within that 4-year period.

“(2) REPORTS.—Before its termination, the Review Board shall submit reports to the President and the Congress, including a complete and accurate accounting of expenditures during its existence, and shall complete all other reporting requirements under this Act.

“(3) TRANSFER OF RECORDS.—

“(A) IN GENERAL.—Upon termination, the Review Board shall transfer all of its records to the Archivist for inclusion in the Collection.

“(B) PRESERVATION OF RECORDS.—The records of the Review Board shall not be destroyed, except that the Archivist may destroy routine administrative records covered by a general records schedule following notification in the Federal Register and after considering comments.

“SEC. 6. REVIEW BOARD PERSONNEL.

“(a) CHIEF OF STAFF.—

“(1) APPOINTMENT.—Not later than 45 days after the initial meeting of the Review Board, and without regard to political affiliation, the Review Board shall appoint an individual to the position of Chief of Staff of the Review Board.

“(2) REQUIREMENTS.—The individual appointed as Chief of Staff—

“(A) shall be a citizen of the United States of integrity and impartiality who is a distinguished professional; and

“(B) shall have had no previous involvement with any official investigation or inquiry relating to civil rights cold cases.

“(3) CANDIDATE TO HAVE CLEARANCES.—A candidate for Chief of Staff shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

“(4) APPROVAL CONTINGENT ON PRIOR CLEARANCE.—A candidate for Chief of Staff shall qualify for the necessary security clearance prior to being appointed by the Review Board.

“(5) DUTIES.—The Chief of Staff shall—

“(A) serve as principal liaison to Government offices;

“(B) be responsible for the administration and coordination of the Review Board’s review of records;

“(C) be responsible for the administration of all official activities conducted by the Review Board; and

“(D) have no authority to decide or determine whether any record shall be disclosed to the public or postponed for disclosure.

“(6) REMOVAL.—The Chief of Staff shall not be removed except upon a majority vote of the Review Board to remove the Chief of Staff for cause on the grounds of inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the responsibilities of the Chief of Staff or the employees of the Review Board.

“(b) STAFF.—

“(1) ADDITIONAL PERSONNEL.—The Review Board may, in accordance with the civil service laws but without regard to civil service laws and regulations for appointments in the competitive service under subchapter I of chapter 33 of title 5, United States Code, appoint and terminate additional employees as are necessary to enable the Review Board and its Chief of Staff to perform their duties.

“(2) REQUIREMENTS.—An individual appointed as an employee of the Review Board—

“(A) shall be a private citizen of integrity and impartiality; and

“(B) shall have had no previous involvement with any official investigation or inquiry relating to civil rights cold cases.

“(3) NOMINATIONS.—Before making an appointment pursuant to paragraph (1), the Review Board shall consider individuals recommended by the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association.

“(4) SECURITY CLEARANCES.—A candidate shall qualify for the necessary security clearance prior to being appointed by the Review Board.

“(c) COMPENSATION.—The Review Board shall fix the compensation of the Chief of Staff and other employees in accordance with title 5, United States Code, except that the rate of pay for the Chief of Staff and other employees may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

“(d) ADVISORY COMMITTEES.—The Review Board may create advisory committees to assist in fulfilling the responsibilities of the Review Board under this Act.

“SEC. 7. REVIEW OF RECORDS BY THE REVIEW BOARD.

“(a) CUSTODY OF RECORDS REVIEWED BY THE BOARD.—Pending the outcome of the Review Board’s review activity, a Government office shall retain custody of a civil rights cold case record for purposes of preservation, security, and efficiency, unless—

“(1) the Review Board requires the physical transfer of records for reasons of conducting an independent and impartial review; or

“(2) such transfer is necessary for an administrative hearing or other official Review Board function.

“(b) STARTUP REQUIREMENTS.—The Review Board shall—

“(1) not later than 90 days after the date on which all members of the Review Board are appointed, publish a schedule for review of all civil rights cold case records in the Federal Register; and

“(2) not later than 180 days after the enactment of this Act [Jan. 8, 2019], begin its review of civil rights cold case records under this Act.

“(c) DETERMINATION OF THE REVIEW BOARD.—

“(1) IN GENERAL.—The Review Board shall direct that copies of all civil rights cold case records be transmitted to the Archivist and disclosed to the public in the Collection in the absence of clear and convincing evidence that—

“(A) a Government record is not a civil rights cold case record; or

“(B) a Government record or particular information within a civil rights cold case record qualifies for postponement of public disclosure under this Act, which shall include consideration by the Review Board of relevant laws and policies protecting criminal records of juveniles.

“(2) POSTPONEMENT.—In approving postponement of public disclosure of a civil rights cold case record, the Review Board shall work to—

“(A) provide for the disclosure of segregable parts, substitutes, or summaries of such a record; and

“(B) determine, in consultation with the originating body and consistent with the standards for postponement under this Act, which of the following alternative forms of disclosure shall be made by the originating body:

“(i) Any reasonably segregable particular information in a civil rights cold case record.

“(ii) A substitute record for that information which is postponed.

“(iii) A summary of a civil rights cold case record.

“(3) REPORT.—With respect to each civil rights cold case record or particular information in civil rights cold case records the public disclosure of which is postponed under section 4, or for which only substitutions or summaries have been disclosed to the public, the Review Board shall create and transmit to the Archivist a report containing—

“(A) a description of actions by the Review Board, the originating body, the President, or any Government office (including a justification of any such action to postpone disclosure of any record or part of any record) and of any official proceedings conducted by the Review Board with regard to specific civil rights cold case records; and

“(B) a statement, based on a review of the proceedings and in conformity with the decisions reflected therein, designating a recommended specified time at which or a specified occurrence following which the material may be appropriately disclosed to the public under this Act.

“(4) NOTICE.—Not later than 14 days after the Review Board makes a determination that a civil rights cold case record shall be publicly disclosed in the Collection or postponed for disclosure and held in the protected Collection, the Review Board shall notify the head of the originating body of its determination and publish a copy of the determination in the Federal Register.

“(5) OTHER NOTICE.—Contemporaneous notice shall be made to the President of Review Board determinations regarding executive branch civil rights cold case records, and to the oversight committees designated in this Act in the case of legislative branch records. Such notice shall contain an unclassified written justification for public disclosure or postponement of disclosure, including an explanation of the application of any standards under section 4.

“(d) PRESIDENTIAL AUTHORITY OVER REVIEW BOARD DETERMINATION.—

“(1) PUBLIC DISCLOSURE OR POSTPONEMENT OF DISCLOSURE.—After the Review Board has made a formal determination concerning the public disclosure or postponement of disclosure of an executive branch civil rights cold case record or information contained in a civil rights cold case record, obtained or developed solely within the executive branch, the Presi-

dent shall have the sole and nondelegable authority to require the disclosure or postponement of such record or information under the standards set forth in section 4, and the President shall provide the Review Board with an unclassified written certification specifying the President's decision within 30 days after the Review Board's determination and notice to the executive agency as required under this Act, stating the justification for the President's decision, including the applicable grounds for postponement under section 4.

“(2) PERIODIC REVIEW.—Any executive branch civil rights cold case record for which public disclosure is postponed by the President shall be subject to the requirements of periodic review and declassification of classified information and public disclosure in the Collection set forth in section 3.

“(3) RECORD OF PRESIDENTIAL POSTPONEMENT.—The Review Board shall, upon its receipt, publish in the Federal Register a copy of any unclassified written certification, statement, or other materials transmitted by or on behalf of the President with regard to postponement of the public disclosure of civil rights cold case records.

“(e) NOTICE TO THE PUBLIC.—On each day that is on or after the date that is 60 days after the Review Board first approves the postponement of disclosure of a civil rights cold case record, the Review Board shall publish on a publicly available website a notice that summarizes the postponements approved by the Review Board or initiated by the President, including a description of the subject, originating body, length or other physical description, and each ground for postponement that is relied upon.

“(f) REPORTS BY THE REVIEW BOARD.—

“(1) IN GENERAL.—The Review Board shall report its activities to the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Committee on Oversight and Government Reform [now Committee on Oversight and Reform] of the House of Representatives, the Majority Leader of the Senate, the Minority Leader of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the President, the Archivist, and the head of any Government office whose records have been the subject of Review Board activity.

“(2) DEADLINES.—Not later than 1 year after the date of enactment of this Act, and every year thereafter until termination of the Review Board, the Review Board shall issue a report under paragraph (1).

“(3) CONTENTS.—Each report under paragraph (1) shall include the following information:

“(A) A financial report of the expenses for all official activities and requirements of the Review Board and its employees.

“(B) The progress made on review, transmission to the Archivist, and public disclosure of civil rights cold case records.

“(C) The estimated time and volume of civil rights cold case records involved in the completion of the Review Board's performance under this Act.

“(D) Any special problems, including requests and the level of cooperation of Government offices, with regard to the ability of the Review Board to operate as required by this Act.

“(E) A record of review activities, including a record of postponement decisions by the Review Board or other related actions authorized by this Act, and a record of the volume of records reviewed and postponed.

“(F) Recommendations and requests to Congress for additional authorization.

“(G) An appendix containing copies of reports of postponed records to the Archivist required under subsection (c)(3) made since the date of the preceding report under this subsection.

“(4) NOTICE OF TERMINATION.—Not later than 90 days before terminating, the Review Board shall provide written notice to the President and the Congress of its intention to terminate its operations at a specified date.

“SEC. 8. DISCLOSURE OF OTHER INFORMATION AND ADDITIONAL STUDY.

“(a) MATERIALS UNDER THE SEAL OF THE COURT.—

“(1) IN GENERAL.—The Review Board may request the Attorney General to petition any court in the United States or abroad to release any information relevant to civil rights cold cases that is held under seal of court.

“(2) GRAND JURY MATERIALS.—

“(A) IN GENERAL.—The Review Board may request the Attorney General to petition any court in the United States to release any information relevant to civil rights cold cases that is held under the injunction of secrecy of a grand jury.

“(B) PARTICULARIZED NEED.—A request for disclosure of civil rights cold case records under this Act shall be deemed to constitute a showing of particularized need under rule 6 of the Federal Rules of Criminal Procedure.

“(3) DEADLINE.—

“(A) IN GENERAL.—The Attorney General shall respond to any request that is subject to this subsection within 45 days.

“(B) NONDISCLOSURE OF GRAND JURY INFORMATION.—If the Attorney General determines that information relevant to a civil rights cold case that is held under the injunction of secrecy of a grand jury should not be made public, the Attorney General shall set forth in the response to the request the reasons for the determination.

“(b) COOPERATION WITH AGENCIES.—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 determines to be relevant and held under the seal by a court or under the injunction of secrecy of a grand jury; and

“(2) all departments and agencies of the United States Government should cooperate in full with the Review Board to seek the disclosure of all information relevant to civil rights cold cases consistent with the public interest.

“SEC. 9. RULES OF CONSTRUCTION.

“(a) PRECEDENCE OVER OTHER LAW.—

“(1) IN GENERAL.—Subject to paragraph (2), when this Act requires transmission of a record to the Archivist or public disclosure, it shall take precedence over any other law (except section 6103 of the Internal Revenue Code of 1986 [26 U.S.C. 6103]), judicial decisions construing such law, or common law doctrine that would otherwise prohibit such transmission or disclosure with the exception of deeds governing access to or transfer or release of gifts and donations of records to the United States Government.

“(2) PERSONNEL AND MEDICAL FILES.—This Act shall not require the public disclosure of information that is exempt from disclosure under section 552(b)(6) of title 5, United States Code.

“(b) FREEDOM OF INFORMATION ACT.—Nothing in this Act shall be construed to eliminate or limit any right to file any requests with any executive agency or seek judicial review of the decisions under section 552 of title 5, United States Code.

“(c) JUDICIAL REVIEW.—Nothing in this Act shall be construed to preclude judicial review, under chapter 7 of title 5, United States Code, of final actions taken or required to be taken under this Act.

“(d) EXISTING AUTHORITY.—Nothing in this Act revokes or limits the existing authority of the President, any executive agency, the Senate, the House of Representatives, or any other entity of the Government to publicly disclose records in its possession.

“SEC. 10. FUNDING.

“Until such time as funds are appropriated to carry out this Act, the President shall use such sums as are available for discretionary use to carry out this Act.”

NATIONAL DATABASE FOR RECORDS OF SERVITUDE, EMANCIPATION, AND POST-CIVIL WAR RECONSTRUCTION

Pub. L. 110-404, §7, Oct. 13, 2008, 122 Stat. 4285, provided that:

“(a) IN GENERAL.—The Archivist of the United States may preserve relevant records and establish, as part of the National Archives and Records Administration, an electronically searchable national database consisting of historic records of servitude, emancipation, and post-Civil War reconstruction, including the Refugees, Freedman, and Abandoned Land Records, Southern Claims Commission Records, Records of the Freedmen’s Bank, Slave Impressments Records, Slave Payroll Records, Slave Manifest, and others, contained within the agencies and departments of the Federal Government to assist African Americans and others in conducting genealogical and historical research.

“(b) MAINTENANCE.—Any database established under this section shall be maintained by the National Archives and Records Administration or an entity within the National Archives and Records Administration designated by the Archivist of the United States.”

PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS
COLLECTION

Pub. L. 102–526, Oct. 26, 1992, 106 Stat. 3443, as amended by Pub. L. 103–345, §§2–5, Oct. 6, 1994, 108 Stat. 3128–3130; Pub. L. 105–25, §1, July 3, 1997, 111 Stat. 240; Pub. L. 109–313, §2(c)(1), Oct. 6, 2006, 120 Stat. 1735, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘President John F. Kennedy Assassination Records Collection Act of 1992’.

“SEC. 2. FINDINGS, DECLARATIONS, AND PURPOSES.

“(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

“(1) all Government records related to the assassination of President John F. Kennedy should be preserved for historical and governmental purposes;

“(2) all Government records concerning the assassination of President John F. Kennedy should carry a presumption of immediate disclosure, and all records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination;

“(3) legislation is necessary to create an enforceable, independent, and accountable process for the public disclosure of such records;

“(4) legislation is necessary because congressional records related to the assassination of President John F. Kennedy would not otherwise be subject to public disclosure until at least the year 2029;

“(5) legislation is necessary because the Freedom of Information Act [5 U.S.C. 552], as implemented by the executive branch, has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy;

“(6) legislation is necessary because [former] Executive Order No. 12356, entitled ‘National Security Information’ has eliminated the declassification and downgrading schedules relating to classified information across government and has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy; and

“(7) most of the records related to the assassination of President John F. Kennedy are almost 30 years old, and only in the rarest cases is there any legitimate need for continued protection of such records.

“(b) PURPOSES.—The purposes of this Act are—

“(1) to provide for the creation of the President John F. Kennedy Assassination Records Collection at the National Archives and Records Administration; and

“(2) to require the expeditious public transmission to the Archivist and public disclosure of such records.

“SEC. 3. DEFINITIONS.

“In this Act:

“(1) ‘Archivist’ means the Archivist of the United States.

“(2) ‘Assassination record’ means a record that is related to the assassination of President John F.

Kennedy, that was created or made available for use by, obtained by, or otherwise came into the possession of—

“(A) the Commission to Investigate the Assassination of President John F. Kennedy (the ‘Warren Commission’);

“(B) the Commission on Central Intelligence Agency Activities Within the United States (the ‘Rockefeller Commission’);

“(C) the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the ‘Church Committee’);

“(D) the Select Committee on Intelligence (the ‘Pike Committee’) of the House of Representatives;

“(E) the Select Committee on Assassinations (the ‘House Assassinations Committee’) of the House of Representatives;

“(F) the Library of Congress;

“(G) the National Archives and Records Administration;

“(H) any Presidential library;

“(I) any Executive agency;

“(J) any independent agency;

“(K) any other office of the Federal Government; and

“(L) any State or local law enforcement office that provided support or assistance or performed work in connection with a Federal inquiry into the assassination of President John F. Kennedy,

but does not include the autopsy records donated by the Kennedy family to the National Archives pursuant to a deed of gift regulating access to those records, or copies and reproductions made from such records.

“(3) ‘Collection’ means the President John F. Kennedy Assassination Records Collection established under section 4.

“(4) ‘Executive agency’ means an Executive agency as defined in subsection 552(f) of title 5, United States Code, and includes any Executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government, including the Executive Office of the President, or any independent regulatory agency.

“(5) ‘Government office’ means any office of the Federal Government that has possession or control of assassination records, including—

“(A) the House Committee on Administration with regard to the Select Committee on Assassinations of the records of the House of Representatives;

“(B) the Select Committee on Intelligence of the Senate with regard to records of the Senate Select Committee to Study Operations with Respect to Intelligence Activities and other assassination records;

“(C) the Library of Congress;

“(D) the National Archives as custodian of assassination records that it has obtained or possesses, including the Commission to Investigate the Assassination of President John F. Kennedy and the Commission on Central Intelligence Agency Activities in the United States; and

“(E) any other executive branch office or agency, and any independent agency.

“(6) ‘Identification aid’ means the written description prepared for each record as required in section 4.

“(7) ‘National Archives’ means the National Archives and Records Administration and all components thereof, including Presidential archival depositories established under section 2112 of title 44, United States Code.

“(8) ‘Official investigation’ means the reviews of the assassination of President John F. Kennedy conducted by any Presidential commission, any authorized congressional committee, and any Government agency either independently, at the request of any Presidential commission or congressional committee, or at the request of any Government official.

“(9) ‘Originating body’ means the Executive agency, government commission, congressional committee, or other governmental entity that created a record or particular information within a record.

“(10) ‘Public interest’ means the compelling interest in the prompt public disclosure of assassination records for historical and governmental purposes and for the purpose of fully informing the American people about the history surrounding the assassination of President John F. Kennedy.

“(11) ‘Record’ includes a book, paper, map, photograph, sound or video recording, machine readable material, computerized, digitized, or electronic information, regardless of the medium on which it is stored, or other documentary material, regardless of its physical form or characteristics.

“(12) ‘Review Board’ means the Assassination Records Review Board established by section 7.

“(13) ‘Third agency’ means a Government agency that originated an assassination record that is in the possession of another agency.

“SEC. 4. PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS COLLECTION AT THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.

“(a) IN GENERAL.—(1) Not later than 60 days after the date of enactment of this Act [Oct. 26, 1992], the National Archives and Records Administration shall commence establishment of a collection of records to be known as the President John F. Kennedy Assassination Records Collection. In so doing, the Archivist shall ensure the physical integrity and original provenance of all records. The Collection shall consist of record copies of all Government records relating to the assassination of President John F. Kennedy, which shall be transmitted to the National Archives in accordance with section 2107 of title 44, United States Code. The Archivist shall prepare and publish a subject guidebook and index to the collection.

“(2) The Collection shall include—

“(A) all assassination records—

“(i) that have been transmitted to the National Archives or disclosed to the public in an unredacted form prior to the date of enactment of this Act;

“(ii) that are required to be transmitted to the National Archives; or

“(iii) the disclosure of which is postponed under this Act;

“(B) a central directory comprised of identification aids created for each record transmitted to the Archivist under section 5; and

“(C) all Review Board records as required by this Act.

“(b) DISCLOSURE OF RECORDS.—All assassination records transmitted to the National Archives for disclosure to the public shall be included in the Collection and shall be available to the public for inspection and copying at the National Archives within 30 days after their transmission to the National Archives.

“(c) FEES FOR COPYING.—The Archivist shall—

“(1) charge fees for copying assassination records; and

“(2) grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code.

“(d) ADDITIONAL REQUIREMENTS.—(1) The Collection shall be preserved, protected, archived, and made available to the public at the National Archives using appropriations authorized, specified, and restricted for use under the terms of this Act.

“(2) The National Archives, in consultation with the Information Security Oversight Office, shall ensure the security of the postponed assassination records in the Collection.

“(e) OVERSIGHT.—The Committee on Government Operations [now Committee on Oversight and Reform] of the House of Representatives and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate shall

have continuing oversight jurisdiction with respect to the Collection.

“SEC. 5. REVIEW, IDENTIFICATION, TRANSMISSION TO THE NATIONAL ARCHIVES, AND PUBLIC DISCLOSURE OF ASSASSINATION RECORDS BY GOVERNMENT OFFICES.

“(a) IN GENERAL.—(1) As soon as practicable after the date of enactment of this Act [Oct. 26, 1992], each Government office shall identify and organize its records relating to the assassination of President John F. Kennedy and prepare them for transmission to the Archivist for inclusion in the Collection.

“(2) No assassination record shall be destroyed, altered, or mutilated in any way.

“(3) No assassination record made available or disclosed to the public prior to the date of enactment of this Act may be withheld, redacted, postponed for public disclosure, or reclassified.

“(4) No assassination record created by a person or entity outside government (excluding names or identities consistent with the requirements of section 6) shall be withheld, redacted, postponed for public disclosure, or reclassified.

“(b) CUSTODY OF ASSASSINATION RECORDS PENDING REVIEW.—During the review by Government offices and pending review activity by the Review Board, each Government office shall retain custody of its assassination records for purposes of preservation, security, and efficiency, unless—

“(1) the Review Board requires the physical transfer of records for purposes of conducting an independent and impartial review;

“(2) transfer is necessary for an administrative hearing or other Review Board function; or

“(3) it is a third agency record described in subsection (c)(2)(C).

“(c) REVIEW.—(1) Not later than 300 days after the date of enactment of this Act [Oct. 26, 1992], each Government office shall review, identify and organize each assassination record in its custody or possession for disclosure to the public, review by the Review Board, and transmission to the Archivist.

“(2) In carrying out paragraph (1), a Government office shall—

“(A) determine which of its records are assassination records;

“(B) determine which of its assassination records have been officially disclosed or publicly available in a complete and unredacted form;

“(C)(i) determine which of its assassination records, or particular information contained in such a record, was created by a third agency or by another Government office; and

“(ii) transmit to a third agency or other Government office those records, or particular information contained in those records, or complete and accurate copies thereof;

“(D)(i) determine whether its assassination records or particular information in assassination records are covered by the standards for postponement of public disclosure under this Act; and

“(ii) specify on the identification aid required by subsection (d) the applicable postponement provision contained in section 6;

“(E) organize and make available to the Review Board all assassination records identified under subparagraph (D) the public disclosure of which in whole or in part may be postponed under this Act;

“(F) organize and make available to the Review Board any record concerning which the office has any uncertainty as to whether the record is an assassination record governed by this Act;

“(G) give priority to—

“(i) the identification, review, and transmission of all assassination records publicly available or disclosed as of the date of enactment of this Act in a redacted or edited form; and

“(ii) the identification, review, and transmission, under the standards for postponement set forth in

this Act, of assassination records that on the date of enactment of this Act are the subject of litigation under section 552 of title 5, United States Code; and

“(H) make available to the Review Board any additional information and records that the Review Board has reason to believe it requires for conducting a review under this Act.

“(3) The Director of each archival depository established under section 2112 of title 44, United States Code, shall have as a priority the expedited review for public disclosure of assassination records in the possession and custody of the depository, and shall make such records available to the Review Board as required by this Act.

“(d) IDENTIFICATION AIDS.—(1)(A) Not later than 45 days after the date of enactment of this Act [Oct. 26, 1992], the Archivist, in consultation with the appropriate Government offices, shall prepare and make available to all Government offices a standard form of identification or finding aid for use with each assassination record subject to review under this Act.

“(B) The Archivist shall ensure that the identification aid program is established in such a manner as to result in the creation of a uniform system of electronic records by Government offices that are compatible with each other.

“(2) Upon completion of an identification aid, a Government office shall—

“(A) attach a printed copy to the record it describes;

“(B) transmit to the Review Board a printed copy; and

“(C) attach a printed copy to each assassination record it describes when it is transmitted to the Archivist.

“(3) Assassination records which are in the possession of the National Archives on the date of enactment of this Act, and which have been publicly available in their entirety without redaction, shall be made available in the Collection without any additional review by the Review Board or another authorized office under this Act, and shall not be required to have such an identification aid unless required by the Archivist.

“(e) TRANSMISSION TO THE NATIONAL ARCHIVES.—Each Government office shall—

“(1) transmit to the Archivist, and make immediately available to the public, all assassination records that can be publicly disclosed, including those that are publicly available on the date of enactment of this Act [Oct. 26, 1992], without any redaction, adjustment, or withholding under the standards of this Act; and

“(2) transmit to the Archivist upon approval for postponement by the Review Board or upon completion of other action authorized by this Act, all assassination records the public disclosure of which has been postponed, in whole or in part, under the standards of this Act, to become part of the protected Collection.

“(f) CUSTODY OF POSTPONED ASSASSINATION RECORDS.—An assassination record the public disclosure of which has been postponed shall, pending transmission to the Archivist, be held for reasons of security and preservation by the originating body until such time as the information security program has been established at the National Archives as required in section 4(e)(2).

“(g) PERIODIC REVIEW OF POSTPONED ASSASSINATION RECORDS.—(1) All postponed or redacted records shall be reviewed periodically by the originating agency and the Archivist consistent with the recommendations of the Review Board under section 9(c)(3)(B).

“(2)(A) A periodic review shall address the public disclosure of additional assassination records in the Collection under the standards of this Act.

“(B) All postponed assassination records determined to require continued postponement shall require an unclassified written description of the reason for such continued postponement. Such description shall be pro-

vided to the Archivist and published in the Federal Register upon determination.

“(C) The periodic review of postponed assassination records shall serve to downgrade and declassify security classified information.

“(D) Each assassination record shall be publicly disclosed in full, and available in the Collection no later than the date that is 25 years after the date of enactment of this Act [Oct. 26, 1992], unless the President certifies, as required by this Act, that—

“(i) continued postponement is made necessary by an identifiable harm to the military defense, intelligence operations, law enforcement, or conduct of foreign relations; and

“(ii) the identifiable harm is of such gravity that it outweighs the public interest in disclosure.

“(h) FEES FOR COPYING.—Executive branch agencies shall—

“(1) charge fees for copying assassination records; and

“(2) grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code.

“SEC. 6. GROUNDS FOR POSTPONEMENT OF PUBLIC DISCLOSURE OF RECORDS.

“Disclosure of assassination records or particular information in assassination records to the public may be postponed subject to the limitations of this Act if there is clear and convincing evidence that—

“(1) the threat to the military defense, intelligence operations, or conduct of foreign relations of the United States posed by the public disclosure of the assassination record is of such gravity that it outweighs the public interest, and such public disclosure would reveal—

“(A) an intelligence agent whose identity currently requires protection;

“(B) an intelligence source or method which is currently utilized, or reasonably expected to be utilized, by the United States Government and which has not been officially disclosed, the disclosure of which would interfere with the conduct of intelligence activities; or

“(C) any other matter currently relating to the military defense, intelligence operations or conduct of foreign relations of the United States, the disclosure of which would demonstrably impair the national security of the United States;

“(2) the public disclosure of the assassination record would reveal the name or identity of a living person who provided confidential information to the United States and would pose a substantial risk of harm to that person;

“(3) the public disclosure of the assassination record could reasonably be expected to constitute an unwarranted invasion of personal privacy, and that invasion of privacy is so substantial that it outweighs the public interest;

“(4) the public disclosure of the assassination record would compromise the existence of an understanding of confidentiality currently requiring protection between a Government agent and a cooperating individual or a foreign government, and public disclosure would be so harmful that it outweighs the public interest; or

“(5) the public disclosure of the assassination record would reveal a security or protective procedure currently utilized, or reasonably expected to be utilized, by the Secret Service or another Government agency responsible for protecting Government officials, and public disclosure would be so harmful that it outweighs the public interest.

“SEC. 7. ESTABLISHMENT AND POWERS OF THE ASSASSINATION RECORDS REVIEW BOARD.

“(a) ESTABLISHMENT.—There is established as an independent agency a board to be known as the Assassination Records Review Board.

“(b) APPOINTMENT.—(1) The President, by and with the advice and consent of the Senate, shall appoint,

without regard to political affiliation, 5 citizens to serve as members of the Review Board to ensure and facilitate the review, transmission to the Archivist, and public disclosure of Government records related to the assassination of President John F. Kennedy.

“(2) The President shall make nominations to the Review Board not later than 90 calendar days after the date of enactment of this Act [Oct. 26, 1992].

“(3) If the Senate votes not to confirm a nomination to the Review Board, the President shall make an additional nomination not later than 30 days thereafter.

“(4)(A) The President shall make nominations to the Review Board after considering persons recommended by the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association.

“(B) If an organization described in subparagraph (A) does not recommend at least 2 nominees meeting the qualifications stated in paragraph (5) by the date that is 45 days after the date of enactment of this Act, the President shall consider for nomination the persons recommended by the other organizations described in subparagraph (A).

“(C) The President may request an organization described in subparagraph (A) to submit additional nominations.

“(5) Persons nominated to the Review Board—

“(A) shall be impartial private citizens, none of whom is presently employed by any branch of the Government, and none of whom shall have had any previous involvement with any official investigation or inquiry conducted by a Federal, State, or local government, relating to the assassination of President John F. Kennedy;

“(B) shall be distinguished persons of high national professional reputation in their respective fields who are capable of exercising the independent and objective judgment necessary to the fulfillment of their role in ensuring and facilitating the review, transmission to the public, and public disclosure of records related to the assassination of President John F. Kennedy and who possess an appreciation of the value of such material to the public, scholars, and government; and

“(C) shall include at least 1 professional historian and 1 attorney.

“(c) SECURITY CLEARANCES.—(1) All Review Board nominees shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

“(2) All nominees shall qualify for the necessary security clearance prior to being considered for confirmation by the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate.

“(d) CONFIRMATION HEARINGS.—(1) The Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate shall hold confirmation hearings within 30 days in which the Senate is in session after the nomination of 3 Review Board members.

“(2) The Committee on Governmental Affairs shall vote on the nominations within 14 days in which the Senate is in session after the confirmation hearings, and shall report its results to the full Senate immediately.

“(3) The Senate shall vote on each nominee to confirm or reject within 14 days in which the Senate is in session after reported by the Committee on Governmental Affairs.

“(e) VACANCY.—A vacancy on the Review Board shall be filled in the same manner as specified for original appointment within 30 days of the occurrence of the vacancy.

“(f) CHAIRPERSON.—The Members of the Review Board shall elect one of its members as chairperson at its initial meeting.

“(g) REMOVAL OF REVIEW BOARD MEMBER.—(1) No member of the Review Board shall be removed from office, other than—

“(A) by impeachment and conviction; or

“(B) by the action of the President for inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the member's duties.

“(2)(A) If a member of the Review Board is removed from office, and that removal is by the President, not later than 10 days after the removal the President shall submit to the Committee on Government Operations [now Committee on Oversight and Reform] of the House of Representatives and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate a report specifying the facts found and the grounds for the removal.

“(B) The President shall publish in the Federal Register a report submitted under paragraph (2)(A), except that the President may, if necessary to protect the rights of a person named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report until the completion of such pending cases or pursuant to privacy protection requirements in law.

“(3)(A) A member of the Review Board removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia.

“(B) The member may be reinstated or granted other appropriate relief by order of the court.

“(h) COMPENSATION OF MEMBERS.—(1) A member of the Review Board shall be compensated at a rate equal to the daily 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 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 business in the performance of services for the Review Board.

“(i) DUTIES OF THE REVIEW BOARD.—(1) The Review Board shall consider and render decisions on a determination by a Government office to seek to postpone the disclosure of assassination records.

“(2) In carrying out paragraph (1), the Review Board shall consider and render decisions—

“(A) whether a record constitutes an assassination record; and

“(B) whether an assassination record or particular information in a record qualifies for postponement of disclosure under this Act.

“(j) POWERS.—(1) The Review Board shall have the authority to act in a manner prescribed under this Act including authority to—

“(A) direct Government offices to complete identification aids and organize assassination records;

“(B) direct Government offices to transmit to the Archivist assassination records as required under this Act, including segregable portions of assassination records, and substitutes and summaries of assassination records that can be publicly disclosed to the fullest extent;

“(C)(i) obtain access to assassination records that have been identified and organized by a Government office;

“(ii) direct a Government office to make available to the Review Board, and if necessary investigate the facts surrounding, additional information, records, or testimony from individuals, which the Review Board has reason to believe is required to fulfill its functions and responsibilities under this Act; and

“(iii) request the Attorney General to subpoena private persons to compel testimony, records, and other information relevant to its responsibilities under this Act;

“(D) require any Government office to account in writing for the destruction of any records relating to the assassination of President John F. Kennedy;

“(E) receive information from the public regarding the identification and public disclosure of assassination records;

“(F) hold hearings, administer oaths, and subpoena witnesses and documents; and

“(G) use the Federal Acquisition Service in the same manner and under the same conditions as other departments and agencies of the United States; and

“(H) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

“(2) A subpoena issued under paragraph (1)(C)(iii) may be enforced by any appropriate Federal court acting pursuant to a lawful request of the Review Board.

“(k) WITNESS IMMUNITY.—The Review Board shall be considered to be an agency of the United States for purposes of section 6001 of title 18, United States Code.

“(l) OVERSIGHT.—(1) The Committee on Government Operations [now Committee on Oversight and Reform] of the House of Representatives and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate shall have continuing oversight jurisdiction with respect to the official conduct of the Review Board and the disposition of postponed records after termination of the Review Board, and shall have access to any records held or created by the Review Board.

“(2) The Review Board shall have the duty to cooperate with the exercise of such oversight jurisdiction.

“(m) SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide administrative services for the Review Board on a reimbursable basis.

“(n) INTERPRETIVE REGULATIONS.—The Review Board may issue interpretive regulations.

“(o) TERMINATION AND WINDING UP.—(1) The Review Board and the terms of its members shall terminate not later than September 30, 1998.

“(2) Upon its termination, the Review Board shall submit reports to the President and the Congress including a complete and accurate accounting of expenditures during its existence, and shall complete all other reporting requirements under this Act.

“(3) Upon termination and winding up, the Review Board shall transfer all of its records to the Archivist for inclusion in the Collection, and no record of the Review Board shall be destroyed.

“SEC. 8. ASSASSINATION RECORDS REVIEW BOARD PERSONNEL.

“(a) EXECUTIVE DIRECTOR.—(1) Not later than 45 days after the initial meeting of the Review Board, the Review Board shall appoint one citizen, without regard to political affiliation, to the position of Executive Director.

“(2) The person appointed as Executive Director shall be a private citizen of integrity and impartiality who is a distinguished professional and who is not a present employee of any branch of the Government and has had no previous involvement with any official investigation or inquiry relating to the assassination of President John F. Kennedy.

“(3)(A) A candidate for Executive Director shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

“(B) A candidate shall qualify for the necessary security clearance prior to being approved by the Review Board.

“(4) The Executive Director shall—

“(A) serve as principal liaison to Government offices;

“(B) be responsible for the administration and coordination of the Review Board’s review of records;

“(C) be responsible for the administration of all official activities conducted by the Review Board; and

“(D) have no authority to decide or determine whether any record should be disclosed to the public or postponed for disclosure.

“(5) The Executive Director shall not be removed for reasons other than by a majority vote of the Review

Board for cause on the grounds of inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the responsibilities of the Executive Director or the staff of the Review Board.

“(b) STAFF.—(1) The Review Board, without regard to the civil service laws, may appoint and terminate additional personnel as are necessary to enable the Review Board and its Executive Director to perform the duties of the Review Board.

“(2)(A) Except as provided in subparagraph (B), a person appointed to the staff of the Review Board shall be a private citizen of integrity and impartiality who is not a present employee of any branch of the Government and who has had no previous involvement with any official investigation or inquiry relating to the assassination of President John F. Kennedy.

“(B) An individual who is an employee of the Government may be appointed to the staff of the Review Board if in that position the individual will perform only administrative functions.

“(3)(A) A candidate for staff shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

“(B)(i) The Review Board may offer conditional employment to a candidate for a staff position pending the completion of security clearance background investigations. During the pendency of such investigations, the Review Board shall ensure that any such employee does not have access to, or responsibility involving, classified or otherwise restricted assassination record materials.

“(ii) If a person hired on a conditional basis under clause (i) is denied or otherwise does not qualify for all security clearances necessary to carry out the responsibilities of the position for which conditional employment has been offered, the Review Board shall immediately terminate the person’s employment.

“(c) COMPENSATION.—Subject to such rules as may be adopted by the Review Board, the chairperson, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, may—

“(1) appoint an Executive Director, who shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule; and

“(2) appoint and fix compensation of such other personnel as may be necessary to carry out this Act.

“(d) ADVISORY COMMITTEES.—(1) The Review Board shall have the authority to create advisory committees to assist in fulfilling the responsibilities of the Review Board under this Act.

“(2) Any advisory committee created by the Review Board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

“(e) SECURITY CLEARANCE REQUIRED.—An individual employed in any position by the Review Board (including an individual appointed as Executive Director) shall be required to qualify for any necessary security clearance prior to taking office in that position, but may be employed conditionally in accordance with subsection (b)(3)(B) before qualifying for that clearance.

“SEC. 9. REVIEW OF RECORDS BY THE ASSASSINATION RECORDS REVIEW BOARD.

“(a) CUSTODY OF RECORDS REVIEWED BY BOARD.—Pending the outcome of the Review Board’s review activity, a Government office shall retain custody of its assassination records for purposes of preservation, security, and efficiency, unless—

“(1) the Review Board requires the physical transfer of records for reasons of conducting an independent and impartial review; or

“(2) such transfer is necessary for an administrative hearing or other official Review Board function.

“(b) STARTUP REQUIREMENTS.—The Review Board shall—

“(1) not later than 90 days after the date of its appointment, publish a schedule for review of all assassination records in the Federal Register; and

“(2) not later than 180 days after the date of enactment of this Act [Oct. 26, 1992], begin its review of assassination records under this Act.

“(c) DETERMINATIONS OF THE REVIEW BOARD.—(1) The Review Board shall direct that all assassination records be transmitted to the Archivist and disclosed to the public in the Collection in the absence of clear and convincing evidence that—

“(A) a Government record is not an assassination record; or

“(B) a Government record or particular information within an assassination record qualifies for postponement of public disclosure under this Act.

“(2) In approving postponement of public disclosure of an assassination record, the Review Board shall seek to—

“(A) provide for the disclosure of segregable parts, substitutes, or summaries of such a record; and

“(B) determine, in consultation with the originating body and consistent with the standards for postponement under this Act, which of the following alternative forms of disclosure shall be made by the originating body:

“(i) Any reasonably segregable particular information in an assassination record.

“(ii) A substitute record for that information which is postponed.

“(iii) A summary of an assassination record.

“(3) With respect to each assassination record or particular information in assassination records the public disclosure of which is postponed pursuant to section 6, or for which only substitutions or summaries have been disclosed to the public, the Review Board shall create and transmit to the Archivist a report containing—

“(A) a description of actions by the Review Board, the originating body, the President, or any Government office (including a justification of any such action to postpone disclosure of any record or part of any record) and of any official proceedings conducted by the Review Board with regard to specific assassination records; and

“(B) a statement, based on a review of the proceedings and in conformity with the decisions reflected therein, designating a recommended specified time at which or a specified occurrence following which the material may be appropriately disclosed to the public under this Act.

“(4)(A) Following its review and a determination that an assassination record shall be publicly disclosed in the Collection or postponed for disclosure and held in the protected Collection, the Review Board shall notify the head of the originating body of its determination and publish a copy of the determination in the Federal Register within 14 days after the determination is made.

“(B) Contemporaneous notice shall be made to the President for Review Board determinations regarding executive branch assassination records, and to the oversight committees designated in this Act in the case of legislative branch records. Such notice shall contain a written unclassified justification for public disclosure or postponement of disclosure, including an explanation of the application of any standards contained in section 6.

“(d) PRESIDENTIAL AUTHORITY OVER REVIEW BOARD DETERMINATION.—

“(1) PUBLIC DISCLOSURE OR POSTPONEMENT OF DISCLOSURE.—After the Review Board has made a formal determination concerning the public disclosure or postponement of disclosure of an executive branch assassination record or information within such a record, or of any information contained in an assassination record, obtained or developed solely within the executive branch, the President shall have the sole and nondelegable authority to require the disclosure or postponement of such record or information under the standards set forth in section 6, and the

President shall provide the Review Board with an unclassified written certification specifying the President's decision within 30 days after the Review Board's determination and notice to the executive branch agency as required under this Act, stating the justification for the President's decision, including the applicable grounds for postponement under section 6, accompanied by a copy of the identification aid required under section 4.

“(2) PERIODIC REVIEW.—Any executive branch assassination record postponed by the President shall be subject to the requirements of periodic review, downgrading and declassification of classified information, and public disclosure in the collection set forth in section 4.

“(3) RECORD OF PRESIDENTIAL POSTPONEMENT.—The Review Board shall, upon its receipt, publish in the Federal Register a copy of any unclassified written certification, statement, and other materials transmitted by or on behalf of the President with regard to postponement of assassination records.

“(e) NOTICE TO PUBLIC.—Every 30 calendar days, beginning on the date that is 60 calendar days after the date on which the Review Board first approves the postponement of disclosure of an assassination record, the Review Board shall publish in the Federal Register a notice that summarizes the postponements approved by the Review Board or initiated by the President, the House of Representatives, or the Senate, including a description of the subject, originating agency, length or other physical description, and each ground for postponement that is relied upon.

“(f) REPORTS BY THE REVIEW BOARD.—(1) The Review Board shall report its activities to the leadership of the Congress, the Committee on Government Operations [now Committee on Oversight and Reform] of the House of Representatives, the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate, the President, the Archivist, and the head of any Government office whose records have been the subject of Review Board activity.

“(2) The first report shall be issued on the date that is 1 year after the date of enactment of this Act [Oct. 26, 1992], and subsequent reports every 12 months thereafter until termination of the Review Board.

“(3) A report under paragraph (1) shall include the following information:

“(A) A financial report of the expenses for all official activities and requirements of the Review Board and its personnel.

“(B) The progress made on review, transmission to the Archivist, and public disclosure of assassination records.

“(C) The estimated time and volume of assassination records involved in the completion of the Review Board's performance under this Act.

“(D) Any special problems, including requests and the level of cooperation of Government offices, with regard to the ability of the Review Board to operate as required by this Act.

“(E) A record of review activities, including a record of postponement decisions by the Review Board or other related actions authorized by this Act, and a record of the volume of records reviewed and postponed.

“(F) Suggestions and requests to Congress for additional legislative authority needs.

“(G) An appendix containing copies of reports of postponed records to the Archivist required under section 9(c)(3) made since the date of the preceding report under this subsection.

“(4) At least 90 calendar days before completing its work, the Review Board shall provide written notice to the President and Congress of its intention to terminate its operations at a specified date.

“SEC. 10. DISCLOSURE OF OTHER MATERIALS AND ADDITIONAL STUDY.

“(a) MATERIALS UNDER SEAL OF COURT.—

“(1) The Review Board may request the Attorney General to petition any court in the United States or abroad to release any information relevant to the assassination of President John F. Kennedy that is held under seal of the court.

“(2)(A) The Review Board may request the Attorney General to petition any court in the United States to release any information relevant to the assassination of President John F. Kennedy that is held under the injunction of secrecy of a grand jury.

“(B) A request for disclosure of assassination materials under this Act shall be deemed to constitute a showing of particularized need under Rule 6 of the Federal Rules of Criminal Procedure [18 U.S.C. App.].

“(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

“(1) the Attorney General should assist the Review Board in good faith to unseal any records that the Review Board determines to be relevant and held under seal by a court or under the injunction of secrecy of a grand jury;

“(2) the Secretary of State should contact the Government of the Republic of Russia and seek the disclosure of all records of the government of the former Soviet Union, including the records of the Komitet Gosudarstvennoy Bezopasnosti (KGB) and the Glavnoye Razvedyvatelnoye Upravleniye (GRU), relevant to the assassination of President Kennedy, and contact any other foreign government that may hold information relevant to the assassination of President Kennedy and seek disclosure of such information; and

“(3) all Executive agencies should cooperate in full with the Review Board to seek the disclosure of all information relevant to the assassination of President John F. Kennedy consistent with the public interest.

“SEC. 11. RULES OF CONSTRUCTION.

“(a) PRECEDENCE OVER OTHER LAW.—When this Act requires transmission of a record to the Archivist or public disclosure, it shall take precedence over any other law (except section 6103 of the Internal Revenue Code [26 U.S.C. 6103]), judicial decision construing such law, or common law doctrine that would otherwise prohibit such transmission or disclosure, with the exception of deeds governing access to or transfer or release of gifts and donations of records to the United States Government.

“(b) FREEDOM OF INFORMATION ACT.—Nothing in this Act shall be construed to eliminate or limit any right to file requests with any executive agency or seek judicial review of the decisions pursuant to section 552 of title 5, United States Code.

“(c) JUDICIAL REVIEW.—Nothing in this Act shall be construed to preclude judicial review, under chapter 7 of title 5, United States Code, of final actions taken or required to be taken under this Act.

“(d) EXISTING AUTHORITY.—Nothing in this Act revokes or limits the existing authority of the President, any executive agency, the Senate, or the House of Representatives, or any other entity of the Government to publicly disclose records in its possession.

“(e) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—To the extent that any provision of this Act establishes a procedure to be followed in the Senate or the House of Representatives, such provision is adopted—

“(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

“(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

“SEC. 12. TERMINATION OF EFFECT OF ACT.

“(a) PROVISIONS PERTAINING TO THE REVIEW BOARD.—The provisions of this Act that pertain to the appointment and operation of the Review Board shall cease to be effective when the Review Board and the terms of its members have terminated pursuant to section 7(o).

“(b) OTHER PROVISIONS.—The remaining provisions of this Act shall continue in effect until such time as the Archivist certifies to the President and the Congress that all assassination records have been made available to the public in accordance with this Act.

“SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of this Act \$1,600,000 for fiscal year 1998.

“(b) INTERIM FUNDING.—Until such time as funds are appropriated pursuant to subsection (a), the President may use such sums as are available for discretionary use to carry out this Act.

“SEC. 14. SEVERABILITY.

“If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of that provision to other persons not similarly situated or to other circumstances shall not be affected by the invalidation.”

[Postponement of records from full public disclosure under section 5(g)(2)(D) of Pub. L. 102-526, set out above, continued until Oct. 26, 2021, by Memorandum of President of the United States, Oct. 26, 2017, 82 F.R. 50307; Memorandum of President of the United States, Apr. 26, 2018, 83 F.R. 19157.]

[For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

Executive Documents

CLASSIFIED NATIONAL SECURITY INFORMATION

For provisions authorizing Archivist to review, downgrade, and declassify information of former Presidents under control of Archivist pursuant to this section, see Ex. Ord. No. 13526, §3.5(b), Dec. 29, 2009, 75 F.R. 718, set out as a note under section 3161 of Title 50, War and National Defense.

TEMPORARY CERTIFICATION REGARDING DISCLOSURE OF INFORMATION IN CERTAIN RECORDS RELATED TO THE ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

Memorandum of President of the United States, Oct. 22, 2021, 86 F.R. 59599, provided:

Memorandum for the Heads of Executive Departments and Agencies

SECTION 1. *Policy.* In the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) (the “Act”), the Congress declared that “all Government records concerning the assassination of President John F. Kennedy... should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination.” The Congress also found that “most of the records related to the assassination of President John F. Kennedy are almost 30 years old, and only in the rarest cases is there any legitimate need for continued protection of such records.” Almost 30 years since the Act, the profound national tragedy of President Kennedy’s assassination continues to resonate in American history and in the memories of so many Americans who were alive on that terrible day; meanwhile, the need to protect records concerning the assassination has only grown weaker with the passage of time. It is therefore critical to ensure that the United States Government maxi-

mizes transparency, disclosing all information in records concerning the assassination, except when the strongest possible reasons counsel otherwise.

SEC. 2. *Background.* The Act permits the continued postponement of disclosure of information in records concerning President Kennedy's assassination only when postponement remains necessary to protect against an identifiable harm to the military defense, intelligence operations, law enforcement, or the conduct of foreign relations that is of such gravity that it outweighs the public interest in disclosure. Since 2018, executive departments and agencies (agencies) have been reviewing under this statutory standard each redaction they have proposed that would result in the continued postponement of full public disclosure. This year, the National Archives and Records Administration (NARA) has been reviewing whether it agrees that each redaction continues to meet the statutory standard. The Archivist of the United States (Archivist), however, has reported that "unfortunately, the pandemic has had a significant impact on the agencies" and NARA that NARA "require[s] additional time to engage with the agencies and to conduct research within the larger collection to maximize the amount of information released." The Archivist has also noted that "making these decisions is a matter that requires a professional, scholarly, and orderly process; not decisions or releases made in haste." The Archivist therefore recommends that the President "temporarily certify the continued withholding of all of the information certified in 2018" and "direct two public releases of the information that has" ultimately "been determined to be appropriate for release to the public," with one interim release later this year and one more comprehensive release in late 2022.

SEC. 3. *Temporary Certification.* In light of the agencies' proposals for continued postponement under the statutory standard, the Archivist's request for an extension of time to engage with the agencies, and the need for an appropriate review and disclosure process, I agree with the Archivist's recommendation. Temporary continued postponement is necessary to protect against identifiable harm to the military defense, intelligence operations, law enforcement, or the conduct of foreign relations that is of such gravity that it outweighs the public interest in immediate disclosure. Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, including section 5(g)(2)(D) of the Act, I hereby certify that all information within records that agencies have proposed for continued postponement under section 5(g)(2)(D) shall be withheld from full public disclosure until December 15, 2022.

SEC. 4. *Interim Release.* Any information currently withheld from public disclosure that agencies have not proposed for continued postponement shall be reviewed by NARA before December 15, 2021, and shall be publicly released on that date. Out of respect for the anniversary of President Kennedy's assassination, such release shall not occur before December 15, 2021.

SEC. 5. *Intensive 1-Year Review.* (a) Over the next year, agencies proposing continued postponement and NARA shall conduct an intensive review of each remaining redaction to ensure that the United States Government maximizes transparency, disclosing all information in records concerning the assassination, except when the strongest possible reasons counsel otherwise. This review shall include documents within the assassination records collection designated as "not believed relevant" by the Assassination Records Review Board established under the Act, but nonetheless placed within the collection by the Assassination Records Review Board.

(b) Any information that an agency proposes for continued postponement beyond December 15, 2022, shall be limited to the absolute minimum under the statutory standard. An agency shall not propose to continue redacting information unless the redaction is necessary to protect against an identifiable harm to the military defense, intelligence operations, law enforcement, or

the conduct of foreign relations that is of such gravity that it outweighs the public interest in disclosure. In applying this statutory standard, an agency shall:

(i) Accord substantial weight to the public interest in transparency and full disclosure of any record that falls within the scope of the Act; and

(ii) Give due consideration that some degree of harm is not grounds for continued postponement unless the degree of harm is of such gravity that it outweighs the public interest.

(c) For any record containing information that an agency proposes for continued postponement beyond December 15, 2022, the agency shall provide, no later than December 15, 2021:

(i) an unclassified letter, to be signed by the head of the agency, providing a written description of the types of information for which the agency is proposing continued postponement and reasons for which the agency is proposing continued postponement of such information;

(ii) an unclassified index identifying for each such record the reasons for which the agency is proposing continued postponement of information in such record; and

(iii) a specific proposed date identifying for each such record when the agency reasonably anticipates that continued postponement of information in such record no longer would be necessary or, if that is not possible, a specific proposed date for each such record identifying when the agency would propose to next review again after December 15, 2022, whether the information proposed for continued postponement in such record still satisfies the statutory standard for postponement.

(d) NARA shall review each proposed redaction, no later than September 1, 2022, in consultation with:

(i) The Department of Defense if the agency proposing the redaction asserts an anticipated harm to the military defense;

(ii) The Office of the Director of National Intelligence if the agency proposing the redaction asserts an anticipated harm to intelligence operations;

(iii) The Department of Justice if the agency proposing the redaction asserts an anticipated harm to law enforcement; and

(iv) The Department of State if the agency proposing the redaction asserts an anticipated harm to the conduct of foreign relations.

(e) The relevant consulting agency, as designated pursuant to subsection (d) of this section, shall provide its assessment to NARA as to whether the information proposed for continued postponement satisfies the statutory standard for such postponement. In reviewing a proposed redaction, NARA or the relevant consulting agency, as designated pursuant to subsection (d) of this section, should consult with the agency that proposed the redaction.

(f) If NARA does not agree that a proposed redaction meets the statutory standard for continued postponement, it shall inform the agency that proposed the redaction. After consultation with NARA, the agency that proposed the redaction may, no later than October 1, 2022:

(i) withdraw the proposed redaction; or

(ii) refer the decision on continued postponement to the President through the Counsel to the President, accompanied by an explanation of why continued postponement remains necessary to protect against an identifiable harm to the military defense, intelligence operations, law enforcement, or the conduct of foreign relations that is of such gravity that it outweighs the public interest in disclosure.

(g) If NARA agrees that a proposed redaction meets the asserted statutory standard for continued postponement, the Archivist shall recommend to the President, no later than October 1, 2022, that continued postponement from public disclosure of the information is warranted after December 15, 2022.

(h) At the conclusion of the 1-year review, any information still withheld from public disclosure that agencies do not propose for continued postponement beyond

December 15, 2022, shall be released to the public on that date.

(i) At the conclusion of the 1-year review, each unclassified letter described in subsection (c)(i) of this section and each unclassified index described in subsection (c)(ii) of this section shall be disclosed to the public on December 15, 2022, with any updates made to account for any information initially proposed for continued postponement that is not postponed from public disclosure beyond December 15, 2022.

SEC. 6. *Digitization and Democratization of Records.* (a) Since the 1990s, more than 250,000 records concerning President Kennedy's assassination—more than 90 percent of NARA's collection—have been released in full to the public. Only a small fraction of the records contains any remaining redactions. But many records that have been fully disclosed are inaccessible to most members of the public unless they travel to NARA's location in College Park, Maryland.

(b) The Archivist shall issue a plan, no later than December 15, 2021, to digitize and make available online NARA's entire collection of records concerning President Kennedy's assassination.

(c) The Archivist shall provide additional context online about the records that have been withheld in full under sections 10 and 11 of the Act—primarily documents containing tax-related information of the Internal Revenue Service or the Social Security Administration—that are not subject to the Presidential certification requirement under section 5 of the Act.

SEC. 7. *Publication.* The Archivist is hereby authorized and directed to publish this memorandum in the Federal Register.

J.R. BIDEN, JR.

§ 2108. Responsibility for custody, use, and withdrawal of records

(a) The Archivist shall be responsible for the custody, use, and withdrawal of records transferred to him. When records, the use of which is subject to statutory limitations and restrictions, are so transferred, permissive and restrictive statutory provisions with respect to the examination and use of records applicable to the head of the agency from which the records were transferred or to employees of that agency are applicable to the Archivist and to the employees of the National Archives and Records Administration, respectively. Except as provided in subsection (b) of this section, when the head of a Federal agency states, in writing, restrictions that appear to him to be necessary or desirable in the public interest with respect to the use or examination of records being considered for transfer from his custody to the Archivist, the Archivist shall, if he concurs,¹ impose such restrictions on the records so transferred, and may not relax or remove such restrictions without the written concurrence of the head of the agency from which the material was transferred, or of his successor in function, if any. In the event that a Federal agency is terminated and there is no successor in function, the Archivist is authorized to relax, remove, or impose restrictions on such agency's records when he determines that such action is in the public interest. Statutory and other restrictions referred to in this subsection shall remain in force until the records have been in existence for thirty years unless the Archivist by order, having consulted with the head of the transferring Federal agency or his successor in function, determines, with

respect to specific bodies of records, that for reasons consistent with standards established in relevant statutory law, such restrictions shall remain in force for a longer period. Restriction on the use or examination of records deposited with the National Archives of the United States imposed by section 3 of the National Archives Act, approved June 19, 1934, shall continue in force regardless of the expiration of the tenure of office of the official who imposed them but may be removed or relaxed by the Archivist with the concurrence in writing of the head of the agency from which material was transferred or of his successor in function, if any.

(b) With regard to the census and survey records of the Bureau of the Census containing data identifying individuals enumerated in population censuses, any release pursuant to this section of such identifying information contained in such records shall be made by the Archivist pursuant to the specifications and agreements set forth in the exchange of correspondence on or about the date of October 10, 1952, between the Director of the Bureau of the Census and the Archivist of the United States, together with all amendments thereto, now or hereafter entered into between the Director of the Bureau of the Census and the Archivist of the United States. Such amendments, if any, shall be published in the Register.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1288, § 2104; Pub. L. 95-416, § 1(b), Oct. 5, 1978, 92 Stat. 915; renumbered § 2108 and amended Pub. L. 98-497, title I, §§ 102(a)(1), 107(a)(2), Oct. 19, 1984, 98 Stat. 2280, 2285.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 397(b) (June 30, 1949, ch. 288, title V, § 507, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

Editorial Notes

REFERENCES IN TEXT

Section 3 of the National Archives Act, approved June 19, 1934, referred to in subsec. (a), was classified to section 300c of former Title 44, Public Printing and Documents, and was repealed by act June 30, 1949, ch. 288, title VI, § 602(a)(32), renumbered and added Sept. 5, 1950, ch. 849, § 7(d), 64 Stat. 590.

PRIOR PROVISIONS

A prior section 2108 was renumbered section 2112 of this title.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-497, § 107(a)(2), substituted “the Archivist and to the employees of the National Archives and Records Administration” for “the Administrator, the Archivist of the United States, and to the employees of the General Services Administration”, struck out “and in consultation with the Archivist of the United States” before “impose such restrictions” in third sentence, struck out “the Archivist and” after “having consulted with” in fifth sentence, substituted “Archivist” for “Administrator of General Services” wherever appearing, and substituted “Archivist” for “Administrator” wherever appearing.

Subsec. (b). Pub. L. 98-497, § 107(a)(2)(D), substituted “Archivist” for “Administrator of General Services”.

1978—Pub. L. 95-416 designated existing provisions as subsec. (a), inserted provisions permitting the Administrator to relax, remove, or impose restrictions in the public interest of records of agencies which have been

¹ So in original.