

JFK ASSASSINATION SYSTEM

IDENTIFICATION FORM

-----  
AGENCY INFORMATION

AGENCY : ROCKCOM  
RECORD NUMBER : 1781000210099 *by 27*  
RECORDS SERIES :  
GELLHORN-CARGILL-HARDY FILES  
AGENCY FILE NUMBER : G-C-H (VII-C)

-----  
DOCUMENT INFORMATION

ORIGINATOR : ROCKEFELLER COMMISSION  
FROM :  
TO : THE COMMISSION  
  
TITLE :  
JURISDICTION OF THE COMMISSION  
  
DATE : 03/10/75  
PAGES : 3  
  
SUBJECTS :  
ROCKEFELLER COMMISSION  
ASSASSINATIONS, FOREIGN LEADERS  
  
DOCUMENT TYPE : PAPER, TEXTUAL DOCUMENT  
CLASSIFICATION : ~~S~~  
RESTRICTIONS : ~~REFERRED~~  
CURRENT STATUS : ~~P-O~~  
DATE OF LAST REVIEW : 07/01/93  
  
OPENING CRITERIA :  
  
COMMENTS :  
No author given.

-----  
[R] - ITEM IS RESTRICTED

*Mr. Gellhorn*

COMMISSION ON CIA ACTIVITIES WITHIN THE UNITED STATES  
Washington, DC 20500

SECRET/SENSITIVE

March 10, 1975

*who wrote this?*

MEMORANDUM FOR: THE COMMISSION  
SUBJECT: Jurisdiction of the Commission

1. It has been recently alleged that the CIA was involved in attempted assassinations of three foreign political leaders. It has been further alleged that in at least one of these attempts, the CIA worked through organized criminal elements in the United States and other non-CIA personnel in the U.S. who were provided with weapons, ammunition, and money for the purpose.
2. The President directed the Commission to "Ascertain and evaluate any facts relating to activities conducted within the U.S. by the Central Intelligence Agency which give rise to questions of compliance with the provisions of 50 U.S.C. 403."
3. This memorandum sets forth legal and practical arguments relating to the Commission's power and duty to investigate these allegations, together with the recommendations of the staff.

LEGAL ARGUMENTS

4. Opposing Investigation: The arguments opposing investigation are two-fold:

a. In General Terms. It was the plain intention of the Executive Order to exclude CIA overseas operations from the Commission's review. The alleged assassination efforts are sensational in nature, but they are not different in principle from other clandestine operations so far as the jurisdiction of this Commission is concerned. All such operations require some domestic planning and support. If an operation involves some illegal activity -- such as a break-in or a theft of documents -- the planning and support could technically be considered a domestic conspiracy to commit an illegal act, and thus to come within the Commission charter. Such a construction is obviously too broad. It is only when the operation's target is domestic that the Commission should become involved.

SECRET/SENSITIVE

DECLASSIFIED  
 JFK Assass. Rec. Collection Act of 1992  
*CIA and NLF Review*  
 NARA date 1/29/96 By KBA

PHOTOCOPY FROM THE GERALD R. FORD LIBRARY

b. In Technical Terms. The Executive Order directs investigation of possible violations of 50 U.S.C. 403, not of every impropriety under the sun. Section 403 provides "the Agency shall have no police, subpoena, law-enforcement powers, or internal security functions", but otherwise authorizes it to "perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct". If we assume that the alleged attempts were authorized at the appropriate levels and if we further assumed these constitute duties related to intelligence, they do not otherwise violate 50 U.S.C. 403, whatever else they may involve.

5. Favoring Investigation: The legal arguments favoring investigation are three-fold:

a. In General Terms. Even assuming that the assassination attempts were properly authorized and directed, a separate issue is presented by the negotiations and preparations with non-government personnel. The Commission in other cases is considering whether domestic activities were proper even though the supported legitimate overseas operations. The Commission should decide whether it is appropriate for the Agency to arm and fund the Mafia, even in support of a legitimate overseas objective, just as it is deciding whether mail openings, break-ins, and penetrations of dissident groups, are appropriate means of supporting other legitimate overseas objectives.

b. In Technical Terms. It is wrong to construe narrowly the limits on the CIA's authority. Aside from the specific limitations on internal security functions, the National Security Act contemplates that the Agency will engage in only those domestic activities which are necessary and appropriate in support of its proper foreign-intelligence mission. The matters already under consideration by the Commission are being examined in terms of consistency with public policy and with other laws and constitutional provisions. The Commission should not take such a narrow and technical reading of its jurisdiction that its report is unresponsive to the concerns which gave rise to it. Under the proper standard, it is important to investigate the nature of any relations between the CIA and organized crime, including those alleged here.

c. Pendent Jurisdiction. Once the Commission goes so far as to investigate the Mafia connection, it will be very difficult not to explore all the assassination allegations. Two legal theories could be relied on to inquire into these related matters. First, if the Commission decides that dealings with organized crime are properly within its purview, it would be appropriate to examine the other alleged assassination attempts to ensure that they did not involve this element. Second, the Commission could frankly state that some of the ramifications of the alleged assassination plots were

PHOTOCOPY FROM THE GERARD R. FORD LIBRARY

outside the scope of its inquiry, but that in view of the prominence of the allegations and the public interest in having the matter speedily resolved, the Commission had determined to investigate. Legal analogies exist whereby a court with jurisdiction over only part of a dispute may nevertheless decide all issues in order to dispose of the matter in an orderly and efficient way.

5. Staff Recommendations: The Staff feels that while respectable arguments can be made either way, by far the better view is that the alleged Mafia connection is a matter which the Commission can and should investigate. Whether the Commission's jurisdiction extends the assassination attempts that did not involve Mafia or other non-CIA personnel in the U. S. is a considerably closer question. The arguments from a strictly legal point of view probably preponderate against investigation, but from a practical point of view may favor investigation.

PRACTICAL ARGUMENTS

6. Opposing Investigation. The allegations, if true, will prove seriously embarrassing to the U. S. and will adversely affect conduct of the nation's foreign policy. The allegations, though sensational, were apparently of isolated operations. Investigation may distract the attention and the limited resources of the Commission from matters more central to its inquiry.

7. Favoring Investigation. We should not limit ourselves because of what may be embarrassing. Besides at this point there can be no doubt that the allegations, if true, will be confirmed. The only issue is whether the confirmation will come from the Agency, from this Commission, or from Congress. There is a substantial public interest in having the matter disposed of as promptly as possible. Moreover, since substantial arguments can be made that the allegations are within the Commission's charter, refusal to investigate will be seen by many as confirmation that the Commission does not in fact desire to conduct a thorough and independent investigation. This is particularly true if the Commission simply ignores the charges or relies on what appears to be an overly technical reading of its charter. To investigate only the Mafia-related charges, and to ignore the others, would be the worst of both worlds.

8. Staff Recommendations: Unless the CIA makes full disclosure on its own, the Staff strongly feels that the Commission should investigate the allegations and include the results of the investigation in its report.

PHOTOCOPY FROM THE GERALD R. FORD LIBRARY

Rockefeller Commission

~~David Belin to Members of Rock Comm~~

Jurisdiction of Commissions re investigation on Assassinations

1975/03/10

Source: (CHECK) JFK Assass Recrds, GRFL, Rock Commission, Mr Hunt, Clapper, Baker, Weidner, Gellhorn, etc Box 10, f CC-H (II-B) Clartk Clifford interv