

PART V : SUGGESTED PROCEDURES TO BE FOLLOWED IN THE EVENT OF SUBSEQUENT ASSASSINATIONS OF FEDERAL OFFICIALS

(546) The panel has taken note of chapter 18 of the United States Code annotated, entitled "Presidential Assassination, Kidnaping, and Assault," enacted in 1965, which states:

SEC. 1751. Presidential assassination, kidnaping, and assault; penalties:

(a) Whoever kills any individual who is the President of the United States, the President-elect, the Vice President, or, if there is no Vice President, the officer next in the order of succession to the office of President of the United States, the Vice-President-elect, or any individual who is acting as President under the Constitution and laws of the United States, shall be punished as provided by sections 1111 and 1112 of this title.

(b) Whoever kidnapes any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(e) Whoever assaults any person designated in subsection (a) of this section shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

(f) The terms "President-elect" and "Vice-President-elect" as used in this section shall mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2.

(g) The Attorney General of the United States, in his discretion, is authorized to pay an amount not to exceed \$100,000 for information and services concerning a violation of this section. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this subsection.

(h) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by the State or local authority, under any applicable State or local law, until Federal action is terminated.

(i) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding. (121)

(547) Chapter 18, entitled "Congressional Assassination, Kidnaping, and Assault," also enacted since the Presidential assassination, states:

SEC. 351. Congressional assassination, kidnaping, and assault: penalties—

(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect shall be punished as provided by sections 1111 and 1112 of this title.

(b) Whoever kidnaps any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(e) Whoever assaults any person designated in subsection (a) of this section shall be fined not more than \$5,000, or imprisoned not more than 1 year, or both; and if personal injury results, shall be fined not more than \$10,000, or imprisoned for not more than 10 years, or both.

(f) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by State or local authority, under any applicable State or local law, until Federal action is terminated.

(g) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding. Added Public Law 91-644, title IV, section 15, January 2, 1971, 84 Stat. 1891. (122)

(548) The panel considered these statutes and the method whereby a medicolegal autopsy would be conducted as a consequence of these statutes. Currently under a contingency plan developed by the Fed-

eral Bureau of Investigation in cooperation with the Armed Forces Institute of Pathology, the institute would cooperate in the selection of qualified individuals to assist in the examination.

(549) The panel is compelled to offer the following alternative, more viable procedures for consideration by the select committee.

(550) On the death of any of the officials designated in the two statutes, where it has apparently been caused or aggravated by any criminal act specified in this section, a complete and thorough post mortem examination and autopsy shall be performed on the dead body. No person, member of any government agency or otherwise shall forbid or interfere in any way with the performance of such an autopsy.

(551) Three or more physicians, each licensed to practice medicine in at least one State of the United States or, in lieu thereof, holding a commission in one of the armed services of the United States, shall perform this autopsy. Each of the physicians shall have been certified by the American Board of Pathology in the medical specialty of forensic pathology. In the event that the death has occurred within the jurisdiction of a medical examiner or coroner of any State or political subdivision thereof, the medical examiner or coroner may attend the autopsy, and in the event that he or she is a licensed doctor of medicine certified by the American Board of Pathology as specified above, will be designated to participate in the performance of the autopsy.

(552) The Attorney General of the United States shall designate the forensic pathologists who will perform the autopsy, on the advice and recommendation of the Director of the Armed Forces Institute of Pathology.

(553) Another alternative is to have all U.S. attorneys establish prior working relationships or standardized procedures with a medical examiner or coroner from their jurisdictions so that, if a death occurs in their jurisdiction, this person automatically participates in the autopsy. The medical examiner or coroner must be certified by the American Board of Pathology in the specialty of forensic pathology. The U.S. attorney and the previously designated medical examiner or coroner in the jurisdiction where death occurs will then designate the remaining forensic pathologists. In the event the death occurs outside the jurisdiction of any U.S. attorney, the Attorney General will then choose the forensic pathologists.

(554) One of the three or more physicians designated to perform the autopsy will be designated as the team leader and will be responsible for the preparation of the final report, with the concurrence of a majority of those participating in the autopsy. If the medical examiner or coroner in the community where the death occurred meets the designated qualifications, he will be the team leader. In the event that a material divergence of opinion arises between team members pertaining to an interpretation of a salient finding of the autopsy or subsequent laboratory testing of fluids or tissues from the body, a minority report may be prepared.

(555) Laboratories designated by the team leader will examine and document all material evidence unless such evidence is of the type that is customarily examined by crime laboratories, in which case the designated investigator from the FBI will designate the laboratory and will see that the evidence is properly transferred, with documen-

tation. No photograph taken of the body or its accouterments, or of any evidence removed from the body, will be destroyed; all should be retained as evidence, regardless of quality. All laboratory test results, all photographs, and all other evidence material to the determination of the events associated with the injury to the victim will be made available to the forensic pathology team as frequently as may be requested by its leader during the preparation of its reports. The forensic pathologist may also consult with laboratories and individuals apart from the FBI.

(556) On completion of all criminal court proceedings arising out of the prosecution of the person or persons responsible for the death under investigation, all physical evidence, including photographs, that can be preserved will remain the property of the United States of America and be preserved in the custody of the Archivist of the United States at the National Archives.

(557) The panel suggests that these procedures might be considered as the implementing rules or regulations to support section 1751 of title 18, but believes that they might also be incorporated into paragraph (h) of the existing legislation. This would preclude the development of a situation similar to that which existed at the time of the assassination of President Kennedy. Military medicine still does not acknowledge the need for a full-time medicolegal investigative system within its programs, but depends on pathologists, many of whom are not specifically trained in forensic pathology, to act as consultants to investigators, performing autopsies on request. These examinations are often performed without adequate interaction between the investigator and the pathologists, who frequently has not had appropriate training. As review of the findings of such investigations and examinations by the forensic pathology branch of the Armed Forces Institute is usually delayed, it is often too late to correct inadequacies of the investigation or examination which may result in inadequate documentation and interpretation of evidence in subsequent criminal or civil litigation.