



August 20, 2004

The Honorable John W. Carlin
Archivist of the United States
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740

Dear Mr. Carlin:

When the National Commission on Terrorist Attacks Upon the United States (the "Commission") terminates, by statute, on August 21, 2004, the records of the Commission will be transferred to the National Archives and Records Administration (NARA) for preservation and public access. This letter sets forth the Commission's continued interest in government and public access to information created or gathered during its investigation and establishes criteria under which these records will be made available.

The Commission has established a policy of making available to the public as much information as possible, while safeguarding national security, personal privacy, intelligence, law enforcement, and other sensitive information. The Commission's final report is highly detailed and discloses a significant amount of previously classified material. In addition, the Commission has released through its website many supplemental documents, including staff statements, witness statements, transcripts, and press releases. All of the records and information that the Commission has made available to the public should continue to be made publicly available by NARA. This includes the records that are accessible on the Commission's website, which NARA will maintain after August 21, 2004. Because the Commission was established in the legislative branch, its records have not been subject to the Freedom of Information Act (FOIA), and we understand that the FOIA will not apply to Commission records even after they are transferred to NARA.

Commission records not already publicly available should be made available to the public, to the greatest extent possible consistent with the terms of this letter, beginning on January 2, 2009. The Commission encourages NARA to conduct a systematic review of the records that are not currently available to the public with the goal of releasing to the public as much information as is allowable by law and regulation on January 2, 2009, or as soon thereafter as possible. In the course of this review, NARA should refer to the originating agencies copies of records that remain classified and request a review for declassification by January 2, 2009, or as soon thereafter as is possible. Records should not be disclosed if they (a) contain information that continues to be classified; (b) disclose private information that the Commission agreed

Thomas H. Kean
CHAIR

Lee H. Hamilton
VICE CHAIR

Richard Ben-Veniste

Fred F. Fielding

Jamie S. Gorelick

Slade Gorton

Bob Kerrey

John F. Lehman

Timothy J. Roemer

James R. Thompson

Philip D. Zelikow
EXECUTIVE DIRECTOR

17th Street SW, Room 5125
Washington, DC 20407
202 331 4060 • 202 296 5545
www.nccommission.gov

26 Federal Plaza
Suite 13-100
New York, NY 10273
• 212 264 1505 • 212

Hon. John W. Cash
August 20, 2004
Page 2

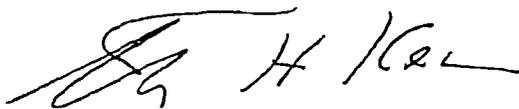
to protect from public disclosure; or (c) are otherwise barred from public disclosure by law, as determined by the Archivist.

We understand that there will be an initial period of at least several months during which NARA's staff will be organizing and processing the Commission's records. During this period, access to the records should be provided to the ten members of the Commission and the following members of the Commission staff: Philip Zelikow, Daniel Marcus, Christopher Kojm, Steven Dunne, Dietrich Snell, Dianna Campagna, Stephanie Kaplan, and Tracy Shycoff. In addition, certain administrative staff of the Commission may have access as part of their duties to transfer the records to NARA. It is important that the ten Commissioners and the designated members of the Commission staff have continuing access to the Commission's records once the records are transferred to NARA, both during and after this initial processing period.

Only individuals with the necessary clearances may have access to classified Commission records, and all instructions in this letter should be interpreted to conform with applicable laws and regulations regarding access to, and handling of, classified materials.

Thank you for your cooperation in carrying out the important task of preserving and providing access to the Commission's voluminous records.

Yours sincerely,



Thomas H. Kean
Chair



Lee H. Hamilton
Vice Chair