



Assassination Records Review Board
600 E Street NW • 2nd Floor • Washington, DC 20530
(202) 724-0088 • Fax: (202) 724-0457

November 27, 1996

VIA FACSIMILE

The Honorable John M. Deutch
Director of Central Intelligence
The Central Intelligence Agency
Washington, D.C. 20505

Re: The Central Intelligence Agency's Compliance with the JFK Assassination
Records Collection Act, 44 U.S.C. § 2107

Dear Mr. Deutch:

Since 1994, the Assassination Records Review Board ("Review Board") has been working with a number of Federal agencies, including the Central Intelligence Agency, to locate and publicly release records related to the assassination of President Kennedy. These actions have been taken pursuant to The President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. § 2107 (Supp. V 1994) ("JFK Act"). We have been working with Mr. John Pereira, Chief, Historical Review Group and Mr. Barry Harrelson, Senior Review Officer, Historical Review Group of CIA and have appreciated the cooperation we have received.

The purpose of this letter is to request your agency's cooperation in assisting the Review Board in discharging its responsibility of assuring Congress and the American people that the goals of the JFK Act have been accomplished to the greatest reasonable extent. We want to assure the American people that the United States Government has identified, located, and released all records relating to the assassination of President Kennedy. Indeed, one of the paramount purposes of the JFK Act is to certify to the public that the United States Government is not withholding relevant materials related to the assassination. *See, e.g., Assassination Materials Disclosure Act, H. R. Rep. No. 102-625, Part 1, 102d Cong. 2d Sess. (1992)* ("The Federal Government's failure to release official materials has contributed to numerous conspiracy theories and fueled charges of government complicity in the assassination . . . a salutary purpose is served in opening these files [relating to the JFK assassination] to allay the suspicion of government cover-up.").

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The Review Board has recently considered how it, along with the relevant federal agencies, can best demonstrate to the American public that a thorough, good faith, and diligent effort has been made to locate and release all remaining assassination-related records within the control of the United States Government (and that the Government is not hiding any such materials from public disclosure). Pursuant to the Congressional mandate under the JFK Act to "create an enforceable, independent, and accountable process for the public disclosure of such records," 44 U.S.C. § 2107(2)(a)(3), the Review Board seeks to have the relevant federal agencies provide a complete and specific accounting of their efforts to locate and release assassination-related records, including a full explanation for any destruction of such records.

Accordingly, the Review Board requests that each relevant agency adhere to the formal compliance program (hereinafter "JFK Act Compliance Program") outlined below and devised by the Review Board pursuant to its powers under Section 7(j)(1)(A), (B), (C), (D), and (F) of the JFK Act. We hereby request that you undertake the following measures by the dates provided (these dates were set in view of the fact that the Review Board's operations currently are scheduled to expire on September 30, 1997):

1. Designation of Agency Compliance Official (or officials) and statement of intent to comply with the JFK Act. We request that by December 9, 1996, your agency designate an Agency Compliance Official who ultimately will be responsible for ensuring that the agency has complied with its obligations under the JFK Act, including the identification, location, and organization of assassination records and the transmission of those records to the National Archives and Records Administration ("National Archives"). Although the Review Board assumes that Mr. John Pereira or Mr. Barry Harrelson will serve in this position, we nevertheless await your formal confirmation. If necessary, your agency may designate additional persons with knowledge of the measures that have been undertaken to locate assassination records.

We also request that by December 9, 1996, the agency convey its agreement to adhere to the compliance procedures outlined in this letter. To the extent that any compliance procedure described below appears to be unreasonable or to present difficulties that we may not have anticipated, please explain why and make alternate suggestions to us.

2. Initial Statement of Compliance. We request that the Agency Compliance Official prepare, by January 6, 1997, an initial written statement of the

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agency's compliance with the JFK Act ("Statement of Compliance"), setting forth the steps that the agency has taken to locate and process assassination records. The Review Board recognizes that many of the relevant federal agencies, including the Central Intelligence Agency, have previously written letters to the Review Board apprising it of their progress at various stages of identifying and processing assassination records under the JFK Act. The Statement of Compliance, while it may include information previously reported to the Board, is to be the agency's comprehensive and final report to the American public of what it has done to locate records relating to the assassination. This Statement of Compliance shall include, to the fullest reasonable extent, the following information:

- a. A complete description of all steps that your agency took to identify and locate assassination records including, but not limited to, an identification of the major record collections and files that were consulted in the agency's search, any departmental file indices consulted, the names and titles of the persons who were responsible for conducting the searches, the physical locations of the records that were searched, the off-site storage facilities (e.g., Federal Records Centers) searched, the specific steps that were taken to locate and retrieve materials in archives, and any other criteria used by the agency to locate assassination records.
- b. A description of the steps that the agency took in direct response to specific requests of the Review Board to locate certain additional records or information relating to the assassination. In particular, we ask that the CIA describe what specific steps it has taken to address the following requests: CIA-9, Publications and Analytical Materials (See David G. Marwell letter dated March 6, 1996 to Mr. John Pereira); CIA-11, Silvia Duran's Original Statement (See David G. Marwell letter dated May 3, 1996 to Mr. John Pereira); CIA-12, JMWAVE Materials (See David G. Marwell letter dated May 22, 1996 to Mr. John Pereira); for HTLINGUAL records (See T. Jeremy Gunn Memorandum dated October 1, 1996 to Mr. Barry Harrelson); and for Monthly Operational Reports on Cuban Exile Groups (See Manuel E. Legaspi Memorandum dated October 17, 1996 to Mr. Barry Harrelson).

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- c. To the extent that any assassination-related records have been destroyed by the agency or any agency official, a full and specific explanation of the circumstances surrounding the destruction of such records.
 - d. The status of remaining work that you can now identify that needs to be completed by your agency in order to comply fully with the JFK Act, including an identification of the categories of records that must be processed and transmitted to the National Archives, a description of any additional searches for files that must be done, and the projected date(s) for completion of these tasks.
3. Review Board Interview With Agency Compliance Official (or Officials). Shortly after the submission of the agency's written Statement of Compliance, we ask that the Agency Compliance Official (as well as any persons who helped prepare the agency's initial Statement of Compliance) be made available to the Review Board for an interview regarding the location of agency assassination records. The interview will be used as an opportunity to resolve any outstanding questions regarding the agency's search, including any follow-up tasks to be completed by the agency. The Review Board anticipates that these interviews will be conducted in January 1997.
 4. Submission of Final Agency Declaration of Compliance. By July 1, 1997, Federal agencies are expected to complete the process of identification, location, and declassification of its assassination records at which time they should submit to the Review Board a final declaration certifying, under oath, their compliance with the provisions of the JFK Act (the "Final Declaration of Compliance"). Because of the volume of CIA records, such a "final" statement may not be practicable at that time. However, we do expect that CIA will provide a complete status appraisal by July 1, 1997. This final declaration shall set forth all of the information initially set forth in the initial Statement of Compliance and shall also supplement the initial Statement of Compliance by detailing any further steps that were conducted by the agency in identifying and locating assassination records. The agencies' Final Declarations of Compliance will be included in our final report to Congress.

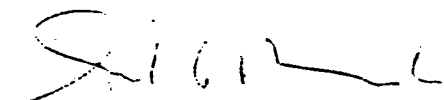
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5. Compliance Depositions. Starting on or about August 1, 1997, the Review Board, pursuant to its statutory authority, may conduct depositions, under oath, of the Agency Compliance Official along with any other agency officials with responsibility for complying with the JFK Act. The decision to take a compliance deposition of an agency will be made on a case by case basis, taking into account the importance of the agency to the work of the JFK Act and the sufficiency of the agency's efforts to account fully for its compliance with the JFK Act. In the event that the Review Board decides to commence a compliance deposition of an agency, the responsible agency designee(s) will be expected to testify under oath with respect to any and all issues relating to the agency's record search, including the scope of the search, the identity of files searched, the destruction of any relevant records, and any other matters set forth in the Final Declaration of Compliance. Any person obligated to appear for a deposition under oath shall be fully entitled to obtain legal representation.

We look forward to receiving your initial response, by December 9, that designates your Agency Compliance Official and includes your statement regarding your position with respect to the provisions outlined in this letter. To the extent that you have any questions or suggestions regarding the Compliance Program, please do not hesitate to contact our General Counsel, T. Jeremy Gunn, at (202) 724-0088.

Thank you for your cooperation with our work.

Sincerely,



David G. Marwell
Executive Director

cc: The Honorable Nora Slatkin, Executive Director, Central Intelligence Agency
Michael O'Neil, General Counsel, Central Intelligence Agency
John Pereira, Chief, Historical Review Group, Central Intelligence Agency
Barry Harrelson, Senior Review Officer, Historical Review Group, Central Intelligence Agency

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

General Counsel

9 December 1996

David G. Marwell
Executive Director
Assassination Records Review Board
600 E Street N.W., 2nd Floor
Washington D.C. 20530

Dear Mr. Marwell:

The Director of Central Intelligence has forwarded to me your 27 November 1996 letter for response. I commend the efforts of the Review Board and its staff in reviewing and releasing hundreds of thousands of United States Government documents for greater public understanding about the assassination of President Kennedy. I also confirm the Central Intelligence Agency's commitment to continue working closely with the Review Board in carrying out its statutory authorities.

With regard to the requests made in your letter, I understand the Review Board's desire to demonstrate to the public that it has carried out its duties thoroughly and diligently. You have requested that CIA appoint an Agency Compliance Official to be responsible for ensuring CIA's compliance with its obligations under the JFK Act. The DCI has full confidence in Mr. John Pereira as Chief of the Historical Review Group (HRG) and has determined that Mr. Pereira will continue to act as the CIA official responsible for ensuring full compliance with the JFK Act and will remain the Agency's focal point with the Review Board.

You have also requested that CIA provide an Initial Statement of Compliance. Mr. Pereira and Mr. Barry Harrelson, the senior review officer for HRG, as well as the rest of the HRG staff, have always been available to you without restriction. The Review Board and your staff have been provided access to any relevant documents or information you have requested. As you know, the Review Board was fully informed as to the steps CIA took to designate Agency records as part of the President Kennedy collection. HRG has also arranged for multiple briefings by senior CIA officials from a wide variety of CIA components so that the Review Board can better understand the information it is reviewing. Given the current effective relationship between HRG and your staff, should you require additional assurances of this Agency's compliance with the JFK Act, I suggest that you contact Messrs. Pereira and

David G. Marwell

Harrelson directly. As usual, they will provide you with the specific information you need as quickly as possible to continue to record CIA's compliance with the JFK Act.

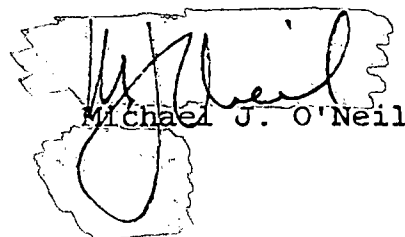
As to your request for a complete description of the steps CIA has taken to respond to specific requests, I understand that there are several outstanding requests. HRG has assured me that these requests have been discussed with your staff and responses will be provided to you as quickly as possible. Given the number and breadth of the requests that are being made by the Review Board and the limited staff resources available to CIA to process such requests, I ask that the Review Board continue to prioritize all its requests for information or documents. With the Review Board's priorities established in this way, the Agency can immediately work on those requests that are most important to the Review Board. Of course, as CIA responds to these requests, HRG will provide any information the Review Board needs as to how the searches were conducted. I believe that this method will best meet the needs of the Review Board and will allocate CIA's limited resources in the most efficient manner possible.

Finally, as to your requests to interview CIA officials responsible for this Agency's compliance with the JFK Act, Mr. Pereira has always been available to the Review Board for informal discussions as well as for giving sworn testimony including depositions. CIA has never objected to the Review Board deposing or interviewing informally any of its current or former employees and has, in fact, facilitated such interviews. You will also recall that, on 6 August 1996, Messrs. Pereira and Harrelson gave sworn testimony at an open hearing of the Review Board.

I trust that this responds to the concerns raised in your letter. Of course, if you should have any questions regarding this matter, please do not hesitate to contact Linda C. Cipriani, an attorney in the Office of General Counsel, at (703) 874-3124.

With every good wish, I am

Sincerely yours,



Michael J. O'Neil

David G. Marwell

DCI/OGC/LD/LCCipriani/76124 (2 Dec 96)

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