

September 28, 1995

Mr. John Pereira
Historical Review Group
Center for the Study of Intelligence
Central Intelligence Agency
Washington, D.C. 20505

Re: Procedures for ARRB Review of CIA Records

Dear John:

The Assassination Records Review Board would like to thank you and your colleagues at the Agency for the cooperation and efforts you have shown during the Board's start-up phase. We particularly appreciate your taking the time to brief the Board on several occasions regarding issues that are of importance to you.

Future Review of Agency Records

The Review Board is now prepared to proceed with greater speed in its review of Agency records. In order to facilitate the process, and to ensure that the Agency has an opportunity to provide the Review Board with evidence in support of its proposed redactions, we would like to institute a new procedure for the Agency to submit its evidence to the Board. We have discussed these new procedures informally with your staff.

In the future we will be sending to you a "Request for Evidence" form for each document in which the Agency wishes to make a postponement. The Agency may provide its evidence in support of any proposed postponements on these forms. (Our first set of forms is enclosed.) To the extent that the Agency's evidence in support of a postponement is classified, the Agency may classify the Request for Evidence form. To the extent that the Agency would like to present evidence regarding the postponements in some other way, such as by an oral presentation to the Board or by showing the ARRB staff other records, the Agency should so indicate on the form. We would, ultimately, like to be responsive to any reasonable method by which you would prefer to provide evidence, although we anticipate that the forms will be the principal vehicle for presenting the evidence to the Board.

We will be sending Request for Evidence forms to you on a rolling basis. We will do our best to

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anticipate the rate at which the Board will be reviewing records and will send forms to you according to our best estimates. We will, in any case, provide you with several weeks' advance notice of Board reviews. The forms record a date by which you should supply your evidence to the ARRB Staff so that we will have time to review the material and make recommendations to the Board. The Board will have your evidence available for its inspection.

We are enclosing here one form for each document that the staff plans to present to the Board for its consideration at the November 13, 1995 Board meeting. Since there are many records, we are dividing the forms into two batches, with the first batch of completed forms due back at the ARRB by October 30, and the second batch due by November 6. Although this does not provide our staff with as much time to prepare for the Board meeting as we optimally would like, we nevertheless wanted to give you as much time as possible in which to respond.

Over the past few months, the ARRB Staff has been able, with the Agency's assistance, to narrow the number of still-sensitive crypts, methods, and other issues in the Mexico City documents to a relative handful. As the review process picks up speed, it will become increasingly important to do the same for the remaining parts of the collection. In order to accomplish this, we believe that the Agency will need to focus its efforts even more sharply on providing concrete evidence in support of those redactions it believes truly warrant continued postponement. We understand that you are currently considering, as in the case of Mexico City documents, the release of large blocks of inactive crypts or other forms of currently less-sensitive information that appear repeatedly throughout the collection. To the extent possible, we urge you to take such a step, not only because it will make more material available to the public, but because it will also allow you to focus your efforts on providing the Review Board with the clearest and most convincing evidence possible to protect that information in the collection that you believe still requires protection.

To meet the requirements of "clear and convincing evidence" under the Act, we urge the Agency to demonstrate that release of a particular postponement would reasonably expose a particular individual or individuals to specific kinds of harm, or that a release would cause current specified dangers to a specific method. It would also be in the Agency's interest to show what repercussions might result from the acknowledgment of a particular overseas station during the early 1960s or the recognition of a relationship that took place more than thirty years ago. Your evidence is more likely to be persuasive if it is specific rather than generic. The mere suspicion that a release might endanger a source or method will be unlikely to persuade the Review Board under the standard of "clear and convincing evidence."

As you know, we are all trying to perform our statutory responsibility favoring disclosure with as much care and consideration possible for the nation's security and welfare. In this regard, we have

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appreciated CIA's responsiveness to our requests for information and its willingness to provide open channels for communications, all of which makes it possible for us to do our jobs better. Please know that we look forward to continuing this constructive relationship and welcome any questions you may have concerning our requests for evidence.

Photocopies of Agency Assassination Records

On a closely related matter, I would like to raise again our concern about the difficulties in the review process as long as there are no photocopies of the original records. The Review Board and the ARRB Staff should, as the JFK Act provides, have the originals of the documents available at the time they are conducting their review. This of course complicates the transfer of evidence from the Agency to the Staff when we have the originals and you do not have copies.

In discussions during the past few months, Jeremy Gunn has raised this issue with Bob Eater and Barry Harrelson and has encouraged the Agency to make a photocopy of the originals so that the transfer and review process can be facilitated. As we begin to pick up speed, the need for your having a copy is becoming increasingly apparent. Although we certainly do not want to put the Agency to the additional burden of making a copy of the original records, we frankly see no other way for the process to move with the speed and effectiveness that is necessary under the JFK Act.

We thus encourage you, again, to make copies of the original documents for you to keep as your own records.

Sincerely yours,

David G. Marwell
Executive Director

Enclosures