

August 27, 1996

Anna K. Nelson
Adjunct Professor
Department of History
American University
4400 Massachusetts Avenue, N.W.
Washington, D.C. 20016

Re: Ethics Issues Regarding Proposed Essay for University of Kansas Press Publication

Dear Anna:

I am writing in response to your request, dated August 20, 1996, seeking advice as to any ethics issues that might arise from an essay you have been requested to write for University of Kansas Press regarding the Review Board. As we understand it, the proposed essay is intended for a book titled the *Culture of Secrecy* and will be largely a factual description of the Review Board and its work. Moreover, we understand that you will not be compensated for your efforts.

Based on these facts, we believe that no ethical conflicts exist that would prevent you from writing the essay and contributing to the volume. However, you should be aware of a few potential ethical concerns.

First, you should be certain that you do not receive any compensation or benefit of any kind for writing the essay. 5 C.F.R. § 2635.702. This prohibition applies not only to you directly but also to any compensation or benefit you might obtain for friends, relatives or organizations with which you are affiliated.

Second, you should not refer in the essay to your position with the Review Board or use your title in a way that reasonably could be construed to imply that the Review Board or the Federal government approves of or endorses your writing. 5 C.F.R. § 2635.702(b). When identifying your credentials, you may refer to your position with the Review Board as one of several biographical details noted in your essay, but it must not appear more prominently than other significant biographical details. 5

C.F.R. § 2635.807(b)(1). In addition, you should also include a disclaimer stating that the views expressed in the essay do not necessarily represent the views of the Review Board or the Federal government. 5 C.F.R. § 2635.807(b)(2).

Third, you should include only non-classified and publicly available information in the essay, so as not to disclose inadvertently any information not intended for dissemination to the general public. 5 C.F.R. § 2635.703(a). This caution is especially relevant given your assurance at the Board members' confirmation hearing that you would not misuse the information you gained access to through your service at the Review Board:

Senator LIEBERMAN. As a member of the Board, you . . . will have privileged and unique access to material that may not be available to the public for years, and I wanted to ask you for the record whether you would commit . . . not to use the information gained from service on the Board until such time as that information is publicly available.

Ms. NELSON. Yes.

Nominations of Graff, Tunheim, Nelson, Joyce, and Hall Before the U.S. Senate Committee on Governmental Affairs, 103rd Cong., 2nd Sess. 877 (1994).

We believe that the project, as you describe it, fully complies with the spirit of your answer to Senator Lieberman. To the extent there is any question in your mind regarding whether the information is publicly available, you may wish to have the essay reviewed either by the Review Board staff or by the government agency responsible for the information relevant to your statements.

I hope these comments will assist you in any decisions you must make regarding your contribution to the upcoming publication. If I can answer any further questions, please do not hesitate to call.

Sincerely,

T. Jeremy Gunn
General Counsel