

Dear Mr. President:

The Board has received a copy of the CIA's appeal of three Review Board determinations. This appeal places the Board in a very awkward position. On the one hand, fidelity to the process defined by the JFK Act would require the Board to oppose vigorously the CIA's untimely and irregular appeal. On the other hand, however, the Board's responsibility to consider carefully any evidence of harm that might follow the public release of information requires it to proceed with caution.

We note that the arguments made on appeal include information on harm to our national security that was withheld from the Board at the time of its original decision. Providing new evidence at this late date, distorts the procedures set up by the JFK Act with the Board becoming aware of potentially relevant information long after it has reached its final determination. It is particularly troublesome for the Board to read about this information for the first time in an appeal to the President of the United States.

The documents at issue in the CIA appeal were the subject of careful review by the Board, which evaluated all of the evidence provided by the CIA before reaching its determination. In each case, the CIA was notified of the Board's action within 14 days and had, by statute, a maximum of 30 days to appeal the Board's determination. In each case, after the CIA failed to file a timely appeal, the documents were processed for public access and transferred to the National Archives for release. If we are to believe the CIA's dire warning of the harm that would result from the release of the information in these documents, then we must consider their delay in raising the appeal as reckless since the documents could have been made public at any time after the CIA's failure to file a timely appeal.

The Board takes seriously its dual responsibilities of making important information about the assassination of President Kennedy available to the public while at the same time protecting legitimate concerns of national security. The process cannot work as Congress intended, however, if the Board does not have all relevant evidence at the time it makes its determinations.

Given the level of concern asserted by the CIA and the existence of possibly relevant new information, the Board considers it only prudent to delay responding to the CIA appeal until it has a chance to evaluate all evidence that was unavailable to it during its initial review.

Sincerely,

JRT