

DRAFT

September 28, 1995

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

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.

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.

In the future we will be sending to you "Request for Evidence" forms on which the Agency may provide its evidence in support of any proposed postponements. (Our first set of forms is enclosed.)

One form will be provided for each Agency record to be reviewed by the Board. 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 like 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 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 actions. 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.

Mr. John Pereira
September 2_, 1995
Page 2

We are enclosing here one form for each document that the staff plans to present to the Board for its consideration at the upcoming November 13 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. With this in mind, you may want to consider, 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. This would 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 less likely 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 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.

Mr. John Pereira
September 2_, 1995
Page 3

[Should we repeat our suggestion that CIA make a photocopy of records and suggest a schedule for the transfer of originals to the Board. Photocopies of records. Discussions among Gunn, Harrellson, Eatinger.]

Sincerely yours,

David G. Marwell
Executive Director

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