

ATTORNEY-CLIENT PRIVILEGE

July 14, 1998

The Honorable Frank W. Hunger
Assistant Attorney General
Civil Division
United States Department of Justice
Washington, D.C. 20530

Dear Mr. Hunger:

Thank you for your letter of July 8, 1998, regarding the Assassination Records Review Board's request that the Department of Justice issue a *subpoena duces tecum* to Mr. Lawrence Schiller for the production of his copies of KGB records pertaining to Lee Harvey Oswald. The Review Board is encouraged by your willingness to seek the Attorney General's authorization of the issuance of the subpoena to Mr. Schiller, and it would like to assist you in providing any information that would be helpful in your presentation to the Attorney General. Below, the Review Board addresses the concerns raised in your most recent correspondence.

The Review Board has made all reasonable attempts to obtain KGB Records from Other Sources

The Review Board would like to assure the Department of Justice that it has exhausted every known possibility for obtaining the KGB records from sources other than Mr. Schiller. What follows is a summary of the Review Board's efforts to obtain these records from alternate sources:

1. The Review Board has attempted, unsuccessfully, to obtain the records from the Government of Belarus. Two Board members and the former Executive Director traveled to Belarus on October 29-30, 1996, and made a direct request to the government to obtain a copy of the files, but the request was denied. The State Department has advised, unofficially, that it believes that the only way that the records might be obtained from Belarus is by the offering of a very substantial sum of money (in the six figures).
2. The Review Board has been told by the Russian government, through the Department of State, that it does not have a copy of the KGB files.

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3. The Review Board has now reviewed all of the files on the Kennedy assassination at the following federal government offices: the FBI, CIA, NSA, Department of State, Department of Justice, Defense Intelligence Agency, U.S. Navy, Department of Defense, and other agencies. We have been unable to locate any copies of the KGB files.
4. The Review Board sent a letter to Norman Mailer, in care of his publisher, on January 5, 1998, requesting his assistance in obtaining a copy of the KGB files. No response was received. The Review Board thereupon sent two additional requests to Mr. Mailer at his personal addresses. No response was received to either letter. *See Attachments A-C.*
5. In early 1997, the Review Board was advised, by a reliable source, that Mr. Schiller has a copy of the KGB files and that he had offered to show the files to that source.
6. The former Executive Director of the Review Board, David Marwell, exchanged e-mail messages with Mr. Schiller on May 19, 1997. On May 20, 1997, Mr. Marwell and Mr. Schiller spoke about the possibility of the Board's obtaining copies of the records, but Mr. Schiller did not reach a decision. A follow-up letter was sent to Mr. Schiller on May 20, 1997. *See Attachment D.* No further response was received.
7. On March 4, 1998, I spoke with Mr. Schiller and requested that he make a copy of the files available for our inspection. He said that he had the only copy of the records (thereby implying that Mr. Mailer and others do not have copies.) He said that he had "thought long and hard about it" but that he had decided not to make copies available. I asked him in several different ways what his reasons were and whether there was anything we could do to help convince him otherwise. He said "no, you just need to respect my reasons." Although the conversation was very cordial, he was adamant that he would not provide us with access to the records.

The KGB documents are of Substantial Historical Significance

In the aftermath of the assassination of President Kennedy, the public has continuously speculated about a possible KGB connection to Lee Harvey Oswald and the assassination of President Kennedy.

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As you are aware, Lee Harvey Oswald defected to the Soviet Union in 1959, and resided for a two-year period in the city of Minsk in the then Byelorussian Republic. During this period, the KGB kept Oswald under close scrutiny, monitoring his daily movements and personal contacts. The KGB maintained a file on Oswald that documented their surveillance and investigation of him. Government officials from Belarus told Review Board members during their 1996 visit that the originals of these records are presently located in the city of Minsk. As far as the Review Board is aware, the only copy of the KGB files is in the possession of Lawrence Schiller, who obtained them in the course of his assisting Norman Mailer with his book, *Oswald's Tale*.

Oswald's Tale provides the principal source of information as to what may be contained in the KGB records. Mailer provides excerpts of these records on thirty different occasions in his book. See Attachment E. Included among the excerpts are documentation of observations of Oswald made by the KGB agents assigned to monitor him, transcripts of telephone conversations between Oswald and his wife, Marina, reports of information obtained from Soviet citizens as to their encounters and conversations with Oswald, and a chronology of Oswald's daily activities. Often, the KGB observations contain opinions as to Oswald's motives, work ethic, or intelligence. Others reference comments from individuals assigned to report to the KGB on Oswald's activities. The transcripts (which are translated from Russian) contain private conversations between Oswald and his wife, including one wherein Marina refers to Lee as "Alik." ("Alek James Hidell" was a pseudonym allegedly used by Oswald on different occasions).¹ Obviously, nothing more is known about the remaining KGB records that Mailer chose not to include in his book. Further, the reader of *Oswald's Tale* must rely on Mailer's translator's version of what is contained in the records.

The Review Board has now been presented with an unparalleled opportunity to gain access to records that have remained elusive for more than thirty years. The KGB records are clearly crucial to an understanding of the story surrounding the assassination of President Kennedy. As you state in your letter, "Congress specifically identified the KGB documents as ones that are 'relevant to the assassination' and which should be disclosed." (Letter from Frank Hunger to T. Jeremy Gunn, July 8, 1998). Further, these records explicate the operational tactics and theories of a notorious foreign intelligence agency of a former world power. These records, and the fact of their transmission to an American citizen, represent a critical piece of the history of the Cold War, and the United States' complex relationship with the former Soviet Republic.

Please let me know if there is any other information I can provide to facilitate issuance of this subpoena.

¹ Michael Benson, *Who's Who in the JFK Assassination*, p. 184.

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Sincerely,

T. Jeremy Gunn

Executive Director

Attachments