

VIA FACSIMILE & FIRST CLASS MAIL

June 3, 1997

The Honorable John W. Carlin
Archivist of the United States
National Archives and Records Administration
700 Pennsylvania Avenue, N.W.
Washington, D.C. 20408

Re: National Archives and Records Administration's Compliance with the JFK Assassination
Records Collection Act, 44 U.S.C. § 2107

Dear Mr. Carlin:

I am writing to request that the National Archives and Records Administration ("NARA") submit to the Assassination Records Review Board ("Review Board") a formal report demonstrating that NARA has complied with its obligations under the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. § 2107 (Supp. V 1994) ("JFK Act"). This formal report would detail NARA's efforts in identifying and making available to the public records relating to the assassination of President Kennedy. NARA's report would also include reports from certain Presidential libraries -- namely, the John F. Kennedy Library, the Lyndon B. Johnson Library,¹ and the Gerald R. Ford Library -- regarding their compliance with the JFK Act. The Review Board is currently obtaining similar reports from other Federal agencies that possess documents relating to the assassination.

Therefore, allow me, first, to explain the importance of NARA providing such a report and, second, to outline in more detail the nature of this report.

¹ The LBJ Library has already begun its compliance work under the JFK Act and has appointed Tina Houston, Supervisory Archivist, as its official responsible for demonstrating the Library's compliance under the JFK Act. This was done in response to a Review Board request directed to the LBJ Library. See Nov. 27, 1997 Letter from David G. Marwell of the Review Board to Harry Middleton of the LBJ Library. We are very pleased to report that we have already experienced a high degree of cooperation from all of the above libraries, and particularly the LBJ Library.

A. The Purpose for NARA's Compliance Report Under the JFK Act

A paramount purpose of the JFK Act is to assure the American people that the United States Government has identified, located, and released all records relating to the assassination of President Kennedy. Indeed, one of the purposes of the JFK Act is to certify to the public that the United States Government is not withholding relevant materials related to the assassination. *See, e.g., Assassination Materials Disclosure Act*, H. R. Rep. No. 625, Part 2, 102d Cong. 2d Sess. 9 (1992) ("The Federal Government's failure to release official materials has contributed to numerous conspiracy theories and fueled charges of government complicity in the assassination [A] salutary purpose is served in opening these files [relating to the JFK assassination] to allay the suspicion of government cover-up."). To that end, the Review Board has been working with the relevant Federal agencies, NARA, and the Presidential libraries to locate and publicly release records relating to the assassination that are within the custody of the United States Government.

The Review Board has recently considered how it, along with the relevant Federal agencies, can best demonstrate to the American public that a thorough, good faith, and diligent effort has been made to locate and release all remaining assassination-related records within the control of the United States Government (and that the Government is not withholding any such materials from public disclosure). To make this showing to the public, the Review Board has requested the relevant Federal agencies to provide a complete and specific accounting of their efforts to locate and release assassination-related records, including a full explanation for any destruction of such records.

We specifically seek NARA's cooperation in assisting the Review Board in discharging its responsibility of assuring the public that the goals of the JFK Act have been accomplished to the greatest reasonable extent. NARA's role as custodian for United States Government records of permanent and historical value, and NARA's unique responsibilities under the JFK Act, make NARA vitally important to successful implementation of the law. Because NARA has had, and will continue to have, legal custody of key records from numerous Federal agencies, it is particularly important that NARA account for its work in identifying and locating, among its holdings, those records relating to the assassination.

B. The Content of NARA's Compliance Report Under the JFK Act

Pursuant to its Congressional mandate under the JFK Act to "create an enforceable, independent, and accountable process for the public disclosure of such records," 44 U.S.C. § 2107 (2) (a) (3), the

Review Board in the past few months has requested the relevant Federal agencies to adhere to a formal compliance program (hereinafter "JFK Act Compliance Program") outlined below and devised by the Review Board pursuant to its powers under Section 7(j)(1)(A), (B), (C), (D), and (F) of the JFK Act. We hereby request that NARA also participate in this program (albeit modified somewhat to account for NARA's unique responsibilities) and undertake the following measures by the dates provided (these dates were set in view of the fact that the Review Board's operations currently are scheduled to expire on September 30, 1997).

The Review Board requests that the procedures outlined below be followed separately by NARA, as custodian for the main archive holdings in the Washington, D.C. area and any relevant regional archive holdings, such as in Fort Worth, Texas, and by each of the relevant Presidential libraries (thus, the designation "Main NARA" will be used hereinafter to distinguish it from the individual Presidential libraries).² The compliance efforts should include the following:

1. Designation of Agency Compliance Official (or Officials) and Statement of Intent to Comply with the JFK Act. We request that, by June 23, 1997, NARA designate Compliance Officials for Main NARA and for each of the Presidential libraries who, collectively, will be responsible for ensuring that NARA has complied with its obligations under the JFK Act, including the identification of assassination records from among their closed archive holdings and the transmission of those records to the JFK Assassination Records Collection ("JFK Collection") at NARA in College Park, Maryland.

The Review Board assumes that certain individuals may be the most appropriate persons to be appointed as Compliance Officials, but of course we will await NARA's formal designations. With respect to Main NARA, the Review Board assumes that Mr. Steven D. Tilley, Chief of the JFK Assassination Records Collection, would be the best candidate to serve as the Compliance Official given his responsibilities and extensive experience to date in carrying out NARA's obligations under the JFK Act, including specifically his oversight of the JFK Collection. As mentioned above, Ms. Tina Houston has already been named the compliance official at the LBJ Library.

We also request that, by June 23, 1997, NARA convey its agreement to adhere to the

² As indicated earlier, the Presidential libraries from whom the Review Board seeks reports on compliance with the JFK Act are the Kennedy, Johnson, and Ford libraries only.

compliance procedures outlined in this letter. To the extent that any compliance procedure described below appears to be unreasonable or to present difficulties that we may not have anticipated, please explain why and make alternate suggestions to us.

2. Initial Statements of Compliance. We request that NARA submit, by July 28, 1997, its initial written report regarding its compliance with the JFK Act. This report should consist of separate initial Statements of Compliance ("Statement of Compliance") submitted by Main NARA and by each of the Presidential libraries setting forth the steps that they individually have taken to locate and process assassination records that may reside among their own holdings. NARA's initial submission will constitute a preliminary version of what will be NARA's Final Declaration of Compliance for the American public setting forth NARA's efforts in identifying and releasing records relating to President Kennedy's assassination (*see* item number 4 below).

The individual Statements of Compliance for Main NARA and each of the Presidential libraries should include, to the fullest reasonable extent, the following information:

- a. A description of the steps that Main NARA and the Presidential libraries have taken to identify and locate assassination records among their archived holdings, particularly holdings that remain classified or that are otherwise not fully available to the public. This description should include, but is not limited to, an identification of major record collections, holdings, and files reviewed by Main NARA and the Presidential libraries for assassination records; any research or finding aids, file indices, or computerized databases that were consulted by Main NARA and the Presidential libraries; any leads or information provided to Main NARA or the Presidential libraries by any agencies to assist them in locating assassination records in their custody; the names and titles of the persons who conducted searches of NARA's holdings; and any other criteria used by Main NARA and the Presidential libraries to locate assassination records among their holdings. Main NARA should also describe what steps were taken to determine if there may be any assassination-related records at the regional archives facility in Fort Worth, Texas.

- b. To the extent that any assassination-related records have been destroyed by Main NARA or any of the Presidential libraries, a full and specific explanation of the circumstances surrounding the destruction of such records.
- c. The status of remaining work that needs to be completed by Main NARA and the Presidential libraries in order to comply fully with the JFK Act, including an identification of the remaining categories of records that must be processed and transmitted to the JFK Collection, a description of any additional searches for files that must be done, and the projected date(s) for completion of these tasks.

In requesting these Statements of Compliance (as it has done from other agencies), the Review Board acknowledges that Mr. Tilley and his staff have worked closely with the Review Board to assure that the JFK Act is fully implemented; established the JFK Collection as envisioned by Congress; and assisted the Review Board in locating and releasing records relating to the assassination.

3. Review Board Interview With Agency Compliance Officials. Shortly after the submission of NARA's initial Statements of Compliance, we will ask that NARA's Compliance Officials (as well as any persons who helped prepare NARA's initial Statements of Compliance) be made available to the Review Board for interviews regarding Main NARA's and the Presidential libraries' searches for, and identification of, assassination records, as well as the status of Main NARA's work in administering the JFK Collection. The interviews will be used as an opportunity to resolve any outstanding questions regarding the work of Main NARA and the Presidential libraries, including any follow-up tasks to be completed. The Review Board anticipates that these interviews will be conducted in August 1997.
4. Submission of Final Declarations of Compliance. By September 2, 1997, NARA should expect to complete the process of identification, location, and declassification of its assassination records at which time it should submit to the Review Board a final report certifying its compliance with the provisions of the JFK Act. The final report should consist of Final Declarations of Compliance from Main NARA and from each of the Presidential libraries in which they certify, under oath, their compliance with the JFK Act. These Final Declarations shall set forth all of the information initially set forth in the initial Statements of Compliance and shall also supplement the initial

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Statements of Compliance by detailing any further steps that were conducted by Main NARA and the Presidential libraries to identify and locate assassination records. The Review Board intends to include the Final Declarations of Compliance of the various federal agencies in its final report to Congress.

5. Compliance Depositions. Starting in early September 1997, the Review Board, pursuant to its statutory authority, may conduct depositions, under oath, of the Compliance Officials for Main NARA and/or any of the Presidential libraries (along with any other NARA officials with responsibility for complying with the JFK Act). Generally, the decision to take a compliance deposition of a Federal agency will be made on a case by case basis, taking into account the importance of the agency to the work of the JFK Act and the sufficiency of the agency's efforts to account fully for its compliance with the JFK Act. (Any deposition of NARA would focus on issues regarding the search for assassination records rather than administration of the JFK Collection). In the event that the Review Board decides to commence a compliance deposition of Main NARA or any of the Presidential libraries, the responsible designee(s) will be expected to testify under oath with respect to any and all issues relating to the record search, including the scope of the search, the identity of files searched, the destruction of any relevant records, and any other matters set forth in the Final Declaration of Compliance. Any person obligated to appear for a deposition under oath shall be fully entitled to have legal representation.

We look forward to receiving NARA's initial response, by June 23, that designates its Agency Compliance Officials and includes its agreement to the procedures outlined in this letter. To the extent that you have any questions or suggestions regarding the JFK Act Compliance Program, please do not hesitate to contact me or our General Counsel, T. Jeremy Gunn, at (202) 724-0088.

Thank you for your cooperation with our work.

Sincerely,

David G. Marwell
Executive Director

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cc: Elizabeth A. Pugh, General Counsel, NARA

Steven D. Tilley, Chief,
JFK Assassination Records Collection,
NARA