

August __, 1995

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I have the honor of submitting to you the enclosed two-page response of the JFK Assassination Records Review Board to the Federal Bureau of Investigation's August 16, 1995 letter regarding the FBI's appeal of the Review Board's formal determinations.

Our response explains that the Bureau has abandoned some of its original arguments, failed to acknowledge that it already has released much of the material that it now wishes to keep secret, and that it continues to ignore the clear standards of The President John F. Kennedy Assassination Records Collection Act of 1992.

We respectfully urge you to consider carefully the memoranda supplied both by the Bureau and by the Review Board. We are confident that if you apply the standards as set forth in the law, you will order that the records at issue be opened in full.

Sincerely yours,

David G. Marwell
Executive Director

Enclosure

DRAFT
8/22/95 p.m.

ASSASSINATION RECORDS REVIEW BOARD
RESPONSE TO THE
FBI'S AUGUST 8, 1995 APPEAL OF FORMAL DETERMINATIONS
AND LETTER DATED
UNDER THE JFK ASSASSINATION RECORDS COLLECTION ACT

August __, 1995

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On August 16, 1995, the Federal Bureau of Investigation responded to the arguments submitted by the JFK Assassination Records Review Board regarding the Bureau's decision to appeal the Review Board's formal determination to open nine previously redacted documents.¹ The Bureau's letter is as remarkable for what it does not say as for what it says.

Arguments abandoned by the Bureau.

Foreign relations issue. In its opening memorandum, the Bureau principally argued that the release of any of the foreign relations information at issue would cause [quote dramatic language.] damage to the United States. [citations] The Bureau did not disclose, however, that much of the material it sought to protect has long been in the public domain. The Review Board's Reply showed not only that most of the "sensitive" information not only is already a matter of public record -- *most of it was officially released by the FBI itself.* The Bureau's letter does not deny *any* of the factual assertions made by the Review Board regarding the Bureau's prior releases of this information.

Moreover, the Bureau's August 16 letter ignored the Review Board's challenge to show any harm that resulted from the earlier release of the information. The conclusion is inescapable: *the Bureau has no evidence that the release of the information would cause the damage that it originally asserted.*

Arguments misstated by the Bureau.

Foreign relations issue. Having abandoned its original argument, the Bureau now modestly asserts that foreign governments may object to the release of information.²

The

¹[Cite chronology.]

²In its effort to avoid needless classification of government records, the Review Board

response to the Federal Bureau of Investigation's letter

FBI memo:

Arg. 1: we missed the most salient point: foreign objection. Even when shown disclosures, they still don't consent.

Seek to protect future relationship.

Arg. 2: Board asserts that "disclosure cannot be based on anything less than a particularized showing." The Board did not say this -- the FBI Director did. The Board asked only for clear and convincing evidence.

Arg. 3 while FBI will release info, "we have not willingly compromised" informants.

"We disagree strongly, however, **with the Board's position that there is no need to protect [the informant's] status as a confidential source** since disclosure would, in our view, compromise the FBI's credibility with current sources and, thereby, undermine current understandings to the detriment of future national interests."

Arg 4: Agree with need for document by document inquiry -- but should focus on interests. FBI is essentially unclear on the last point.

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