

November 27, 1996

VIA EXPRESS MAIL

Mr. Harry Middleton
Director
Lyndon Baines Johnson Library
2313 Red River Street
Austin, Texas 78705

Re: LBJ Library Compliance with the JFK Assassination Records
Collection Act, 44 U.S.C. § 2107

Dear Mr. Middleton:

Since 1994, the Assassination Records Review Board ("Review Board") has been working with a number of Federal agencies, as well as the LBJ Library, to locate and and publicly release records related to the assassination of President Kennedy. These actions have been taken pursuant to The President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. § 2107 (Supp. V 1994) ("JFK Act"). We have been working with Tina Houston, Regina Greenwell, and Claudia Anderson of the LBJ Library and have appreciated the cooperation we have received. They provided valuable assistance to two members of our staff who visited the LBJ Library last December.

The purpose of this letter is to request the LBJ Library's cooperation in assisting the Review Board in discharging its responsibility of assuring Congress and the American people that the goals of the JFK Act have been accomplished to the greatest reasonable extent. We want 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 paramount 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. 102-625, Part 1, 102d Cong. 2d Sess. (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.")

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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 hiding any such materials from public disclosure). Pursuant to the 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 seeks to have the relevant federal agencies 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.

Accordingly, the Review Board requests that each relevant agency adhere to the 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. Since the LBJ Library retains Presidential papers from the Johnson administration, it is important that the Library also participate in this compliance program. The Library's participation will help to assure the American public that the utmost efforts have been made to locate and release any existing assassination related records from among Johnson's Presidential papers. We hereby request that you 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):

1. Designation of Agency Compliance Official (or officials) and statement of intent to comply with the JFK Act. We request that, by December 9, 1996, the LBJ Library designate a Compliance Official who ultimately will be responsible for ensuring that the Library has complied with its obligations under the JFK Act, including the identification, location, and organization of assassination records and the transmission of those records to the National Archives and Records Administration (NARA). Although the Review Board assumes that Tina Houston will serve in this position, we nevertheless await your formal confirmation. If necessary, the Library may designate additional persons with knowledge of the measures that have been undertaken to locate assassination records.

We also request that by December 9, 1996, the LBJ Library convey its agreement to adhere to the 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 Statement of Compliance. We request that the Compliance Official prepare, by January 6, 1997, an initial written statement of the LBJ Library's compliance with the JFK Act ("Statement of Compliance"), setting forth the steps that the Library has taken to locate and process assassination records. The Review Board recognizes that the LBJ Library has previously endeavored to apprise the Review Board of its progress at various stages of identifying and processing assassination records under the JFK Act. The Statement of Compliance, while it may include information previously reported to the Board, is to be the LBJ Library's comprehensive and final report to the American public of what it has done to locate records relating to the assassination. This Statement of Compliance shall include, to the fullest reasonable extent, the following information:

a. A complete description of all steps that the Library took to identify and locate assassination records including, but not limited to, an identification of the major record collections and files that were consulted in the Library's search, any file indices consulted, the names and titles of the persons who were responsible for conducting the searches, the physical locations of the records that were searched, the off-site storage facilities searched, the specific steps that were taken to locate and retrieve materials in archives, and any other criteria used by the Library to locate assassination records.

b. A description of the steps that the Library took in direct response to specific requests of the Review Board to locate certain additional records or information relating to the assassination. For instance, we understand that a review of Presidential Daily Briefs, National Security Files and relevant tape recordings and transcripts is underway. Tina Houston has also informed us that previously postponed Jacqueline Kennedy letters to President Johnson have been opened and are being forwarded to NARA and that tapes of Mrs. Kennedy's phone conversations are still being reviewed.

c. To the extent that any assassination-related records have been destroyed by the Library, or if the Library has any knowledge regarding the destruction of any Presidential materials by others, a full and specific explanation of the circumstances surrounding the destruction of such records.

- d. The status of remaining work that you can now identify that needs to be completed by the LBJ Library in order to comply fully with the JFK Act, including an identification of the categories of records that must be processed and transmitted to NARA, a description of any additional searches for files that must be done, and the projected date(s) for completion of these tasks.
3. Review Board Interview With Compliance Official (or Officials). Shortly after the submission of the Library's written Statement of Compliance, we ask that the Compliance Official (as well as any persons who helped prepare the Library's initial Statement of Compliance) be made available to the Review Board for an interview regarding the location of LBJ Library assassination records. The interview will be used as an opportunity to resolve any outstanding questions regarding the Library's search, including any follow-up tasks to be completed by the Library. The Review Board anticipates that this interview will be conducted in January or February 1997.
4. Submission of Final Declaration of Compliance. By July 1, 1997, the LBJ Library 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 declaration certifying, under oath, its compliance with the provisions of the JFK Act (the "Final Declaration of Compliance"). This final declaration shall set forth all of the information initially set forth in the initial Statement of Compliance and shall also supplement the initial Statement of Compliance by detailing any further steps that were conducted by the LBJ Library in identifying and locating assassination records. The Final Declarations of Compliance submitted by the Federal agencies, and submitted by the LBJ Library, will be included in our final report to Congress.
5. Compliance Depositions. Starting on or about August 1, 1997, the Review Board pursuant to its statutory authority may conduct depositions, under oath, of the Compliance Official along with any other Library officials with responsibility for complying with the JFK Act. The decision to take a compliance deposition of a Federal agency or other organization 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. In the event that the Review Board decides to commence a compliance deposition of the LBJ Library, the responsible Library designee(s) will be expected to testify under oath with respect to any and all issues relating to the Library's record search, including the

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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 obtain legal representation.

We look forward to receiving your initial response, by December 9, that designates your Compliance Official and includes your statement regarding your position with respect to the provisions outlined in this letter. To the extent that you have any questions or suggestions regarding the Compliance Program, please do not hesitate to contact our General Counsel, T. Jeremy Gunn, at (202) 724-0088.

Thank you for your cooperation with our work.

Sincerely,

David G. Marwell
Executive Director

cc: Ms. Tina Houston, Supervisory Archivist, LBJ Library