

February 9, 1996

Ms. Wendy Zenker  
Chief, Management Integrity Branch  
Office of Management and Budget  
New Executive Office Building  
725 17th Street, N.W. Room 6025  
Washington, D.C. 20530

Re: Independent Agency Reporting on Audit and Investigative Activities and Management Control Systems

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Dear Ms. Zenker:

I am writing to follow up on a conversation that I had with Cindy Salavantis of your office in which she advised me to write directly to you.

The John F. Kennedy Assassination Records Review Board ("Review Board") received from your office a memorandum dated November 30, 1995, that reminded Federal entities of statutory reporting requirements found in the *Inspector General Act of 1978*, as amended, 5 U.S.C. app. 3 (1978) ("Inspector General Act"), and the *Federal Managers Financial Integrity Act of 1982*, 31 U.S.C. §§ 3512(b)-(e) (1982) ("FMFIA").

We wish to comply with all applicable Federal law and we are currently making arrangements for an audit of our records, but we question whether the Inspector General Act and the FMFIA apply to the Review Board. The FMFIA applies to "executive agencies" and directs the "head of each executive agency" to comply with its provisions. 31 U.S.C. § 3512(b)-(e) (emphasis added). The relevant section of the Inspector General Act is section 8G, which applies, *inter alia*, to "entit[ies] in the Executive branch of the Government, or any independent regulatory agency." 5 U.S.C. app. 3 § 8G(a)(1) (emphasis added).

Congress, in our enabling legislation, specifically established the Review Board as an "independent agency." *President John F. Kennedy Assassination Records Collection Act of 1992* § 7(a), 44 U.S.C. § 2107 (Supp. V 1994) (emphasis added). Congress underscored the Review Board's independence by prohibiting the President from removing Review Board members without cause. 44

Ms. Wendy Zenker

February 9, 1996

Page 2

U.S.C. § 2107.7(g)(1)(B). The Review Board's status as an independent agency is crucial to the Review Board's mission, which is to promote declassification of records that Executive Branch agencies may otherwise wish to protect. In creating an independent Board, Congress expressed its intent that the Board make its determinations about assassination records free from Presidential control.

"Our intent is to establish a neutral body that gives legitimacy to our efforts. The very structure and appointment of the board is designed to accomplish this by dispelling any notion of prejudice by any political persuasions or improprieties of any manner. Thus, it is imperative that the review board be an independent agency."

*The Assassination Materials Disclosure Act of 1992: Hearing on S.J. Res. 282 before the Senate Comm. on Governmental Affairs, 102d Cong., 2d Sess. 28 (1992) (statement of Representative Louis Stokes).*

Accordingly, we respectfully request an opinion letter that sets forth your understanding of the basis for our complying with the Inspector General Act, the FMFIA, and the Office of Management and Budget's directives implementing these statutes.

Please understand that we have no objection to a complete audit of our books and that we are now making arrangements with the Inspector General's office at the General Services Administration to perform such an audit.

Thank you for your guidance in this matter, and please do not hesitate to contact me if I can be of any assistance.

Sincerely,

T. Jeremy Gunn  
General Counsel