

MEMO

TO : Mary McAuliffe

FROM: Christopher Barger

RE : Recent developments

I wanted to share with you some thoughts about the events and developments of the last few days, partially because I want you to know where I am coming from (and that it is not all negative), and partly because I feel that I have a responsibility to inform you of my grave concern about the process that CIA apparently is attempting to settle into.

A positive aspect of the work that we are about to do is that it places the burden of research on the ARRB staff, as opposed to CIA. Rather than being dependant on what they tell us, we conceivably could be making our own determinations, using either knowledge gained over the last few months, or deductive reasoning where knowledge is insufficient. I am more comfortable with not having to rely on the Agency for our information (while I realize that they will still be a primary source for research). Another positive aspect is that rather than doing numbing review day after day, we now have research and logical thinking to do, which is what we have wanted from the beginning. We've been asking for the chance to use our brains, and now we have it.

Despite the positives, however, my overwhelming feeling now is one of apprehension and misgiving. I am wondering how much good these new efforts will really do. Let's say that we spend a couple of weeks doing some hard core research, identifying unknowns and learning as much as possible about them, and then submit our list to the CIA for a response. This is what I see happening:

The *modus operandi* for the CIA, from the beginning of our existence, has been to stall and delay when we ask for information, claiming either lack of person power or the delicate nature of trying to establish contact with people or operations that even institutional memory has forgotten. We have submitted a half dozen lists, some as early as April, and still have received either little or no response on many of the items requested. When we do receive information from them, it is often incomplete. Many times, as you are aware, they simply don't tell us any more than they feel they have to. The staff then makes its recommendations to the Board, which in turn makes its decisions, based on partial and incomplete information. Upon seeing the Board action, the CIA then gives us further information in order to indicate why the Board should reconsider its decision, making a big show of war stories and Cold War thinking to try and persuade the Board. They also engage in systematic re-review of whatever we have yet to take to the Board, as if to say, "the first version was what was important to us, but this new version is what is *really* important to us." They change their recommendations and opinions based on what we do. This does not seem to me to be good faith

review on their part. And, despite the fact that they have had three years since the enactment of the statute to determine what is of material importance to them, they keep us busy making lists of items we'd like them to provide information on. This seems to me to be little more than a thinly disguised stall tactic. They couch it with the excuse of being overwhelmed and undermanned, which buys them sympathy, and we continue to allow the stall to go on out of empathy and in hopes of maintaining a "good working relationship."

I don't think we have a good working relationship. They don't deal with us in good faith, they place the burden of proof on the ARRB instead of themselves, and they attempt to change Board decisions by providing information after the fact that we should have had before we even went to the Board. And in this new development of our going through the boxes and identifying things we want information on, I see nothing that gives them a reason to change their tactics. What assurance do we have that they will not continue to give us partial information, a half-hearted review as it were, then take up more of our time by filling us in after decisions have been made and asking us to reconsider? I understand that there was a need to politic at first, and that we needed to choose our battles. I firmly, staunchly believe, however, that the time has come to fight our battle. Under the best scenario, this Board has less than 21 months left in existence. That could be as little as 11 months, given the disposition of the present Congress. We don't have the time to play cat and mouse with them. The ARRB needs to say to the CIA, "Look, you've had three years, and for the last seven months, we've made a good faith effort to accommodate you. You have not reciprocated that good faith, you are stalling, and its time we took control." I believe we need to make it clear, not only in words but in actions, that when they don't give us clear and conclusive evidence (that goes beyond war stories and cage rattling) in support of postponement, we are going to release everything. The statute that established the ARRB presupposes release in the first place; it's time to assert that supposition. Diplomacy be damned; we have a job to do, and very little time to do it. I strongly believe that we have an obligation to the American people to take our stand.

I realize that I am just a junior staffer (and one with a reputation of lacking diplomatic skills at that), and that you may not agree with my argument, nor may you be in a position to affect the changes that I feel are vital to the success of this Board. However, I have come to believe, as I have worked with you, that you not only value our opinions, but encourage us to speak them; because of this, I feel comfortable writing this memo. I appreciate your taking the time to read it.