

DRAFT

November 8, 1996

INITIAL AGENCY COMPLIANCE LETTER

November 19, 1996

Davy Jones
Secretary of the Navy
Penatgon
Washington, D.C.

Re: Department of the Navy Compliance with the JFK Assassination Records
Collection Act, 44 U.S.C. § 2107

Dear Secretary Jones:

Since 1994, the Assassination Records Review Board (Review Board) has been working with several Federal agencies, including the Department of the Navy, to locate and declassify 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 LTCL Mike Finney of the Marine Corps and have appreciated the cooperation we have received. While there has been little interaction between the Review Board and the Navy to this point, Lieut. Col. Finney has indicated his willingness to assist us at our discretion, and we are appreciative of his sentiments.

The purpose of this letter is to advise your agency of the JFK Act Compliance Program that the Review Board has established to ensure Congress and the American people that the goals of the JFK Act have been accomplished to the greatest reasonable extent. Because the Review Board's operations currently are scheduled to expire on September 30, 1997, we want to advise you now of the steps that will need to be taken during the upcoming year.

One of the broad purposes of the JFK Act is to dispel the public perception that the United States Government is 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 [regarding the JFK assassination] to allay the suspicion of government

cover-up.”). The Review Board believes that this purpose can best be effected if each agency fully explains the steps it has taken to locate and release relevant records that relate to the Kennedy assassination, including a full explanation of the circumstances surrounding the destruction of any relevant records.

Under the powers granted to the Review Board by Section 7(j)(1)(A), (B), (C), (D), and (F) of the JFK Act, we hereby notify you of the following measures that should be taken by the dates provided.

1. Designation of Agency Compliance Official (or officials) and statement of intent to comply with the JFK Act. By December 2, 1996, your agency shall designate an Agency Compliance Official who ultimately will be responsible for ensuring that the agency 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 (“National Archives”). Although the Review Board assumes that Lieutenant Colonel Finney will serve in this position, we nevertheless await your formal confirmation. To the extent necessary to fully describe its compliance with the JFK Act, your agency may designate additional persons with knowledge of the measures that have been undertaken to locate assassination records.

We also request that your letter also conveys your 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, we request that you identify with specificity those procedures and make alternate suggestions to us.

2. Initial Statement of Compliance. By January 6, 1997, the Agency Compliance Official shall prepare an initial written statement of the agency’s compliance with the JFK Act (“Statement of Compliance”), setting forth the steps that the agency has taken to locate and process assassination records. The written statement shall include, to the fullest reasonable extent, the following information:
 - a. A complete description of all steps that your agency 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 agency’s search, any departmental file indices consulted, the names and titles of the

persons who were tasked with conducting searches, the physical locations of the records that were searched, the off-site storage facilities (*e.g.*, Federal Records Centers) searched, the specific steps that were taken to locate and retrieve materials in archives, and any other criteria used by the agency to locate assassination records.

We appreciate that the Department of the Navy provided the Review Board with an earlier letter response of what it did to locate assassination records. Because this response was prepared some time ago and does not reflect subsequent follow-up efforts of the agency, it is not adequate to satisfy the requirement for a current, comprehensive narrative statement by the knowledgeable official as to what the Navy has done to assure the location of assassination-related records.

- b. A description of the steps that the agency took in direct response to specific requests of the Review Board to locate certain additional records or information relating to the assassination.
- c. To the extent that any assassination-related records have been destroyed by the agency or any agency official, 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 your agency in order to comply fully with the JFK Act, including an identification of the categories of records that must be processed and transmitted to the National Archives, 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 Agency Compliance Official (or Officials). Shortly after the submission of the agency's written Statement of Compliance, the Agency Compliance Official (as well as any persons who helped prepare the agency's initial Statement of Compliance) shall be made available to the Review Board for an interview regarding the location of agency assassination records. The interview will be used as an opportunity to resolve any outstanding questions regarding the agency's search, including any follow-up tasks to be completed by the agency. The Review Board anticipates that these interviews will be conducted in January 1997.
4. Submission of Final Agency Declaration of Compliance. By July 1, 1997, the agency should expect to complete the process of identification, location, and declassification of its assassination records at which time it will 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 agency in identifying and locating assassination records. The agencies' Final Declarations of Compliance will be included in our final report to Congress.
5. Compliance Depositions. Starting on or about August 1, 1997, the Review Board may conduct depositions, under oath, of the Agency Compliance Official along with any other agency officials with responsibility for complying with the JFK Act. The decision to take a compliance deposition of an 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. In the event that the Review Board decides to commence a compliance deposition of an agency, the responsible agency designee(s) will be expected to testify under oath with respect to any and all issues relating to the agency's 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 obtain legal representation.

We look forward to receiving your initial response, by December 2, that designates your Agency Compliance Official and includes your statement regarding your position with respect to the

Draft Model Compliance Letter

Date

Page 5

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: Assassination Records Review Board
Lieutenant Colonel Mike Finney, USMC
General Counsel of the Department of the Navy

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