

MEMORANDUM

July 31, 1996

To: Jeremy Gunn
cc - David Marwell

From: Joe Freeman

Subject: Church Committee records/Senate Intelligence Committee

Introduction

As we discussed, we are faced with the question of what we can do to facilitate the more expeditious processing of Church Committee records by the Senate Intelligence Committee. A quick review/brief chronology may be helpful in setting the stage for considering the question:

Date

Event

April 17, 1995 Steve Tilley writes Staff Director Charlie Battaglia, indicating that numerous testimonies referenced in Volume 5 of the Church Committee Report (as well as in other open documents) are not present in the Church Committee's files at NARA II.

Outcome: almost a year goes by and Steve hears nothing back. In frustration, Steve asks ARRB to get involved and organize a meeting.

March 21, 1996 ARRB/NARA meeting with SSCI staff; various commitments made, re: disks, searching for "missing" testimonies, etc.

Outcome: commitments not met.

May 29, 1996 A series of follow-up calls with Judy Hodgson and Jim Wolf culminates on this date. Wolf is asked to arrange a site-visit to Church Committee storage area by ARRB personnel; Hodgson is asked to expedite turning over of disks. On this date, also, Wolf is faxed a draft memo identifying still more unprocessed records.

Outcome: Hodgson turns over disks and Box 41 (textual records)

on May 31st; Wolf never gets back to ARRB on site-visit, or on locating any of the “missing” records.

Analysis of Present Situation

All our experience suggests that compliance with the JFK Act is a low priority for the Senate Intelligence Committee. While assuring us of their desire to cooperate, there never seems to be sufficient time or resources available for follow-up. While I’m inclined to give them the benefit of the doubt, in that I don’t think they are consciously brushing us off as a matter of policy, neither do I see any reason to believe that further progress will be made in the absence of additional -- and more powerful -- prodding from our end.

The root of the problem is that the Committee has insufficient resources to comply with the Act; or at least insufficient motivation to apply sufficient resources from their limited store to complying with the Act’s requirements. The self-evident solution to this structural problem is for the Committee to delegate its responsibilities under the Act to parties able and willing to undertake them (NARA/ARRB), as the House Oversight Committee did with the HSCA material. Unfortunately, there is clearly a strong reluctance on the part of the Senate Intelligence Committee to do this. This reluctance, coupled with the Committee’s apparent inability or unwillingness to do the job itself, has left us where we are today.

If the situation is to be moved forward, one of two things must happen: 1) the Committee must decide that compliance with our statute should be assigned a higher priority than it enjoys today, or, 2) the Committee must be persuaded to delegate its compliance responsibilities to NARA/ARRB. The two scenarios are not mutually exclusive; that is, the Committee could decide that compliance is a high priority, realize that they don’t have the resources to implement compliance, and thus decide to delegate.

The question is how we can induce one of these two outcomes -- what kind of incentives can we provide for compliance (or, conversely, what penalties can we inflict for non-compliance)? One incentive we’ve already offered is our willingness to do the work for them. But, as already mentioned, the Committee seems reluctant (no doubt from misconceived “security” concerns) to take this option. On the disincentive side, we can imagine a scenario where the ARRB tries to raise the political cost of non-compliance by publicly embarrassing the Committee on the issue. For any number of reasons -- political, moral and statutory -- this latter option is neither attractive nor practical. But the fact remains that the Committee’s current position of less-than-full-compliance does put it at risk for potential costs which Committee staff have yet to focus on. It could therefore be helpful to somehow raise the Committee’s consciousness of these risks, while making clear that we do not see it in our interest that the Committee be embarrassed in any way. Having helped generate such a consciousness, we can then reiterate (perhaps more forcefully or comprehensively) our willingness and capacity to step in and do the job for them.

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Finally, we should be cognizant of the fact that -- having turned over the disks for the first 41 boxes in late May -- the Committee staff may be under the impression that they are off the hook for awhile; that is, that we are busy processing redacted documents from the existing universe of processed Church Committee records and that therefore our other outstanding requests (identification of large numbers of additional assassination records from Church Committee files, site-visit, etc.) are back burner issues. They need to be educated that the processing time (agency referral, agency review, ARRB staff and Board review of agency-requested postponements, etc.) for records they've not yet dredged up can be very lengthy, and that therefore we need them to act much sooner rather than later on heretofore unprocessed/unlocated records.

Recommended Action Items

1. David calls Charlie Battaglia (mano-a-mano). The nominal rationale for the call could be our immediate need for a small number of unprocessed Church Committee records (see the "Short-term Church Committee Document Requests" section which follows). This can lead to a discussion of the general issue of still-unprocessed records. David can express our concerns regarding the vulnerability of the Committee on the non-compliance issue; acknowledge what we assume to be the Committee's misgivings on the delegation issue and offer to put in writing, ASAP, a detailed proposal for our/NARA's taking on this task which we believe will assuage such reservations. (As a variation on this theme, Charlie could be told that we intend to send our letter/proposal directly to the Chairman; obviously Charlie intercepts any letter to Senator Specter, but by indicating our intention of sending a letter to the Chairman we may be more likely to get and hold Charlie's attention). The thinking here is that Battaglia may be more comfortable contemplating the delegation option if he has a concrete and well-pitched proposal in front of him.

2. Forward Proposal. Proposal for Committee delegation of record identification and referral functions would have to be coordinated with Steve Tilley, but should include the following elements:

(1) NARA/ARRB given access to Church Committee vault at Archives I for the purpose of identifying assassination records. The Committee will undoubtedly want to supervise this step (if they agree to it at all). Moreover, Committee staff could be of genuine assistance in this phase (through provision of finding aides and/or general familiarity with physical disposition of records in the storage vault). I think it important for an ARRB person to be involved in this step, however else other work is broken down between NARA/ARRB.

(It is axiomatic at this point that the Committee itself can't be solely entrusted

with this task, since they missed so many records in the first go-round.)

(2) Relocation (or copying) of assassination records identified in Step (1). Ideally, the Committee would simply allow us to transfer records mutually agreed to be assassination records to our SCIF. If the Committee was unwilling to entertain this option, our fall back position would be to move a copier into the vault at NARA I and copy the records, copies to be sent to our SCIF. Copying could be done by either NARA or ARRB personnel (clearances mandatory, obviously). Some thought would have to be given as to whether this step would work differently for records whose status as assassination-related was in dispute.

b. Data input/creation of RIFs for newly identified assassination records.

Ideally, NARA personnel would undertake this step (even if the records were located in our SCIF, which I think would be desirable). In the event that NARA's resource levels didn't permit expeditious accomplishment of this necessary step, however, the ARRB might have to consider supplementing NARA's efforts, or even just taking the job over altogether. Should NARA be in a position to undertake this task quickly, it might be easier to have them do it at NARA I and *then* have the now-RIFed records transferred to ARRB.

c. Referral of records to agencies. My own judgement would be that, once RIFed, the ARRB should undertake the physical referral of the records and ride herd on the process (even though this job should fall to the Committee, or even NARA, under the statute). We don't have time to screw around with the inevitable confusions which result from NARA acting as the referral agent on records we'll have to follow up on. The issue of making a set of referral copies vs. asking the agencies to come to our SCIF will have to be resolved.

Short-Term Church Committee Document Requests

Secret Service-related documents: Joan has immediate need for the transcript of the Church Committee's interview(s) with USSS agent Elmer Moore. We have a summary for an interview conducted on 8/15/75 in Seattle, WA, but no transcript (it is possible no audiotape/transcript was made, but that seems unlikely). Moreover, Elmer Moore told the HSCA that he talked with the Church Committee *twice*. The Committee was following up on a 6/6/75 contact with James Gochenaur, who alleged that Moore told him in February of 1970 that -- among other things -- he had

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destroyed assassination evidence and pressured Dr. Perry to change his views on the President's wounds. Additionally, we have a Church Committee document indicating that the Church Committee scheduled a deposition with USSS agent William Patterson for November 21, 1975, but we have no post-deposition records, either transcript or summary. While it is conceivable the deposition was canceled or never happened, it is more likely that this is a "missed" assassination record that Joan needs and that the Committee should find for us. Lastly, USSS Chief Rowley testified before the Schweiker/Hart Subcommittee on February 13, 1976, and there is no transcript or record of this testimony in the processed Church Committee material at NARA II (though the testimony is footnoted in Book V).

Antonio Veciana material: according to Fonzi's *Last Investigation*, the Church Committee (as opposed to Fonzi's own interviews) took sworn testimony from Veciana (though there is no reference to it Book V). There is a 3/12/76 letter in the open Church Committee material at NARA II from Sen. Schweiker to Sen. Hart urging that Veciana's testimony be taken, so presumably it was done after this date. Moreover, Veciana told Fonzi that he had been called back sometime later in 1976 (after the Church Committee expired on 5/31/76) by the new permanent Senate Intelligence Committee. Neither of these depositions/interviews are in the currently processed Church Committee material. In view of our plans to interview Veciana in the near future, it is important that we get these two transcripts ASAP.

Freeman e:\wp-docs\073196

File 4.34.4