

DRAFT 6/30/95 1:00 p.m.

Date

The Honorable William M. Thomas
Chairman
Committee on House Oversight
United States Congress
1307 Longworth Office Building
Washington, D.C. 20515-6157

Dear Mr. Chairman:

I very much appreciated the opportunity of meeting with Mr. Roman Buhler and Charlie Howell of your Committee's staff regarding the manner in which the Assassination Records Review Board handles the House Select Committee on Assassinations (the "HSCA") records. We had requested the June 29 meeting in order to ensure that your Committee is fully informed about our anticipated actions and to solicit any comments that the Committee has regarding the procedures to be followed.

In response to Mr. Buhler's request, I will describe below the basic logistical issues that arise in our handling of the HSCA materials. Mr. Buhler also expressed an interest in reviewing the resumes of the Review Board members as well as of Jeremy Gunn (who is Acting General Counsel) and myself. In response to his request, I am enclosing the requested resumes [and the Hearings wherein the members of the Board were confirmed by the Senate].

Background

The President John F. Kennedy Assassination Records Collection Act of 1992 (the "Act"), which resulted from a bi-partisan initiative, became law upon signing by President George Bush in October of 1992.¹ The Chief Sponsors of the Act included Senator Arlen Specter (a former Warren Commission staffer), Senator Cohen, Senator Mitchell, Rep. Louis Stokes, [etc., etc.].

¹Although there was some controversy regarding an early proposal on how the Review Board would be appointed, that issue was resolved and the Act was approved by voice vote in both the House and Senate.

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The legislation contemplated that the Review Board would be genuinely independent as it applied the review standards under the Act and that it would not be subject to political pressures or pressures from the agencies within the Federal government. Such was the intent of Congress,² and such is the position of a supporters of the Review Board's independence, who run the gamut from Gerald Posner, author of *Case Closed* (which supports the general conclusions of the Warren Commission),³ to Oliver North,⁴ to current scholars of government records on the assassination, including Major John Newman, Ph.D. (U.S. Army ret.).⁵ In order to fulfill its mandate, the Review Board should remain independent of political or bureaucratic pressures.

²"It is the Committee's intent . . . to create as simple a mechanism as possible for reviewing and releasing assassination records, ***while both guarding the Review Board's independence and preserving its flexibility.***" House Committee on Government Operations. *Assassination Materials Disclosure Act of 1992*. H.Rep. 102-625 Part 1, 102d Cong., 2d Sess. (1992), 14 (emphasis added).

"While enactment . . . will not resolve all doubts regarding President Kennedy's assassination, a salutary purpose is served in opening these files to allay the suspicion of government cover-up. H.J. Res. 454, provides for such document release, ***supervised by an impartial panel***, pursuant to a procedure which allows the widest disclosure possible consistent with national security and privacy needs." House Committee on the Judiciary. *Assassination Materials Disclosure Act of 1992*. H.Rep. 102-625 Part 2, 102d Cong., 1st Sess. (1992), 9 (emphasis added).

³See his testimony of November 17, 1993 to the Committee.

⁴Oliver North on radio broadcast of June 29, 1995: "I'm a big critic of this administration. You have probably heard me probably as much as anyone, criticize the Clinton Administration. Let me tell you something I think they did was good, that was to convene this Assassination Records Review Board. . . . [T]he uncertainty is out there because there is information blacked out about Lee Harvey Oswald. . . . [A]s a critic of this administration one of the things I want to commend Bill Clinton for is his willingness to help end some of these conspiracy theories by opening up the records."

⁵In his recent book discussing government records on the Kennedy Assassination, which he dedicated to "the men and women who served the CIA with distinction and made possible the Agency's greatest accomplishments; and to the courageous citizens who dared to investigate the Agency's greatest failures"), Major Newman states: "The purpose of the JFK Assassination Records Act was to take a step in the direction of restoring faith. The premise underlying this step is simple: Opening up all the government's files will demonstrate that our institutions work today." John Newman, *Oswald and the CIA* (1994).

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HSCA Materials

During its tenure, the HSCA created its own original records and it received additional records from several government agencies. Upon termination of the HSCA, the House of Representatives provided that HSCA records would be stored separately pending possible future release to the public. When the Act became law, the House appointed the National Archives to collect, index, and review the records under the terms of the Act. In addition, the Archives was responsible for forwarding to Executive Branch agencies those records in which the agencies possess an "equity." For the most part this work has now been accomplished by the Archives.

It is our understanding that there are now approximately 300 archival (*i.e.*, Hollinger) boxes now located in the Archives here in Washington that contain the original HSCA documents. (The downtown Archives should be distinguished from the JFK Assassination Records Collection that is located at NARA II in College Park, Maryland, which is the ultimate destination for all assassination records.) Among these boxes there are apparently three that contain personnel records from the HSCA staff.

It is our understanding that, consistent with the wishes of the House (specifically Congressmen Thomas and Rose), all HSCA-generated information in the records has been publicly released with the exception of the HSCA personnel files. It is also our understanding that the records containing other agency equities (particularly the CIA and the FBI), have been referred to those Agencies for their review and proposed redactions (*i.e.* postponements).

Logistics for Handling HSCA Records

As part of its mandate, the Review Board will need to review the HSCA records. We would like to have the original records forwarded to the Review Board so that we can perform this function in the most economical and efficient manner possible. Because our computer system and SCIF have been designed for this review process, it is important that we review HSCA materials (as well as the material from Executive Branch agencies) on-site. Once the review is completed, we will be sending the original records to NARA two where they will be kept as separate (House of Representative) records within the JFK Collection.

There are two additional issues that arise with respect to whether the House wishes to present evidence to the Review Board in support of the postponements. First, and more narrowly, does the

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House wish to provide evidence in support of privacy postponements in the HSCA staff files? Second, with respect to the HSCA records where there are other agency equities (*e.g.*, CIA and FBI), does the House wish to supply evidence in support of postponements *in addition to that which the Agencies will be able to provide?*

Conclusion

Because of our time constraints (put in place by a cost-conscious Congress), we need to complete our mission as quickly, efficiently, and economically as possible. We would, therefore, greatly appreciate your response to our inquiries as soon as is convenient. By way of recapitulation:

1. Does the House have any objection to our taking temporary custody of the HSCA materials while we review them?
2. Does the House wish to supply any additional evidence in support of the privacy redaction on HSCA personnel files?
3. Does the House wish to supply any evidence *in addition to that provided by other government offices* in support of postponements proposed by other agencies?
4. Does the House have any other specific concerns regarding the handling of HSCA records by the Review Board?

We thank you again for the opportunity to raise these issues with you and look forward to hearing from you soon. Please do not hesitate to contact me if I can be of further assistance.

Sincerely yours,

David G. Marwell
Executive Director

Enclosures

cc: Mr. Fazio

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Mr. Roman P. Buhler (w/enclosures)

Mr. Charles Howell

Mr. John Tunheim