

August 11, 1995

Bill Adams
P.O. Box 24945
San Jose, California 95154

Re: Cynthia Wegmann Documents

Dear Mr. Adams:

This letter responds to your July 28, 1995, correspondence in which you requested documents that Cynthia Wegmann turned over to the Assassination Records Review Board (Review Board) for inclusion in the JFK Collection at the National Archives as well as any Review Board records relating to the Cynthia Wegmann documents under the Freedom of Information Act at 5 U.S.C. § 552 (FOIA).

For purposes of the FOIA, your request encompasses two types of records -- agency records and non-agency records. To the extent that you properly requested agency records under the FOIA, the Review Board processed your request. The Review Board located thirteen *Review Board* records responsive to your request. Enclosed you will find twelve of those documents which we are releasing in full. At the present time, we must withhold one document because it is an intra-agency memoranda exempt from release under 5 U.S.C. § 552(b)(5). The document reflects the deliberative process engaged in by a Review Board staff member who undertook a review of some of the Wegmann documents.

However, your letter also requested documents that Cynthia Wegmann turned over to the Review Board for inclusion in the JFK Collection at the National Archives. As you probably know, the FOIA requires Federal agencies to make agency records available to the public, pursuant to its provisions. Agency records are those records that an agency possesses and controls. The Wegmann documents are not agency records.

Because of the Review Board's unique mandate, it may at any given time take temporary possession of assassination records that private individuals are donating to the JFK Collection at the National Archives. The Review Board does not hold title to the Wegmann records. Rather, the Review Board is acting as a conduit between the donor and the National Archives which has legal title on behalf of the United States Government. Thus, the Wegmann documents you requested are not agency records and are not subject to the FOIA.

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As I advised in my June 29, 1995, letter to you, all *Review Board* records ultimately will be sent to the JFK Collection at the Archives upon our termination. Our enabling statute provides that, “[u]pon termination and winding up, the Review Board shall transfer all of its records to the Archivist for inclusion in the [President John F. Kennedy Assassination Records] Collection, and no record of the Review Board shall be destroyed.” *President John F. Kennedy Assassination Records Collection Act of 1992*, 44 U.S.C. § 2701.7(o)(3) (1992).

Thus, while members of the public may file FOIA requests with the Review Board during the term of its existence, the public should also be aware of the opportunity to examine and obtain copies of the Review Board’s records as a part of the JFK Records Collection at the National Archives and Records Administration.

If you consider this letter to be a denial of your request under the Freedom of Information Act, you have the right to appeal our determination within 30 days. Appeals should be addressed to David Marwell, Executive Director, Assassination Records Review Board, 600 E Street, N.W., 2nd Floor, Washington, D.C. 20530.

Sincerely,

Laura Denk, Esq.
Freedom of Information Act Officer

Enclosures

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