

April 23, 1996

Ms. Jane E. Vezeris
Deputy Assistant Director
Office of Administration
United States Secret Service
1800 G Street, N.W.
Washington, D.C. 20223

Re: United States Secret Service Appeal

Dear Jane:

I have your letters of April 15, 1996, and April 18, 1996, indicating your intention to appeal the Assassination Records Review Board's decision to open three HSCA documents that NARA had referred to the Secret Service for review. At its March 18-19, 1996 meeting the Assassination Records Review Board voted not to sustain any postponements in the following records: 180-10087-10302; 180-10103-10465; and 180-10065-10379. These identification numbers refer to two reports by HSCA researcher Eileen Dinneen and information sheets prepared by Dinneen for individuals the Secret Service perceived as potentially threatening to President Kennedy.

At its April 16-17, 1996 meeting, the Assassination Records Review Board carefully reviewed these documents along with the arguments in your letter and determined that the Secret Service has not provided adequate evidence to sustain any § 6(3) postponements under the John F. Kennedy Assassination Records Collection Act (the "JFK Act").¹ The Review Board has decided to allow the Secret Service 60 days from the date of this letter to provide the Board with written justifications for postponing the names listed in these documents. If no further information is forthcoming from the Service by the end of the 60 day period (June 24, 1996), the Review Board's original decision to open these records in full will be reinstated.

¹We understand your April 15, 1996 letter as confirming that § 6(3) is the only provision of the JFK Act under which you are seeking postponement for the names in these documents.

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I. The Documents at Issue

(180-10087-10302) refers to "Review of JFK Trip Files for 1963." HSCA researcher Eileen Dinneen completed this four-page memo on March 24, 1978, and she attached 21 "Secret Service Report Forms" containing information from protective surveys prepared for President Kennedy's trips and from Protective Research Section files.

(180-10103-10465) refers to "Secret Service Protective Cases," a nineteen-page memorandum to Dick Billings completed by Eileen Dinneen on October 19, 1978. Dinneen analyzed protective cases established by the Secret Service in 1963.

(180-10065-10379) refers to three file folders of separate sheets for "Individuals Listed by Protective Research." Eileen Dinneen created a total of 413 threat sheets for individuals based on information in Protective Research Section files. Dinneen's memo, "Secret Service Protective Cases," is based on information in the threat sheets. The two file folders with postponements contain threat sheets numbered 140 through 413. The first file folder of "Individuals Listed by Protective Research" includes threat sheets numbered 1 through 139. The Secret Service opened the sheets in the first folder by virtue of its November 9, 1995 letter. Accordingly, sheets 1-139 are now available to the public in the JFK Collection, per the authorization of the Secret Service.

II. Names in Eileen Dinneen Reports and Individual Threat Sheets Are Already in the Public Domain

The House Select Committee on Assassinations developed the materials at issue in this appeal. These three documents are interrelated as research materials compiled and presented by HSCA researcher Eileen Dinneen, and they should be viewed as a coherent project intended to analyze Secret Service protection for President Kennedy. Information released in one part of Dinneen's research project compels the release of the same information appearing in another part of her project. No privacy claim adheres where a name has already been released in any part of Dinneen's research.

The interrelatedness of these documents compels release of over 60% of the names appearing in the three records at issue. In 1978, Dinneen compiled 413 individual information sheets based on files in the Protective Research Section of the Secret Service (180-10065-10379). Dinneen analyzed the information in these sheets in her memo to Dick Billings (180-10103-10465). Her memo includes the names of 95 individuals, all of which the Secret Service wishes to postpone. *However, the Secret Service has already released 54 of those 95 names as the subjects of protective investigations.* On November 9, 1995, the Secret Service provided the Review Board with its final list of postponements

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in the HSCA materials referred to the Secret Service. At that time the Secret Service indicated that it would release the first file folder of record number 180-10065-10379 containing numbers 1-139 of the individual sheets, but it would claim postponements for all the names in the second and third file folders containing numbers. 140-413.²

We fail to see how the Secret Service can claim a privacy postponement for the names of persons it has already publicly identified as subjects of protective investigations. Even if the initial disclosure of these subjects of protective investigations constituted an unwarranted invasion of privacy, postponing the same information in other documents cannot remedy this situation.

Similarly, the Secret Service claims postponements for names on the individual sheets numbered 140 through 413, *i.e.*, file folders two and three (180-10065-10379). Yet the Service did not claim any postponements for names in the first file folder, nos. 1-139, which were released by the November 9, 1995 letter. We do not understand why the names in the second and third file folders merit a higher standard of privacy protection than the names in the first file folder.

The Secret Service claims postponements for 38 names in Eileen Dinneen's "Review of JFK Trip Files for 1963." (180-10087-10302) Of those 38 names, at least 19 are already in the public domain, having been released in protective surveys.

III. The Records in Question Have an Enhanced Level of Public Interest

The JFK Act specifically referred to congressional records as subject to release. See § 2(a)(4) and § 5(c)(2)(G)(I). Dinneen's reports provide insight for researchers interested in the effectiveness and scope of Secret Service protection for President Kennedy. Researchers would naturally be interested in studying potential threats to President Kennedy as understood by the Secret Service during the Kennedy administration. Congress intended that "all records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination." JFK Act § 2(a)(2). Dinneen's reports contribute to a broader public understanding of that history.

²In addition to the names listed on sheets 1-139, the Dinneen memo (180-10103-10465) and the second and third file folders of assassination record number 180-10065-10379 include names of five more individuals already publicly identified as of interest to the Protective Research Section: John Warrington, Thomas Vallee, Thelma King, Richard Case Nagell, and Lee Harvey Oswald.

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Dinneen's memo to Billings (180-10103-10465) was largely based on information compiled from the individual sheets, but her "Review of JFK Trip Files" (180-10087-10302) is especially valuable because it is based on records that no longer exist. The Secret Service authorized the destruction of protective surveys for President Kennedy in the 1961-1963 period. Both the authorization of destruction and the actual incineration of these records took place after the passage of the JFK Act. Because Dinneen's report on JFK trip files is based on materials that the Secret Service destroyed, it carries with it a significantly enhanced presumption of release. Dinneen's reports invite, and should receive, full public scrutiny.

We must take issue with the narrow view of the public interest in disclosure expressed in your April 15, 1996 letter. "Who did it" is not the only question surrounding the assassination of President Kennedy that commands profound and legitimate public attention. Rather, from the Warren Commission forward, official inquiries have focused on the performance of law enforcement and intelligence agencies, including the Secret Service, in an effort to understand how such a tragedy could occur and how best to guard against its recurrence. The documents in question reflect the HSCA's efforts to address these questions.

IV. Secret Service Obligations Under the JFK Act

Out of a total of 133 names listed in Dinneen's two reports (180-10087-10302 and 180-10103-10465), at least 73 have already been released. The JFK Act requires the Secret Service to provide specific evidence for a § 6(3) postponement for each of the remaining names on the individual sheets (180-10065-10379), the Dinneen memo to Dick Billings (180-10103-10465), and the Dinneen report on the presidential trip files (180-10087-10302).

Evidence for postponement must be compelling enough to overcome the presumption of release stated in the JFK Act § 2(a)(2). In order to meet the requirements for a § 6(3) postponement, the Secret Service must provide a written justification for each individual that includes the following information:

- a) Is the individual still alive?
- b) If so, how will release of the name constitute an unwarranted invasion of privacy?

Keeping in mind that the JFK Act allows postponements only in the rarest cases and that the records on which Dinneen based her reports are now over thirty years old, the Secret Service will be

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undertaking a heavy burden as it seeks to meet the standard for a § 6(3) postponement.

At its March 18-19, 1996 meeting, the Review Board voted to open the two Dinneen reports (180-10087-10302 and 180-10103-10465) and the individual sheets (180-10065-10379) in full. The Board will delay the transfer of these documents to the National Archives for 60 days from today's date in order to give the Secret Service adequate time to complete its justifications for the postponement of names. The Review Board will consider evidence that specifically addresses the above criteria. At the end of the 60 day period, the Board will open names of individuals for whom the Secret Service has provided no evidence for postponement. If the Secret Service provides evidence that meets the standards for a § 6(3) postponement for certain individuals, the Board will consider extending the period of postponement for those individual names.

If you have questions about the Service's obligations under the JFK Act before the June 24, 1996 deadline, please contact me.

Sincerely yours,

David G. Marwell
Executive Director

cc: Donald Personette