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(unclassified when detached from Attachment B)

September \_\_, 1996

BY HAND

The President  
The White House  
Washington, D.C. 20500

Dear Mr. President:

I am writing in regard to 20 determinations made by the Assassination Records Review Board which have been appealed to you by the Federal Bureau of Investigation and which the Review Board has briefed on the merits. (*See Attachment A.*)

I would like to draw your attention to two recent events that should assist you in making your decision.

*First*, in prior submissions, there was a difference of opinion between the FBI and the Review Board regarding the position of the Department of State. The Review Board is pleased to report that the Department of State has now confirmed, as previously stated by the Review Board, that it has no objection on bilateral grounds to the release of the information at issue in 37 records, including 10 of the 20 records that the Review Board believes are ripe for your decision. (*See Attachment B.*) Although the State Department identifies no harm to U.S. relations with the government at issue in these records, the Department nevertheless has a general objection to releasing foreign counterintelligence information. While the Review Board understands that this is the position of the State Department, it should nevertheless be clear that the Department's memorandum contains no evidence or analysis that this general concern overcomes -- or even takes into account -- the specific statutory requirements for release of information under the controlling JFK Act.

*Second*, with respect to three records (124-10073-10270, 124-10073-10271, and 124-10073-10284) in the FBI's most recent appeal, it is uncontroverted that the FBI seeks to postpone information long in the public domain. An authoritative reference work on the FBI's file system contains precisely the

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information that the FBI wishes to keep secret. (See Attachment C.) Moreover, the FBI itself disclosed most of this information to the public in the case *American Friends Service Committee v. William H. Webster*, Civ. No. 79-1655 (D.D.C.). (See Attachment D.) Information that the FBI seeks to withhold in 1996 was officially and publicly disclosed by the FBI in that court submission some fifteen years ago. The JFK Act and your Executive Order 12,958 (Sec. 1.8(c)) are unequivocal on this point: once information has been officially disclosed by an agency, it cannot be reclassified or otherwise withheld in assassination records.

The JFK Act provides that the President has the "sole and non-delegable authority" with respect to the final release of Executive Branch records and that your decision with regard to the records on appeal should have been made within 30 days of the announcement of the Review Board's formal determinations. It has now been more than 150 days since the noticing of the earliest decisions contested before you, and we continue to await your decision. With all due respect, Mr. President, we urge you to make the necessary decisions as promptly as possible.

Sincerely,

David G. Marwell  
Executive Director

Attachments

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cc: Mr. William Leary  
Senior Director, Records and Access Management  
National Security Council

The Honorable Louis J. Freeh  
Director, Federal Bureau of Investigation  
cc (w/o att.): The Honorable Jamie S. Gorelick  
Deputy Attorney General  
U.S. Department of Justice

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