

draft of 12/10/96, 11:50 am

December 10, 1996

VIA FACSIMILE AND FIRST-CLASS MAIL

Ms. Melanie Ann Pustay  
Senior Counsel  
Office of Information and Privacy  
United States Department of Justice  
Flag Building--Suite 750  
1310 G Street, N.W.  
Washington, D.C. 20530

Re: United States Department of Justice Leadership's Compliance  
With the JFK Assassination Records Collection Act, 44 U.S.C. § 2107

Dear Ms. Pustay:

I want to thank you and FOIA Specialist Carmen Mallon for meeting with Phil Golrick AND ME on December 3 to discuss several outstanding matters in connection with the Office of Information and Privacy's processing of assassination-related records under the JFK Assassination Records Collection Act ("JFK Act"). This letter will summarize the results of our meeting.

1. Assassination Records from the Leadership Offices under Attorney Generals Robert Kennedy, Nicholas Katzenbach, and Ramsey Clark: The Department of Justice (Office of Information and Privacy) has not transmitted to the National Archives any assassination records from the files of the Attorney General, Deputy Attorney General, or Associate Attorney General during the Kennedy and Johnson Administrations. We cannot emphasize enough the importance of accounting for these files and confirming that they have been reviewed for assassination-related records. While we appreciate that some portion of these records may now reside at the JFK and LBJ presidential libraries, and may also be located among the Divisional files of DOJ, it is imperative that these files be accounted for as specifically as possible.

Several matters demonstrate that the DOJ Leadership offices should have assassination-related records: For example, we know that Deputy Attorney General Katzenbach "work[ed] closely with the Warren Commission." See HSCA's Interview of

Harold F. Reis, dated May 8, 1978 (attached hereto).<sup>1</sup> Public Law 89-318, enacted in 1965, authorized the Attorney General to assert title over Warren Commission evidence; this power was exercised in late 1966. Nearly simultaneously, the Department of Justice negotiated the transfer of autopsy photos and x-rays from the Kennedy family to the United States Government. *See, e.g.*, the attached HSCA Interview of Mr. Reis. Also in 1966, then Acting Attorney General Ramsey Clark requested a number of high-ranking Justice lawyers to “carefully examine” the Warren Commission Report and other literature on the assassination. *See* Nov. 25, 1966 Clark Memorandum (attached hereto). The Department of Justice also had ongoing responsibilities concerning public access to assassination-related materials.

2. Postponement Issues: You reported that approximately 390 DOJ documents are awaiting clearance from third agencies, principally the FBI, and that you have not yet created record identification forms (“RIFs”) for these records. We advised you that it would assist our efforts to track the status of these records if you created RIFs for them, categorizing the records as “referred.”

Please provide us with copies of any cover letters from your office to the FBI regarding the referral of these records. Also, please confirm whether the FBI is the only third agency for which you have outstanding referrals. Finally, you previously described a small number of records that contain privacy postponements your office wished to assert for its own equities. If you still wish to assert these postponements, please send us copies of these records so that the Review Board may vote on them.

3. Documents Related to Passage of the JFK Act: We advised you that the current sense of the ARRB staff is that documents that merely discuss the passage of the JFK Act, and do not relate to any underlying issues pertaining to President Kennedy’s assassination, do not have to be processed under the Act. However, this advice is subject to any policy determination the Review Board may later make.

4. Records of Attorney Generals Levi and Bell and Deputy Attorney General Civiletti: You confirmed that a file on the JFK assassination located from among Attorney General Levi’s files is being processed under the JFK Act. In addition, you have agreed to permit the staff of the Review Board to review the archived records of Attorney Generals Levi and Bell and

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<sup>1</sup>Mr. Reis was an attorney in the Office of Legal Counsel who served as Executive Assistant to Attorneys General Kennedy and Katzenbach.

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Deputy Attorney General Civiletti to determine whether they may contain any additional assassination-related records. These files are archived under the following accession numbers: 60-82-20 (Levi) (particularly boxes 1-6, 13-16, 18, 21, 24-25, 28, 33-36); 60-82-41 (Levi); 60-82-199 (Bell); and 60-81-164 (Civiletti). We will arrange to go out to the Federal Records Center in Suitland with a DOJ representative to conduct this review.

5. Records of the Office of Public Information: You also agreed to make available for inspection certain DOJ press releases to determine if any relate to the assassination. These press releases are stored in the Federal Records Center under accession number 69A 1611 (box numbers 36 and 122-23). Aside from press releases, we believe that the Office of Public Information may have assassination-related records. For example, that Office prepared guidelines for Dr. Humes in answering media questions about the autopsy. *See* Memorandum of Cliff Sessions, Director of Public Information, dated May 29, 1967 (attached hereto). We request that you ask this Office to search its files for records related to its work in this regard.

6. Records of Associate Deputy Attorney General Keuch: You are currently processing the files of Associate Deputy Attorney General Robert L. Keuch, who was DOJ's contact person with the House Select Committee on Assassinations (FRC accession number 60-81-255). You stated that you have already identified material from two accessioned boxes as responsive to the JFK Act, and agreed to check on the status of a third box of accessioned material. You agreed to our request for us to review whatever records from these boxes were initially regarded as not assassination-related.

We called to your attention a letter of Mr. Keuch which refers to "the Department's file on Lee Harvey Oswald," which had "been reviewed" in connection with the HSCA investigation. *See* Mr. Keuch's Letter to Robert Blakey of the HSCA, dated March 10, 1978 (attached hereto). We have asked you to identify the file on Lee Harvey Oswald identified by Mr. Keuch.

7. Ron Plavchan, Archivist: You disclosed that Mr. Plavchan, the Archivist for the Office of Records for the Attorney General, Deputy Attorney General, and Associate Attorney General, has been primarily responsible for conducting the search for records from those leadership offices. You agreed he should be one of DOJ's designees for the compliance program.

8. Retention of Attorney General and other Leadership Records: You agreed to make certain

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that the Federal Records Center in Suitland, Maryland does not destroy any Attorney General records; we also ask that you do the same with respect to all other leadership offices of DOJ.

9. Other FOIA-Related Files on the Kennedy Assassination: We discussed whether the Office of Information and Privacy must process under the JFK Act all of the FOIA-related files, including initial FOIA request files and FOIA appeal files, that may relate to Kennedy assassination materials. We would ask that your Office at least identify and collect the universe of such files even though they may be only tangentially related to the Kennedy assassination. Thereafter, we can work with you to decide what needs to be processed under the JFK Act.

10. Department of Justice Filing System: During our meeting, you made reference to certain finding aids or indices which you consulted regarding Attorney General records. To assist us in ensuring that all assassination-related records at DOJ have been located, we would like to get a copy of any finding aids, indices, or other reference materials that disclose DOJ leadership records, including but not limited to the finding aids you have consulted and any indices to the Justice Management Security Division vault in the Main Justice Building. In addition, we would like to obtain any material that would explain DOJ's filing system, both for leadership offices and the Divisions.

We appreciate your providing to us the names of contact persons for the records of the Tax Division and the Office of Legal Counsel.

Thank you again for your cooperation. Please do not hesitate to call Phil Golrick or myself to discuss any of these matters.

Sincerely,

Ronald G. Haron  
Senior Attorney

cc: David G. Marwell  
T. Jeremy Gunn, Esq.

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Phil Golrick, Esq.