

February 20, 1997

BY FACSIMILE& FIRST-CLASS MAIL

Mr. Robert Hogarth, Chief
Document Services Branch
Bureau of Alcohol, Tobacco & Firearms
650 Massachusetts Ave., N.W.
Room 3450
Washington, D.C. 20226

Re: Bureau of Alcohol, Tobacco & Firearms' Compliance with the
JFK Assassination Records Collection Act, 44 U.S.C. § 2107

Dear Mr. Hogarth:

I would like to thank you and Eric O'Neal for meeting with me on February 18, 1997, to review the initial Statement of Compliance submitted by the Bureau of Alcohol, Tobacco & Firearms ("ATF"), as well as to review additional efforts by ATF to comply with the President John F. Kennedy Assassination Records Collection Act of 1992 ("JFK Act").

This letter will serve to memorialize our discussions. At present, ATF has located two assassination records. ATF has not yet been able to ascertain the disposition of ATF's files relating to its communications with the House Select Committee on Assassinations ("the HSCA"), including ATF files made available to the HSCA for inspection. Accordingly, we discussed the following additional efforts to be undertaken by ATF in complying with the JFK Act:

1. Files for the Office of Chief Counsel. As we discussed, ATF's Office of Chief Counsel was responsible in 1978 for working with the HSCA to the extent its investigation related to ATF. In particular, the Office of Chief Counsel prepared the ATF Director's correspondence with the HSCA and also coordinated the review of ATF files by the HSCA. Correspondence that we obtained from HSCA files disclose that these matters were assigned a file number (27,257). (We previously forwarded copies of this correspondence to your office. See R. Haron Letter to Eric O'Neal, dated Nov. 1, 1996.). ATF has been unable either to locate or to account for the Chief Counsel's files relating to the HSCA. You said you would make

further inquiries with the Chief Counsel's Office.

2. Files of the Dallas Regional Counsel's Office. In 1978, ATF's Dallas Regional Counsel represented Special Agent Frank Ellsworth at his deposition before the HSCA. The Regional Counsel at that time was Bobby Tyler, and Steve Sundgard was the attorney from that office who accompanied Mr. Ellsworth at the deposition. See Frank Ellsworth's July 25, 1978 Transcript, at 2 (attached hereto). Thus, the Regional Counsel's Office may have files relating to the HSCA inquiry and the assassination. In reviewing the Federal Record Center's ("FRC's") list of stored ATF records at Fort Worth, we identified several Regional Counsel files from 1977-79. ATF will inspect the SF 135's and, if necessary, the files themselves to determine whether there are any materials relating to the HSCA or the assassination (the Review Board can assist in this review).

3. Files of the ATF Director. Because the Director of ATF corresponded with the HSCA, the Review Board thought the Director's files from around 1978 may have assassination-related materials. You and Mr. O'Neal indicated that the Director does not retain any files, and we reviewed the FRC list of ATF records stored at Suitland, Maryland and could not identify any Director's files as such.

4. 1963-64 Files of the Dallas Field Office. At present, none of the 1963-64 records of the ATF Dallas field office has been specifically accounted for, and you and Mr. O'Neal stated that these records have in all likelihood been destroyed. We reviewed the FRC list of ATF records currently in storage at the regional FRC facility at Fort Worth. The oldest files date back to the early-to-mid 1970's. You indicated that 1963-64 records may have been destroyed pursuant to document destruction schedules, but that documentation of the destruction would not necessarily have been maintained. Nonetheless, you said you would check this with the FRC at Fort Worth. You also suggested that such records, to the extent they still exist, may be in the custody of the Internal Revenue Service ("IRS") since ATF was under IRS prior to 1972. We will pursue this matter with IRS.

5. Classified Files. You indicated that you have no jurisdiction with respect to classified ATF files (*i.e.*, files designated as confidential, secret, or top secret). This undercuts the value of ATF's initial Compliance Statement, particularly if certain assassination records, such as the HSCA-related files or the 1963-64 investigative records of Mr. Ellsworth or the Dallas field office, were marked as classified. ATF needs to provide a certain level of assurance that any relevant classified files have been included within the scope of its search for

assassination records.

You stated your understanding that the only classified files maintained by ATF reside with the Office of Inspections (these relate to background investigations for prospective ATF employees and, presumably, would not include anything related to the assassination) and with the Intelligence Division. You were not certain how classified files are maintained by the Intelligence Division or how that Division conducted its search. Furthermore, to the extent that the Dallas Field Office, the Director's Office, or ATF Counsel treated any of its files or documents as classified, which you doubted, you were uncertain how such files would be maintained or stored. ATF thus needs to provide an assurance that key ATF offices, such as the Director of ATF, the Intelligence Division, the Dallas Field Office, and ATF's Chief and Regional Counsel, have included classified materials within the scope of their search for assassination records. At present, you were unable to provide this assurance and it thus remains a matter that needs to be resolved prior to the Final Declaration of Compliance. You indicated that you may not have the requisite level of clearance to make inquiries within ATF regarding the disposition of classified records; if that is, in fact, the case, then ATF should, as soon as possible, authorize you or someone else to resolve any search issues with respect to classified records.

6. Final Declaration of Compliance. The Final Declaration of Compliance should describe the ATF follow-up efforts that we have discussed. In addition, ATF should provide a more specific description of its search efforts with regard to the Dallas Field Office, the Office of Director, and the Chief Counsel's Office, inasmuch as those offices did work in connection with the investigations into the assassination and given that no responsive records from those offices have been located or accounted for.

The Final Declaration of Compliance will have to be executed under oath in the form prescribed by 28 U.S.C. § 1746.

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Please do not hesitate to contact us regarding any matters relating to ATF's compliance with the JFK Act. Thank you again for your cooperation.

Sincerely,

Ronald G. Haron
Senior Attorney

cc: Stephen McHale, Chief Counsel, ATF