

MEMORANDUM

February 5, 1998

To: T. Jeremy Gunn
Thomas Samoluk
Laura Denk
Kevin Tiernan

From: Ronald G. Haron

Subject: Status of FBI's Compliance Program Under
the JFK Act

For our internal/ARRB meeting on FBI compliance, set forth are the "compliance issues" that I propose we discuss and, thereafter, raise in our anticipated meeting with the FBI. I would like to use this outline as an "agenda" for our internal ARRB meeting and decide our approach with the FBI. In addition, I am attaching a chart of all the FBI files that have been identified under the JFK Act, which includes general information on the status of processing, so that we have an overview for purposes of our discussion. *See Master List of FBI Files (Attachment A hereto) (This chart is a DRAFT only, and may need to be revised, updated, and/or corrected after further review). It is important that we are internally in agreement as to the issues we should raise with the FBI and that we communicate a consistent, unified message to the FBI regarding their compliance with the JFK Act.*

A. Background

On June 4, 1997, Laura Denk and I met with the FBI (Carol Keeley and Joe Iazzetta of the FBI's JFK Task Force) to discuss their draft initial Statement of Compliance. In the course of the meeting, we asked several questions with respect to the identification and processing of FBI files under the JFK Act. Ms. Keeley and Mr. Iazzetta provided us with helpful background information regarding the FBI's record searches and identification of assassination records under the JFK Act. Subsequently, on June 23, 1997, the FBI formally transmitted to the Review Board its initial Statement of Compliance (*see Attachment B hereto*). I have reviewed the Compliance Statement and discussed some of the compliance issues with Laura and Kevin. As a result, I propose that the following issues be raised with the FBI.

B. Major Compliance Issues

Set forth, for our discussion, are the issues I recommend raising with the FBI:

- (1) the adequacy of the FBI's search for various record categories;
- (2) the FBI's processing and placement, by September 30, 1998, of identified assassination records into the JFK Collection;
- (3) the FBI's review of its equities in documents referred by other agencies, including FBI equities in Warren Commission, HSCA, and Church Committee records;
- (4) additional, specific record requests by the ARRB to the FBI;
- (5) destruction of any records that we deem important;
- (6) verification of specific issues in the compliance statement;
- (7) verifying the FBI's compliance/progress through September, 1998; and
- (8) proposing a mechanism for enforcing any potentially uncompleted JFK Act obligations of the FBI after September 30, 1998.

I will address each issue below (again, these are my recommendations subject to your concurrence; I want us to consider them and be in agreement that they are appropriate and/or should be modified).

1. Adequacy of the FBI's Records Search

The FBI universe of assassination records essentially consists of three record categories: (a) the "core and related" files; (b) the "HSCA subjects"; and (c) files provided in response to ARRB request nos. 1 to 48. The Compliance Statement generally describes the search methodology for identifying these assassination records. It appears that the FBI's searches have been thorough and comprehensive. However, I would have some more detailed questions regarding the FBI's process for identifying the universe of records in these three categories.

Preliminarily, I suggest that we ask for any back-up papers reflecting how the FBI did its searches,

particularly at Headquarters, Dallas, and New Orleans (I assume that the back-up regarding its searches would be contained in the JFK Act administrative file (HQ 62A-1029205), and in comparable administrative files for the Dallas and New Orleans office). I suggest we ask to have these files made available for our inspection.

In addition, I would ask what has been done, or can be done, to identify a fourth category of files: (d) files that do not go into a numbered file series (*i.e.*, working files for the top FBI officials involved in the Kennedy investigation). In my opinion, we have not received an adequate explanation for whether or not top FBI officials send their own working files to storage. We still do not know whether the FBI creates inventories of completed SF-135 forms for non-serialized files sent to storage.

Set forth below more specifically are some of the issues I would raise as to the search done for each of the four categories of records:

a. The Core and Related Files. In 1992, the FBI had already established the universe of so-called "core and related" files that related to the Kennedy assassination. These were files that had been determined to be responsive to various FOIA requests over the years for FBI materials on the Kennedy assassination. *See* FBI Compl. Stmt. at 2. In 1992, FBI Director Sessions testified before Congress that a large portion of these files had been released under FOIA. The "core files" are Headquarters, Dallas, and New Orleans files bearing most directly on the assassination of JFK.¹

These files are, in large part, available in the JFK Collection at NARA. Having identified the set of core and related files, the FBI has, under the JFK Act, also run further searches on these core and related subjects under the CRS and ELSUR indices, both at Headquarters and at the field offices/legats. *See* Compl. Stmt. at 4. As Ms. Keeley explained, the purpose of these searches has been to identify any other related files, to locate any updated material in a core or related file, or to find a document that mentions a core or related subject where the document is in a separate, unrelated

¹ The "core and related" files are identified in the FBI Compliance Statement as the following files from HQ, Dallas, and New Orleans: The main JFK assassination investigation files; the Warren Commission files reflecting FBI's correspondence with the Commission; the Lee Harvey Oswald files; the Jack Ruby files; the Marina Oswald files; the Marguerite Oswald files; the Jim Garrison/Clay Shaw Civil Rights file; the George Demohrenschildt files; the Michael and Ruth Paine files; the David Ferrie files; and a miscellaneous Kennedy File (relating to investigation of the destruction of the Oswald note) (for the latter, the file no. needs to be identified)

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file. When we spoke with her in June, Ms. Keeley did not have a sense for the results of the additional CRS searches of core and related subjects and what additional materials they may have yielded.

In 1992, the Field and Legat offices were instructed to locate any files relating to the core and related subjects and forward them for processing under the JFK Act. The field offices and legats were specifically requested to check their CRS and ELSUR indices. *See* Compl. Stmt. at 4; *see also* FBI correspondence between HQ and field offices/legats (Attachment C hereto). Ms Keeley advised us that the files forwarded by the field and legat offices as a result of searches under the core and related subjects have been forwarded to the JFK Collection.

The main indices checked by the FBI are the CRS and ELSUR indices. *See* Compl. Stmt at 3-4. The CRS has a numerical sequence index and an alphabetical index (general index). *See* Compl. Stmt at 3. The CRS was automated in 1978, and the automated system does not capture pre-1978 files. According to the Compliance Statement, the FBI therefore maintains "the old manual card index," and both the manual CRS and the automated CRS were searched fusing the core and related subjects. *See* Compl. Stmt. At 3-4; *see also* FBI Federal Register Notice re CRS (Attachment D hereto). The ELSUR index was automated in 1991 but captures all ELSUR dating back to 1960. *See* Compl. Stmt at 4; *see also* FBI Federal Register Notice re ELSUR (Attachment E hereto). It is my understanding that each field office/legat has its own ELSUR and CRS index for its own files and ELSUR. *According to the FBI Compliance Statement, the HQ, field office, and legat indices were checked only for core and related subjects.* No other independent searches would have been done except pursuant to ARRB requests.

I want to confirm that there are no other indices that should be searched. For example, NARA did an appraisal in 1981 of FBI records for Judge Harold Green (D.D.C.). Both the appraisal and the FBI's Federal Register Notice identify an Administrative index, a Criminal Informant index, a Security Informant index, a Foreign Counterintelligence index, and National Security Electronic Surveillance cards. *See* Attachment D hereto. I think these are separate from, and not included within, the CRS. Would these indices reference individuals or files that might not appear in the CRS or ELSUR indices? In addition, I am not certain whether the CRS index at Headquarters would identify all informants, and informant files, located in Dallas and New Orleans (I presume not). Another records system was not searched that may be potentially relevant. Section D of the National Crime Information Center ("NCIC") has records on persons designated by the Secret Service as posing a threat to the President. *See* FBI's Federal Register Notice re NCIC (Attachment F hereto). We should determine when this records system came into effect, whether it has information from the early 1960's, and how, if necessary, can it be searched. Finally, a new file system, the Universal

Case File ("UCF"), was created in November 1991, and it was not searched. *See* Compl. Stmt. at 3.

b. Files Made Available to the HSCA. The FBI is processing files that were requested and made available to the HSCA. The FBI identified the universe of "HSCA subjects" through their own internal documentation. *See* Compl. Stmt. at 4. Related files that were not requested, field office files on HSCA subjects, and related ELSUR material that was not specifically requested by the HSCA have not been identified for processing under the JFK Act. Thus, we need to consider whether there are any important materials that the HSCA may have neglected to request from the FBI (of course, we have done this in part through our requests for additional information).

Since the FBI apparently has a working folder that identifies the universe of FBI files made available to the HSCA, we may want to obtain and inspect it. In addition, it is my understanding that some FBI files were not subject to the MOU between the HSCA and the FBI, but I am not certain whether these files had been inspected by the HSCA, or were at all relevant, or if they are currently included in the set of "HSCA subjects" being processed under the JFK Act by the FBI. I would like to identify these files and determine whether they are sufficiently important to be included as assassination records.

c. Files Made Available in Response to ARRB Requests Nos. 1-48). As I understand it, the FBI has by and large provided all of the files that we have formally requested under FBI-1 through FBI-48. I would have no questions regarding the adequacy of the FBI's search for files we requested on specific individuals and groups because, presumably, the CRS index will identify all files and other records with respect to names of individuals or groups. One question I have is whether these subjects were checked on the ELSUR indices (although we may not consider this sufficiently important). While the name searches would be relatively straightforward, I would have some questions as to how the FBI identified records that we have requested regarding broad subjects. For example, how did the FBI identify files relating to: Cuban intelligence activities in the United States (FBI-29)? Cuban counter-intelligence (FBI-6)? FBI technical coverages in 1963 (FBI-16)?

We should request the FBI, in its Final Declaration of Compliance, to identify the files made available in response to each ARRB request.

d. Files of High Ranking FBI Officials and Non-Serialized Files. We raised with Ms. Keeley the possibility that certain high-level officials may have sent their work files to storage, and we asked how we could determine whether the FBI's storage facility might maintain such files. *See* Jan. 22, 1997 Letter from P. Golrick to C. Keeley (Attachment G hereto). The initial Compliance Statement

does not address this issue. In June, we were told that relevant divisions (*e.g.*, Domestic Intelligence) would be separately tasked and that the issue of stored work files will be raised. In addition, Ms. Keeley stated that they could re-task the New Orleans and Dallas field offices with respect to files in storage. We need to verify whether this was done, and determine what else can be done to ascertain the status of the files of certain high-level FBI officials (as noted below, these issues may be addressed in the 66 series files, which encompasses records management and disposition).

The FBI Compliance statement identified several storage facilities for HQ and field office records. Disposition decisions by those facilities have to be submitted to the "FBIHQ's archival office" for final approval. *See* Compl. Stmt. at 5. The FBI field and legat offices also send information on "record keeping" to Headquarters. *Id.* Does FBI Headquarters, specifically the archival office, thereby have inventories for records, including non-serialized (or "tickler") files, sent to storage?

2. Processing Files for the JFK Collection

There are a number of outstanding issues with respect to having the FBI process designated assassination records for the JFK Collection. As I understand it they are as follows: (1) approximately 220 HSCA files have been negotiated, approved by the Board, and can be sent to the JFK Collection as of this date. So far, none of these files have been physically transferred to the JFK Collection; (2) the balance of HSCA files are being or will be negotiated; (3) we designated additional assassination records, in response to our record requests, and any postponements as to those will have to be presented to the Board, and those records will have to be processed; (4) there are some records from the "core" files that have outstanding postponement issues to be resolved by the FBI/Board; and (5) certain records may have been overly redacted under incorrect Grand Jury secrecy standards. Again, not being as fully aware of these issues as Laura and Kevin, I raise as a possible issue whether there may be any further prioritization or guidance we can give to the FBI in connection with processing.

I would request that the FBI continue, as they did in their initial compliance statement, to identify in their Final Compliance Statement the files that have been transferred to the JFK Collection. In the interim, we may want to consider some mechanism for having the FBI confirm when a file is transferred to the JFK Collection (*e.g.*, a transmittal letter to Steve Tilley with a copy to the Review Board). Although I am not as close to the situation, and I recognize that the FBI team has a plan to complete negotiation of the HSCA subjects, I am concerned whether the FBI will be able to physically transfer all HSCA files, ARRB-designated assassination records, and properly postponed records from the "core" files by September 30, 1998 (I am assuming that we will finish our

obligations -- negotiation, designation, and voting on the records -- by August 1998). I recommend that we identify any absolutely key records that should be transferred to the JFK Collection as soon as possible (*e.g.*, the two O&C files on JFK, in which there is a high public interest should be sent).

We also need to consider whether we should require the FBI to identify, in the Final Compliance Statement, all files that have not been physically transferred to the JFK Collection by September 1998 with a commitment that they do so by a date certain.

3. Clearing FBI Equities in Other Agency Records

I am not familiar with the current status of the FBI's review of its equities in other agency records that have been referred to the FBI (DOJ and INS have mentioned to me, however, that they have not received their referrals back from the FBI). We should require the FBI to represent in the Final Declaration of Compliance that they have reviewed and cleared (or presented to the Board) their equities in all documents referred from other agencies. I recommend that we apprise the FBI that there should be a priority with respect to other-agency referrals, as follows: Warren Commission, HSCA, Church Committee (more material will be forth coming from SSCI), CIA, and DOJ.

4. Potential Additional Requests/Issues

At our internal meeting, I would like to reach a consensus as to the additional requests that we want to make of the FBI. I recommend that we try to limit any future requests to things that are directly related to the assassination (of course, this still leaves room for debate), balancing the limited time and resources against the need to identify anything relevant that has heretofore not been identified. I appreciate that we are pressed to process under the JFK Act the assassination records that we have already identified to date. With that caveat, the following are some *possible requests* that we could consider (many of these I obtained from Laura's working notebook of potential requests):

a. Files of Top FBI Officials at Headquarters. Although we have raised this informally with Carol Keeley, we have not made a formal numbered request for the files of top FBI officials except Hoover and Tolson (FBI-36).

We may want to request the files of FBI Director Clarence Kelley, whose tenure covered the Church Committee, the Edwards Subcommittee investigation into the destruction of the Oswald note, and the HSCA investigation. Initially, we may simply want to request all indices or inventories to his files.

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We may want to formally request the files of the top FBI officials who were involved in the investigation of the assassination in the 1963-64 period: John **Mohr**, Assistant to the Director for Administration (The Inspections Division and the Crime Records Division reported to him); Cartha **DeLoach**, Assistant Director for the Crime Records Division, 1957-64; Alan **Belmont**, Assistant to the Director for Investigations, June 1961-1964 (he oversaw the General Investigative Division, the Special Investigative Division, the Domestic Intelligence Division, and the Laboratory Division); Alex **Rosen**, Assistant Director for the General Investigative Division; Courtney **Evans**, Assistant Director for the Special Investigative Division (Mr. Evans functioned as liaison between Director Hoover and Attorney General Kennedy); William **Sullivan**, Assistant Director for the Domestic Intelligence Division from June 1961 to 1970 (Sullivan oversaw the Espionage Section, headed by William **Branigan**, and the Internal Security Section, headed by F.J. **Baumgardner**); and James **Gale**, Assistant Director for the Inspection Division, 1962-64 (Gale had recommended the censure of 17 FBI officials in connection with their pre-assassination investigation of Oswald, including the failure to place Oswald on the Security index); James **Malley**, FBI Inspector (he was assigned by HQ to go to Dallas to head up the JFK investigation); and Sam **Papich**, the FBI's Liaison to the CIA. (We have raised the issue of files for these officials in P. Golrick's January 22, 1997 letter to Carol Keeley). The existence, identity and/or disposition of these files might be explained in the 66-series files, which encompasses records disposition.²

b. Director's Office Files. The FBI team has identified a number of 62-, 63-, 66-, and 67- series files for the Director's office. Laura obtained a list of these (*see* Attachment H hereto), and we may want to request some of these files.

c. Administrative Files for HQ and Field Offices. I have a more general question as to the scope of 62 and 66 series files and how those are searched and whether there are indices to those files. The 62-series files (Administrative Inquiry/Misconduct in Office) include records relating to misconduct investigations of the FBI; liaison with other federal agencies and cities; FOIA suits against the FBI; liaison with foreign governments; liaison with Congress and Presidential Commissions; files maintained "for information" and "information concerning"; and files regarding sources of information. The 66-series files (Administrative) HQ records relate to control files on informants; individual informant files; minutes of the Executive Conference; records management and disposition; and detention and security index programs. At the field level, the 66-series files have

² According to the 1981 NARA appraisal for Judge Harold Green, Mark Felt in 1971 collected the files of the top officials of the FBI, including six volumes of official memoranda from Hoover to Tolson (upon Tolson's retirement these were turned over to Nicholas Callahan--these may be the same records that were turned over to the Review Board under FBI-36).

records relating to confidential informants; sources of information; technical and microphone surveillance; liaison with state governments; SAC "confidential fund"; and "persons not to be contacted." (This description of these file series was obtained from the 1981 appraisal of FBI records prepared by NARA for Judge Harold Green).

Some important records are contained in these 62 and 66 file series. For example, the FBI's internal investigation of the destruction of Hoover's files was a 62-series file, the Hoover telephone logs were filed under a 66-series file, and the technical surveillance on Marina Oswald was assigned a 66 series file (in addition to the 134 files that were created). Since these files are administrative files, I am not certain that all the names that appear in a 62 or 66 file are indexed in the same manner as the criminal investigative files of the FBI, but we need to find out. I think it is important to make certain that we have identified any potentially relevant files from these series. For example, since the FBI did internal investigations regarding the Walters teletype allegations and the destruction of the Hosty note, is it possible that administrative files for these investigations were created under these file series (such as was done for the internal FBI investigation of the destruction of Hoover's files)? Similarly, if a high-ranking official wanted to send his personal set of files to storage, would they be assigned a 66 file number (as were the Hoover logs)? These are some of the questions we should ask of the FBI. Thus, we need to understand how these files are searched (*e.g.*, by title?), and we may want to obtain some sort of index or inventory to these files.

d. Administrative Files Regarding FBI Internal Investigations Regarding Destruction of the Hosty Note and Regarding the Walter Teletype Allegations. We previously asked the FBI to determine whether they have made available all their files regarding these two internal investigations. *See* Jan. 22, 1997 P. Golrick Letter (Attachment G hereto). In January 1997, the FBI did send requests to the Dallas and New Orleans offices to double check whether they had any additional materials, including administrative files. *See* Jan. 31, 1997 FBI Correspondence to New Orleans and Dallas Offices (Attachment I hereto). We need to follow-up on the FBI's response.

e. Files for the SAC's for Dallas (G. Shanklin), New Orleans, and Mexico City. We have asked for these informally, but have made no formal request. Nor have we received any information at all as to whether any such files existed and any disposition that may have been made of them. (Maybe the answer to these questions is contained in a 66-series file, which encompasses records disposition).

f. Pre-Assassination Files relating to Threats Against President Kennedy. Did the FBI maintain any files that related to threats against the President? How can we identify all of these? For example, the FBI team has identified the following files that relate to threats against President Kennedy before he was assassinated: 62-106833 (threat against JFK);

109-584 (threat against JFK in Tampa, Florida in November 1963); TP 62-449 (visit of Kennedy to Tampa in November 1963);³ and 105-2080 (potential anti-Kennedy demonstrations). [I am not certain which of these are HQ files and which are field office files]. It also appears that the FBI has identified no files on Joseph Milteer, who threatened Kennedy in Miami in November 1963. We could ask for the Miami file on Milteer and on the informant (William Sommerset). This raises an issue as to the adequacy of the FBI's search, namely: Did the FBI search the CRS and ELSUR indices under John F. Kennedy? What were the results?

g. John Birch Society Threats to JFK as Reported by Harry Dean. The FBI team located an HSCA interview report with Harry Dean (HSCA No. 14535) in which he reported that he was an informant for the FBI in Los Angeles and that he had reported to the FBI on John Birch meetings in 1962-63, involving Loran Hall, Lawrence Howard, and General Edwin Walker, and that there were discussions regarding assassinating President Kennedy. I do not know to what extent the HSCA pursued this and/or substantiated or discredited these allegations. Nonetheless, we potentially could request the Los Angeles files on these individuals.

h. Additional Liaison Files. Did FBI Dallas Field Office maintain a liaison file with the Dallas Police Department and/or the Dallas District Attorney's Office or the Secret Service? If so, we may want to request any such files. We also might want to request any liaison file that FBI has with the Office of Naval Intelligence. We might want to ask if the Mexico Legat has a liaison file with the CIA.

³ Was there any pre-assassination file regarding Kennedy's trip to Dallas that might be among the records of the Dallas FBI office?

i. Additional Organized Crime Files. The organized crime files being processed as "HSCA subjects" are Headquarters files. We need to consider whether there are any organized crime files that are important enough to warrant requesting the field office files. This, of course, could be a monumental task, but theoretically we could request the New Orleans file on Marcello, the Tampa file on Trafficante, and the Chicago file on Giancana (I presume, but I am not certain, that any ELSUR would be in the field file, possibly in a 134 or 137 file). To obtain and review the field office files would probably be a substantial undertaking; the files would probably be mostly duplicative of the HQ files; and thus there may not be a sufficient benefit to requesting them.⁴ We may want to request the field office informant files, which would have the complete ELSUR [again, it is my understanding that an "informant" file is created for any ELSUR. For example, the Dallas ELSUR on Marina was placed in a DL 134 file and 66 file; the DL 134 files contained summary reports regarding the results of the ELSUR.]. With respect to organized crime ELSUR, I am not sufficiently informed to evaluate whether all the important ELSUR references to Kennedy are captured by the HSCA materials that have been identified. Laura and Kevin may have a better handle on this.

We also might want to request the Dallas files for some of Ruby's associates. In addition, the main HQ file on James Hoffa (No. 63-5327) apparently is not an HSCA-designated file and is not being processed as an assassination record. We probably should inspect this file for the relevant time periods.

j. Additional Files on Cuba/Soviet Union. There may be additional files on Cuba and Cuban intelligence operatives that we may want to request from Headquarters, Dallas and the Mexico Legat. I recognize that the FBI made available a number of HQ and Dallas files on Cuban intelligence activities in the United States, I wonder if it might be worth requesting the FBI to identify any main files on: AMLASH (Cubelo, Rolando); DGI; Fidel Castro; Alfredo Mirabel Diaz (DGI Chief in Mexico City); Manuel Engenio Vega Perez (Deputy DGI Chief in Mexico City); Oscar Contreras (claimed to have met Oswald in Mexico City) In particular, there are absolutely no Cuba-related files identified from the Mexico Legat. We thus may want to request from the Mexico Legat specifically any of these files, as well as other files that relate to Cuban intelligence or relate to individuals who may have had contact with Oswald while he was in Mexico City (*e.g.*, Duran, Calderon, Azcue, Duran, Garro de Paz, Ugarte, Lopez, etc.).

We may also want to request any comparable Mexico Legat files on Soviet intelligence in

⁴ It is my understanding that we obtained the Los Angeles file on John Roselli and found that it duplicated the HQ file.

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Mexico City (*e.g.*, Kostikov and Nechiporenko). In addition, Jeremy had identified a file (HQ 180-101100) that contained material on Nosenko. See February 19, 1997 Letter from J. Gunn to C. Keeley. Certain documents from this file are in the HSCA Collection, and that may be sufficient.

k. Garrison Related Files. In its Compliance Statement, the FBI has identified the HQ files on Clay Shaw and on Shaw's civil rights action against Jim Garrison. In addition, the FBI has identified the New Orleans file on the JFK assassination investigation (NO 89-69), which includes materials on the Garrison investigation and trial. However, the New Orleans office identified no file on Clay Shaw and no file on the civil rights action brought by Shaw against Garrison, which I would expect given the existence of HQ files on these matters. In addition, according to the Compliance Statement, the FBI has not identified any separate files on Jim Garrison (not an HSCA subject nor a "core" subject), which I think we should request (both at HQ and in New Orleans). In addition, Laura has suggested possibly requesting any files on Guy Bannister (none have been identified by the FBI in their Compliance Statement).

l. Oswald Contacts in New Orleans. We may want to request any New Orleans files on certain individuals with whom Oswald had contact while in New Orleans, including the Murrets and Emile Bruneau, who submitted Oswald's bail after Oswald was arrested.

m. New Orleans FPCC File/Vincent T. Lee. Have we requested the New Orleans file on the FPCC? Do we want to request any HQ or field office files on Vincent T. Lee (recognizing that we have asked for FPCC files)? I raise this for possible consideration.

n. Informant Files in Dallas and New Orleans. While we have made specific requests for, and have obtained access to, specific informant files in New Orleans and Dallas, I raise as a potential issue whether there may be other informant files that might be relevant to the JFK Assassination. Except with the core subjects and our specific requests, the FBI offices in New Orleans and Dallas would have had no reason to search their CRS/informant files. I raise, as a possible issue, whether we should inspect a list of Dallas and New Orleans informants for the 1963-65 period for those offices.

o. Solo Files. I am not certain of the status of these. Do we want to request them? See J. Gunn's March 30, 1995 Memorandum re Solo documents (Attachment J hereto).

p. FOIA Files Made Available by the Department of Justice. We should review the FOIA litigation files, which were recently made available by DOJ, that pertain to the FBI. This may assist us in identifying any other important files that should be requested.

q. Hosty Leads. We need to review the testimony of James Hosty to identify any other important records we should request.

5. Destruction of Records

In its compliance statement, the FBI identified field office files relating to the Kennedy assassination that were destroyed. See Attachment K hereto. I do not have any follow-up questions regarding these except the following: (a) Are there any HQ files relating to the Kennedy assassination that were destroyed? (No HQ files were identified as destroyed) and (b) What were the Dallas records on Ruby and Oswald that were destroyed? (It appears that in most cases individual serials, rather than whole files, were destroyed).⁵

6. Verification of Specific Issues in the Compliance Statement

There may be specific issues that we want the FBI to address in the Final Declaration of Compliance. For example, we may want them to describe in detail what records they checked to confirm that Lee Harvey Oswald was not an informant, or potential informant for the FBI. I understand that we want the same done with respect to the absence of an informant file for Orestes Pena. There may be other similar substantive issues that we would want the FBI to address.

7. Verifying FBI Compliance/Progress through September 1998

Pending submission of the FBI's Final Declaration of Compliance, I recommend that we have some mechanism for tracking, in a general way, the FBI's overall ongoing efforts in making available and processing files under the JFK Act. This is my specific recommendation: So that Jeremy has an *overview* of the latest status of the FBI's identification and processing of files, I suggest that one of the FBI team members be delegated the responsibility of updating the master chart of FBI files that I have prepared. Again, this is my recommendation only, and Laura may want to proceed differently.

8. Enforcing Any JFK Act Obligations after September 1998

Although we want and expect the FBI to complete all of its obligations under the JFK Act by September 1998, I would like us to at least be prepared for the possibility that they will not complete everything they need to do under the JFK Act. For example, it may be that, by September 1998, the FBI has not physically transferred all its assassination records to

⁵ The NARA appraisal report noted a file 66-3286 on the destruction of bureau records.

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the JFK Collection. In that case, we should require the FBI, in its Final Declaration of Compliance, to identify any assassination records that it has not yet transferred to the JFK Collection with a commitment in the Declaration to do so by a date certain.

C. Conclusion

Before our compliance meeting with the FBI, I think it would be productive to send the FBI a letter, along the lines of this memorandum and our discussions, that sets forth the matters that we wish to discuss with the FBI in our anticipated compliance meeting with them. I think that this advance notice will give the FBI (Carol Keeley) a needed opportunity to investigate the issues and questions that we will have for them.

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FBI File No. 4.16.2.1