

April 7, 1997

BY FACSIMILE AND FIRST-CLASS MAIL

Mr. Jeffrey I. Fogel, Esq.  
Criminal Division  
United States Department of Justice  
1001 G Street, N.W.  
Suite 1075  
Washington, D.C. 20530

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

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Dear Mr. Fogel:

Thank you for meeting with Jeremy Gunn, Phil Golrick, and me on March 6, 1997, to review with you the current status of the Criminal Division's efforts to comply with the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. §2107 (Supp. V 1994) ("JFK Act"). This letter summarizes our understanding of the current status of the Criminal Division's compliance with the JFK Act, including follow-up efforts by the Division.

1. The Criminal Division's DJ Numbering System. At our meeting, we requested additional information regarding the Criminal Division's central index to its records. As explained in its initial Compliance Statement, the Division uses the "DJ Numbering System" to "keep an accurate account of all litigative cases and matters within the Division," and this system is used to locate Division records in storage. See Initial Statement of Compliance, at 8. While you provided the Review Board with helpful information about this filing system, we discussed with you further information we wish to obtain. In particular, we have requested that the Division make available for the Review Board's inspection, to the extent possible, a print-out listing the Criminal Division's files for the period 1960 to 1965. We can explore with you other field restrictions to the extent necessitated by practicality considerations.

2. File Searches Conducted to Date. The Division's initial Statement of Compliance indicates that records "generally are retrievable by case or subject names." Accordingly, the Division searched the DJ Numbering System, which is a computerized system, by name. Please provide us with a list of all search terms that the Criminal Division used to retrieve potential assassination-related records.<sup>1</sup> This will assist the Review Board in identifying other terms that perhaps should be searched.

3. Additional Name Searches. At present, the Review Board has additional names for which it requests that a record search be made. The Review Board believes these searches may yield records that relate to the assassination. The additional names are:

Carlos Marcello

James R. Hoffa

Edward G. Partin

Jose Aleman

Clarence Daniel Smelley

Edward Becker

Paul Roland Jones

Joseph Civello

Joe Campisi

Sam Campisi

Lewis McWillie

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<sup>1</sup> We understand that you ran name searches on: Lee Harvey Oswald; Jack Ruby; Marina Oswald; Clay Shaw; John Connally; the Warren Commission; George DeMohrenschildt; Marguerite Oswald; David Ferrie; Ruth Paine; Michael Paine; Santo Trafficante; and Sam Giancana. See Criminal Division's Initial Statement of Compliance, at 2. It was unclear, however, if this list constituted all the name searches that were conducted or whether other names/subjects were searched.

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Allen Dorfman

Irwin S. Weiner

Murray "Dusty" Miller

Robert "Barney" Baker

James Henry Dolan

Dave Yaras

Leonard Patrick

Nofio J. Pecora

Harold Tannenbaum

Charles "Dutz" Murret

Arthur James Balletti (the DOJ case no. may be 82-46-5)

John Roselli

Robert Maheu

Please identify any files which the Criminal Division may have regarding these individuals, and we can then explore with you the procedures for reviewing any relevant files.<sup>2</sup>

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<sup>2</sup> So that you understand why we are requesting name searches on these individuals, allow us to set forth a brief explanation as to the potential relevance that these individuals may have to the assassination. Marcello and Hoffa have been alleged to have had involvement in the assassination (please also confirm that adequate searches were made by the Division for records regarding Sam Giancana and Santo Trafficante, Jr., who also have been alleged to have had involvement in the assassination). Partin, Aleman, Smelley, and Becker have made allegations that relate organized crime to the assassination of President Kennedy. Jones, Civello, the Campisi brothers, McWillie,

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Dorfman, Weiner, Miller, Baker, Dolan, Yaras, Patrick, Pecora, and Tannenbaum have been alleged to have organized crime connections and to have known or been associated, directly or indirectly, with Jack Ruby. Balletti, Roselli, and Maheu have been associated with plots to assassinate Fidel Castro. Murret, Lee Harvey Oswald's uncle, was alleged to have connections to Marcello. *See generally* the HSCA Report, at 147-80;

4. Manual Index Card System. You stated that the computerized searches must be supplemented with searches of an index card system, suggesting that not all records are retrievable through computerized searches. Please apprise the Review Board as to the time period for the records indexed on these cards. In view of the fact that the records at issue are over 30 years old -- and conceivably might not be indexed on the computerized system -- please describe what, if any, searches have been made on the index card system, including whether the same search terms were used as those for the computerized search (*see* footnote no. 1 herein). Of course, the additional names listed above should also be searched on the index card system.
5. Destroyed Records. You indicated that file references are maintained within the DJ Numbering System for files that have been destroyed. Please identify any files that may have been destroyed but were otherwise identified in response to your search queries.
6. Background or Organizational Information Regarding the Criminal Division in the Early 1960's. We requested certain organizational information regarding the Division in the early 1960's, particularly for the years 1962-64. In particular, it would be most helpful to the Review Board if you could provide it with any available organizational charts, personnel directories, or any other documents that would disclose the organization and staff of the Criminal Division as it existed in the early 1960's. This would help the Review Board identify those persons who could be contacted regarding the existence, identity and organization of Criminal Division records. In addition, any materials (*e.g.*, file indices) regarding the file organization in the 1960's would also be helpful.
7. Criminal Division Records in Secured or Vault Storage Areas. As we discussed, there was some uncertainty as to whether sensitive records kept in secured or vault storage areas would have been captured through the searches run on the DJ Numbering System. Therefore, we hereby ask that the Division provide to the Review Board an assurance that the files and records in secured storage have been accounted for such that, if there are any assassination-related materials in secured storage, they would have been identified.
8. Criminal Division Assassination Records Created after Passage of the JFK Act. We reviewed the issue of how post-1992 records would be treated under the JFK Act. Based on our reading of the JFK Act, we believe the statute does not distinguish between records created before the Act and those created after the Act. Nevertheless, recognizing your own interpretation of the JFK Act, we believe these records may also be requested as "additional

information and records" under the statute. Therefore, to the extent that the Criminal Division has post-1992 records relating to the assassination, we believe those should be processed as assassination records. However, it is our understanding that one category of records relates to a potential re-testing of certain ballistics/forensics evidence and, as to those records, we agree that their release should be postponed pending any final testing or final reports. We can coordinate with you on the mechanics of postponing release of those records.

9. FOIA Files. We have asked that the Criminal Division locate any of its files that relate to FOIA requests directed to the Criminal Division for assassination-related records. We wish to inspect any such files to determine whether there are any materials that qualify as assassination-related records under the Act.

10. Records of Robert L. Keuch. As we discussed, the Review Board is interested in locating records of Robert L. Keuch, who was DOJ's liaison to the House Select Committee on Assassinations ("the HSCA"). Certain of his records have been located by DOJ's Office of Information & Privacy, which is responsible for processing so-called DOJ "leadership" records under the JFK Act. Upon inspection of those records, however, it does not appear that his 1978-79 chron files have been located. Since Mr. Keuch served as Deputy Assistant Attorney General for the Criminal Division while he was liaison to the HSCA (*see, e.g.*, Mr. Keuch's March 10 and May 9, 1978 letters to the HSCA, attachments A and B hereto), please determine whether any of Mr. Keuch's files remain in the custody of the Criminal Division.

11. DOJ File on Lee Harvey Oswald. We have previously requested the Criminal Division to ascertain whether it has custody of a file on Lee Harvey Oswald, as referenced in the March 10, 1978 letter of Robert L. Keuch to the HSCA (attachment A hereto). In its Compliance Statement, the Criminal Division responded that "it is very likely that the referenced file was a Federal Bureau of Investigation file, rather than a Criminal Division file." *See* Compliance Statement at 10. This response appears to be inconsistent with Mr. Keuch's own statements. In a subsequent letter, Mr. Keuch informed the HSCA that "our file" contained an FBI memorandum relating to Oswald, "which was recorded as having been received in the Justice Department's Internal Security Division on December 10, 1963 . . . ." *See* Mr. Keuch's May 9, 1978 letter to the HSCA (attachment B hereto). Mr. Keuch appears to be referencing a DOJ -- not an FBI -- file, and this file should be located. We underscore the need to locate not only the relevant Internal Security Division records, but also any of Mr. Keuch's records in possession of the Criminal Division.

12. Current Processing of Documents. You stated that two categories of documents have not yet been transmitted to the JFK Collection at the National Archives. They are: (1) documents for which the Division's FOIA office is attempting to obtain clearance from other agencies, and (2) additional documents from the General Litigation and Advice Section, namely records of attorney Roger Cubbage. Please let us know when those documents are transmitted to the National Archives for inclusion in the JFK Collection. In addition, please advise us as to any documents with respect to which the Criminal Division wants to postpone release in whole or in part. At our meeting, you stated that you were unaware of any records whose release the Criminal Division seeks to postpone (except for the post-1992 records discussed previously at paragraph 8).

13. Organized Crime Issues and the Assassination, as Investigated by the Criminal Division.

We reviewed with you a number of issues, relating to the assassination, that involved the Criminal Division and for which there may be records. Although any such records may not fall neatly into a presently identifiable case file, we nonetheless asked you to determine, as best you could, whether there are any such records. The records relate to two areas: First, Herbert J. Miller, Jr., former Assistant Attorney General for the Criminal Division, was "designated" by the Deputy Attorney General (Nicholas Katzenbach) as the Department of Justice "liaison" with the Warren Commission. See the Feb. 24, 1964 memorandum of Mr. Miller (attachment C hereto). Accordingly, the Review Board would like to locate any Criminal Division files relating to the Warren Commission investigation. Second, Attorney General Robert Kennedy reportedly requested the Criminal Division, shortly after the assassination, to investigate possible organized crime links to the assassination. The persons apparently involved included Walter Sheridan and Herbert Miller. In addition, Kennedy sought the appointment of Department of Justice attorney Charles Shaffer to the Warren Commission staff in order to look into possible involvement of Jimmy Hoffa in the assassination. See HSCA Report, at 177. Kennedy also went outside the Department of Justice for assistance in examining possible organized crime involvement.<sup>3</sup> Accordingly, the Review Board requests that the Criminal Division locate any records relating to any formal or

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<sup>3</sup> In particular, Julius Draznin, then an organized crime specialist with the NLRB, was requested "within several days of the assassination . . . to very discreetly check into any possible Mafia or Hoffa links to either the assassination or Ruby" and to "report back" to the Attorney General. See HSCA Contact Report, dated Aug. 2, 1978 (HSCA File No. 10423) (attachment D hereto).

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informal investigation that it or others may have performed in examining potential organized crime involvement in the assassination, including the files for the Criminal Division's organized crime task force (*e.g.*, William G. Hundley, Edwyn Silberling, Walter Sheridan). Finally, Carl Belcher, head of the General Crimes Section in 1966, was asked to participate in a review of Kennedy autopsy materials.

14. Final Declaration of Compliance. As you are aware, the Criminal Division will need to submit a Final Declaration of Compliance later this year. The Final Declaration of Compliance should take account of the additional matters we have reviewed, including any additional follow-up work by the Division in complying with the JFK Act. In view of the initial Compliance Statement's general assertion (or presumption) that separately maintained files from the 1960s for the Assistant Attorney General for the Criminal Division, for the Assistant Attorney General for Internal Security Division, and for the Section Chiefs in the Organized Crime Section were not retained and do not exist, the Final Declaration must be very specific in describing the search that was done to locate any records for these top attorneys and to articulate what was done to confirm that, in fact, no such records exist within the custody of the Criminal Division. Please note that the Final Declaration of Compliance should be executed under oath in the form prescribed by 28 U.S.C. § 1746.

Thank you for your assistance, and please do not hesitate to call me if you have any questions or wish to discuss these matters further.

Sincerely,

Ronald G. Haron  
Senior Attorney

Enclosures