

May 5, 1997

VIA FACSIMILE & FIRST-CLASS MAIL

Mr. Richard Norton Smith
Director
Gerald R. Ford Library
1000 Beal Avenue
Ann Arbor, Michigan 48109-2114

Re: Gerald R. Ford Library Compliance with the JFK Assassination Records
Collection Act, 44 U.S.C. § 2107

Dear Mr. Smith:

I am writing to request that the Gerald R. Ford Library ("Ford Library") provide the Assassination Records Review Board ("Review Board") with certain formal assurances that it has located, and will be releasing, all records relating to the assassination of President Kennedy that are within its possession, custody, or control.

Since 1994, the Review Board has been working with a number of Federal agencies, as well as the Ford Library, to locate and publicly release records related to the assassination of President Kennedy. These actions have been taken pursuant to The President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. § 2107 (Supp. V 1994) ("JFK Act"). We appreciate the cooperation and assistance that the Ford Library has extended in working with the Review Board.

The purpose of this letter is to request the Ford Library's cooperation in assisting the Review Board in discharging its responsibility of assuring Congress and the American people that the goals of the JFK Act have been accomplished to the greatest reasonable extent. We want to assure the American people that the United States government has identified, located, and released all records relating to the assassination of President Kennedy. Indeed, one of the paramount purposes of the JFK Act is to certify to the public that the United States government is not withholding relevant materials related to the assassination. *See, e.g., Assassination Materials Disclosure Act*, H. R. Rep. No. 625, Part 2, 102d Cong. 2d Sess. 9 (1992) ("The Federal Government's failure to release official materials has contributed to numerous conspiracy theories and fueled charges of government complicity in the assassination [A] salutary purpose is served in opening these files [relating to the JFK assassination] to allay the suspicion of government cover-up.").

The Review Board has recently considered how it, along with the relevant Federal agencies, can best

Mr. Richard Norton Smith

May 5, 1997

Page 2

demonstrate to the American public that a thorough, good faith, and diligent effort has been made to locate and release all remaining assassination-related records within the control of the United States government (and that the Government is not withholding any such materials from public disclosure). To make this showing to the public, the Review Board has requested the relevant Federal agencies to provide a complete and specific accounting of their efforts to locate and release assassination-related records, including a full explanation for any destruction of such records. Such requests have been directed specifically to the John F. Kennedy and Lyndon B. Johnson Presidential Libraries. Since the Ford Library retains papers related to Gerald Ford's service on the Warren Commission, as well as material from the Rockefeller Commission, the Review Board considers the Ford Library's accounting of its search efforts to be of paramount importance. The Ford Library's participation in this formal accounting process will help to assure the American public that the utmost efforts have been made to locate and release any existing assassination-related records.

Accordingly, pursuant to its Congressional mandate under the JFK Act to "create an enforceable, independent, and accountable process for the public disclosure of such records," 44 U.S.C. § 2107 (2) (a) (3), the Review Board in the past few months has requested the relevant agencies to adhere to a specific and formal compliance program (hereinafter "JFK Act Compliance Program") outlined below and devised by the Review Board pursuant to its powers under Section 7(j)(1)(A), (B), (C), (D), and (F) of the JFK Act. We hereby request that the Ford Library also participate in this program and undertake the following measures by the dates provided (these dates were set in view of the fact that the Review Board's operations currently are scheduled to expire on September 30, 1997):

1. Designation of Agency Compliance Official (or officials) and statement of intent to comply with the JFK Act. We request that, by May 30, 1997, the Ford Library designate a Compliance Official who ultimately will be responsible for ensuring that the Library has complied with its obligations under the JFK Act, including the identification, location, and organization of assassination records and the transmission of those records to the JFK Assassination Records Collection ("JFK Collection") at the National Archives and Records Administration ("NARA"). If necessary, the Library may designate more than one person with knowledge of the measures that have been undertaken to locate assassination records.

We also request that, by May 30, 1997, the Ford Library convey its agreement to adhere to the compliance procedures outlined in this letter. To the extent that any compliance procedure described below appears to be unreasonable or to present difficulties that we may not have anticipated, please explain why and make alternate

suggestions to us.

2. Initial Statement of Compliance. We request that the Compliance Official prepare, by June 16, 1997, an initial written statement of the Ford Library's compliance with the JFK Act ("Initial Statement of Compliance"), setting forth the steps that the Library has taken to locate and process assassination records. The Review Board recognizes that many of the relevant Federal agencies, and the Ford Library as well, have previously explained what they have done to identify and process assassination records under the JFK Act. *See, e.g.*, the June 10, 1992 Memorandum prepared by Karen Holzhausen describing the Ford Library's materials on the Kennedy assassination (attachment A hereto). The Statement of Compliance, while it may include information previously made available by the Ford Library to the Review Board, is to be the preliminary version of the Ford Library's Final Declaration of Compliance to the American public of what it has done to locate records relating to the assassination (*see* item number 4 below). This initial Statement of Compliance shall include, to the fullest reasonable extent, the following information:

- a. A complete description of all steps that the Ford Library took to identify and locate assassination records including, but not limited to, an identification of the major record collections, holdings, and files that were consulted in the Library's search (including any records that are closed to the public); any research or finding aids, file indices, or computerized databases that were consulted; the names and titles of the persons who were tasked with conducting searches; and any other criteria used by the Library to locate assassination records.

We appreciate that the Ford Library has kept the Review Board informed of its ongoing efforts to locate, process, and release assassination records. We understand that further work is being done by the Library staff to identify and process additional assassination records. The Library's Statement of Compliance will need to describe these efforts.

- b. To the extent that any assassination-related records have been destroyed by the Library, or if the Library has any knowledge regarding the destruction of any Presidential materials by others, a full and specific explanation of the

Mr. Richard Norton Smith

May 5, 1997

Page 4

circumstances surrounding the destruction of such records.

- c. An identification and description of any records that have been removed from the Ford Library, to the extent that such records may reasonably contain materials relating to the assassination.
 - d. The status of remaining work that you can now identify that needs to be completed by the Ford Library in order to comply fully with the JFK Act, including an identification of the categories of records that must be processed and transmitted to the National Archives, a description of any additional searches for files that must be done, and the projected date(s) for completion of these tasks.
3. Review Board Interview With Compliance Official (or Officials). Shortly after the submission of the Ford Library's initial Statement of Compliance, we will ask that the Library's Compliance Official (as well as any persons who helped prepare the Library's initial Statement of Compliance) be made available to the Review Board for an interview regarding the Library's search for, and identification of, assassination records. The interview will be used as an opportunity to resolve any outstanding questions regarding the Ford Library's search, including any follow-up tasks to be completed by the Library. The Review Board anticipates that this interview will be conducted in June or July 1997.
 4. Submission of Final Declaration of Compliance. By July 1, 1997, the Ford Library should expect to complete the process of identification, location, and declassification of its assassination records at which time it should submit to the Review Board a Final Declaration certifying, under oath, its compliance with the provisions of the JFK Act (the "Final Declaration of Compliance"). This Final Declaration shall set forth all of the information initially set forth in the initial Statement of Compliance and shall also supplement the initial Statement of Compliance by detailing any further steps that were conducted by the Ford Library in identifying and locating assassination records. It is the intention of the Review Board to submit the agencies' Final Declarations of Compliance, including the Final Declaration of the Ford Library, with the Board's final report to Congress.

Mr. Richard Norton Smith

May 5, 1997

Page 5

5. Compliance Depositions. Starting on or about September 1, 1997, the Review Board, pursuant to its statutory authority, may conduct depositions, under oath, of the Compliance Official along with any other Library officials with responsibility for complying with the JFK Act. The decision to take a compliance deposition of a federal agency or other organization will be made on a case by case basis, taking into account the importance of the agency to the work of the JFK Act and the sufficiency of the agency's efforts to account fully for its compliance with the JFK Act. In the event that the Review Board decides to commence a compliance deposition of the Ford Library, the responsible Library designee(s) will be expected to testify under oath with respect to any and all issues relating to the Library's record search, including the scope of the search, the identity of files searched, the destruction of any relevant records, and any other matters set forth in the Final Declaration of Compliance. Any person obligated to appear for a deposition under oath shall be fully entitled to obtain legal representation.

We look forward to receiving your initial response, by May 30, that designates your Compliance Official and includes your statement regarding your position with respect to the provisions outlined in this letter. To the extent that you have any questions or suggestions regarding the Compliance Program, please do not hesitate to contact our General Counsel, T. Jeremy Gunn, at (202) 724-0088.

Thank you for your cooperation with our work.

Sincerely,

David G. Marwell
Executive Director

cc: Elizabeth A. Pugh, General Counsel, NARA