

November 10, 1997

BY HAND DELIVERY

Mr. Michael P. Dolan  
Acting Commissioner of Internal Revenue  
Internal Revenue Service  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20535

Re: Internal Revenue Service's Compliance with the JFK Assassination Records  
Collection Act, 44 U.S.C. § 2107

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Dear Mr. Dolan:

I am writing to request your assistance in obtaining the full cooperation of the Internal Revenue Service ("IRS") in complying with the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. § 2107 ("JFK Act"). Several issues involving IRS's obligations under the JFK Act must be resolved.

As you may know, the JFK Act was passed by Congress to facilitate the identification and public release of Federal Government records relating to the assassination of President Kennedy, including records regarding Lee Harvey Oswald. An important purpose of the JFK Act has been to demonstrate that the U.S. Government is not hiding any facts or knowledge it has regarding the assassination or regarding Oswald. To that end, the JFK Act created the Assassination Records Review Board ("Review Board") to work with Federal agencies in identifying, locating and publicly releasing all assassination records. Since 1994, the Review Board has been working with various agencies, including IRS, to accomplish this goal. The Review Board must complete its work by September 1998, when the Board's term expires.

Thus, it is essential that several outstanding matters concerning IRS's work under the JFK Act be resolved before September 1998. These issues are: (1) the release of IRS records on Lee Harvey Oswald, including Oswald's tax return records; (2) the identification and release of other records that IRS may have relating to President Kennedy's assassination; (3) IRS review and clearance of assassination records referred to it by other agencies under the JFK Act; and (4) submission of a formal report by IRS regarding its compliance with the JFK Act.

A. Release of IRS Records Relating to Lee Harvey Oswald

In the nearly 35 years since the assassination, there has been much speculation about who Oswald was and whether he was connected with any U.S. intelligence agencies. [Cite to W.Comm'n Report and HSCA Report]. Accordingly, we have sought to release to the public all Federal Government records relating to Oswald, including IRS records. To date, IRS has not released to the public, under the JFK Act, any records that it may have regarding Oswald, including but not limited to tax return records. We believe that release of all IRS records relating to Oswald is important and would advance the purposes of the JFK Act. For this reason, I am bringing this matter to your attention and requesting that you personally intervene to release these records consistent with IRS statutory and administrative provisions. To the extent that IRS determines that these records cannot be released, we ask that IRS set forth, in writing, its legal analysis explaining why these records cannot be released under the laws and regulations governing the IRS.<sup>1</sup>

Allow me to describe, in somewhat more detail, the nature of the records that are at issue, as well as some of the factors that may be material to the issue of disclosure.

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<sup>1</sup> We had previously requested that IRS advise the Review Board regarding the legal releasability of the Oswald and other tax records included in the holdings of the Warren Commission. *See* February 20, 1997 Letter from T. Jeremy Gunn to Donald Squires (Attachment \_\_ hereto). We received no response from the IRS.

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1. Oswald Tax Returns Considered by the Warren Commission and the HSCA. The Warren Commission had access to the tax returns of Lee Harvey Oswald and was able to review and consider them in preparing its September 1964 Report. The Oswald tax returns remain part of the Warren Commission records and are currently in the custody of the National Archives and Records Administration ("NARA").<sup>2</sup> NARA will not publicly release any of these records without IRS's permission. We believe that the public should be permitted to see Oswald-related records, including the original Oswald tax returns, that the Warren Commission had before it. Another copy of the Oswald tax returns was provided by the IRS to the House Select Committee on Assassinations (the "HSCA") in 1978. These tax returns (for 1956, 1958, 1959, and 1962) were released to the HSCA pursuant to Marina Oswald's consent. See Dec. 19, 1978 Letter from Howard T. Martin of IRS to G. Robert Blakey of the HSCA (Attachment \_\_ hereto).

It is our understanding that Marina Oswald, several months ago, authorized the IRS to release these same Oswald tax returns to an author, Mary La Fontaine. We do not know if the returns were, in fact, released to this author.

Accordingly, we seek to have the IRS authorize the release of the Oswald tax returns, and any other documents relating to Oswald, that may be held by NARA (on behalf of the Warren Commission or the HSCA) or held by the IRS.

2. Records Relating to Oswald's Employers. The Social Security Administration, in connection with its search of records under the JFK Act, has identified quarterly statements filed by Oswald's employers that disclose the identity and wages of its employees, including Oswald, for each quarter. Thus, these records provide corroboration for the Oswald employment and wage information considered by the Warren Commission. The Social Security Administration has advised us that they consider this information unreleasable unless they obtain authorization from the IRS to release these materials. Accordingly, we request that IRS authorize the release, if possible, of the employer records for Oswald.

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<sup>2</sup> The Oswald tax returns are collected as Warren Commission Document ("CD") 90A. Specifically, the Warren Commission was provided with Oswald's 1956, 1958, 1959, and 1962 returns. [Cite]. We have been unable to verify whether a 1957 return was filed, and we ask that the IRS confirm whether a return was filed for that year. We assume that no returns were filed for 1960 and 1961 because Oswald lived in the Soviet Union. Finally, we ask that the 1963 and 1964 returns presumably filed by Marina Oswald be released, although these returns were not yet available to the Warren Commission.

3. Other IRS Records Relating to Oswald. In addition to the specific tax returns and Oswald employer statements that have been identified (but not released), we believe the IRS may have other records relating to Oswald in connection with the assistance that the IRS rendered to the Warren Commission, including IRS's analysis of Oswald's finances. We had previously requested that IRS locate all records relating to the Warren Commission (*see* Attachment \_\_ hereto), but we have received no report as to whether such records have been identified.

B. Other Records of IRS That Relate to the Assassination

In addition to the Oswald returns, the Warren Commission obtained the tax returns of other individuals, including the returns of Jack Ruby, as part of its investigation into the assassination. As with the Oswald returns, we were advised by IRS that its regulations may permit the disclosure of these returns. We had asked the IRS to formally make that determination (*see* Attachment \_\_ hereto), but the IRS has not yet communicated its opinion as to the releasability of these materials.

Apart from tax returns reviewed by the Warren commission, we have previously requested that IRS identify and locate other records that may relate to the assassination, including records that may not be considered tax-related information. We had asked that all such assassination records be gathered and made available for our inspection, and that a determination be made by IRS with respect to whether such records could be released under Section 6103 of the IRS Code. *See* Dec. 13 and 16, 1996 Letters from D. Marwell to D. Squires (Attachments \_\_ hereto); Jan. 16, 1997 Letter from T. Jeremy Gunn to D. Squires (Attachment \_\_ hereto). We have yet to receive from IRS a specific identification of the assassination-related records that it has collected. And we have received neither an authorization to inspect those records nor a determination as to which of these records are subject to Section 6103 and which are not. Thus, we presently do not know what record searches have been conducted by IRS under the JFK Act; we do not know what assassination records have been located; and we do not know which identified records are releasable under the IRS Code. It is essential that these matters be resolved in the coming months.

C. IRS Review of Assassination Records Referred to It by Other Agencies

The IRS has been requested by other agencies to review under the JFK Act and, if appropriate, authorize release of assassination records containing IRS equities. These agencies have reported to us that IRS has not reviewed these documents or responded to the referrals. It is imperative that IRS assume responsibility for responding to these referrals and informing the originating agencies whether or not documents with IRS equities may be released.

D. Compliance Report by IRS Regarding its Work Under the JFK Act

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We hereby request that IRS prepare and submit to the Review Board a report summarizing the work it has done under the JFK Act. The requirements for this compliance report are set forth in more detail in a separate letter to you (dated November \_\_, 1997). In short, we request that IRS designate, by December 1, 1997, an IRS official who will ultimately be responsible for assuring that IRS has discharged its responsibilities under the JFK Act. We also request that IRS submit, under oath, a statement of compliance that sets forth the work that IRS has undertaken to comply with the JFK Act. We request that this statement of compliance be submitted by February 27, 1998.

Thank you for your cooperation under the JFK Act, and please do not hesitate to contact me, or my staff (Ronald Haron or Laura Denk), if you have any questions regarding IRS's obligations under the JFK Act.

Sincerely,

T. Jeremy Gunn  
Executive Director