

June 2, 1997

VIA FACSIMILE and FIRST-CLASS MAIL

Lieutenant Colonel Mike Finnie
Office of General Counsel
1000 Navy Pentagon
The Pentagon
Washington, DC 20350-1000

Re: Department of the Navy Compliance with the JFK Assassination Records
Collection Act, 44 U.S.C. § 2107

Dear Colonel Finnie:

Thank you for meeting with Douglas Horne, Christopher Barger, and me on May 19 to discuss the Navy's initial Statement of Compliance (dated March 25, 1997). We also appreciate the interim status report that you and Lt. Christopher Tynes provided to us on the Navy's progress in searching for records that may relate to the assassination of President Kennedy. This letter sets forth our understanding as to the current status of the Navy's efforts to comply with the JFK Assassination Records Collection Act ("JFK Act").

1. Navy's Instructions to Its Components to Search for Assassination Records. The Review Board and the Navy previously discussed the record groups that the Navy should identify, locate, and review in complying with the JFK Act. This discussion was memorialized in a January 17, 1997 letter from the Review Board to the Navy. The Navy's Compliance Statement indicates that on February 25, 1997, the General Counsel for the Navy tasked various offices within the Navy to search for the record groups and subjects we had discussed.

The Navy components were asked to respond to the General Counsel by April 30, 1997, as to the results of their searches.¹

¹ The Navy components that were tasked in February 1997 were the Chief of Naval Operations (which includes the Office of Naval Intelligence); the Commandant of the Marine Corps; the Judge Advocate General of the Navy; Director for the Naval Criminal Investigative Service; Counsel to the Commandant of the Marine Corps; Staff Judge Advocate to the Commandant of the

Marine Corps; Director for the Secretary of the Navy's White House Liaison Office; and Director for the Secretary of the Navy's Administrative Division.

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2. The Search Results Reported by the Individual Navy Components Will Be Provided to the Review Board. At our recent May 19 meeting, you made available for our inspection the April 30 reports of those Navy components that have reported on their search efforts. We had not seen these compliance reports prior to our meeting, and you have agreed to provide us with complete copies. Therefore, after we receive and review these reports, we will submit to you any further issues or follow-up to be undertaken in connection with the Navy's compliance efforts. Accordingly, our comments regarding Navy compliance with the JFK Act are preliminary at this stage. Nonetheless, we can address several compliance issues with respect to those Navy components that have reported their search results.

3. Preliminary Compliance Issues. Based on our preliminary review of the reports made available at our meeting, we have the following comments regarding compliance by individual Navy components:

a. Secretariat of the Navy (Secretary of the Navy, Assistant Secretaries of the Navy, and Navy General Counsel). The Navy Secretariat, which encompasses the Secretary of the Navy, Assistant Secretaries, and the General Counsel, located several documents relating to the Navy's cooperation with the Warren Commission and the House Select Committee on Assassinations ("HSCA"). It is our understanding that no further searches are contemplated at this time.

Without having had an opportunity to review the report of the Secretariat of the Navy in detail, we want to emphasize that it is important that the Navy, in its Final Compliance Statement, confirm the identity and time period of the files of the Navy Secretariat that were located and reviewed.

We note that the Secretariat located: (1) a September 1964 request from the Defense Intelligence Agency ("DIA") to the Secretary of the Navy for certain information to assist Secretary of Defense McNamara in responding to the Warren Commission (*see* Sept. 17 Memorandum from DIA to the Secretaries of the Army, Navy, and Air Force, Attachment A hereto) and (2) in response, an affidavit prepared by Rear Admiral Rufus L. Taylor, then Director of Naval Intelligence and Assistant Chief of Naval Operations (Intelligence), stating that Oswald was not an agent or informant for the Office of Naval Intelligence ("ONI") (*see* Sept. 21, 1964 Memorandum of Rufus L. Taylor for the Director of the Defense Intelligence Agency, Attachment B hereto). It is particularly important that the Navy place the original of these documents in the JFK Collection and identify the specific file from which they were obtained.

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b. Chief of Naval Operations. The Chief of Naval Operations ("CNO") so far has not located any documents relating to the assassination. It is our understanding that the CNO searched its "N3/N5 files" and is still waiting to hear from the Naval Historical Center regarding the search of other files. With respect to the N3/N5 files, please clarify what they consist of and what time period they cover.

As with the Navy Secretariat files, it is important that the Navy confirm in its Final Compliance Statement the identity and time period of the CNO files that were located and reviewed, including whether the files of the CNO for the period of 1959 (the time of Oswald's defection) to 1964 (the Warren Commission investigation) have been identified and reviewed. In addition, it is important to confirm whether the files for the Assistant Chief of Naval Operations (for Intelligence) have been located in view of the fact that, in 1964, this Naval official executed an affidavit stating that Oswald was not an informant or agent of ONI. *See* Attachment B. The importance of checking these files is also underscored by the fact that Rear Admiral Rufus L. Taylor reported to the CNO, Admiral McDonald, on matters pertaining to the assassination investigation. *See* Nov. 27, 1963 Memorandum of Rufus L. Taylor (Attachment C hereto)

c. Naval Criminal Investigative Service. The Naval Criminal Investigative Service ("NCIS") has located no additional assassination beyond the ONI documents on Oswald that were forwarded to the JFK Collection in 1993 (*see* footnote 2).

One of the issues that we had raised in our earlier January 17 letter (at paragraph 4) was a request for an explanation of the chain of custody of the ONI documents that were processed by the ONI/JFK Task Force (NCIS staff) in 1993 and whether that indeed represents the entire so-called Naval Intelligence file on Lee Harvey Oswald. In a meeting with NCIS in March 1997, the Review Board staff was advised that these materials had been retained as a single file at NCIS headquarters since the time of the HSCA, and that they were submitted in that form for the JFK Collection in 1993. A further review of the HSCA holdings discloses that the Navy provided the HSCA in 1977 with "[a] file consisting of 384 pages comprised of copies of all material concerning Lee Harvey Oswald presently in the possession of the Naval Investigative Service" *See* Dec. 2, 1977 Letter from Assistant Secretary of Defense to the

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HSCA (Attachment D hereto).² In the Final Statement of Compliance, we request that NCIS provide all information about the origin, identity, and chain of custody for the Naval Intelligence records on Oswald, including in particular whether the file provided to the HSCA in 1977 is the same file that NCIS processed under the JFK Act in 1993.

d. Office of Naval Intelligence ("ONI"). The staff of the Review Board has been working directly with ONI, and they have been most cooperative. ONI provided to the Review Board directly its April 23, 1997 report regarding its search results. According to ONI's report, ONI has, to date, reviewed approximately 123 cubic feet of archive records and has identified about one cubic foot of materials that may be assassination-related. This one box relates generally to defectors. So far, no new records have been identified relating directly to Lee Harvey Oswald or to the investigation of the assassination (other than the ONI documents in the file that NCIS submitted to the JFK Collection in 1993). ONI also intends to review additional boxes of materials.

As we noted in our meeting, it is important to establish whether the files of Admiral Rufus L. Taylor, the Director of ONI at the time of the assassination, have been located and reviewed. We also request that ONI confirm that the files of the ONI Director in 1959, when Oswald defected to the Soviet Union, have been identified and reviewed.

e. Navy's White House Liaison Office. This office reported that it had located no assassination records.

4. Responses Still Due from Navy Components. You are still awaiting responses from certain Navy components as to their search results, including the Marines and the Judge Advocate General for the Navy. You advised that the Marine Corps is still conducting its search for records, and we agreed that the Marine Corps could have until the end of August 1997 to complete its search.

5. Bureau of Medicine & Surgery. As we had discussed at our January meeting, you were to request the Bureau of Medicine and Surgery to search its records regarding the autopsy of

² The HSCA holdings has a copy of the entire Naval Intelligence file on Oswald with which it was provided. See HSCA File No. 3770 (Record Identification No. 180-10114-10194).

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President Kennedy. In particular, we are primarily interested in locating any 1963-64 records for the Surgeon General, the head of the Bureau, and the physician assigned to the White House. Please see that an interim report is provided by the Bureau as to these record categories. As we indicated previously, we have been working directly with the National Naval Medical Center ("NNMC"), and so we see no need for you to contact them.

6. Other Distinct Record Groups To Be Addressed. In our January 17 letter, we asked the Navy to locate and review to the extent possible certain record groups, including records (for certain time periods) for: the naval attaches stationed in Moscow and Mexico City; certain regional ONI offices; and any Naval Intelligence office located in Dallas in 1963. In the Final Compliance Statement, please account as specifically as possible for these and the other record groups that are identified in the Review Board's January 17 letter (and also in the Navy General Counsel's February 25 Tasking Memorandum).

7. Submission of Records to NARA. Once you have collected the Navy's assassination-related documents, they will need to be declassified under the standards of the JFK Act (*not* under FOIA standards) and submitted for inclusion in the JFK Collection at NARA. The processing of these records will involve the preparation of Record Identification Form ("RIFs") for each document. We will be providing you with some preliminary information (*i.e.*, the computer software data discs) to assist your office in the processing of these records under the JFK Act. We recommend that you appoint someone from your office to handle the processing of the Navy's assassination records, and that person should coordinate with Steven D. Tilley, Chief of the JFK Collection at NARA.

8. Final Compliance Statement. Given the Navy's request that the Marine Corps have additional time to search for its records, and our agreement that the Marine Corps will have until August 31, the Navy should provide its Final Compliance Statement by September 15, 1997. Please note that the Final Declaration should reflect any additional follow-up work or other matters undertaken subsequent to the initial Statement of Compliance. Please also note that the Final Declaration of Compliance will need to be executed under oath in the form prescribed by 28 U.S.C. § 1746. We endorse the "Assassination Records Review Certification" that must be executed by each Navy component that has conducted a search for assassination records, and we request that those certifications (along with the underlying reports) be incorporated into the Final Declaration of Compliance.

Thank you again for your cooperation, and please feel free to call Doug Horne or myself to discuss any of these matters further.

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Sincerely,

Ronald G. Haron
Senior Attorney

cc: Mr. Stewart F. Aly, Associate Deputy General Counsel, DOD