

April 13, 1998

BY FACSIMILE & U.S. MAIL

Mr. William H. Leary
Senior Director
Records and Access Management
National Security Council
Old Executive Office Building -- Room 392
17th & Pennsylvania Ave., N.W.
Washington, D.C. 20504

Re: National Security Council Compliance with the JFK Assassination Records
Collection Act, 44 U.S.C. § 2107

Dear Bill:

I am writing to request that the National Security Council ("NSC") submit to the Assassination Records Review Board ("Review Board") a statement of compliance demonstrating that it has completed its obligations under the John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. § 2107 ("JFK Act"). This formal statement of compliance would detail the efforts of the NSC to identify and make available to the public records relating to the assassination of President Kennedy. The Review Board is currently obtaining comparable statements from all other relevant federal agencies. We have been working with the NSC in locating and declassifying NSC's assassination-related records, and we greatly appreciate the cooperation we have received from the NSC.

A formal compliance statement by the NSC would assist 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

Mr. William Leary
April 13, 1998
Page 2

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 considered how it, along with the relevant federal agencies, can best 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 hiding any such materials from public disclosure). Accordingly, pursuant to its Congressional mandate 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 seeks to have the NSC provide a complete and specific accounting of its efforts to locate and release assassination-related records, including a full explanation for any destruction of such records.

The Review Board therefore requests that the NSC adhere to certain formal procedures, outlined below, for documenting its compliance with the JFK Act. These requirements have been devised by the Review Board pursuant to its powers under Section 7(j)(1)(A), (B), (C), (D), and (F) of the JFK Act. These procedures are as follows:

1. Designation of Agency Compliance Official (or officials) and statement of intent to comply with the JFK Act. We request that, by May 8, 1998, the NSC designate an Agency Compliance Official who ultimately will be responsible for ensuring that the NSC has complied with its obligations under the JFK Act, including the identification, location, and organization of assassination records and the transmission of those records for inclusion in the JFK Assassination Records Collection at the National Archives and Records Administration (“NARA”). Although the Review Board assumes that you will likely serve in this position, we nevertheless await formal confirmation from the NSC. If necessary, the NSC may designate additional persons with knowledge of the measures that have been undertaken to locate assassination records.

We also request that, by May 8, 1998, the NSC 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. Final Declaration of Compliance with the JFK Act. We request that the NSC submit to the Review Board, by June 8, 1998, a written statement of its compliance with the JFK Act (hereinafter referred to as the NSC's "Final Declaration of Compliance"). This Final Declaration of Compliance is to be NSC's comprehensive and final report to the American public of what it has done to locate and publicly release records relating to the assassination. The NSC's Final Declaration of Compliance, as well as those of other agencies, will be included in our final report to Congress. This Final Declaration of Compliance shall include, to the fullest reasonable extent, the following information:
 - a. A description of the steps that the NSC took to identify and locate assassination records including, but not limited to, an identification of the major record collections and files that were consulted in the NSC's search, any NSC file indices consulted, the names and titles of the persons who were responsible for conducting the searches, the physical locations of the records that were searched, the off-site storage facilities (*e.g.*, Federal Records Centers) searched, the specific steps that were taken to locate and retrieve materials in archives, and any other criteria used by the NSC to locate assassination records.
 - b. To the extent that any assassination-related records are known to have been destroyed by the NSC or any NSC official, a full and specific explanation of the circumstances surrounding the destruction of such records.
 - c. The status of any remaining work that needs to be completed by the NSC in order to comply fully with the JFK Act, including an identification of the categories of records that must be processed and transmitted to NARA, a description of any additional searches for files that must be done, and the projected date(s) for completion of these tasks.

This Final Declaration of Compliance should be executed under oath in the form prescribed by 28 U.S.C. § 1746.¹

¹ Thus, the NSC compliance official would state at the conclusion of the Final Declaration

Mr. William Leary
April 13, 1998
Page 4

of Compliance that "I declare under penalty of perjury that the foregoing is true and correct.
Executed in Washington, D.C. on this __ day of ____ 1998."

Mr. William Leary
April 13, 1998
Page 5

3. Review Board Interview or Deposition With Agency Compliance Official (or Officials). After submission of the NSC's Final Declaration of Compliance, and after the Review Board's consideration of the Declaration, the Board may request that the Agency Compliance Official (as well as any persons who helped prepare NSC's Statement of Compliance) be made available to the Board for an interview regarding the search for assassination records in the custody of the NSC. If necessary, the interview will be used as an opportunity to resolve any outstanding questions regarding the NSC's search for assassination records, including any follow-up tasks to be completed by the NSC.

We look forward to receiving your initial response, by May 8, 1998, that designates the NSC's Agency Compliance Official and NSC's commitment to adhere to the procedures outlined in this letter. To the extent that you have any questions or suggestions regarding these procedures, please do not hesitate to contact me or Michelle Combs at (202) 724-0088.

Thank you for your cooperation with our work.

Sincerely,

T. Jeremy Gunn
Executive Director &
General Counsel