

May 8, 1998

HAND DELIVERY

Mr. Frank W. Fountain
Room 340
Old Executive Office Building
The White House
Washington, D.C. 20500

Re: Obligation of the President's Foreign Intelligence Advisory Board to Comply with the JFK Assassination Records Collection Act

Dear Frank:

I am writing in response to your telephone discussion earlier today with Michelle Combs, our Associate Director for Research and Review. It is my understanding that you have been advised by your Chairman that PFIAB is not prepared to comply with the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. § 2107 note ("JFK Act") unless PFIAB receives instructions to the contrary from the President. While we have very much appreciated the cordial and frank discussions on this issue, we perceive the response today as a very unfortunate development.

As we have previously advised, all federal government offices, including PFIAB, are required to comply with the JFK Act. I have specifically identified for you the Act's definition of a government office as including "any office of the Federal Government that has possession or control of assassination records including . . . any . . . executive branch office or agency, and any independent agency." § 3(5). Heretofore, every federal agency, Cabinet-level department, independent agency, legislative committee, and court has agreed to cooperate with the important mandate of the Assassination Records Review Board.

Under the JFK Act, the Review Board's powers include the authority to "direct a Government office to transmit to the Archivist assassination records as required under this Act . . ." § 7(j)(1)(B). The

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Act further authorizes the Review Board to require government offices “to make available to the Review Board . . . information, records, or testimony . . . which the Review Board has reason to believe is required to fulfill its functions and responsibilities under this Act.” § 7(j)(1)(C)(ii).

The Review Board sees it as a very unfortunate development that PFIAB would require the intervention of the President in order to process records that are 35-years old. We strongly urge PFIAB to reconsider its position promptly without involving the President with this straightforward matter. Because the Review Board’s term expires in September of this year, it is important that this issue be resolved promptly. Accordingly, I am forwarding a copy of this letter to Charles Ruff and to Bill Leary.

I should also advise that we have been instructed by the Chairman of the House Government Reform and Oversight Committee to keep him advised of any executive branch agencies with which we are having difficulty. I surely hope that we can resolve this without troubling either the Chairman or the President.

Please do not hesitate to call if I can be of any assistance in resolving this time-sensitive matter.

Sincerely,

T. Jeremy Gunn
Executive Director

Enclosure

cc: Charles F.C. Ruff
The White House

William H. Leary
National Security Council