

May 26, 1998

Mr. Frank Fountain  
Counsel  
President's Foreign Intelligence Advisory Board  
Old Executive Office Building--Room 340  
Washington, DC 20502

Dear Mr. Frank:

This letter is offered in an attempt to help clarify the general guidelines used by the Assassination Records Review Board in determining the relevance of records related to the assassination of President Kennedy.

The Review Board's published regulations provide that "assassination records" include documents that have "the potential to enhance, enrich, and broaden the historical record of the assassination." 36 CFR § 1400.2(f). The Review Board's mission is not to "solve" the assassination, but to release government records on important issues surrounding the assassination so that the American people can better learn what their government knew. As we discussed in our meeting in your offices on January 27, 1998, the types of issues that have frequently been deemed relevant include not only documents referring to the assassination itself -- such as the PFIAB minutes from November 22, 1963 -- but records related to Lee Harvey Oswald, Secret Service protection of the President, the CIA station in Mexico City, NSA intercepts about the assassination, and several other important issues related to foreign policy during the 1962-64 period. Although there frequently is no "bright line" that distinguishes those records that enhance the historical understanding of the assassination from those that do not, the PFIAB records that we marked fall squarely into the categories of records that have routinely been marked for processing at CIA, NSA, NSC, and DOD.

The PFIAB records that we have designated as assassination records contain information on subjects previously determined by the Review Board to be relevant to an understanding of the assassination and the historical events surrounding the assassination. I will provide some examples from the records that have been designated.

*Foreign government involvement.* Several officials, including, it appears, President Lyndon Johnson, James Angleton (CIA's former Chief of Counterintelligence), and CIA's Chief of Station in Mexico City believed that foreign governments were implicated in the assassination of President Kennedy. While the Review Board takes no position on the merits of these beliefs, it has determined that some records related to the USSR and Cuba should be made part of the JFK Collection at the National Archives. Thus, records concerning intelligence collection and other activities by the US Government against the USSR and Cuba during the 1962-1963 time period are relevant to an understanding of the events surrounding the assassination. Discussions by CIA Director John McCone on CIA activities in the USSR and/or Cuba, any briefings by CIA officials on events in the USSR and Cuba, or any evaluation as to the quality of intelligence on the USSR and Cuba reaching decision makers, such as are prevalent in the PFIAB minutes, are then considered to be relevant.

*Assassinations and related covert operations in Cuba and Vietnam.* A second type of information which has been considered relevant by the Review Board is any discussion of assassinations or covert actions in Vietnam or Cuba. For example, all records pertaining to Operation Mongoose and the workings of the Special Group have been considered relevant by the Review Board. Whether or not the PFIAB was informed as to the assassination plotting against Fidel Castro is important to an historical understanding of the period. Further, any records on the possibility and then the actuality of the Diem coup and assassination have also been considered relevant. The question as to whether the CIA had any involvement in the Diem coup is both relevant and historically necessary to an understanding of US actions. In addition, various theorists have suggested that the assassination was carried out by right wing groups in the United States to alter US policy toward Vietnam. Thus any records showing the policies of the Kennedy administration in 1962 and 1963 and any records which might indicate a change in US policy toward Vietnam in the aftermath of the assassination are considered important to an understanding of events.

*Coordination of efforts among intelligence agencies.* A third type of record which has been of interest to the Review Board is information concerning the coordination of efforts among intelligence agencies and the workings of the intelligence agencies. Again, various theories of the assassination have argued that the intelligence agencies of the US Government, or various renegade elements thereof, conspired either to carry out the assassination or to cover up information after the fact. President Kennedy threats to dismantle the CIA are sometimes used as supposition for an intelligence community inspired plot. Equally, accusations about incompetence within the intelligence community failing to prevent the assassination have also been leveled. Thus, information concerning PFIAB's recommendations to President Kennedy on the intelligence community, particularly those in the wake of the Bay of Pigs and the Cuban Missile Crisis, recommendations to President Lyndon Johnson on strengthening the capabilities of the intelligence community, and information on levels of cooperation and coordination between the agencies of the intelligence community would be and have been considered relevant by the Review Board.

Information provided by PFIAB to President Johnson from the first PFIAB meeting following the assassination would be of particular interest to researchers.

Finally, 1962-1964 records on defectors, counterintelligence operations, and Soviet listening operations have all been considered relevant by the Review Board. Information which might shed light on the possibility that Lee Harvey Oswald could have been sent to the Soviet Union as an asset of the military, CIA, or even CIA Counterintelligence Chief James Angleton, has all been considered relevant. Thus PFIAB discussions of US counterintelligence programs during the period 1962-1964 would be considered relevant to an understanding of the historical period. In addition, what the Soviets might have known about Oswald and his travels can be surmised by researchers given access to information on the extent of the Soviet audio penetration of the US Embassy in Moscow which existed from at least 1953 to 1964.

Though the Review Board staff applies the standards for determining assassination records as directed by the Review Board, the PFIAB records can be brought before the Review Board for a formal vote on their relevancy. At that time, the PFIAB may present evidence as to why the designated records should not be considered assassination records. The Review Board would then make its formal determinations and the PFIAB would have the opportunity to appeal those determinations to the President.<sup>1</sup>

If you or your staff have any questions concerning the processing of the PFIAB records, please feel free to contact either Michelle Combs or me.  
Sincerely,

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<sup>1</sup>According to the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. S 2107 ("JFK Act"), "all Government records concerning the assassination of President John F. Kennedy should carry a presumption of immediate disclosure." JFK Act S 2(a)(2). Indeed, "only in the rarest cases is there any legitimate need for continued protection of such records." JFK Act S 2(a)(7). To the extent that a government entity, such as the PFIAB, seeks to postpone the release of records or information, the JFK Act places the burden of proving the need for postponement squarely on the shoulders of the government office. Congress required government offices to submit to the Review Board "clear and convincing evidence" in support of any proposed postponements. JFK Act SS 6,9(c)(1). Congress carefully selected this high standard because "less exacting standards, such as substantial evidence or a preponderance of the evidence, were not consistent with the legislation's stated goal" of prompt and full release of information. H.R. Rep. No. 625, 102d Cong., 2d Sess., pt. 1, at 25 (1992).

T. Jeremy Gunn  
Executive Director