

February 10, 1995

TO: David, Jeremy, Tom

FROM: Sheryl

RE: Insert to Weisberg letter

Here's some suggested text to insert as paragraph 6 to the letter Jeremy drafted to respond to Mr. Weisberg. Please let me know if you have any comments or suggestions. I've put it on the "g" drive (file is "weisinst.wpd") as well.

6. Your letters indicate that you believe that certain records now part of the JFK Collection at the National Archives, in particular records sent to the collection by the FBI and CIA, contain incorrect information about you. You also indicate that you are seeking some means to correct or respond to those records. As your letters indicate, you are aware that the Privacy Act of 1974 (5 U.S.C. § 552a) does provide individuals with certain rights to request amendment of an agency record. However, courts have interpreted that right to be limited to records accessible because they are individually keyed to the requester, such as personnel records, and which have been retrieved only pursuant to a Privacy Act request to that agency. See Baker v. Department of the Navy, 814 F.2d 1381, 1384-85 (9th Cir.), cert. denied, 484 U.S. 963 (1987) (access to a record under FOIA does not provide remedies under the Privacy Act). Given the current structure of the Privacy Act as enacted by Congress and absent any amendments to it, the Board is unable to assist you in enforcing any rights you may have under the Privacy Act.

The Board's mandate under the Assassination Record Collection Act of 1992 (ARCA) is limited to reviewing postponements of all or parts of documents identified by agencies as responsive to the ARCA and to identifying and obtaining for the collection additional responsive records that should be made part of the JFK Collection. No mechanism is provided in our legislation for providing comment on or supplementation of information contained in records that are part of the collection.

However, you should be aware that the ARCA does specifically provide that all records of the Board also shall be made a part of the JFK Collection upon the completion of the Board's work. See 44 U.S.C. § 2107 note Sec. 7(o)(3) ("Upon termination and winding up, the Review Board shall transfer all of its records to the Archivist for inclusion in the Collection, and no record of the Review Board shall be destroyed.") Thus, all communications you have had to date or will have in the future with the Board regarding inaccuracies you believe records in the collection to contain will become a part of the official collection and indexed and made available to researchers and the general public. The Board will also during its existence maintain a public reading room. We would be happy to make available in that reading room a copy of your correspondence with the Board on this issue for public access and inspection. Please let us know if you would like us to do this.