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VIA Email and Overnight Delivery

July 12, 2022

The Honorable Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, DC 20514

Re: Request for Oversight Hearing

Dear Madame Chair:

I am writing you on behalf of the undersigned in your capacity as the chairwoman of the House of Representatives Committee on Oversight and Reform (“Committee”).

We first applaud your letter of February 23rd to Attorney General Merrick Garland urging the Department of Justice issue a memorandum to federal agencies emphasizing the importance of transparency and openness when responding to Freedom of Information Act¹ (FOIA) requests. You cited a Government Accountability Office (GAO) report that the federal agencies use of statutory exemptions outpaced the growth in FOIA requests from 2012 to 2019.² The undersigned agree with you that FOIA requires agencies to treat information requests with a “*presumption of openness and without withholdings, redactions or delays.*”

Perhaps the most glaring example of over-classification is the continued withholding government records under the President John F. Kennedy Assassination Records Collection Act of 1992 (“JFK Records Act”)³ on the grounds that these 60-year old records pose an identifiable harm to national security.

¹ 5 U.S.C. 552 et al

² According to the GAO report, full denials of FOIA requests increased by 10% and partial denials increased by 76% during the time period. See “*Freedom of Information Act: Update on Federal Agencies’ Use of Exemption Statutes*” (Jan. 12, 2021)(GAO-21-148). See also “*Freedom of Information Act: Actions Needed to Improve Agency Compliance with Proactive Disclosure Requirements*” (March 10, 2021)(GAO 21-254).

³ Pub. L. 102-526, 106 Stat. 3443 (1992), codified at 44 U.S.C. 2107 note, as amended by the “President John F. Kennedy Assassination Records Collection Extension Act of 1994”, Pub. L. 103-345, § 1, 108 Stat. 3128 (Oct. 6, 1994).



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In my February 24, 2021 letter to you, I pointed out that the JFK Records Act provides that records relating to the assassination would “*carry a presumption of immediate disclosure*”⁴ and that “*only in the rarest of cases is there any legitimate need for continued protection*” of assassination records.⁵ The JFK Records Act mandated that each “assassination record” be publicly disclosed in full and be made available to the public no later than October 26, 2017. The JFK Act further requires that any request for postponement must be based on “*clear and convincing evidence*” that one of five enumerated harms would occur if the assassination records were disclosed and that harm would outweigh the public interest in disclosure.

Unfortunately, President Trump subsequently postponed release of the remaining assassination records twice⁶ and President Biden further postponed the disclosure of the withheld records on October 22, 2021.⁷ The executive orders approving continued postponements of assassination records do not contain the statutorily-mandated document-by-document statutory finding based on “clear and convincing evidence” that one or more of the enumerated grounds for postponement existed as well as why those grounds outweighed the public’s right to the records.

Moreover, there are numerous instances of continuing failures by federal agencies to comply with their obligations under the JFK Records Act to search and transfer assassination records to NARA. This includes assassination records search requests identified in the Assassination Records Review Board final report dated September 30, 1998 (ARRB Final Report). My attached letter to the Archivist of the United States identifies numerous examples of assassination records requests that remain outstanding 24 years after the ARRB sought their disclosure.

In 1992, Congress said that after 30 years, “only in the rarest cases is there any legitimate need for continued protection of such records.”⁸ Yet another 30 years have passed and thousands of records continue to be withheld from the American people.

⁴ JFK Act, § 2(a)(2)

⁵ JFK Act, § 2(a)(7)

⁶ Memorandum of October 26, 2017 for the Heads of Executive Departments and Agencies, “*Temporary Certification for Certain Records Related to the Assassination of President John F. Kennedy*,” 82 F.R. 50307 (10/31/2017); Memorandum of April 26, 2018 for the Heads of Executive Departments and Agencies, “*Certification for Certain Records Related to the Assassination of President John F. Kennedy*,” 83 F.R. 19157 (05/02/2018).

⁷ Memorandum of October 22, 2021 for the Heads of Executive Departments and Agencies, “*Temporary Certification Regarding Disclosure of Information in Certain Records Related to the Assassination of President John F. Kennedy*,” 86 F.R. 59599 (Oct. 27, 2021).

⁸ JFK Act § 2(a). Congress also said “*There is no justification for perpetual secrecy...*” H.R. Rep. No. 625, 102d Cong., 2d Sess., pt. 1, at 16 (1992).



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A broad swath of historians⁹, former government officials¹⁰ and other prominent Americans¹¹ have previously requested full release of the withheld assassination records. The undersigned add our names to this list of Americans seeking full disclosure and request, pursuant to House Rule X, clauses 2, 3, and 4¹² and consistent with House Resolution 556 which was referred to the Committee on October 4, 2017¹³, that the Committee conduct an oversight hearing to evaluate the compliance of the Executive Branch with the requirements of the JFK Act and the recommendations contained in the 1998 ARRB Final Report.¹⁴

Trust in our institutions is at an all-time low. Many historians have pointed to the secrecy surrounding the JFK assassination as the moment when Americans began to lose faith with our government. The continued failure to release the remaining assassination records only serves to exacerbate this distrust. Conducting public oversight hearings on the JFK Records Act can be a

⁹ The list included Steven M. Gillon (professor of history at the University of Oklahoma); John McAdams (political science professor at Marquette University); Gerald McKnight (professor emeritus-Hood College); John Newman (professor of political science at James Madison University); Larry Sabato (director of the University of Virginia Center for Politics) and Peter Dale Scott (professor emeritus at the University of California, Berkeley).

¹⁰ For example, G. Robert Blakey (former chief counsel of the House Select Commission on Assassinations); Dan Hardway, Esq. (former researcher for HSCA); Douglas Horne (former ARRB senior analyst); Judge Burt Griffin (former Warren Commission attorney); former Senator Gary Hart; Edwin Lopez, Esq. (former HSCA researcher); John T. Orr, Esq. (former DOJ national criminal enforcement director) and Adam Walinsky (Attorney, Department of Justice, legislative assistant and speechwriter to Sen. Robert F. Kennedy).

¹¹ The signatories included Robert F. Kennedy, Jr., Alec Baldwin, David Crosby, Daniel Ellsberg, Rob Reiner, Abby Rockefeller, Mort Sahl, Martin Sheen, Oliver Stone, and Kathleen Kennedy Townsend.

¹² House Rule X, clause 2(b) (provides that the Committee **shall** review and study on a continuing basis... (C) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction. House Rule X, clause 3(i), provides that the Committee **shall** “review and study on a continuing basis the operation of Government activities at all levels with a view to determining their economy and efficiency.” House Rule X, clause 4(c)(1), provides that the Committee **shall**: “(B) evaluate the effects of laws enacted to reorganize the legislative and executive branches of the Government”. Finally, House Rule X, clause 4(c)(2) provides that the Committee “may at any time conduct investigations of any matter without regard to clause 1, 2, 3, or this clause [of House Rule X] conferring jurisdiction over the matter to another standing committee”. **[emphasis added]**.

¹³ H. Res. 556 115th Congress (2017-2018)

¹⁴ For example, the ARRB recommended that Congress enact legislation exempting tax return information and employment information (including earnings records) obtained by the Social Security Administration, and other tax or IRS related information in the files of the Warren Commission and the HSCA from the protections of section 6103 of the Internal Revenue Code so that this information be made part of the public record. See ARRB Final Report at page 75. (The ARRB collected such information on Lee Oswald, Jack Ruby and a small number of other individuals and designated these materials as “assassination records. However, because this information remains withheld in full because of IRC section 6103. Unless IRC 6103 is amended as proposed by the ARRB, this information will continue to sit in the JFK Records Collection in a fully redacted status and be publicly unavailable). The ARRB also recommended that NARA be given the authority to implement and enforce the provisions of the JFK Act or that an independent body be created to oversee implementation of the JFK Act. See ARRB Final Report at pages 174-75.



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first step in restoring confidence in our political system. It would also be consistent with your letter to the Attorney General. It is long past time for the Committee to exercise its oversight authority over the JFK Records Act.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Larry Schnapf', is written over the typed name 'Lawrence Schnapf'. The signature is fluid and cursive, with a large loop at the end.

Lawrence Schnapf

SIGNATORIES

Organizations

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Demand Progress Education Fund
Electronic Frontier Foundation
Government Accountability Project
James Madison Project
Mary Farrell Foundation
National Security Archive
Open The Government
Truth and Reconciliation Committee



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Josiah Thompson,

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