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February 25, 2022

Mr. David S. Ferriero
Archivist of the United States
National Archives and Records Administration
700 Pennsylvania Ave., N.W.
Washington, DC 20408

Re: Supplemental JFK Records Request

Dear Mr. Ferriero:

The Washington Post recently reported that you will soon be stepping down as Archivist of the United States. On behalf of the undersigned, I want to convey our appreciation for your strong leadership to enforce the John F. Kennedy Assassination Records Collection Act of 1992¹ (JFK Act). In particular, your plan to digitize the JFK assassination records will be immensely valuable to future generations of historians and is emblematic of your stewardship as Archivist.

As you are no doubt aware, the Assassination Records Review Board (ARRB) issued its Final Report on September 30, 1998 (“ARRB Final Report”) just before it ceased operations. Chapter 8 of the ARRB Final Report summarized the efforts that the ARRB made to obtain assassination records from various government agencies and, more importantly, the Final Report described the outstanding record requests that remained when ARRB went out of business.²

In recommendation 4 of its “Review Board Recommendations,” the ARRB noted 4 that while it was going out of business, the JFK Act remained in effect. In recommendation 7, ARRB suggested steps for NARA to take to ensure that agencies continued to comply with the JFK Act.³ Towards this end, NARA issued a final rule in 2001 transferring the ARRB regulations to a new chapter of the NARA regulations.⁴ The preamble to this final rule confirmed that NARA had assumed the responsibilities of the ARRB as follows:

“at the termination of the Review Board on September 30, 1998, its records were transferred to the Archivist of the United States. NARA continues to maintain and supplement the collection under

¹ 44 U.S.C. 2107 Note

² ARRB Final Report at page 173.

³ ARRB Final Report at page 175.

⁴ 36 CFR 1290



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the provisions of the Act. NARA is, therefore, **the successor in function to this defunct independent agency.**"[Emphasis added]⁵

Accordingly, in the time remaining before your well-deserved retirement, we respectfully ask that NARA as successor to ARRB to take the following actions mandated by the JFK Act:

1. **Complete ARRB Compliance Program** –The ARRB initiated a compliance program to ensure that all relevant agencies complied with the JFK Act.⁶ This program included obtaining "Final Declarations of Compliance" from all relevant agencies. At the time the ARRB ceased operating, several agencies such as the FBI⁷, the Immigration and Naturalization Service (INS)⁸, the JFK Library,⁹ and the Congressional Research Service (CRS)¹⁰ were still searching for documents while others such as the Secret Service¹¹ and Drug Enforcement Administration (DEA) did not execute the required sworn declarations of compliance.¹² Worse, ARRB disclosed that the Office of Naval Intelligence (ONI) acknowledged there were additional records that had not been reviewed by September 1998 but that ONI would review them not under the JFK Act but under the requirements of Executive Order 12958!¹³

Accordingly, as successor to the ARRB, we respectfully ask NARA to pursue Final Declarations of Compliance from the recalcitrant agencies that had not completed the ARRB compliance program or that had outstanding ARRB search requests.

2. **Demand for Additional Records Requests** - Section 2(a)(1) of the JFK Act states that "*all*" assassination records "*should be preserved for historical and governmental purposes.*" The ARRB regulations made it clear that the word "*all*" is to be broadly construed.¹⁴ Moreover, the JFK Act provides that obligations of government agencies did not cease with the end of the ARRB and their requests for compliance before its dissolution.

⁵ John F. Kennedy Assassination Records Collection Rules, Final Rule, 65 Fed. Reg. 39550 (June 27, 2000)

⁶ ARRB Final Report, page 145

⁷ ARRB Final Report, page 149

⁸ ARRB Final Report at pages 155-56.

⁹ ARRB was still working with the JFK Library and the RFK Donor Committee at the time of the final report to release certain papers of Robert F. Kennedy. ARRB Final Report at pages 162 and 168 note 9.

¹⁰ ARRB Final Report at page 166.

¹¹ Final ARRB Report at page 149.

¹² The President's Foreign Intelligence Advisory Board (PFIAB) challenged ARRB's authority to identify PFIAB documents as assassination records. Final ARRB Report at page 155.

¹³ ARRB Final Report at page 158

¹⁴ 36 CFR 1290.7(d). When ARRB published its final rule, the preamble for this section stated:

"The intent of these subparagraphs is to make clear that all files on an individual, event organization or activity are to be made available to the Review Board regardless of the labels on the files, where the records may be found, or whether they reflect the true name or identifier of the individual, event organization, or activity." 60 Fed. Reg. 33345, 33350 (June 28, 1995)



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These agencies have a continuing obligation to search for and maintain all assassination records.

As the successor to the ARRB, NARA has the duty to obtain additional information and records from agencies as well as direct them to locate lost and missing records.¹⁵ See the attached **Appendix** for a list of suggested supplemental search requests.

- 3. Attorney General Referral for Lost, Missing and Destroyed Assassination Records-**
The ARRB Final Report documented how officers of the CIA, FBI and other organizations destroyed assassination records in violation of the JFK Act. It is also unknown how many files were destroyed or what those files contained. For example, a memorandum found in Lee Harvey Oswald's CIA file states that the Office of Security destroyed most of the files on Oswald in April 1994 from its program that monitored mail sent to and from Communist Bloc countries, including the USSR, China and Cuba. Another example was the January 1995 destruction of presidential protection survey reports for some of President Kennedy's trips in the fall of 1963 by the Secret Service.

In *CREW v. Executive Office of the President*,¹⁶ the Archivist requested the Attorney General to take corrective action where an agency failed to comply with the Federal Records Act. Accordingly, we request that you make a referral to the Attorney General to enforce 44 USC 2107, the JFK Act and the Federal Records Act¹⁷ and issue subpoenas to these agencies where necessary to enforce compliance with the JFK Act.

- 4. Attorney General Referral to Unseal FBI BRILAB and CAMTEX Surveillance Tapes of Carlos Marcello-**

In the late 1970s, the FBI recorded approximately eight months of electronic surveillance on Carlos Marcello pursuant to 18 U.S.C. § 2501 et seq. (Title III). With the help of the United States Attorney's Office in the Eastern District of New Orleans, the AARB obtained a court order to review transcripts of the FBI's surveillance on Marcello in New Orleans. The ARRB determined that 13 of the conversations were assassination records.¹⁸

Though the transcripts are part of the JFK Collection, it is critical that researchers be able to hear the actual tape recordings to evaluate these conversations. Author John H. Davis was able to obtain release of 158 of approximately 1400 reels of tapes pursuant to the Freedom of Information Act.¹⁹

¹⁵ JFJ Act § 7(j)(1)(C)(ii)

¹⁶ 587 F. Supp. 48, 51 (D.D.C. 2008)

¹⁷ 44 U.S.C. § 3101 et seq.

¹⁸ ARRB Final Report at page 104.

¹⁹ See *Davis v DOJ*, 2007 U.S. Dist. LEXIS 88374 (D.D.C. 12/07/2007)



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Likewise, the FBI recorded conversations between Carlos Marcello and his cellmate, Jack Van Laningham, between 1985 and 1986. According to the FBI unit director, Thomas Kimmel, Marcello told Van Laningham that he ordered JFK's assassination. While CAMTEX files were turned over to NARA in 2006, the tape recordings of the Marcello-Van Laningham remain unavailable to researchers.

Accordingly, we request the Archivist seek the assistance of the Department of Justice to unseal all the BRILAB and CAMTEX tape recordings of Marcello conversations discussing the JFK assassination.

5. **Identification Aid Program-** The JFK Act requires the Archivist to establish a Subject Guide and Collection Index,²⁰ Central Directory²¹ and Electronic Identification Aids.²² We ask that you please confirm:
 - a. These requirements have been completed and where the public may access these resources?
 - b. Would you also please advise if these tools will be made publicly available online and/or in digital format?

We recognize that you will be busy in the weeks remaining in your tenure with preparations for the transition to a new Archivist. In connection with this request, we ask that you consider the appointment of an authorized representative of NARA to meet with us to discuss the issues raised in this letter. Please let us know if you or an authorized representative are willing to meet with us for a discussion on these matters.

²⁰ JFK Act § 4(1) provides that “The Archivist shall prepare and publish a subject guidebook and index to the collection.”

²¹ JFK Act § 4(2)(B) provides that, “a central directory comprised of identification aids created for each record transmitted to the Archivist under section 5”

²² JFK Act § 5(d)(1)(B) provides that “The Archivist shall ensure that the identification aid program is established in such a manner as to result in the creation of a uniform system of electronic records by Government offices that are compatible with each other.”



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Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Larry Schnapf', is written over the typed name 'Lawrence Schnapf'.

Lawrence Schnapf

Mark Adamczyk, Attorney at Law
Andrew A. Iler, Barrister & Solicitor
William M. Simpich, Attorney at Law

APPENDIX

Suggested NARA supplemental assassination record search requests

1. **Complete the JFK Collection Metadata Database-**NARA maintains a database of metadata concerning 319,106 JFK records, previously available via an online search page and now as a 6-part downloadable spreadsheet. This database is critical to finding JFK records, and yet it is incomplete. It contains no records from the NSA (prefix 144), Secret Service (prefix 154), or Army/INSCOM records (prefix 194) even though records from all three agencies are available in paper form in the collection, and many of them were released online in 2017 and 2018.

In fact, the 2017/2018 releases included 1,078 records that do not appear anywhere in the JFK metadata database. Among the documents released which are not listed in the NARA database are 466 FBI, 250 NARA, 248 NSA, 59 INSCOM, 47 NSC, 6 Secret Service, 1 DIA, and one unnumbered record. Thus, the problem is not limited to a few particular agencies.

2. **Locate and verify missing withheld-in-full records-** In response to a 2016 FOIA request, NARA released a spreadsheet of 3,571 records that were withheld in full and slated for release in 2017. However, when the 2017/2018 releases occurred, over 1,000 of the records from that list were not placed online. Some of these were subsequently accounted for (including 520 section 10/11 records and others deemed lost) but anomalies remain including:
 - a. 27 DOJ records mistakenly removed from withheld list



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- b. 337 records declared “previously released” but spot-checking at the College Park NARA facility revealed that not all of these records are available.
 - c. Six audio records were included in the 2016 NARA FOIA response but not placed online in 2017/2018
 - d. Unverified number of withheld in full documents- Prior to the 2021 update to the publicly available JFK metadata database, the number of records marked “withheld in full” (WIF) in that database numbered over 9,000. In 2016, NARA declared the universe of WIF documents was 3,571.
3. **Name-Specific Information-** Agencies were also required to provide name-specific evidence but some agencies were reluctant to produce such name-specific evidence and, on occasion failed to furnish evidence.²³ For example, the HSCA Segregated CIA Collection (microfilm) listed several hundred names and organizations that were of interest regarding the JFK assassination.²⁴ ARRB did not request searches of this list of names from any agencies. Because of its impending sunset, ARRB had to accept compromises about the information to be postponed. We request you follow-up with the agencies to ensure that they complete compliance with the JFK Act.
 4. **Joannides Files-** The files of George Joannides, chief of covert action in Miami in 1963 and CIA liaison to the House Select Committee on Assassinations were withheld from the ARRB. The still-withheld Joannides files are assassination related records and should be reviewed and released under the terms of the JFK Act.
 5. **Missing Records Attachments-** There are also missing attachments to documents, with no indication of whether the originating agency maintains possession, custody and control of said attachments. These omissions violate the JFK Act regulations, providing that an assassination record is to be released in its entirety, unless portions of the record are specifically postponed or withheld pursuant to the particular procedures of the JFK Act.²⁵
 6. **Missing AMOT Files-** AMOTs were the network of Cubans trained during 1960-1961 by CIA officer David Morales to become the new Cuban intelligence service after Fidel Castro had been presumptively ousted from power. Over the next few years, the AMOTs became what is known as a CIA proprietary (a "company" that is secretly owned by the CIA) which produced thousands of intelligence reports in support of the efforts to overthrow Castro. Only scattered AMOT files are available at NARA.

²³ ARRB Final Report pages 48-53.

²⁴ This list can be found at 104-10431-10003.

²⁵ 36 CFR 1290.5



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7. **Missing CIA Office of Security Oswald Files-** Volume 5 of the 7-volume collection of documents on Lee Oswald compiled by the CIA Office of Security is missing. As late as 1977, the entire 7-volume collection of documents was intact.²⁶

8. **Records from Foreign Countries** – When the ARRB ceased operations, the board had the outstanding requests with the Department of State to obtain certain assassination records from of the Government of Mexico.²⁷ We request the Archivist request the assistance of the Department of State to obtain the following:
 - a. According to its online database,²⁸ the Archivo General de la Nación (General Archives of Mexico) holds the following files:
 - Fidel Alejandro Castro Ruiz (Document number 23)
 - Gilberto Alvarado Ugarte (Document number 1)
 - Silvio Duran (Document number 256)
 - John F. Kennedy (Document number 45)
 - Lee Harvey Oswald (Document number 237)
 - b. All documents related to Enrique Ruiz Montalvo, Agent of the Federal Judicial Police, about one of his contacts reporting in late February 1964 that a U.S. citizen name Gilberto Lopez (a/k/a Gilberto Policarpo Lopez) participated in President Kennedy's assassination.
 - c. Any report, not listed above, by the Dirección Federal de Seguridad (Federal Security Directorate or DFS) or Federal Judicial Police held by the General Archives of Mexico or any other agency of the Government of Mexico relating to President Kennedy's assassination
 - d. In addition, the State Department should be asked to follow up with all of the countries listed at pp. 140-142 of the ARRB Final Report.²⁹

9. **Remove Remaining Redactions to Released Public Assassination Records-** Section 5(g)(2)(D) of the JFK Act provides that records should be fully released unless continued postponement is necessary to prevent an identifiable harm that is of such gravity that it

²⁶ 104-10331-10143 (Russ Holmes files)

²⁷ JFK Act § 10(b)(2) provides that the “Secretary of State should contact the Government of the Republic of Russia and seek the disclosure of all records of the government of the former Soviet Union, including the records of the [KGB] and the [GRU], relevant to the assassination of President Kennedy, and contact any other foreign government that may hold information relevant to the assassination of President Kennedy and seek disclosure of such information.”

²⁸

https://www.gob.mx/cms/uploads/attachment/file/542451/Indice_de_Versiones_Publicas_generadas_por_AGN_en_2019.pdf

²⁹ The ARRB characterized the outstanding State Department efforts as “more of a hindrance than a help.” ARRB Final Report at page 141.



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outweighs the public interest in disclosure. The JFK Collection contains many partially released documents with redactions.

Based on our knowledge of these records, we believe the vast majority of redactions do not rise to the level of an identifiable harm that outweighs the public interest in disclosure. We ask that NARA review these redactions and if necessary, ask the relevant agencies to provide detailed justifications for the redactions with an aggressive timetable for removing the redactions. For those agencies that do not respond within the timeframe, the redactions should be removed and records released in full.