Joseph Scanlon

FOIA Officer

National Archives at College Park

8601 Adelphi Road

Room 5500

College Park, MD 20740-6001

Re: Freedom of Information Act Request-

Dear Mr. Scanlon:

This is a request for records pursuant to the Freedom of Information Act (5 U.S.C. 552) concerning the March 26, 2018 letter of the Archivist of the United States (the “Archivist”) to President Trump recommending the continued withholding of certain “assassination records” that were required to be disclosed pursuant to section 5(g)(D) of the John F. Kennedy Assassination Records Collection Act of 1992[[1]](#footnote-1) (JFK Act) until October 26, 2021 (“March 2018 Archivist Letter”).[[2]](#footnote-2)

**Basis for Request-**

In making this recommendation, the Archivist informed President Trump that his “*staff reviewed each of the records proposed for further postponement on a* ***page-by-page basis****, with the exception of those submitted by the CIA and FBI and those found at Tab 7*” and that based on a “*review of submissions from the agencies*”, the Archivist believed that the proposed postponements were “consistent with the requirements outlined in section 5(g)(2)(D) of the JFK Act.” [emphasis added]

Sections 5(g)(2)(D)(i)-(ii) of the JFK Act provides that each assassination record was to be publicly disclosed in full no later than the date that is 25 years after the date of enactment of this Act [October 26, 2017] , unless the President certified that continued postponement was necessary because of the existence of an identifiable harm and that “*the identifiable harm is of such gravity that it outweighs the public interest in disclosure*.” Moreover, section 6 of the JFK Act titled “Grounds for Postponement of Public Disclosure of Records” provides that any such postponement required shall be based on “*clear and convincing evidence*” that one of the enumerated identifiable harms “*would be so harmful that it outweighs the public interest*.”

The March 26, 2018 Archivist Letter failed to disclose for each record proposed for continued postponement the identifiable harm that would be posed by the disclosure of each record and failed to set forth the clear and convincing evidence of how such identified harm outweighed the public interest as required by the JFK Act.

In addition, JFK Act section 5(g)(2)(A) requires a written description of the reason for the continued postponement of each assassination record and that this explanation shall be published in the Federal Register. No such record-by-record explanation has been provided, much less published in the Federal Register.

**Requested Documents-**

Accordingly, for each record that the Archivist recommended the President certify that continued postponement was necessary, I hereby request the following information:

1. Copies of the “submissions from the agencies” referred to in the March 2018 Archivist letter;
2. The harm identified by the relevant agency;
3. The explanation on how any such identifiable harm outweighed the public interest in disclosure;
4. Copies of any identification aides prepared by any agency or department supporting continued postponement pursuant to JFK Act Section 5(c)(2)(D)(ii);
5. All other correspondence, email, communications, memoranda or other writings from the agencies or departments to the Archivist requesting or proposing postponement of assassination records during 2017 and 2018;
6. All correspondence, memoranda or other writings of the Archivist evaluating the proposals or requests for postponement of such assassination records; and
7. All correspondence, memoranda or other writings between the Archivist and the Office of the Executive of the United States relating to the recommendation to postpone disclosure of assassination records during 2017 and 2018

**Request for Expedited Review**

Because this request involves a subject of widespread and exceptional media interest and the information sought involves possible questions about the government's integrity that affect public confidence, I request that NARA expedite this request.

**Request for Fee Waiver**

Because the requested records are a part of the John F. Kennedy Assassination Records Collection, I request a fee waiver pursuant to section VII of the FOIA Reference Guide. In addition, the requested disclosure will advance the understanding of the general public surrounding the postponement of assassination records and will lead to a significantly greater understanding of the Government by the public.



cc: Gary Stern, NARA General Counsel

David S. Ferriero, Archivist of the United States

1. 44 U.S.C. 2107 Note [↑](#footnote-ref-1)
2. President Trump subsequently adopted the recommendations for postponement in his April 26, 2018 Memorandum of President of the United States, “Certification for Certain Records Related to the Assassination of President John F. Kennedy”, 83 F.R. 19157 (05/02/2018). [↑](#footnote-ref-2)