



NATIONAL
ARCHIVES

June 12, 2012

Jim Lesar, President
Assassination Archives and Research Center
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Washington, DC 20001
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By Email and First Class Mail

Dear Mr. Lesar:

I write in response to the letter of January 20, 2012, from you and five colleagues to David S. Ferriero, Archivist of the United States, requesting that the National Archives and Records Administration review the remaining classified documents that were “postponed” from public disclosure in accordance with the John F. Kennedy Assassination Records Collection Act of 1992 in time for the 50th anniversary of the assassination in November 2013.

We share your passion and commitment to providing access to JFK assassination records as quickly as possible. As your letter recounts, the JFK Act established a rigorous process for declassification review and release that was administered by the Assassination Records Review Board until 1998. For any assassination records that were not released by the ARRB, subsequent release could be postponed until a date certain not to exceed 25 years from the enactment of the JFK Act, i.e., no later than 2017.

The JFK Act Collection consists of a total of approximately 5 million pages, and less than 1% of the documents in the Collection are “postponed in full” until 2017. I note that your letter states that in 2010, Assistant Archivist “Michael Kurtz revealed that the CIA continues to withhold approximately 50,000 pages of JFK assassination-related records.” I would like to clarify that NARA has never counted, and thus does not know, the actual number of pages that are postponed in full. Dr. Kurtz accurately stated that “less than one percent” of the total volume of assassination records was still being withheld; he also provided our rough estimate that the collection totals approximately five million pages. Thus, it appears that the 50,000 page number in your letter may have been derived by incorrectly calculating a full one percent of five million pages. All we do know is that the CIA withheld in full a total of 1,171 documents as national security classified (there is a small number of other agency documents also postponed in full, principally for law enforcement).

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Your letter asks NARA to submit these remaining 1171 documents “currently withheld by the CIA” for declassification review as part of the National Declassification Center’s (NDC) project to complete the declassification of the “400 million page backlog” identified in the President’s December 29, 2009, Memorandum Implementing Executive Order 13526, by December 31, 2013. We recognize that, in a 2010 public forum, Dr. Kurtz stated that the postponed JFK assassination records would be included as part of the NDC project. However, as we have tried to explain before, Dr. Kurtz misspoke. Rather, because the postponed JFK assassination records have already been subject to a full and complete government-wide declassification review, they are not part of the 400 million page backlog of records that have yet to receive a final review.

Because of the mandated December 31, 2013 deadline for our review and processing of the extremely large set of backlogged records, the NDC must target its efforts exclusively on records contained within that backlog. In addition, because we are limited in the resources we can assign to these special reviews, we try to balance historical impact, public interest, and extent of other government agency involvement in order to manage government-wide declassification resource constraints as efficiently and effectively as possible.

As you know, the JFK Act authorized unprecedented powers for the ARRB, including the ability to overturn an agency decision on declassification, with the President as the only appeal authority. Although agencies did appeal ARRB decisions, President Clinton did not overturn any access determinations on appeal. The power wielded by the ARRB meant that more records were declassified and made available under the JFK Act than would have been released under the Freedom of Information Act (FOIA) or any currently applicable review provision of the prior or current Executive Order on Classified National Security Information.

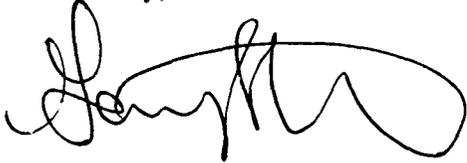
As previously mentioned, the 1171 remaining postponed documents will be released in 2017, unless the President personally certifies on a document by document basis that continued postponement is necessary and that the harm from disclosure is of such gravity that it outweighs the public interest in disclosure. Moreover, as you point out, the JFK Act clearly intended for periodic releases prior to the 2017 date. To date all of the periodic release dates have been met, including in 2006, when the CIA made preemptory releases of all documents that were postponed from release until 2010. Thus, the only documents in the Collection that are still withheld in full for classification reasons are the 1171 CIA documents that the ARRB agreed should not be released until 2017.

We recognize that the remaining records are of high public interest and historical value, and we appreciate your stated desire not to have to wait five more years to obtain access to these records. Given this public interest, we have been consulting with the CIA to see if it would be possible to review and release any of these remaining documents in time for the 50th anniversary of President Kennedy’s assassination in 2013. Although the CIA shares NARA’s interest in wanting to be responsive to your request, they have concluded there are substantial logistical requirements that must take place prior to the release of these remaining records and there is

simply not sufficient time or resources to complete these tasks prior to 2017. Accordingly, we will not be able to accommodate your request.

Thank you for your interest in this matter. Please share this letter with the co-signatories to your letter, and let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary M. Stern". The signature is fluid and cursive, with a large initial "G" and "S".

GARY M. STERN
General Counsel