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**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

THE MARY FERRELL FOUNDATION,  
INC.; JOSIAH THOMPSON; and GARY  
AGUILAR,

Plaintiffs,

v.

JOSEPH R. BIDEN, in his official capacity as  
President of the United States; and  
NATIONAL ARCHIVES AND RECORDS  
ADMINISTRATION,

Defendants.

No. 3:22-cv-06176-RS

**ADDENDUM TO REPLY BRIEF AND  
REQUEST FOR JUDICIAL NOTICE  
IN RESPONSE TO DEFENDANTS' OF  
JUNE 30, 2023 PRESIDENTIAL  
MEMORANDUM**

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1 **Addendum to Reply Brief and Request for Judicial Notice.**

2 The Plaintiffs respond to the latest order by the President, issued on June 30, 2023 and  
3 submitted to this court, citing several points for the record.

4 1. The Plaintiffs state that President Biden has no right to halt his responsibilities under  
5 the JFK Records Act, as he states in paragraphs 1, 3 and 5 of his 6/30/23 executive order. This  
6 order constitutes another *ultra vires act*.

7  
8 The JFK Records Collection Act states that the President must disclose "each  
9 assassination record" after a "periodic review", unless continued postponement is made  
10 necessary by an "identifiable harm". 5(g)(C); 5(g)(D).

11  
12 Thousands of postponed documents remain to be fully released, and all of them are  
13 subject to periodic review by NARA and the originating agencies, as has been the case since  
14 NARA took over for the ARRB in 1998. Section 9(d)(1) states that the President has the "sole  
15 and non-delegable authority to require the disclosure or postponement of such record or  
16 information under the standards set by section 6."

17  
18 2. More documents will continue to enter the Collection, due to the actions of NARA  
19 under 5(c)(2)(H) or the other agencies under 5(c)(2)(F) of the JFK Records Act. What if the  
20 agencies or NARA feel that postponement of release is necessary? Again, under 9(d)(1) only the  
21 President has the "sole and non-delegable authority".

22  
23 3. The court is asked to take judicial notice of RIF #124-10185-10099 redacted in  
24 2018, [attached as Exhibit 1](#). Note that section 6(1)(B) was used by the redaction team as the  
25 basis for the redaction. All redactions must be described in this manner, which constitutes an  
26 "unclassified written description of the reason for such continued postponement" as mandated in  
27 5(g)(2)(B).  
28

1  
2 4. For example, additional records that need to be transmitted to NARA and released to  
3 the public are certain records of the Foreign Relations of the United States, issued more than 30  
4 years ago by the US State Department.. Plaintiffs are informed and believe, after reviewing the  
5 website of James Johnston, who served on the Church Committee in the 1970s, that many  
6 documents involving the historical record in the days after the assassination were withheld by the  
7 CIA even though they were as the basis for the records contained in the FRUS. See Mr.  
8 Johnston's website at <https://murderincbook.blogspot.com/>  
9

10 The court is asked to take note of 22 USC 4351, which requires the Secretary of State to  
11 ensure publication of all copies of the Foreign Relations of the United States issued not later than  
12 30 years after the event. Pursuant to the JFK Records Act, these deletions must be released  
13 unless the President issues a certification under 5(g)(D).  
14

15 22 USC 4351(b) contains language that must be harmonized with the JFK Records  
16 Collection Act: "Editing principles. The editing of records for preparation of the FRUS series  
17 shall be guided by the principles of historical objectivity and accuracy. Records shall not be  
18 altered and deletions shall not be made without indicating in the published text that a deletion has  
19 been made. The published record shall omit no facts which were of major importance in reaching  
20 a decision, and **nothing shall be omitted for the purpose of concealing a defect of policy.**"  
21 (emphasis added)  
22

23  
24 The FRUS records illustrate yet another reason why additional records must be reviewed  
25 by NARA, and why the President cannot abandon his authority to certify under the JFK Records  
26 Collection Act.  
27  
28

1 Furthermore, Section 11 of the Act mandates that records transmitted to NARA or  
2 released to the public “take precedence over any other law”.

3 This cannot be the President’s “final certification”. His duty to monitor the release of the  
4 Assassination Records is clear, mandatory, and unambiguous under the standards of the JFK  
5 Records Collection Act– no matter how much the Defendants want the Act to go away. The  
6 President – not the NDC – must be the watchdog. The Plaintiffs ask the court to watch the  
7  
8 watchdog.

9  
10  
11 Dated: July 6, 2023

12 \_\_\_\_\_/s/  
13 William M. Simpich  
14 Lawrence P. Schnapf  
15 Attorneys for Plaintiffs

# EXHIBIT 1



**MARY FERRELL FOUNDATION**  
*preserving the legacy*

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home / archive / documents / jfk assassination documents / documents released in 2017 and 2018 / documents released on april 26, 2018 / fbi documents released ...

[No Title]

NARA Record Number: 124-10185-10099

PG 127 (127/288) THUMB ZOOM FIT-W ROTATE PG SPECIAL ACTIONS HELP

View Pages RIF Form

Source: National Archives

11. Also under the heading of old business, I well remember the hue and cry raised, especially by Carl Kaysen in the White House, when JFK Act 6 (1) (B) [redacted] Shortly after the Cuban missile crisis, there was a disposition in Washington to reexamine the Bay of Pigs, and the fact that several Alabama National Air Guard officers lost their lives in the Bay of Pigs was surfaced with surprisingly little excitement at the time.

12. During my stint on the 7th floor there was a special arrangement with the Office of Communications whereby the Director's office gained access to non-CIA traffic. This surfaced briefly at one point shortly after Admiral Rayborn became DCI. He had visited the Signal Center and removed a copy of a telegram from the Embassy in the Dominican Republic for Under Secretary George Ball, Eyes Only. He returned to his office and proceeded to discuss this telegram with George Ball who was naturally quite curious as to how Rayborn knew about it, and also as to how Rayborn had it in his possession before Ball did. Ben Read in the Secretary of State's office and I spent