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

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

No. 3:22-cv-06176-RS

7 Plaintiffs,

**DECLARATION OF
8 REBECCA CALCAGNO**

9 v.

10 NATIONAL ARCHIVES AND RECORDS
11 ADMINISTRATION,

12 Defendant.

13 I, Rebecca Calcagno, hereby declare as follows:

14 1. I currently serve as Director of the Special Access and Freedom of Information Act
15 Program (“Special Access”) of the National Archives and Records Administration (“NARA”). I
16 have held this position since 2021. Prior to this position, I was an Archivist in Special Access
17 from 2015 to 2017 and a Supervisory Archivist from 2017 until 2021. I have worked as an
18 Archivist at NARA since 2011.

19 2. I hold a Master of Arts in Shakespearean Studies from King’s College, London; a
20 Master of Arts, Master of Philosophy, and Doctor of Philosophy in English and Comparative
21 Literature from Columbia University; and a Master of Library Science from the University of
22 Maryland.

23 3. In my current position as the Director of the Special Access and FOIA Program, I
24 supervise a total of four Supervisory Archivists and approximately twenty-eight staff who work as

1 Archivists, Archives Specialists, and Government Information Specialists whose responsibilities
2 are focused on providing access—either through Special Access requests or through FOIA—to
3 hundreds of thousands of pages of archival records. Each Archivist on my staff holds at least a
4 Bachelor’s degree in History, Archival Science, or a related subject matter, and over time has
5 become very familiar with the subject matter of the collections to which access is sought.

6 4. Due to the nature of my official duties, I am familiar with the procedures followed
7 by NARA in administering the President John F. Kennedy Assassination Records Collection.

8 5. I provide this declaration in support of NARA’s motion for partial summary
9 judgment and to provide factual background and historical knowledge relevant to NARA’s
10 handling of its responsibilities under the President John F. Kennedy Assassination Records
11 Collection Act of 1992 (the JFK Act).

12 6. The statements contained in this declaration are based upon my personal
13 knowledge, upon information provided to me in my official capacity, and upon conclusions and
14 determinations reached and made in accordance therewith.

15 7. I understand one of the claims asserted by Plaintiffs in this case concerns the
16 continued postponement of what Plaintiffs have referred to as legislative branch records. In
17 NARA’s system for organizing the JFK Collection, assassination records are grouped by three-
18 digit codes of the agency which transferred the records to NARA. We consider “legislative branch
19 records” to include the following three-digit codes representing the following entities:

- 20 ● 131 - House Subcommittee on Government Information and Individual Rights
21 (Abzug Committee)
- 22 ● 135 - House Select Committee on Intelligence (Pike Committee)
- 23 ● 139 - Library of Congress

- 1 ● 157 - Senate Select Committee on Intelligence (Church Committee)
- 2 ● 180 - House Select Committee on Assassinations (HSCA)
- 3 ● 204 - Senate Internal Security Subcommittee (Eastland Committee)
- 4 ● 208 - Senate Permanent Subcommittee on Investigation (McClellan Committee)

5 8. President Biden issued a memorandum on October 22, 2021 requiring agencies who
6 sought to postpone the release of records beyond December 15, 2022 to describe the types of
7 information the agency proposed to continue withholding, the reasons why, an index of the records
8 with withholdings, and a plan for when the postponements would sunset. These plans are known
9 as Agency Transparency Plans and are available at [https://www.archives.gov/research/jfk/agency-](https://www.archives.gov/research/jfk/agency-doc-2022)
10 [doc-2022](https://www.archives.gov/research/jfk/agency-doc-2022).

11 9. In response to this litigation, my staff has prepared an index of all legislative branch
12 records still being withheld in-part and cross-referenced the RIFs with the Agency Transparency
13 Plans. In doing so, my staff has reviewed each of the legislative branch records that have not been
14 released in full for the purpose of determining what information is being withheld. In each instance
15 where a legislative branch record continues to be withheld, the reason for the withholding is to
16 protect information that originated in the Executive Branch. The most common reason for a
17 withholding is a Social Security number of a living person. The release of social security numbers
18 of living persons would cause an identifiable harm to law enforcement by increasing the possibility
19 of identity theft and related crimes, which would necessitate a law enforcement response.
20 Moreover, there is no discernable public interest that would outweigh the grave harm that could
21 result from such disclosure. The other common withholdings include information about
22 operational details, locations, and people related to the CIA. As the CIA explained in its December
23 15, 2021 letter to President Biden, the locations in which the CIA maintains its facilities—and the
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1 ability of the CIA officers to perform their intelligence-gathering mission in near obscurity—are
2 one of the CIA’s most critical intelligence methods. The records also contain specific intelligence
3 operational details, such as tradecraft and intelligence methods, CIA cover mechanism and
4 facilities, information about particular intelligence operations, and other details the disclosure of
5 which would highlight to the public, our allies and adversaries the specific means by which the
6 CIA conducts clandestine intelligence missions and would confirm the existence of specific,
7 undisclosed intelligence operations.

8 10. Additionally, while these records may have come to be called “legislative branch
9 records,” in a number of instances the records originated with an executive branch agency and
10 had been merely shared with the legislative entity that later transferred them to NARA pursuant to
11 the JFK Act. In other instances, the records consist of transcripts, notes, or memoranda of
12 interviews or depositions of officials from an Executive Branch agency to congressional
13 committees, and therefore contain information from an Executive Branch source.

14 11. It is the common practice for NARA or any other federal agency, when responding
15 to a request under the Freedom of Information Act, to consult with another agency who may have
16 an equity interest in the release of a record. The same practice was applied in the course of
17 responding to the President’s JFK Act memorandum. For example, if a legislative branch record
18 identified a CIA location, the CIA was asked to provide its views on whether that information
19 could be released.

20 12. Moreover, for classified information, in accordance with Executive Order 13526,
21 only the originating classification authority has the authority to downgrade or declassify
22 information. When it encountered any classified information in the review process, NARA would
23 seek the views of the classification authority for that information whether it could be declassified
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1 (or downgraded). For other agencies or legislative branch entities to release information without
2 regard for the executive order process has the potential to cause a breakdown in the ability of
3 agencies to share information among themselves with the expectation that it will be protected as
4 needed, particularly when it relates to national security.

5 13. I understand that Plaintiffs have asserted that NARA has an obligation to refer
6 unauthorized destruction of assassination records by Federal agencies to the Attorney General in
7 accordance with the Federal Records Act, 44 U.S.C. 2905. In response to this claim, other NARA
8 staff and I have reviewed the Board's final report, as well as relevant records of the Board related
9 to agency compliance with the Act.

10 14. The Board established a robust compliance program, which it detailed in Chapter 8
11 of its final report. *See* Final Report of the Assassination Records Review Board, Sept. 30, 1998 at
12 145. While the majority of agencies cooperated with the Board, the Board noted that in January
13 1995, the Secret Service destroyed presidential protection survey reports for some of President
14 Kennedy's trips in the fall of 1963. *Id.* at 149. The Secret Service explained the situation to the
15 Board in briefings and by providing various documents, but ultimately the Secret Service did not
16 sign a Final Declaration of Compliance under oath. *Id.*

17 15. This is the only destruction of records identified by the Board in its final report
18 which may have concerned "assassination records" and whose destruction definitively occurred
19 after passage of the Act.

20 16. The records of the Board contain numerous records detailing agency compliance
21 programs. These include a report prepared by NARA's Washington National Records Center
22 where the records were stored. That report indicates the Secret Service was sent a "Notice of Intent
23 to Destroy Records" on December 6, 1993, which included two boxes of presidential protection
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1 survey records. On August 16, 1994, a NARA employee reviewed the boxes, which were then
2 destroyed in a routine process on January 23, 1995. These records were scheduled for destruction
3 under NARA approved records schedule N1-87-89-1-4B which applied to routine protective
4 service files.

5 17. While the Board's report mentions another possible event concerning the Secret
6 Service, stating: "The [Fair Play for Cuba Committee] and Dallas-related files *apparently* were
7 destroyed, and the Review Board sought any information regarding the destruction." Final Report
8 at 149 (emphasis added). There is, however, no supporting evidence or discussion of this
9 statement, and no indication that any destruction occurred after the passage of the Act.

10 I swear under penalty of perjury that the foregoing is true and correct.

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12 Executed this 18th day of October 2024, in College Park, Maryland.

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14 _____
15 Rebecca Calcagno
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