

Navy Declassification Review and Processing of Assassination Records

Postponements Under the JFK Act

Whenever an agency wishes, in the terms of the JFK Act, to “postpone” (*i.e.*, redact) information, it must submit those proposed postponements to the Review Board, which then makes “formal determinations” on the release of the information. If an agency disagrees with a decision of the Review Board, its sole recourse under the JFK Act is to appeal the Review Board’s decision to the President.¹

Whenever an agency wishes to postpone information from a record before the record is released to the public, the agency must identify with specificity the information to be postponed, identify the specific provision of Section 6 of the JFK Act that permits the postponement, and provide “clear and convincing” evidence to the Review Board as to why the information should be postponed. (*See* Section 6 of the JFK Act, attached.) By way of example, the FBI, which seeks to postpone information that might identify informants, provides evidence to the Review Board that discloses whether the informant is still alive, whether the informant risks incurring harm if his name is released, and provides other evidence that might be useful to the Review Board when evaluating the proposed postponements. The Review Board takes very seriously its statutory obligation to sustain proposed postponements “*only in the rarest of cases* [where there is a] *legitimate need for continued protection of such records.*” *See* Section 2(a)(7) (emphasis added). Under this statutory standard, which presumes the release of the information except in the “rarest of cases,” agencies have tended to postpone very little information and then only when they are able to provide evidence supporting the proposed postponements.²

Navy Document Declassification Review and Transmission Procedure

The following steps should be taken by the Navy, in accordance with JFK Act requirements, to review and designate records that it does not desire to release in full:

-The Navy, using the copy of the record provided by the Review Board, should conduct

¹Thus far, only one agency, the FBI, has made an appeal to the President. After a full briefing of the issues by the FBI and the Review Board, the FBI withdrew *all* of its appeals. As a result, every formal determination made by the Review Board has been followed and every record has been made available to the public in accordance with the Board’s decisions.

²The Review Board does, however, routinely sustain postponements of Social Security numbers. No evidence need be provided for such postponements.

declassification review in accordance with Section 6 of the JFK Act, and **mark the proposed postponements either by highlighting them, or by clearly bracketing them.** Do not obliterate your proposed postponements, or black them out; they must still be readable when returned to the ARRB.

-Upon completion of its declassification review, the Navy should then return to the Review Board (with supporting Record Identification Forms and declassification worksheets attached) all documents previously provided by the ARRB for Navy review, with desired Navy postponements identified by brackets or highlighting, **a reason code** (from Section 6 of the JFK Act) **assigned to each postponement in the margin** that identifies which section of the JFK Act justifies each postponement, **and with all supporting evidence for each postponement attached to each document in memo or letter format.** Please attach a “flag” or “post-it-note” to each page upon which Navy recommended postponements are marked, and write the acronym “USN” in the margin next to each Section 6 JFK Act “reason code.”

-A stamped or handwritten entry from a Navy declassifier should be affixed to either the first page of the document, or to the declassification worksheet used by other agencies (if such a worksheet is present), as an indication that the document has been reviewed and Navy equities are either “released in full,” or “released as sanitized.”

-Once the Review Board staff reviews the Navy’s proposed postponements, the staff will notify the Review Board as to whether it concurs with your recommended postponements or not. The Review Board members will then evaluate proposed Navy postponements, in light of ARRB staff recommendations, and the evidence provided by the Navy in support of your desired postponements.

-The Review Board will make **formal determinations** regarding postponements recommended by the Navy. The Navy will then be promptly notified of the Board’s decisions, and will have seven days following formal notification to appeal to the President should the Navy disagree with a Board Determination. (Should the Navy wish to appeal a Board decision, the Review Board staff will explain subsequent procedures.) If there are no postponements recommended by the Navy in a reviewed document; or if there are postponements recommended by the Navy and upheld by the Board; or if the Navy recommends postponements that are not upheld by the Board, and the Navy chooses not to appeal to the President, the Navy equities in those documents will be immediately transmitted to the JFK Collection at the Archives by the ARRB, and released to the public. Whenever records contain postponements following formal determinations by the Review Board, both the unredacted version and the redacted version (processed by the ARRB staff following return of the documents from the Navy) are forwarded to the Archives by the ARRB, and initially only

the redacted version is released to the public, via the JFK Collection. The redacted contents of such documents will be released no later than the year 2017, in accordance with the JFK Act.