

This chapter will examine the Review Board's declassification actions in four steps: Part I will . . .; Part II will . . .; Part III will . . .; and Part IV will . . .

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## Part I

### **The JFK Act presumes disclosure of assassination records.**

*The statutory presumption of full disclosure.* The most pertinent language of the JFK Act is the standard for release of information. According to the Act, "all Government records concerning the assassination of President John F. Kennedy should carry a *presumption of immediate disclosure.*" Section 2(a)(2) (emphasis added). The statute further declares that "*only in the rarest cases is there a legitimate need for continued protection of such records.*" Section 2(A)(7) (emphasis added).

*The evidentiary standard of "clear and convincing" evidence.* For each recommended postponement, the JFK Act requires an agency to submit "clear and convincing evidence" that one of the specified grounds for postponement is present. See sections 6, 9(c)(1).

### **Comparison of FOIA, JFK Act, & EO**

#### *Executive Order 12958*

Whenever "there is significant doubt about the need to classify information, it shall not be classified." Exec. Order 12,958, Sec. 1.2(b).

*FOIA requires document-specific analysis, too, but agencies don't necessarily follow the req'M*  
The legislative history of the JFK Act emphasizes the statutory requirement that agencies provide "clear and convincing evidence. The House Committee on Government Operations concluded in its Report on H.J. Res. 454:

There is no justification for perpetual secrecy for any class of records. ***Nor can the withholding of any individual record be justified on the basis of general confidentiality concerns applicable to an entire class.*** Every record must be judged on its own merits, and every record will ultimately be made available for public disclosure. H.R. Rep. No. 625, 102d Cong., 2d Sess., pt. 1, at 16 (1992) (emphasis added).

This document-specific requirement is the same as that ordered by then-Judge Mikva who

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