

Section 6:

"Disclosure of assassination records or particular information in assassination records to the public may be postponed subject to the limitations of this Act *if there is clear and convincing evidence that*

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.....

(2) the public disclosure of the assassination record would *reveal the name or identity of a living person who provided confidential information to the United States and would pose a substantial risk of harm to that person;*"

[The FBI has told us that they are categorically abandoning Section 6(2) and electing to rely solely on Section 6(4) as a basis for informant postponements. The FBI views Section 6(4) as less stringent than Section 6(2), which expressly requires that the informant still be alive and at "substantial risk of harm."]

"(3) the public disclosure of the assassination record *could reasonably be expected to constitute an unwarranted invasion of personal privacy . . . so substantial that it outweighs the public interest;*"

[The Review Board has categorically postponed Social Security numbers under Section 6(3). The Review Board has not sustained any other postponements on personal privacy grounds. The Review Board has been willing to release medical and psychiatric histories, allegations of unconventional sexual behavior or child abuse, etc. However, with regard to the home addresses of former Secret Service agents, the Review Board has requested further information from the Secret Service, rather than releasing them on the information initially presented by the agency.]

"(4) the public disclosure of the assassination record would *compromise the existence of an understanding of confidentiality currently requiring protection between a Government agent and a cooperating individual or a foreign government, and public disclosure would be so harmful that it outweighs the public interest.*"

[I. *As to "cooperating individuals":*

A. As a general rule, *the informant-specific digits of informant symbol numbers and informant file numbers are to be postponed* without any further showing from the FBI. There are two exceptions:

(1) where other information plainly and directly identifies the informant, rendering the protection of only the symbol number and file number an empty gesture; and

(2) where the identity of the informant itself is of significant public interest.¹

If either of these exceptions applies, the postponement will be sustained only if the criteria (set out below) for protecting the true name of an informant are satisfied.

B. Information that the FBI regards as “specifically identifying” a symbol number informant will be released unless:

(1) the FBI *demonstrates* that the information *would in fact* specifically identify the informant;² and

(2) the criteria (set out below) for protecting an informant’s true name are satisfied.

C. An informant’s true name will be protected only if there is a current need for protection.

(1) The fact that an informant is still alive, residing in the same area as when he provided information, and objects to the release of his identity as an informant is not sufficient for the Review Board to sustain a postponement. The Review Board will weigh the type of harm that is reported to concern the informant, the objective reasonableness of that concern, and the public interest in the identity

¹Additionally, where only a “negative contact” is recorded, the FBI of its own accord usually will release the entire informant symbol number.

²In a small number of cases (*e.g.*, “NY-123-S is the sister of Jane Smith”), no evidence beyond the document itself is required. In most cases, further evidence is necessary. *Example:* NY-123-S provides information about John Jones’s visit to New York City in 1964. If the FBI wishes to postpone the dates on which NY-123-S dined with John Jones, it would have to demonstrate that John Jones is alive -- otherwise, there would be insufficient evidence that these dates might specifically identify NY-123-S.

of the informant and the information provided. Where the FBI presents evidence from its own files that a living informant provided information such that violent retaliation would pose a realistic threat in the event of disclosure, the Review Board may sustain the postponement without requiring the FBI to interview the informant regarding his perceptions of a current need to protect.

(2) On the other hand, the fact that the informant is deceased does not, in and of itself, assure that his name will be released. The Review Board will weigh any reported concerns of surviving family members, the objective reasonableness of those concerns, and the public interest in the identity of the informant and the information provided.

II. *As to "cooperating foreign governments":*

The Review Board staff will work with the FBI and the State Department to make an effective request, through appropriate diplomatic channels, for foreign governments to agree to maximum disclosure. The Review Board may honor the request of a foreign government to postpone specific information where the harm from disclosing such information over the foreign government's objection would outweigh the public interest in its disclosure.