

DRAFT

Informant argument

Scope of responsibility:

Cannot read out of the Act the fact there are postponement provisions. Act seeks to establish a balance.

Where's the burden. Need to be realistic

Political aspect -- what's the fight we can win?

Post OC -- increased sensitivity about informants

Resources issue

Assume that producing clear and convincing evidence for all names mentioned is impossible?

Does attempting to do this across the board actually undercut congressional intent?

eg -- the mandate underlying disclosure is not just on a document by document basis but is focused on getting out as much as possible. Need to focus energies and attention in most effective manner. Should not read out of the act the responsibility to produce.

Practical aspects

where statute doesn't state how a postponement should be interpreted, board has the power to implement it in such a way as to effectuate **all** of the purposes of the act.

Disclosure is key, but can't look at one purpose in isolation.

Clear and convincing evidence is the standard, but the Review Board has discretion to determine in what cases they will be held to that standard.

SRep 102-328

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Process to publicly disclose all records related to the assassination of JFK

"The underlying principles guiding the legislation are independence, public confidence, efficiency and cost effectiveness, speed of records disclosure, and enforceability. In order to achieve these objectives, the Act creates a presumption of disclosure upon the government, and it establishes an expeditious process for the review and disclosure of records."

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postponements

"[I]t is intended that the standards operate as discretionary, not compulsory, requirements for disclosure. The underlying principle for applying the standards for postponement remains the presumption of disclosure established by the Act. Any postponed records or information should be narrowly drawn to enable the majority of any record to [be] disclosed immediately, so that the redaction is minimal, and subject to review and disclosure in the near future. It is intended that the Review Board should make its own determinations and that its judgments will be shaped by its experience, knowledge, and expertise during the course of its work."

Analagous info re postponing "Intelligence Sources and Methods"

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revealing identity of deceased agents based on risk to survivors, need to continue to protect fact of a person's employment with the intelligence organization.

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"The Review Board is to make its own determinations, and in doing so should consult with the affected agencies, as well as be receptive to the views of the public.. . The Review Board should satisfy itself as to the basis and need for such an assertion as grounds for postponement."