

## Intelligence Agents

*Insert at p. 17 immediately after statutory language (?)*

- The language of Section 6(1)(A) does little to establish manageable standards for its application to particular cases. Congress intended that the Review Board itself determine the proper interpretation of this provision of the Act, with consideration being given to the views of various agencies as well as the public.<sup>1</sup> However, the legislative history does offer some specific guidance in interpreting the statutory language. For example, Congress suggested that in determining whether a certain individual falls within the definition of “intelligence agent” as used in the Act, the Review Board “should consider the breadth of responsibilities and assignments which might fall into this category.”<sup>2</sup> In addition, on the specific issue of whether the identity of a deceased agent should be disclosed, Congress suggested that the Review Board could consider the potential impact of such a disclosure on survivors.<sup>3</sup>

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<sup>1</sup>S. Rep. No. 102-328, at 28 (1992), *reprinted in* 1992 U.S.C.C.A.N. 2965, 2977.

<sup>2</sup>*Id.*

<sup>3</sup>*Id.*

## Informant Postponements

*Insert at p. 38 after list of factors actually used by the Review Board (?)*

- The Review Board did not consider some of the factors that Congress suggested would be relevant to its decisions about the release of certain records. For example, Congress suggested that the Review Board consider “[w]hether there is an express confidentiality agreement, whether that agreement is express or implied, [and] whether it is written or unwritten.”<sup>4</sup> (*Discussion of why these were not important factors to the Review Board*).

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<sup>4</sup>S. Rep. No. 102-328, at 29 (1992), *reprinted in* 1992 U.S.C.C.A.N. 2965, 2978.