

Facsimile Cover Sheet

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Date: 23 January 1996
Pages including this cover page: 4

I would appreciate your input ASAP. I just spoke with of the National Counter-Intelligence Center and this letter will be presented to the Board on 1 Feb 1996. Based on a quick read, I think the letter is a good idea.

Linda.

23/01/96

Note

C/HRG concurred with Linda's comment; suggested information be added detailing agency's actions (Linda will use wording from DCI's appeal package). will add statement - Agency released "approximately 227,000 pages with minimal deletions". Linda will alert ~~DO~~.

[Signature]

DRAFT LETTER TO ANTHONY LAKE, NATIONAL SECURITY COUNCIL

December 4, 1995

Honorable Anthony Lake
Assistant to The President for
National Security Affairs
The White House
Washington, D.C. 20500

Dear Mr. Lake:

No other ethic is as well-established and as essential to the success of the intelligence community as the protection of intelligence sources and methods and the safeguarding of confidences. The effectiveness of the U.S. Government's intelligence and counterintelligence programs is significantly attributable to the historical commitment by the agencies which conduct these activities to those principles. Disclosure of the identities of sources has had and may be expected to have a profound effect upon the ability of the intelligence agencies to obtain the confidential assistance of persons whose cooperation is dependent upon assurance of continuing confidentiality. Similarly, the disclosure of information about intelligence sources and methods has caused and will predictably result in the development of countermeasures which will affect the ability of the United States to provide the President with timely and high-quality intelligence and detect and address hostile intelligence activities directed against the United States.

The agencies represented by the National Counter-intelligence Policy Board unanimously share, and hereby express, their concern that these fundamental principles could be compromised by an inappropriate commitment to disclosure by the Assassination Records Review Board (the Board) in its administration of the John F. Kennedy Assassination Records Collection Act of 1992 (the Act).

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To date, the response by the intelligence agencies to Board requests for the release of documents has been unprecedented. The Federal Bureau of Investigation (FBI), for example, has released over 613,000 documents to the National Archives and Records Administration and has requested that disclosure be postponed with respect to portions of only 4.37 percent of those documents. The FBI has sought postponement with respect to limited portions of that modest number of records based upon expressed concern by foreign governments which contributed or originated the information and reluctance to reveal the identities of intelligence assets or intelligence sources and methods.

The Act permits the postponement of disclosure upon presentation of clear and convincing evidence that the threat to the military defense, intelligence operations, or foreign relations of the United States posed by public disclosure outweighs the public interest in disclosure and that such disclosure would reveal:

(A) an intelligence agent whose identity currently requires protection; or

(B) an intelligence source or method which is currently utilized, or reasonably expected to be utilized, by the United States Government and which has not been officially disclosed, the disclosure of which would interfere with the conduct of intelligence activities.

(See Act, Sections 6(1)(A, B))

The Act further permits the postponement of disclosure upon a showing, by clear and convincing evidence, that public disclosure 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. (See Act, Section 6(4))

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Honorable Anthony Lake

The Board's rejection of postponements proposed under these Sections of the Act dismisses the fact that the intelligence agencies are uniquely qualified to assess the harm to intelligence operations which would result from disclosure of the identities of intelligence assets or revelations about intelligence sources and methods. It remains essential that the U.S. government stand by assurances to persons and foreign governments that information they provide on the basis of those assurances will remain confidential for as long as is necessary to protect those persons or governments. It is similarly essential that sources, methods, and techniques which have had value in the past and could be expected to have value in the future not be compromised. To require disclosure of the identities of intelligence assets or revelation of sources and methods, including the confidential cooperation of foreign governments, would enervate U.S. intelligence and counterintelligence programs and discourage the confidential cooperation on which the successful conduct of effective intelligence is dependent. The intelligence community believes that the harm which would result from such disclosures would demonstrably impair the national security of the United States and that the clear and convincing evidence standard does not require that it divine, with absolute precision, the specific manner in which that harm will arise.

The National Counterintelligence Policy Board respectfully requests, therefore, that these concerns be brought to the attention of the Board and that the position of the intelligence community with respect to the disclosure of intelligence asset identities and intelligence sources and methods be considered in any subsequent review of final determinations by the Board.

Respectfully yours,

Nora Slatkin, Chairperson
National Counterintelligence
Policy Board