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The tangled route of going public

FILES OF THE OSS

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Correspondence and reports related to the Special Forces that were infiltrated behind enemy lines. There are 82 reports on the JEDBURGH teams that describe their mission and the personnel involved. Included is an account of the communications operations in Italy, commo administration in Europe, history of the OSS Detachment 101, and a communications war diary of the Far East and Europe. Covers the period June 1944-October 1944. Arranged chronologically and by team names.[1]

This passage describes "item 17," a small segment of the approximately 3,000 cubic feet of files of the former Office of Strategic Services (OSS). These records are the last major repository of material concerning America's intelligence activities in World War II. After much negotation and deliberation this material is now being transferred to the National Archives and Records Administration (NARA) for public release. When the move is completed, in 1986, the material should prove a rich lode of information for the scholar, historian, or just plain curious who seek information about this momentous chapter in our nation's past.*

The history of these files and the events that led to the decision to make them available to the public begin shortly after World War II. On 20 September 1945, President Truman issued Executive Order 9621 which included instructions that, effective on 1 October 1945, certain research and analysis functions of OSS would be transferred to the State Department, and that all other OSS functions "together with all (other) personnel, records, property, and funds" were to be transferred from the Joint Chiefs of Staff to the War Department.[2]

On 29 January 1946, the Secretary of War issued two directives which included instructions that records required by the Director of Central Intelligence were to be transferred to the Office of the Assistant Secretary of War and placed under the operational control of the Director of Central Intelligence. Thus began the long and roundabout route via two "caretaker" organizations, the Central Intelligence Group (CIG) and the Strategic Services Unit (SSU), that eventually led to CIA's control of the OSS operational records.[2] The records of the Research and Analysis Branch of OSS were transferred to NARA

[1] "Request for Records Disposition Authority," dated 11 April 1979.

[2] Memorandum for Brigadier General John Magruder from the Secretary of War, dated 27 September 1945 and cited in a Memorandum for Chief, IMS, from A. R. Cinquegrana, Assistant Counsel, Subject: The OSS Records.

* For an example of how the OSS files are serving as source material for articles in the public domain, see "The Organization Spook" following this account.

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by the Department of State between 1946 and 1951. They were not made available to the public for about another decade.[3]

Clearly, of that large volume of records that eventually was transferred to CIA, only a portion would be regarded by NARA as qualifying for permanent retention. Also, certain administrative matters relating to the OSS would require continued processing so that some records, such as the OSS personnel files, would continue to remain with CIA. In order to establish the disposition of the OSS records, NARA undertook an appraisal of this material which was completed on 16 April 1979. As a result, NARA determined that of 6,500 cubic feet of the OSS, SSU, and CIG files which by then had come into the custody of the Directorate of Operations, approximately 3,300 cubic feet were designated as permanent records for eventual transfer to NARA.[4]

Pursuant to Presidential Executive Order 11652, 8 March 1972, which articulated the principle that government information must be made readily available to the public, excepting that information held to be still properly classified or, for other reasons specifically stated in law, to be exempt from disclosure, a systematic review of OSS records for possible declassification was begun the following year.[5] The project under which this review took place originally employed three CIA annuitants, formerly senior operations officers whose careers had begun in OSS. Over the succeeding 10 years, that number grew to fifteen analysts. The team completed its task in September 1982. An initial transfer of 198 cubic feet of OSS files had already taken place in 1979.[5]

The variety of topics in the files of the OSS can be measured to some degree by summarizing merely that initial increment of 198 cubic feet transferred to NARA. The bulk of this material falls into several series, of which the History Office files, 1941-1945, and the records of the Foreign Nationalities Branch, 1941-1946, comprise half. The remainder of this increment consists of administrative records, 1943-1945; the war diaries of the London Field Office, 1942-1945; records relating to Secret Intelligence Operations, 1942-1945; the Operation Group command file, 1942-1945; and scattered records of the Office of the Director, 1942-1945.[6]

The material that continues to be classified in these documents concerns information provided to the OSS by foreign governments and information that would reveal the identity of persons who provided intelligence or who assisted OSS teams during their operations behind enemy lines. In some cases, these latter were individuals who sheltered OSS agents, gave medical assistance, or smuggled information from an incarcerated OSS agent to the allies. Their names are contained in OSS records, but their current situation is unknown. Some might appreciate the credit that would be theirs for having supported

[3] From Edwin A. Thompson, Director, Records Declassification Division, National Archives in a phone conversation on 14 November 1984.

[4] Appraisal Report on Disposition of Records, dated 16 April 1979.

[5] Letter from Director James R. Schlesinger to Dr. James B. Rhoads, Archivist of the US, dated 16 March 1973.

[6] NARA Newsletter, June 1984.

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the Americans. Others might still fear for their safety if their cooperation were revealed.

The initial transfer of the 198 cubic feet of records also posed some immediate problems that would require several more years to be resolved. With that shipment of files, CIA imposed two conditions that had to be met before any of these records could be released by NARA to the public. The first required that foreign government information must be afforded protection and that it should not be released without the prior approval of the government involved. The second stated that "(i)n keeping with the provisions of the Privacy Act, information concerning the affiliation of US persons with OSS may not be released without the consent of the person involved."[7]

The condition relating to the names of OSS personnel, which was believed to have been required by the Privacy Act, created considerable confusion. For some time, that provision was interpreted to apply only to those OSS officers who subsequent to their wartime service joined CIA under cover. It was believed that the release of these names could compromise an individual's career with the Agency. Several years later it was determined that an attempt to protect certain former OSS personnel by deleting their names from records could, under certain circumstances, be more damaging to them than to list those names along with those with whom they served.

Another concern raised with regard to the OSS records and that still remains a NARA problem: the impact on US foreign relations of revealing certain OSS operations, and relations with certain former wartime allies for whom the major issues from that period remain extant. Such concerns along with the conditions under which these records were to be transferred from CIA created an impasse with NARA that kept the material already at NARA from being made public, and also stopped the transfer to NARA of any of the remaining OSS records still at CIA.

Curiously, the OSS files might have remained in this uncertain state for many more years had it not been for protracted negotiations between CIA and Congress in the late 1970s and early 1980s over the passage of a bill to relieve the Agency from having to search and review certain categories of designated operational files under the Freedom of Information Act. The bill, which became the Intelligence Information Act of 1983, was signed into law by President Reagan on 15 October 1984.

During various congressional hearings in connection with this bill, historians expressed their belief that the OSS files contain information of historical importance and their fear that they may never be made public if they are to be designated by the Director of Central Intelligence for exclusion from search and review under the FOIA. Professor Anna Nelson of George Washington University, speaking on behalf of the major associations of historians, noted that permanent designation could result in important material never being made available to the public. She was joined in her views by General Richard

[7] Attachment to Standard Form 258, NN 3-226-79-1, Request to Transfer, Approval, and Receipt of Records to National Archives of the United States, dated 21 August 1979.

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Larkin, president of the Association of Former Intelligence Officers, who stated that historical research and writing on the role of intelligence in American history was of "tremendous value in our educational system as well as in our political system."[8]

In June 1983, during a hearing before the Senate Select Committee on Intelligence (SSCI), the question of access to historical files was raised with John H. Stein, then Deputy Director for Operations. In a subsequent letter to Chairman Senator Barry Goldwater, dated 28 June 1983, Stein confirmed his statements before the committee that "I want to assure you that I do not intend to ask the Director to designate OSS files as falling in the category of files which would be exempt under the new bill."[9] This was a message of reassurance that was eagerly sought by all those who regard the OSS files as of historical value.

Discussions with the Agency on the matter of the OSS records also were initiated by SSCI member Senator Dave Durenberger. Again the concern was the availability of the OSS records to the public. In a letter, dated 4 October 1983, Director William J. Casey informed Senator Durenberger that: "Several weeks ago, on my own initiative, I had requested the Historian of the CIA to explore a program that would result in the release of usable historical materials from the World War II period." Thus, at the Director's urging, Dr. J. Kenneth MacDonald, Chief, History Staff, began the transfer process.

The issue of privacy as it might relate to the Privacy Act, and which appeared to have been a problem earlier, was addressed in a written opinion by the General Counsel. It concluded that "(a)bsent classification, nothing in the FOIA or the Privacy Act justifies protection of the names of former OSS members."[10]

That question, however, did not rest there. Given the wartime conditions under which OSS personnel operated, it was quite possible that information about their activities could still cause harm to them or to their families. Therefore, in negotiating a memorandum of understanding with NARA under which the OSS records could be released to the public, the protection of ". . . information about a living individual which reveal details of a highly personal nature that the individual could reasonably assert a claim to withhold from the public" was incorporated in that agreement.[11] NARA now shares the responsibility for ensuring that such information would not be released. NARA also accepted as part of its responsibility in receiving these records the protection of information from foreign governments, or information that might still cause international repercussions.

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[8] Intelligence Information Act of 1983, Report of the Senate Select Committee on Intelligence, page 17.

[9] Letter from John H. Stein, Deputy Director for Operations to the Honorable Barry Goldwater, Chairman, Select Committee on Intelligence, US Senate, dated 28 June 1983.

[10] OGC 83-10345, dated 20 December 1983 from Stanley Sporkin, General Counsel, to the Executive Director, Subject: Release of Declassified OSS Records to the National Archives.

[11] Memorandum of Understanding Between the Central Intelligence Agency and the National Archives and Records Service, dated 5 June 1984.

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Having thus attained an agreement on the OSS records with NARA, the Directorate of Operations began the transfer of the files. In the process, every box of records would be checked again to ensure that classified information had been removed, and to record each document as having been released from CIA's control.

While it may still be some time before the public can gain access to all of this material, at long last the tangled route that the OSS records had traveled is coming to an end. While this closes one chapter in the life of these records, it will open a new one in the history of intelligence.

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