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ROUTING AND RECORD SHEET

82-2120/13

SUBJECT: (Optional)

Executive Order 12065

FROM:

Harry E. Fitzwater
Deputy Director for Administration
7D 24 Hqs

EXTENSION

NO.

DDA 82-0008/15

DATE

18 March 1982

TO: (Officer de
building)

Room numb

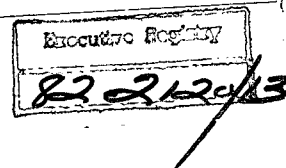
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COMMENTS (Number each comment to show from whom
to whom. Draw a line across column after each comment.)

1. Director of Central
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DDA 82-0008/15

18 March 1982

MEMORANDUM FOR: Director of Central Intelligence

FROM: Harry E. Fitzwater
Deputy Director for Administration

SUBJECT: Executive Order 12065

1. In accordance with your request last evening, Attachment A provides an overview of the problems with E.O. 12065; Attachment B is the Executive Order.

2. As I mentioned, we had estimated that it would cost [redacted] in the first 10-year review if we were to fully comply with the Executive Order. I am now advised that because of an increase in the proficiency of the reviewers this figure has been reduced. We will spend [redacted] by 1988 in order to meet about 30 percent of the documents requiring review. Of this 30 percent, it is estimated that not more than two percent will be declassified and that two percent will be of little interest to the public. At the end of the first 10 years we must start reviewing the material previously reviewed during the first 10 years.

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3. The revised Executive Order is now held by Judge Clark. The Intelligence Community has made its recommendations to the Information Security Oversight Office which are now contained in the revised order. The revised order makes it optional to have a systematic review program. Since we are declassifying such a small amount, we would have a program that is restricted to certain categories of material thereby relieving us from the current burden.

Shore

4. Any help you can give us in getting the revised Executive Order published would be greatly appreciated.

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[redacted]
Harry E. Fitzwater

Atts

cc: EXDIR
D/OIS

SUBJECT: SYSTEMATIC REVIEW FOR DECLASSIFICATION

SYNOPSIS:

The program of Systematic Review for Declassification mandated by Executive Order 12065 is a disaster. It is not cost effective; it syphons off valuable, scarce resources from CIA's primary mission; and it poses security risks. It should be abolished. The General Accounting Office has also recommended its abolition.

BACKGROUND:

Section 3-4 of Executive Order 12065 (E.O. 12065) effective 1 December 1978 requires the Executive Branch to institute programs to review all "permanently valuable records" when they reach 20 years of age (30 years for foreign government information) to determine whether the records should remain classified. If they remain classified after such review, they then must be reviewed again 10 years later, and every 10 years thereafter until declassified, unless a longer period is agreed to by the Director, Information Security Oversight Office (ISOO). Such ISOO exemptions can be difficult to come by.

The above requirement is not new. The idea started during the Eisenhower administration and in 1972 President Nixon issued E.O. 11652 which contained a similar declassification review requirement with two major differences: the initial review was to take place when records reached 30 years of age, and the time interval for re-review was left to Department Heads. E.O. 12065, recognizing that agencies were not geared up to switch from the old 30-year period to the new 20-year requirement overnight, allowed agencies 10 years to close the gap. Hence, by 1 December 1988 all permanent records dated 1 December 1968 and before are to receive an initial review.

CURRENT STATUS:

Our best estimate indicates that we still have approximately 22,000 cubic feet of permanent records that must be reviewed by 1 December 1988 if we are to comply with E.O. 12065. We have 33 people performing the review. Because of the sensitive nature of our records, we must use mostly senior analysts with long years of experience. They are highly trained in their jobs and utilize procedures designed to maximize their production. In spite of this devotion of resources, we are able to review on an average only 800 cubic feet per year. Thus, by 1 December 1988, unless we more than triple our staff, we will accomplish less than 30 percent of our objective. Also, in December 1988, as we continue to attack the remaining 70 plus percent, we will have to begin the second review of all material once reviewed and on which the decision was made to continue classification. Since our experience shows that we continue classification on over 85 percent of the records reviewed, we will have to re-review

most of the material we review by December 1988. At that time, we will be faced with the first review of records beginning to mature in December 1988. It is an impossible job.

CURRENT PROBLEMS:

CIA's program for systematic review of classified material entails the following:

1. Dollar Costs: We will spend [] by 1988 under our current program and still not comply with E.O. 12065. 25X1

2. Human Resource Costs: [] mostly valuable, scarce senior analysts, spend full time reviewing classified documents under our current setup; over 88 people would be required if we are to comply with E.O. 12065. These people could and should be used to collect and produce intelligence. 25X1

3. Results of Review: On the average, two percent of the material reviewed is declassified. The declassified material that does eventually reach the public will be of little interest.

4. Security Risks: Given our workload and time pressures, there is always the danger of human error resulting in the release of compromising information. Also, the release of the declassified material adds to the total picture our adversaries have access to. When added to material released under FOIA, books, and leaks, this total picture is awesome and frightful.

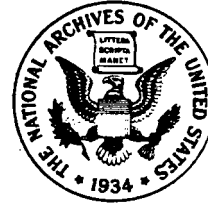
5. Chilling Effect on Intelligence Relationships: Because of past Congressional investigations, FOIA releases, books by former employees, and leaks, many agents and foreign intelligence contacts who would have cooperated in the past now perceive that we are unable to keep their relationship secret. With systematic review for declassification added to the list, we guarantee these folks that if their names haven't come up for review previously, they will come up when documents containing their names or identifying data become 20 years old.

RECOMMENDATION:

It is recommended that E.O. 12065 be modified to eliminate Section 3-4 or, alternatively, to exempt CIA from its provisions. The General Accounting Office has concluded after a lengthy investigation that this program should be abolished Government wide. If so, then it is submitted that even more so should it be abolished with respect to CIA.

ATTACHMENT
B

**MONDAY, JULY 3, 1978
PART IV**



THE PRESIDENT

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NATIONAL SECURITY INFORMATION

**Executive Order 12065
and Order Designating
Certain Officials
Within the Executive
Office of the President
To Classify
Information**

presidential documents

[3195-01]

Title 3—The President

Executive Order 12065

June 28, 1978

National Security Information

By the authority vested in me as President by the Constitution and laws of the United States of America, in order to balance the public's interest in access to Government information with the need to protect certain national security information from disclosure, it is hereby ordered as follows:

TABLE OF CONTENTS

	[FR page]
SECTION 1. ORIGINAL CLASSIFICATION:	
1-1 Classification Designation	[28950]
1-2 Classification Authority	[28950]
1-3 Classification Requirements	[28951]
1-4 Duration of Classification	[28952]
1-5 Identification and Markings	[28952]
1-6 Prohibitions	[28953]
SECTION 2. DERIVATIVE CLASSIFICATION:	
2-1 Use of Derivative Classification	[28953]
2-2 Classification Guides	[28953]
2-3 New Material	[28954]
SECTION 3. DECLASSIFICATION AND DOWNGRADING:	
3-1 Declassification Authority	[28954]
3-2 Transferred Information	[28954]
3-3 Declassification Policy	[28955]
3-4 Systematic Review for Declassification	[28955]
3-5 Mandatory Review for Declassification	[28956]
3-6 Downgrading	[28957]
SECTION 4. SAFEGUARDING:	
4-1 General Restrictions	[28957]
4-2 Special Access Programs	[28957]
4-3 Access by Historical Researchers and Former Presidential Appointees	[28958]
4-4 Reproduction Controls	[28958]
SECTION 5. IMPLEMENTATION AND REVIEW:	
5-1 Oversight	[28959]
5-2 Information Security Oversight Office	[28959]
5-3 Interagency Information Security Committee	[28960]
5-4 General Responsibilities	[28960]
5-5 Administrative Sanctions	[28961]
SECTION 6. GENERAL PROVISIONS:	
6-1 Definitions	[28961]
6-2 General	[28961]

THE PRESIDENT**28951**

The President and Chairman, Export-Import Bank of the United States
The President and Chief Executive Officer, Overseas Private Investment Corporation

1-204. Limitations on Delegation of Classification Authority.

(a) Authority for original classification of information as Top Secret may be delegated only to principal subordinate officials who have a frequent need to exercise such authority as determined by the President or by agency heads listed in Section 1-201.

(b) Authority for original classification of information as Secret may be delegated only to subordinate officials who have a frequent need to exercise such authority as determined by the President, by agency heads listed in Sections 1-201 and 1-202, and by officials with Top Secret classification authority.

(c) Authority for original classification of information as Confidential may be delegated only to subordinate officials who have a frequent need to exercise such authority as determined by the President, by agency heads listed in Sections 1-201, 1-202, and 1-203, and by officials with Top Secret classification authority.

(d) Delegated original classification authority may not be redelegated.

(e) Each delegation of original classification authority shall be in writing by name or title of position held.

(f) Delegations of original classification authority shall be held to an absolute minimum. Periodic reviews of such delegations shall be made to ensure that the officials so designated have demonstrated a continuing need to exercise such authority.

1-205. Exceptional Cases. When an employee or contractor of an agency that does not have original classification authority originates information believed to require classification, the information shall be protected in the manner prescribed by this Order and implementing directives. The information shall be transmitted promptly under appropriate safeguards to the agency which has appropriate subject matter interest and classification authority. That agency shall decide within 30 days whether to classify that information. If it is not clear which agency should get the information, it shall be sent to the Director of the Information Security Oversight Office established in Section 5-2 for a determination.

1-3. Classification Requirements.

1-301. Information may not be considered for classification unless it concerns:

- (a) military plans, weapons, or operations;
- (b) foreign government information;
- (c) intelligence activities, sources or methods;
- (d) foreign relations or foreign activities of the United States;
- (e) scientific, technological, or economic matters relating to the national security;
- (f) United States Government programs for safeguarding nuclear materials or facilities; or
- (g) other categories of information which are related to national security and which require protection against unauthorized disclosure as determined by the President, by a person designated by the President pursuant to Section 1-201, or by an agency head.

1-302. Even though information is determined to concern one or more of the criteria in Section 1-301, it may not be classified unless an original classification authority also determines that its unauthorized disclosure reasonably could be expected to cause at least identifiable damage to the national security.

28952

THE PRESIDENT

1-303. Unauthorized disclosure of foreign government information or the identity of a confidential foreign source is presumed to cause at least identifiable damage to the national security.

1-304. Each determination under the criterion of Section 1-301(g) shall be reported promptly to the Director of the Information Security Oversight Office.

1-4. *Duration of Classification.*

1-401. Except as permitted in Section 1-402, at the time of the original classification each original classification authority shall set a date or event for automatic declassification no more than six years later.

1-402. Only officials with Top Secret classification authority and agency heads listed in Section 1-2 may classify information for more than six years from the date of the original classification. This authority shall be used sparingly. In such cases, a declassification date or event, or a date for review, shall be set. This date or event shall be as early as national security permits and shall be no more than twenty years after original classification, except that for foreign government information the date or event may be up to thirty years after original classification.

1-5. *Identification and Markings.*

1-501. At the time of original classification, the following shall be shown on the face of paper copies of all classified documents:

- (a) the identity of the original classification authority;
- (b) the office of origin;
- (c) the date or event for declassification or review; and
- (d) one of the three classification designations defined in Section 1-1.

1-502. Documents classified for more than six years shall also be marked with the identity of the official who authorized the prolonged classification. Such documents shall be annotated with the reason the classification is expected to remain necessary, under the requirements of Section 1-3, despite the passage of time. The reason for the prolonged classification may be stated by reference to criteria set forth in agency implementing regulations. These criteria shall explain in narrative form the reason the information needs to be protected beyond six years. If the individual who signs or otherwise authenticates a document also is authorized to classify it, no further annotation of identity is required.

1-503. Only the designations prescribed by this Order may be used to identify classified information. Markings such as "For Official Use Only" and "Limited Official Use" may not be used for that purpose. Terms such as "Conference" or "Agency" may not be used in conjunction with the classification designations prescribed by this Order; e.g., "Agency Confidential" or "Conference Confidential."

1-504. In order to facilitate excerpting and other uses, each classified document shall, by marking or other means, indicate clearly which portions are classified, with the applicable classification designation, and which portions are not classified. The Director of the Information Security Oversight Office may, for good cause, grant and revoke waivers of this requirement for specified classes of documents or information.

1-505. Foreign government information shall either retain its original classification designation or be assigned a United States classification designation that shall ensure a degree of protection equivalent to that required by the entity that furnished the information.

1-506. Classified documents that contain or reveal information that is subject to special dissemination and reproduction limitations authorized by

THE PRESIDENT**28953**

this Order shall be marked clearly so as to place the user on notice of the restrictions.

1-6. Prohibitions.

1-601. Classification may not be used to conceal violations of law, inefficiency, or administrative error, to prevent embarrassment to a person, organization or agency, or to restrain competition.

1-602. Basic scientific research information not clearly related to the national security may not be classified.

1-603. A product of non-government research and development that does not incorporate or reveal classified information to which the producer or developer was given prior access may not be classified under this Order until and unless the government acquires a proprietary interest in the product. This Order does not affect the provisions of the Patent Secrecy Act of 1952 (35 U.S.C. 181-188).

1-604. References to classified documents that do not disclose classified information may not be classified or used as a basis for classification.

1-605. Classification may not be used to limit dissemination of information that is not classifiable under the provisions of this Order or to prevent or delay the public release of such information.

1-606. No document originated on or after the effective date of this Order may be classified after an agency has received a request for the document under the Freedom of Information Act or the Mandatory Review provisions of this Order (Section 3-5), unless such classification is consistent with this Order and is authorized by the agency head or deputy agency head. Documents originated before the effective date of this Order and subject to such a request may not be classified unless such classification is consistent with this Order and is authorized by the senior official designated to oversee the agency information security program or by an official with Top Secret classification authority. Classification authority under this provision shall be exercised personally, on a document-by-document basis.

1-607. Classification may not be restored to documents already declassified and released to the public under this Order or prior Orders.

SECTION 2. DERIVATIVE CLASSIFICATION.**2-1. Use of Derivative Classification.**

2-101. Original classification authority shall not be delegated to persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide.

2-102. Persons who apply such derivative classification markings shall:

- (a) respect original classification decisions;
- (b) verify the information's current level of classification so far as practicable before applying the markings; and
- (c) carry forward to any newly created documents the assigned dates or events for declassification or review and any additional authorized markings, in accordance with Sections 2-2 and 2-301 below. A single marking may be used for documents based on multiple sources.

2-2. Classification Guides.

2-201. Classification guides used to direct derivative classification shall specifically identify the information to be classified. Each classification guide shall specifically indicate how the designations, time limits, markings, and other requirements of this Order are to be applied to the information.

28954

THE PRESIDENT

2-202. Each such guide shall be approved personally and in writing by an agency head listed in Section 1-2 or by an official with Top Secret classification authority. Such approval constitutes an original classification decision.

2-3. *New Material.*

2-301. New material that derives its classification from information classified on or after the effective date of this Order shall be marked with the declassification date or event, or the date for review, assigned to the source information.

2-302. New material that derives its classification from information classified under prior Orders shall be treated as follows:

(a) If the source material bears a declassification date or event twenty years or less from the date of origin, that date or event shall be carried forward on the new material.

(b) If the source material bears no declassification date or event or is marked for declassification beyond twenty years, the new material shall be marked with a date for review for declassification at twenty years from the date of original classification of the source material.

(c) If the source material is foreign government information bearing no date or event for declassification or is marked for declassification beyond thirty years, the new material shall be marked for review for declassification at thirty years from the date of original classification of the source material.

SECTION 3. DECLASSIFICATION AND DOWNGRADING.

3-1. *Declassification Authority.*

3-101. The authority to declassify or downgrade information classified under this or prior Orders shall be exercised only as specified in Section 3-1.

3-102. Classified information may be declassified or downgraded by the official who authorized the original classification if that official is still serving in the same position, by a successor, or by a supervisory official of either.

3-103. Agency heads named in Section 1-2 shall designate additional officials at the lowest practicable echelons to exercise declassification and downgrading authority.

3-104. If the Director of the Information Security Oversight Office determines that information is classified in violation of this Order, the Director may require the information to be declassified by the agency that originated the classification. Any such decision by the Director may be appealed to the National Security Council. The information shall remain classified until the appeal is decided or until one year from the date of the Director's decision, whichever occurs first.

3-105. The provisions of this Order relating to declassification shall also apply to agencies which, under the terms of this Order, do not have original classification authority but which had such authority under prior Orders.

3-2. *Transferred Information.*

3-201. For classified information transferred in conjunction with a transfer of functions—not merely for storage purposes—the receiving agency shall be deemed to be the originating agency for all purposes under this Order.

3-202. For classified information not transferred in accordance with Section 3-201, but originated in an agency which has ceased to exist, each agency in possession shall be deemed to be the originating agency for all purposes under this Order. Such information may be declassified or downgraded by the agency in possession after consulting with any other agency having an interest in the subject matter.

3-203. Classified information transferred to the General Services Administration for accession into the Archives of the United States shall be declassi-

THE PRESIDENT**28955**

fied or downgraded by the Archivist of the United States in accordance with this Order, the directives of the Information Security Oversight Office, and the agency guidelines.

3-204. After the termination of a Presidential administration, the Archivist of the United States shall review and declassify or downgrade all information classified by the President, the White House Staff, committees or commissions appointed by the President, or others acting on the President's behalf. Such declassification shall only be undertaken in accordance with the provisions of Section 3-504.

3-3. *Declassification Policy.*

3-301. Declassification of classified information shall be given emphasis comparable to that accorded classification. Information classified pursuant to this and prior Orders shall be declassified as early as national security considerations permit. Decisions concerning declassification shall be based on the loss of the information's sensitivity with the passage of time or on the occurrence of a declassification event.

3-302. When information is reviewed for declassification pursuant to this Order or the Freedom of Information Act, it shall be declassified unless the declassification authority established pursuant to Section 3-1 determines that the information continues to meet the classification requirements prescribed in Section 1-3 despite the passage of time.

3-303. It is presumed that information which continues to meet the classification requirements in Section 1-3 requires continued protection. In some cases, however, the need to protect such information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. When such questions arise, they shall be referred to the agency head, a senior agency official with responsibility for processing Freedom of Information Act requests or Mandatory Review requests under this Order, an official with Top Secret classification authority, or the Archivist of the United States in the case of material covered in Section 3-503. That official will determine whether the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure.

3-4. *Systematic Review for Declassification.*

3-401. Classified information constituting permanently valuable records of the Government, as defined by 44 U.S.C. 2103, and information in the possession and control of the Administrator of General Services, pursuant to 44 U.S.C. 2107 or 2107 note, shall be reviewed for declassification as it becomes twenty years old. Agency heads listed in Section 1-2 and officials designated by the President pursuant to Section 1-201 of this Order may extend classification beyond twenty years, but only in accordance with Sections 3-3 and 3-402. This authority may not be delegated. When classification is extended beyond twenty years, a date no more than ten years later shall be set for declassification or for the next review. That date shall be marked on the document. Subsequent reviews for declassification shall be set at no more than ten year intervals. The Director of the Information Security Oversight Office may extend the period between subsequent reviews for specific categories of documents or information.

3-402. Within 180 days after the effective date of this Order, the agency heads listed in Section 1-2 and the heads of agencies which had original classification authority under prior orders shall, after consultation with the Archivist of the United States and review by the Information Security Oversight Office, issue and maintain guidelines for systematic review covering twenty-year old classified information under their jurisdiction. These guide-

28956

THE PRESIDENT

lines shall state specific, limited categories of information which, because of their national security sensitivity, should not be declassified automatically but should be reviewed item-by-item to determine whether continued protection beyond twenty years is needed. These guidelines shall be authorized for use by the Archivist of the United States and may, upon approval of the issuing authority, be used by any agency having custody of the information. All information not identified in these guidelines as requiring review and for which a prior automatic declassification date has not been established shall be declassified automatically at the end of twenty years from the date of original classification.

3-403. Notwithstanding Sections 3-401 and 3-402, the Secretary of Defense may establish special procedures for systematic review and declassification of classified cryptologic information, and the Director of Central Intelligence may establish special procedures for systematic review and declassification of classified information concerning the identities of clandestine human agents. These procedures shall be consistent, so far as practicable, with the objectives of Sections 3-401 and 3-402. Prior to implementation, they shall be reviewed and approved by the Director of the Information Security Oversight Office and, with respect to matters pertaining to intelligence sources and methods, by the Director of Central Intelligence. Disapproval of procedures by the Director of the Information Security Oversight Office may be appealed to the National Security Council. In such cases, the procedures shall not be implemented until the appeal is decided.

3-404. Foreign government information shall be exempt from automatic declassification and twenty year systematic review. Unless declassified earlier, such information shall be reviewed for declassification thirty years from its date of origin. Such review shall be in accordance with the provisions of Section 3-3 and with guidelines developed by agency heads in consultation with the Archivist of the United States and, where appropriate, with the foreign government or international organization concerned. These guidelines shall be authorized for use by the Archivist of the United States and may, upon approval of the issuing authority, be used by any agency having custody of the information.

3-405. Transition to systematic review at twenty years shall be implemented as rapidly as practicable and shall be completed no more than ten years from the effective date of this Order.

3-5. Mandatory Review for Declassification.

3-501. Agencies shall establish a mandatory review procedure to handle requests by a member of the public, by a government employee, or by an agency, to declassify and release information. This procedure shall apply to information classified under this Order or prior Orders. Except as provided in Section 3-503, upon such a request the information shall be reviewed for possible declassification, provided the request reasonably describes the information. Requests for declassification under this provision shall be acted upon within 60 days. After review, the information or any reasonably segregable portion thereof that no longer requires protection under this Order shall be declassified and released unless withholding is otherwise warranted under applicable law.

3-502. Requests for declassification which are submitted under the provisions of the Freedom of Information Act shall be processed in accordance with the provisions of that Act.

3-503. Information less than ten years old which was originated by the President, by the White House Staff, or by committees or commissions appointed by the President, or by others acting on behalf of the President, including such information in the possession and control of the Administrator

THE PRESIDENT

of General Services pursuant to 44 U.S.C. 2107 or 2107 note, is exempted from the provisions of Section 3-501. Such information over ten years old shall be subject to mandatory review for declassification. Requests for mandatory review shall be processed in accordance with procedures developed by the Archivist of the United States. These procedures shall provide for consultation with agencies having primary subject matter interest. Any decision by the Archivist may be appealed to the Director of the Information Security Oversight Office. Agencies with primary subject matter interest shall be notified promptly of the Director's decision on such appeals and may further appeal to the National Security Council through the process set forth in Section 3-104.

3-504. Requests for declassification of classified documents originated by an agency but in the possession and control of the Administrator of General Services, pursuant to 44 U.S.C. 2107 or 2107 note, shall be referred by the Archivist to the agency of origin for processing in accordance with Section 3-501 and for direct response to the requestor. The Archivist shall inform requestors of such referrals.

3-505. No agency in possession of a classified document may, in response to a request for the document made under the Freedom of Information Act or this Order's Mandatory Review provision, refuse to confirm the existence or non-existence of the document, unless the fact of its existence or non-existence would itself be classifiable under this Order.

3-6. Downgrading.

3-601. Classified information that is marked for automatic downgrading is downgraded accordingly without notification to holders.

3-602. Classified information that is not marked for automatic downgrading may be assigned a lower classification designation by the originator or by other authorized officials when such downgrading is appropriate. Notice of downgrading shall be provided to holders of the information to the extent practicable.

SECTION 4. SAFEGUARDING.**4-1. General Restrictions on Access.**

4-101. No person may be given access to classified information unless that person has been determined to be trustworthy and unless access is necessary for the performance of official duties.

4-102. All classified information shall be marked conspicuously to put users on notice of its current classification status and, if appropriate, to show any special distribution or reproduction restrictions authorized by this Order.

4-103. Controls shall be established by each agency to ensure that classified information is used, processed, stored, reproduced, and transmitted only under conditions that will provide adequate protection and prevent access by unauthorized persons.

4-104. Classified information no longer needed in current working files or for reference or record purposes shall be processed for appropriate disposition in accordance with the provisions of Chapters 21 and 33 of Title 44 of the United States Code, which governs disposition of Federal records.

4-105. Classified information disseminated outside the Executive branch shall be given protection equivalent to that afforded within the Executive branch.

4-2. Special Access Programs.

4-201. Agency heads listed in Section 1-201 may create special access programs to control access, distribution, and protection of particularly sensitive information classified pursuant to this Order or prior Orders. Such pro-

28958

THE PRESIDENT

grams may be created or continued only by written direction and only by those agency heads and, for matters pertaining to intelligence sources and methods, by the Director of Central Intelligence. Classified information in such programs shall be declassified according to the provisions of Section 3.

4-202. Special access programs may be created or continued only on a specific showing that:

(a) normal management and safeguarding procedures are not sufficient to limit need-to-know or access;

(b) the number of persons who will need access will be reasonably small and commensurate with the objective of providing extra protection for the information involved; and

(c) the special access controls balance the need to protect the information against the full spectrum of needs to use the information.

4-203. All special access programs shall be reviewed regularly and, except those required by treaty or international agreement, shall terminate automatically every five years unless renewed in accordance with the procedures in Section 4-2.

4-204. Within 180 days after the effective date of this Order, agency heads shall review all existing special access programs under their jurisdiction and continue them only in accordance with the procedures in Section 4-2. Each of those agency heads shall also establish and maintain a system of accounting for special access programs. The Director of the Information Security Oversight Office shall have non-delegable access to all such accountings.

4-3. Access by Historical Researchers and Former Presidential Appointees.

4-301. The requirement in Section 4-101 that access to classified information may be granted only as is necessary for the performance of official duties may be waived as provided in Section 4-302 for persons who:

(a) are engaged in historical research projects, or

(b) previously have occupied policy-making positions to which they were appointed by the President.

4-302. Waivers under Section 4-301 may be granted only if the agency with jurisdiction over the information:

(a) makes a written determination that access is consistent with the interests of national security;

(b) takes appropriate steps to ensure that access is limited to specific categories of information over which that agency has classification jurisdiction;

(c) limits the access granted to former Presidential appointees to items that the person originated, reviewed, signed or received while serving as a Presidential appointee.

4-4. Reproduction Controls.

4-401. Top Secret documents may not be reproduced without the consent of the originating agency unless otherwise marked by the originating office.

4-402. Reproduction of Secret and Confidential documents may be restricted by the originating agency.

4-403. Reproduced copies of classified documents are subject to the same accountability and controls as the original documents.

4-404. Records shall be maintained by all agencies that reproduce paper copies of classified documents to show the number and distribution of reproduced copies of all Top Secret documents, of all documents covered by special access programs distributed outside the originating agency, and of all Secret and all Confidential documents which are marked with special dissemination and reproduction limitations in accordance with Section 1-506.

4-405. Sections 4-401 and 4-402 shall not restrict the reproduction of documents for the purpose of facilitating review for declassification. However,

THE PRESIDENT**28959**

such reproduced documents that remain classified after review must be destroyed after they are used.

SECTION 5. IMPLEMENTATION AND REVIEW.**5-1. Oversight.**

5-101. The National Security Council may review all matters with respect to the implementation of this Order and shall provide overall policy direction for the information security program.

5-102. The Administrator of General Services shall be responsible for implementing and monitoring the program established pursuant to this Order. This responsibility shall be delegated to an Information Security Oversight Office.

5-2. Information Security Oversight Office.

5-201. The Information Security Oversight Office shall have a full-time Director appointed by the Administrator of General Services subject to approval by the President. The Administrator also shall have authority to appoint a staff for the Office.

5-202. The Director shall:

(a) oversee agency actions to ensure compliance with this Order and implementing directives;

(b) consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the information security program, including appeals from decisions on declassification requests pursuant to Section 3-503;

(c) exercise the authority to declassify information provided by Sections 3-104 and 3-503;

(d) develop, in consultation with the agencies, and promulgate, subject to the approval of the National Security Council, directives for the implementation of this Order which shall be binding on the agencies;

(e) report annually to the President through the Administrator of General Services and the National Security Council on the implementation of this Order;

(f) review all agency implementing regulations and agency guidelines for systematic declassification review. The Director shall require any regulation or guideline to be changed if it is not consistent with this Order or implementing directives. Any such decision by the Director may be appealed to the National Security Council. The agency regulation or guideline shall remain in effect until the appeal is decided or until one year from the date of the Director's decision, whichever occurs first.

(g) exercise case-by-case classification authority in accordance with Section 1-205 and review requests for original classification authority from agencies or officials not granted original classification authority under Section 1-2 of this Order; and

(h) have the authority to conduct on-site reviews of the information security program of each agency that handles classified information and to require of each agency such reports, information, and other cooperation as necessary to fulfill his responsibilities. If such reports, inspection, or access to specific categories of classified information would pose an exceptional national security risk, the affected agency head may deny access. The Director may appeal denials to the National Security Council. The denial of access shall remain in effect until the appeal is decided or until one year from the date of the denial, whichever occurs first.

28960

THE PRESIDENT**5-3. Interagency Information Security Committee.**

5-301. There is established an Interagency Information Security Committee which shall be chaired by the Director and shall be comprised of representatives of the Secretaries of State, Defense, Treasury, and Energy, the Attorney General, the Director of Central Intelligence, the National Security Council, the Domestic Policy Staff, and the Archivist of the United States.

5-302. Representatives of other agencies may be invited to meet with the Committee on matters of particular interest to those agencies.

5-303. The Committee shall meet at the call of the Chairman or at the request of a member agency and shall advise the Chairman on implementation of this order.

5-4. General Responsibilities.

5-401. A copy of any information security regulation and a copy of any guideline for systematic declassification review which has been adopted pursuant to this Order or implementing directives, shall be submitted to the Information Security Oversight Office. To the extent practicable, such regulations and guidelines should be unclassified.

5-402. Unclassified regulations that establish agency information security policy and unclassified guidelines for systematic declassification review shall be published in the **FEDERAL REGISTER**.

5-403. Agencies with original classification authority shall promulgate guides for security classification that will facilitate the identification and uniform classification of information requiring protection under the provisions of this Order.

5-404. Agencies which originate or handle classified information shall:

(a) designate a senior agency official to conduct an active oversight program to ensure effective implementation of this Order;

(b) designate a senior agency official to chair an agency committee with authority to act on all suggestions and complaints with respect to the agency's administration of the information security program;

(c) establish a process to decide appeals from denials of declassification requests submitted pursuant to Section 3-5;

(d) establish a program to familiarize agency and other personnel who have access to classified information with the provisions of this Order and implementing directives. This program shall impress upon agency personnel their responsibility to exercise vigilance in complying with this Order. The program shall encourage agency personnel to challenge, through Mandatory Review and other appropriate procedures, those classification decisions they believe to be improper;

(e) promulgate guidelines for systematic review in accordance with Section 3-402;

(f) establish procedures to prevent unnecessary access to classified information, including procedures which require that a demonstrable need for access to classified information is established before initiating administrative clearance procedures, and which ensures that the number of people granted access to classified information is reduced to and maintained at the minimum number that is consistent with operational requirements and needs; and

(g) ensure that practices for safeguarding information are systematically reviewed and that those which are duplicative or unnecessary are eliminated.

5-405. Agencies shall submit to the Information Security Oversight Office such information or reports as the Director of the Office may find necessary to carry out the Office's responsibilities.

THE PRESIDENT

28961

5-5. *Administrative Sanctions.*

5-501. If the Information Security Oversight Office finds that a violation of this Order or any implementing directives may have occurred, it shall make a report to the head of the agency concerned so that corrective steps may be taken.

5-502. Officers and employees of the United States Government shall be subject to appropriate administrative sanctions if they:

(a) knowingly and willfully classify or continue the classification of information in violation of this Order or any implementing directives; or

(b) knowingly, willfully and without authorization disclose information properly classified under this Order or prior Orders or compromise properly classified information through negligence; or

(c) knowingly and willfully violate any other provision of this Order or implementing directive.

5-503. Sanctions may include reprimand, suspension without pay, removal, termination of classification authority, or other sanction in accordance with applicable law and agency regulations.

5-504. Agency heads shall ensure that appropriate and prompt corrective action is taken whenever a violation under Section 5-502 occurs. The Director of the Information Security Oversight Office shall be informed when such violations occur.

5-505. Agency heads shall report to the Attorney General evidence reflected in classified information of possible violations of Federal criminal law by an agency employee and of possible violations by any other person of those Federal criminal laws specified in guidelines adopted by the Attorney General.

SECTION 6. GENERAL PROVISIONS.

6-1. *Definitions.*

6-101. "Agency" has the meaning defined in 5 U.S.C. 552(e).

6-102. "Classified information" means information or material, herein collectively termed information, that is owned by, produced for or by, or under the control of, the United States Government, and that has been determined pursuant to this Order or prior Orders to require protection against unauthorized disclosure, and that is so designated.

6-103. "Foreign government information" means information that has been provided to the United States in confidence by, or produced by the United States pursuant to a written joint arrangement requiring confidentiality with, a foreign government or international organization of governments.

6-104. "National security" means the national defense and foreign relations of the United States.

6-105. "Declassification event" means an event which would eliminate the need for continued classification.

6-2. *General.*

6-201. Nothing in this Order shall supersede any requirement made by or under the Atomic Energy Act of 1954, as amended. "Restricted Data" and information designated as "Formerly Restricted Data" shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto.

6-202. The Attorney General, upon request by the head of an agency, his duly designated representative, or the Director of the Information Security Oversight Office, shall personally or through authorized representatives of the Department of Justice render an interpretation of this Order with respect to any question arising in the course of its administration.

28962

THE PRESIDENT

6-203. Executive Order No. 11652 of March 8, 1972, as amended by Executive Order No. 11714 of April 24, 1973, and as further amended by Executive Order No. 11862 of June 11, 1975, and the National Security Council Directive of May 17, 1972 (3 CFR 1085 (1971-75 Comp.)) are revoked.

6-204. This Order shall become effective on December 1, 1978, except that the functions of the Information Security Oversight Office specified in Sections 5-202(d) and 5-202(f) shall be effective immediately and shall be performed in the interim by the Interagency Classification Review Committee established pursuant to Executive Order No. 11652.



THE WHITE HOUSE,
June 28, 1978.

[FR Doc. 78-18505 Filed 6-29-78; 4:18 pm]

EDITORIAL NOTE: The President's statement of June 29, 1978, on issuing Executive Order 12065, is printed in the Weekly Compilation of Presidential Documents (vol. 14, No. 26).

THE PRESIDENT

28963

[3195-01]

Order of June 28, 1978

**Designation of Certain Officials Within the Executive Office of the President To Classify
National Security Information**

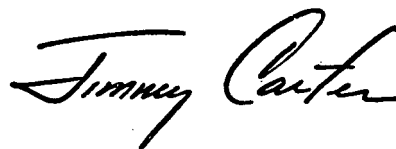
Pursuant to the provisions of Section 1-201 of Executive Order 12065 of June 28, 1978, entitled "National Security Information", I hereby designate the following officials within the Executive Office of the President to originally classify information as "Top Secret"

- The Vice President
- The Assistant to the President for National Security Affairs
- The Director, Office of Management and Budget
- The Director, Office of Science and Technology Policy
- The Special Representative for Trade Negotiations
- The Chairman, Intelligence Oversight Board

Pursuant to the provisions of Section 1-202 of said Order, I designate the Chairman of the Council of Economic Advisers and the President's Personal Representative for Micronesian Status Negotiations to originally classify information as "Secret".

Any delegation of this authority shall be in accordance with Section 1-204 of the Order.

This Order shall be published in the FEDERAL REGISTER.



THE WHITE HOUSE,
June 28, 1978.

[FR Doc. 78-18506 Filed 6-29-78; 4:19 pm]

Presidential Documents

Executive Order 12163 of September 29, 1979

Administration of Foreign Assistance and Related Functions

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, Reorganization Plan No. 2 of 1979, the International Development Cooperation Act of 1979, and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

1-1. UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

1-101. *Establishment of the United States International Development Cooperation Agency.* Sections 1, 5, 6, and 8 of Reorganization Plan No. 2 of 1979 are declared effective and the United States International Development Cooperation Agency (hereinafter referred to as "IDCA") is hereby established.

1-102. *Delegation of Functions.* (a) Exclusive of the functions otherwise delegated, or reserved to the President, by this order, and subject to the provisions of this order, there are hereby delegated to the Director of IDCA (hereinafter referred to as the "Director") all functions conferred upon the President by:

(1) the Foreign Assistance Act of 1961 (22 U.S.C. 2151 *et seq.*); (hereinafter referred to as the "Act");

(2) the Latin American Development Act (22 U.S.C. 1942 *et seq.*);

(3) section 402 of the Mutual Security Act of 1954 (22 U.S.C. 1922);

(4) section 413(b) of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2431); and

(5) title IV of the International Development Cooperation Act of 1979 (22 U.S.C. 3501 *et seq.*) (hereinafter referred to as the "IDC Act of 1979").

(b) The functions under sections 116(e), 491(b), 491(c), 607, 627, 628, 630(3), and 666 of the Act, and section 403(e) of the IDC Act of 1979, delegated to the Director shall be exercised in consultation with the Secretary of State.

(c) The functions under section 125(b) of the Act delegated to the Director shall be exercised in consultation with the Secretary of the Treasury and, with regard to the United Nations Development Program, in consultation with the Secretary of State.

(d) The Director shall exercise the functions of the President under sections 301(a), 301(e)(1), 301(e)(3), and 305 of the Act only insofar as they pertain to the United Nations Development Program, UNICEF, the Organization of American States Technical Assistance Funds, the United Nations Capital Development Fund, the United Nations Educational and Training Program for Southern Africa, the United Nations/Food and Agriculture Organization World Food Program, the Food and Agriculture Organization Post-Harvest Losses Fund, the United Nations Disaster Relief Organization, and any other international programs whose purpose is primarily developmental.

(e) In carrying out the functions under section 653 of the Act that are delegated to the Director, the Director shall consult with the Director of the Office of Management and Budget.

(f) To the extent practicable, the Director will exercise functions relating to Foreign Service personnel in a manner that will assure maximum compatibil-

(b) There are allocated to the Secretary of Defense funds made available for carrying out Part II of the Act (except chapters 4 and 6 thereof).

(c) There are allocated to the Secretary of State funds made available for carrying out sections 481 and 637(b) and chapter 6 of Part II of the Act.

1-802. Reallocation of Funds. The Director of IDCA, the Secretary of Defense, and the Secretary of State may allocate or transfer as appropriate any funds received under subsections (a), (b), and (c), respectively of section 1-801 of this order, to any agency or part thereof for obligation or expenditure thereby consistent with applicable law.

1-9. GENERAL PROVISIONS

1-901. Definition. As used in this order, the word "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

1-902. References to Orders and Acts. Except as may for any reason be inappropriate:

(a) References in this order or in any other Executive order to (1) the Foreign Assistance Act of 1961 (including references herein to "the Act"), (2) unrepealed provisions of the Mutual Security Act of 1954, or (3) any other act that relates to the subject of this order shall be deemed to include references to any subsequent amendments thereto.

(b) References in any prior Executive order to the Mutual Security Act of 1954 or any provisions thereof shall be deemed to be references to the Act or the corresponding provision, if any, thereof.

(c) References in this order to provisions of any appropriation Act, and references in any other Executive order to provisions of any appropriation Act related to the subject of this order shall be deemed to include references to any hereafter-enacted provisions of law that are the same or substantially the same as such appropriation Act provisions, respectively.

(d) References in this order or in any other Executive order to this order or to any provision thereof shall be deemed to include references thereto, respectively, as amended from time to time.

(e) References in any prior Executive order not superseded by this order to any provisions of any Executive order so superseded shall hereafter be deemed to be references to the corresponding provisions, if any, of this order.

1-903. Prior Executive Orders. (a) The following are revoked:

- (1) Executive Order No. 10973 of November 3, 1961, as amended;
- (2) section 2(a) of Executive Order No. 11579 of January 19, 1971; and
- (3) Executive Order No. 10893 of November 8, 1960.

(b) The following are amended:

(1) section 3(a) of Executive Order No. 11846 of March 27, 1975, as amended, by adding the following new paragraph (12) after paragraph (11):

"(12) The Director of the United States International Development Cooperation Agency";

(2) section 1-202 of Executive Order 12065 of June 28, 1978, by striking out "The Administrator, Agency for International Development" and inserting in lieu thereof "The Director of the United States International Development Cooperation Agency";

(3) section 2(a) of Executive Order No. 11958 of January 18, 1977, by striking out "the Administrator of the Agency for International Development" and inserting in lieu thereof "the Director of the United States International Development Cooperation Agency";

(4) section 3 of Executive Order 10900 of January 5, 1961, by adding thereto the following new subsection: