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25 July 1977

MEMORANDUM FOR: Assistant for Information, DDA
VIA: Chief, Information Systems Analysis Staff
FROM:
Records Review Branch/ISAS
SUBJECT: PRM-29 and the Revision of Executive
Order 11652
REFERENCE: Issues Paper for SCC Meeting on PRM/NSC 29
Comprehensive Review of the Classification
System

1. (U) The following represents the thoughts and recommendations of the Records Review Branch including the four Directorate representatives concerning the reference paper. The comments are keyed to the paragraphs.

2. (U) In addition, I have included a brief description of the Agency's Declassification Program at the end.

(U) Security Information Oversight Office (Tab 1)

Recommend acceptance of this proposal.

(U) Sanctions (Tab 2)

Although difficult to enforce, recommend acceptance of this proposal.

(U) Secrecy Agreements (Tab 3)

Recommend acceptance of this proposal.

(U) Compartmentation Agreements (Tab 4)

Recommend acceptance of this proposal although I believe that it should be expanded to give the DCI control of all compartmentation arrangements dealing with foreign intelligence.

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(U) Information Warranting Protection (Tab 5)

Concur with the continued use of the term "National Security" as the definition covering material requiring continued protection.

(U) Paragraph Classification Markings (Tab 6)

Concur with the proposal to require paragraph classification marking. Believe ERDA and [] position to make marking mandatory "to the extent practicable," would make the entire proposal rather meaningless.

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(U) Requests for Declassification Review of Documents Less than Ten Years Old (Tab 7)

Recommend that this proposal be supported.

(U) Classification of Information (Tab 8)

- a. Limiting the period of classification of confidential and secret material to six years unless classified by an individual possessing top secret authority:

Strongly believe that the CIA should seek an exemption from this policy or that the Agency be prepared to increase the number of top secret classifiers. Do not think that six years would be adequate protection for much of the secret and confidential material now being classified by individuals who do not have a top secret classification authorization.

- b. The 20 Year Time Limit for Review and Declassification:

Over and over again, it has been pointed out that the new 20 year time limit cannot be avoided since it is mentioned in the PRM; however, if one takes time to read the PRM, you find that the only place where 20 years is mentioned is the below statement:

"The committee should consider, which categories of classified material more than 20 years old could be declassified in bulk under appropriate guidelines."

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In no place does the PRM state that a 20 year time limit for the review of all classified material is requested by the President. What we have, I fear, is a group of individuals trying to win presidential favor by exceeding the goals set by the President in the PRM.

In any event, I strongly oppose a 20 year time limit from a practical point of view. I believe that Agency management should be made aware of the fact that such a reduction in the time frame would present the Agency with an instant backlog of an estimated 28,500,000 classified documents. The manpower and resources required to eliminate this backlog would unnecessarily tax the Agency and interfere with its primary objective of producing intelligence.

Strongly recommend the retention of the 30 year limit.

c. Automatic Declassification after 20 (or 30) years:

First, believe that this should be changed to read mandatory review rather than automatic declassification and secondly, that due to the large volume of records to review, it would be impossible to review each document exactly on the 20th (or 30th) year from its origination. Therefore, strongly recommend that the new executive order be worded so that an agency would not be penalized if it was striving to obey the time requirement by conducting a systematic review but had failed to review a part of its records within the required time.

d. Review to be conducted in accordance with guidelines issued by the head of department (i.e., DCI):

Believe that the development of guidelines approved by the DCI is the only practicable way to conduct the declassification review. The current system of having the head of department verify by signature each record that should retain its classification is unworkable and ridiculous. (See Tab 15)

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(U) Classification Criteria (Tab 9)

Recommend that CIA reserve judgement until exact language is drafted. I do, however, have some comments about the examples supplied.

a. Para B, line 4: Remove the word military. This unnecessarily limits the type of possible threat to the United States.

b. Para E, line 4: After the word attack, add collect foreign intelligence information, or to conduct foreign relations.

c. Para G: Change to read: The information is required by statute, treaty or international agreement.

(U) Prohibitions Against Improper Classification (Tab 10)

Recommend continuance use of present executive order language. This provides sufficient safeguard against improper classification. CIA should reserve judgement of any expansion of the wording until after the draft has been written.

(U) Declassification (Tab 11)

It is very important that the new executive order state that only permanent records are to be reviewed for declassification. It would be absurd to waste time and resources reviewing records scheduled for destruction. Fully concur with the recommendation to include such a statement.

Along the same lines, it may also be of value to allow agencies to identify categories of records (e.g., Agent 201 files) that would not be subject to review and declassification since the percentage of material that could be released would be negligible. In the CD-2 Panel this was the unanimous opinion; however, like many other items it has been eliminated from the discussion. (Even though this was felt by the panel members to be part of the answer to the question asked by the PRM about bulk declassification.)

While on the topic of bulk declassification, RRB has conducted a brief survey to see if bulk declassification is possible within the Agency. Unfortunately, we have found that the Agency's records are so mixed together, that bulk declassification is impossible.

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(U) Foreign (Government) Information Provided to the United States (Tab 12)

Before discussing this matter, I would like to make a couple of points:

- a. The review and declassification of foreign material is not mentioned in the PRM as an objective.
- b. Having sat on the initial CD-2 Panel, I know that this amendment was voted down six to one yet was still presented to the Ad Hoc Committee as a desirable recommendation by the representative of the National Archives.
- c. The sole purpose of this amendment is to aid the National Archives in the "administration" of foreign material. The individuals who support this motion freely admit that there is a possibility that foreign relations could be damaged but feel that it is worth the risk!

With the above in mind, I strongly urge that the CIA opt for the exclusion of foreign material from the declassification review. (It is excluded in the present executive order.)

The key element in collecting foreign intelligence is to establish a mutual trust and confidence with the source that he or she will be protected from disclosure. If an executive order is printed and signed by the President that states that foreign source material will be treated by U.S. criteria and standards for possible declassification, this confidence and trust will be destroyed and will severely hurt our intelligence gathering capability regardless of any additional verbal or written guarantees the Agency provides.

(U) Standards for Trustworthiness (Tab 13)

Do not believe that this subject belongs in an executive order dealing with classification and declassification. This topic has been pushed by the committee chairman, Mr. Art VanCook, of the DOD for personal reasons.

(U) 20-Year Declassification (Tab 14)

The only possible way to obey the executive order and to provide adequate protection for classified CIA material is for trained CIA personnel to conduct a document by document review based upon review guidelines approved by the DCI.

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The Agency cannot rely upon the National Archives to conduct this review and in fact, has been so informed by Mr. Edwin Thompson, Chief of the Declassification Branch at the National Archives. He simply does not have enough qualified personnel. Now there may be exceptions to the above, such as the relatively non-sensitive FBIS material which is already held by NARS. Guidelines are currently being prepared by the Agency that would permit NARS personnel to review this material. But this is an exception!

To support RRB's contention that a declassification review within the Agency will be a rather complex effort, we recently conducted a detailed records survey of the 1946-1956 material held at the Agency's Archives Section. These records were chosen since they had been "retired" and, therefore, from a records management standpoint, in the best condition as far as shelf lists, supporting documentation, etc. Our findings were as follows:

- a. Many records were improperly retired resulting in temporary files being mixed with the permanent ones.
- b. No one really knew what was in the Archives including many records officers.
- c. The volume of records to review greatly exceeded expectations.
- d. There is a horrible blend of good permanent information mixed with worthless junk!

Because of the less than satisfactory condition of the files and the blend of material contained in them, strongly recommend that the Agency's records review be conducted only by trained, experienced CIA personnel.

(U) Classification Guidelines (Tab 15)

The Records Review Branch in cooperation with various Agency Office Staffs, is in the process of writing declassification guidelines. As of this writing, those of the DDA are almost complete and it is estimated that those of the DDI and DDS&T will be completed by the end of August. It should be noted that guidelines are "living documents" subject to constant change. We picture our guidelines in the same sense. This idea is reinforced by [redacted] an RRB staff member. [redacted] spent eight years working at NARS, four of which he was a section chief with the Declassification Division. He probably has more detailed knowledge and experience in the field of declassification than anyone else within the Agency.

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We strongly support the concept of declassification guidelines with the following reservations:

- a. That Agency guidelines be used by Agency reviewers and not by National Archives personnel except when reviewing relatively non-sensitive material (e.g., FBIS).
- b. The concept of changing or "living" guidelines be accepted.
- c. Guidelines developed for review of Agency material be specifically internal documents and not be coordinated with NARS for approval. Separate guidelines for properly cleared and trained NARS personnel can be developed as the need arises, as in the case of FBIS.

(U) Balancing Test (Tab 16)

A completely ridiculous and unworkable concept which CIA should oppose at all costs.

The opposition to the "balancing test" cannot be too strongly stated. If any judgement would be "arbitrary and capricious" it is a judgement based on subjective criteria by a person not only uninformed in intelligence subjects but downright hostile to the intelligence community. I am worried not only about the problems of a judge or a DOD and NSC official trying to make such a subjective judgement, but also about a reference archivist making such a decision, since thousands of Agency documents are scattered in files retired to NARS and the Presidential Libraries. The tab writer refers to the idea being "difficult, burdensome, and unworkable". Mr. Axelrad dwells on litigation problems. We should, I think, say that, from an intelligence standpoint, the "balancing test" is downright dangerous. Stressing the obvious is very important here.

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THE RECORDS REVIEW BRANCH

Established: 2 May 1977

Location: 6C25 Headquarters

Current Staff: Full-time Employees

Specific Responsibility: Systematic review and declassification of 30 year old classified Agency records.

Project Objective: Compliance with Executive Order 11652 and 11905 to make, "information regarding the affairs of Government readily available to the public."

Current Objectives:

1. Prepare declassification guidelines.
2. Coordinate with the Records Administration Branch, a records survey for the purpose of separating Agency records into temporary and permanent files based upon approved General Records Schedules.
3. Establish liaison with declassification units in other Government Departments in order to work out problems of mutual concern.

(The first two objectives must be completed before an actual declassification review may begin.)

Major Problems:

1. The large volume of records to review. There is an estimated 1,500,000 per year for the 1946-50 period and 3,500,000 per year for the 1951-56 period.
2. The many different types of filing systems within the Agency.
3. The duplication of a large number of records and the need for a consistent judgement during the review process due to both legal and political considerations.
4. The scattered locations of the records to be reviewed.
5. The large numbers of CIA documents held by other Agencies for which we retain review responsibility.

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6. Existing backlog of documents more than 30 years old.
(1946-47 material)

Requirements: Guidance from Agency Management Concerning:

1. What resources are to be committed for this task?
 - a. personnel
 - b. money
 - c. equipment (e.g. computers)
2. How is material to be released to NARS? the Public?
3. Are there any special instructions concerning the review?

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If any additional information is required concerning
this paper please contact me

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