

4 April 1977

MEMORANDUM FOR: Chief, Information Systems Analysis Staff

FROM :   
ISAS/Records Review Branch

SUBJECT : A Hook In Leviathan  
(or: What Is Declassification?)

REFERENCES : a. Conversation of 31 March 1977  
b.  Submission of 30 March 1977

1. It would appear that a number of significant misconceptions continue to exist outside ISAS concerning the nature of the Agency's nascent 30-year declassification program. The more that policy is discussed in terms of these misconceptions, the more difficult it becomes to develop the necessary program to meet the Agency's legal responsibilities. Although the declassification program now being formulated bears a certain generic relationship to existing programs (in that all relate to records), it is a unique function that can be mixed with others only to the detriment of all. The information which follows is presented in the name of clarification and is based upon past experience.

2. The prime directive for the declassification program is that portion of EO 11652 which states: "All classified information or material which is thirty years old or more...shall be declassified...except for such specifically identified information or material which the head of the originating Department personally determines in writing... to require continued protection because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy." EO 11905 ratifies this responsibility by charging the Director of Central Intelligence with the specific responsibility for establishing "a vigorous program to downgrade and declassify foreign intelligence information as appropriate and consistent with Executive Order No. 11652." A further executive order, expected in June, will reduce the time period to twenty years.

The aim of the declassification program is, therefore, to locate, identify, and withdraw those documents which contain national security sensitive information to be certified by the DCI as requiring continued protection. The remainder of the file, of which such documents are a part, is then declared to be unclassified.

3. Provisions of the Privacy Act and other laws or regulations effecting personal privacy remain in effect on files "declassified" from a "national security" standpoint. Determining if declassified files fall within the bounds of these requirements is a function entirely separate from determining whether or not a "national security" sensitivity exists. Records must be releasable from both standpoints. (The closing of the [ ] file, on privacy grounds, by the National Archives staff after being declassified by the Agency is a case in point.) The declassification staff should not be involved in the determination of "privacy" questions. STATINTL

4. The nature and procedures of a thirty-year declassification program differ significantly from an FOIA/mandatory review program. An FOIA/mandatory review program is essentially random in nature. It is concerned with the piecemeal review, on a demand basis, of assorted documents from a variety of files. The ultimate fate of these files under scheduling is irrelevant. No matter how large the request may be from an individual, the response is on an ad hoc basis to specific need or demand.

In contrast, declassification is systematic in nature. It is concerned with entire files. These files are the ones officially considered to be of permanent, historical value. All records within each permanently valuable file are treated as part of a unity, no matter how individually trivial a particular document may appear. The file is thus treated as a whole for declassification purposes and the integrity of its contents ("provenance") is never disturbed. All records in it are reviewed for declassification, not just those approaching 30 (or 20) years of age. The entire file is identified as "unclassified," not individual documents. If continued protection is deemed necessary, a document is withdrawn and a notice is placed in file to alert users to that effect. Withdrawn documents are segregated by file unit and in file order for retrieval and control. Lists of

those documents requiring continued protection are signed by the DCI and held, subject to public inspection, by the National Archives. Records are kept on each step of the declassification process.

5. In a systematic declassification program, there should be few, if any, ad hoc "seat-of-the-pants" procedures. Those conducting the declassification review must be specifically authorized to make binding declassification decisions. Those components originating the information contained in the files to be reviewed must prepare guidelines giving concise and explicit instructions to reviewers concerning what must be protected and what may be released. A formally designated focal point officer within the directorates and independent offices is necessary. Liaison contacts outside the Agency to arrange for the declassification of non-Agency material is required on a formal, official basis. All of this designating and delegating must be by written directive, authoritatively signed.

6. In a systematic declassification review program, the degree to which any file can be declassified depends upon the degree to which the originators of the information contained in that file have delegated declassification authority. It is a truism that the more highly sensitive a file, the more such authorities there will be. These records will also be the most sought-after. No matter what the demand however, nothing is served by reviewing a file without the necessary declassification authorities. Otherwise the end result will be an empty box. STATINTL

7. The unit conducting the systematic review program should have no interface with any sort of researcher. The proper end result of its effort is the retirement to the National Archives of unclassified historically valuable files

for public use, as required by law. By law, the National Archives is the component of the executive branch which holds and provides reference service on permanent noncurrent federal records for the public. No mandate exists for the Agency to compete in this function and no facilities exist for this purpose unless the Agency Archives and Records Center is opened to the general public. Federal agencies (such as the Departments of the Army and Navy) which have established their own public archives have become embroiled in extended and often acrimonious disputes with NARS. The Army facility eventually went to NARS; the squabble with the Navy continues. As long as the Agency Archives is oriented toward its own use, it is secure. To make records available to selected researchers sub rosa is asking for a great deal of trouble. Therefore, the matter of fees should not be one of concern to a declassification unit. It is not unreasonable for a declassification unit to respond to the FOIA/mandatory review needs of IPS, but only within the limits of its own work program and the limits of its declassification authority. Responses to researcher requests should remain with IPS.

8. Concomitant with (7), is the question of access to Agency-originated records in Presidential Libraries by official government researchers. The responsibility for granting such access has floated. Recently it settled within the ISAS declassification staff, which has sought to develop a standard policy. However, the Chief of the History Staff has argued with great eloquence that this responsibility belongs to his unit. Since this function is, strictly speaking, not one of declassification but of reference service, it could well be placed within the History Staff, provided a uniform access policy is developed suitable to all Agency components, especially the DDO. The responsibility for reviewing those classified Agency records held by the Presidential Libraries is clearly with the declassification unit, provided that they fall within its enabling authority.

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