

**STATEMENT OF STEVEN GARFINKEL  
DIRECTOR, INFORMATION SECURITY OVERSIGHT OFFICE\*  
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION**

**before the**

**COMMITTEE ON GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE**

**July 26, 2000**

Mr. Chairman and Members of the Committee:

I am very pleased to appear before you today to express strong support for the enactment of S. 1801, the "Public Interest Declassification Act," as that legislation has been modified to meet the concerns of the Administration. As director of the Information Security Oversight Office, or "ISOO," I am the executive branch official primarily responsible for monitoring government-wide compliance with the security classification and declassification policies that the President issues through Executive order. The director of ISOO would also serve as Executive Secretary of the Public Interest

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\* The Information Security Oversight Office, or ISOO, is responsible for overseeing Government-wide implementation of the security programs under Executive Order 12958, "Classified National Security Information," and Executive Order 12829, "National Industrial Security Program." ISOO is also responsible for reporting annually to the President on the status of these programs. Created in 1978, ISOO became a component of the National Archives and Records Administration in November 1995. In addition to reporting to the Archivist of the United States, the Director of ISOO receives policy guidance from the National Security Council.

Among its functions, ISOO: (1) develops implementing directives and instructions; (2) maintains liaison with all agencies that create or handle classified information; (3) inspects agency programs and reviews their classified records; (4) receives and responds to public complaints, appeals and suggestions; (5) collects and reports to the President and Congress relevant statistical data about the security classification program, including data about its costs; (6) serves as a spokesperson for information about the security classification program; (7) provides program and administrative support for the Interagency Security Classification Appeals Panel; and (8) recommends policy changes to the President through the National Security Council.

Declassification Board should S. 1801 be enacted in its current form. I appear before you today to express support for the revised legislation on behalf of the Administration and from my personal perspective as director of ISOO.

My support for S. 1801 arises from my belief that the establishment of the Public Interest Declassification Board, or "the Board" as I will refer to it, could not come at a more propitious time. Over the past five years, we have witnessed unprecedented progress in declassifying the vast archives of classified information that has built up since World War II. Under the policies of Executive Order 12958, issued in 1995, the agencies of the executive branch, to their great credit, have declassified many hundreds of millions of pages of classified information. This information is contained in those records that have been determined by the Archivist of the United States to have permanent historical value. I call to your attention the chart attached to my statement and posted as an exhibit, which illustrates the enormous progress we have made and the challenges that remain.

To many interested observers, this progress in declassification, while laudatory, is only the beginning of what needs to be done to make available to the American people those heretofore secret archives of governmental activity. To other observers, declassification has proceeded at too rapid a pace, outstripping our ability to be certain that we are not opening up information that needs to remain confidential in order to protect our national interests, and at a cost that is too expensive to maintain on an annual basis.

The establishment of the Board offers the opportunity, at a modest cost, for a panel of experts to provide its immediate and continuing objective evaluation of these policies and their implementation. The timing could not be more critical. In January 2001, a new President will take office. Because the security classification system has historically been based upon Executive order, the new President will very quickly receive conflicting advice about what should be done with respect to the policies of E.O. 12958. Some will urge its continuation or expansion. Others will argue for its modification or fine-tuning. And still others will recommend that the President revert to the policies of the past with respect to the declassification, or, some would say, the absence of declassification of information. The existence of this Board of experts suggests that any action that the President ultimately takes will benefit from a reasoned and reasonable analysis of the myriad options that will be urged upon him.

The creation of the Board portends another positive development – a more objective analysis of special declassification projects before they are enacted. While each of these programs may be argued to be in the public interest, each comes with significant costs. First and foremost in my view, a special program diverts tremendous resources away from general access to information programs like systematic declassification, and from Freedom of Information or mandatory review for declassification actions. The individuals who are reviewing records for declassification in order to comply with a special program are not new hires. They are the same people who would otherwise be declassifying records in an order based upon an analysis of costs and benefits, or who would be responding to the hundreds of thousands of Freedom of Information requests

that the agencies of the executive branch receive each year. While those who are primarily interested in the subject matter of a special declassification program may benefit from enhanced access to these particular records, others, whose interest in access is just as important to them, will suffer vastly increased delays in the processing of their requests. Perhaps more ominous for them, their requests may be undertaken by far less experienced reviewers, who are far less likely to declassify the information.

I am not suggesting that all special declassification programs should be avoided. To be sure, at times current events or circumstances demand that we pay special attention to making publicly available the records of a particular subject. What we should try to avoid, however, are situations in which the interests of the few take precedence over the interests of the many. The Board will be particularly well suited to provide its expertise on these matters.

Another area to which the Board should be able to contribute significantly is classification management and policy. Even though the Cold War ended a decade ago, we remain in a transitional period between the Cold War era and the post-Cold War era as far as our national security policies go. Moreover, we are in the midst of a technological revolution whose product is greatly enhanced public access to information. In this environment, the policies and decisions that we make regarding security classification are more difficult and problematical. Not that many years ago, a classified secret existed on several pieces of paper and in the minds of a few individuals. Today, the same type of secret can be and often is distributed to hundreds

of computer terminals, with thousands of individuals potentially having access to it. And the small electronic medium on which that secret is stored may also store thousands of other secrets. The Board's insights will bring a welcome perspective to our efforts to cope with this dilemma.

From the point of view of the Board's potential Executive Secretary, I anticipate that the costs associated with the Board will be quite modest. ISOO's infrastructure is long established, allowing it to serve as the staff for the Board and its Chairperson with minimal start-up costs. I also anticipate that very modest increased staff resources should be sufficient to provide administrative support for the Board. Strong communication between the Chairperson and the members, and between the Chairperson and the Executive Secretary, and given the technological resources available today, portends the ability to conduct the Board's business without formally convening its membership excessively.

Mr. Chairman and Members of the Committee, as I stated above, the establishment of the Public Interest Declassification Board could not come at a more propitious time for providing expert advice on the timely issues of classification and declassification policy. Over the past several years, its existence and input would, in my view, have been most welcome and helpful. I think, for example, of those occasions when the Congress has considered the impact of our declassification program on the protection of information classified under the Atomic Energy Act; or when the Congress and the Administration have considered the establishment of a number of special declassification projects; or

as the Congress now considers legislation that would establish a new criminal provision for the unauthorized disclosures of classified information. As a new presidential administration assumes office, these examples will surely multiply. The Public Interest Declassification Board offers a means to help achieve reasonable solutions to the controversies inherent in Government secrecy, and classification and declassification policy. Therefore, on behalf of the Administration I most strongly recommend your positive action on S. 1801.