

Formal Statement

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Chairman Shays, Mr. Kucinich, and members of the subcommittee, I wish to thank you for holding this hearing on issues relating to information access restrictions as well as for inviting me to testify today.

By section 5.2 of Executive Order 12958, as amended, "Classified National Security Information," the President established the organization I direct, the Information Security Oversight Office, often called "ISOO." We are within the National Archives and Records Administration and by law and Executive order (44 U.S.C. 2102 and sec. 5.2(b) of E.O. 12958) are supervised by the Archivist of the United States, who appoints the Director, ISOO with the approval of the President. Under Executive Orders 12958 and 12829 (which established the National Industrial Security Program) and applicable Presidential guidance, the ISOO has substantial responsibilities with respect to classification of information by agencies within the Executive branch.

The classification system and its ability to restrict the dissemination of information the unauthorized disclosure of which would result in harm to our nation and its citizens represents a fundamental tool at the Government's disposal to provide for the "common defense." The ability to surprise and deceive the enemy can spell the difference between success and failure on the battlefield. Similarly, it is nearly impossible for our intelligence services to recruit human sources who often risk their lives aiding our country or to obtain assistance from other countries' intelligence services, unless such sources can be assured complete and total confidentiality. Likewise, certain intelligence methods can work only if the adversary is unaware of their existence. Finally, the successful discourse between nations often depends upon constructive ambiguity and plausible deniability as the only way to balance competing and divergent national interests.

As with any tool, the classification system is subject to misuse and misapplication. When information is improperly declassified, or is not classified in the first place although clearly warranted, our citizens, our democratic institutions, our homeland security, and our interactions with foreign nations can be subject to potential harm. Conversely, too much classification, the failure to declassify information as soon as it no longer satisfies the standards for continued classification, or inappropriate reclassification, unnecessarily obstructs effective information sharing and impedes an informed citizenry, the hallmark of our democratic form of government. In the final analysis, inappropriate classification activity of any nature undermines the integrity of the entire process and diminishes the effectiveness of this critical national security tool. Consequently, inappropriate classification or declassification puts today's most sensitive secrets at needless increased risk.

Recent attention focused on the withdrawal of previously declassified records from the open shelves of the National Archives exemplifies how the classification system can be misapplied. While an audit of this activity by my office is still underway and I do not want to presuppose final results, at this time we see the need for the following:

- Develop an Executive branch-wide approach to declassification of records that better integrates individual agency efforts, is more reliable in results, and is more efficient in process
- Enhance agency understanding of each other's sensitive information
- Provide additional training that develops the needed understanding
- Establish centralized databases and other resources to facilitate sound declassification decisions
- Provide for greater consistency in the level of review applied to records
- Preclude redundancies in security reviews
- Increase the interface between declassification reviews done under the Executive order and those for other requests for access to information such as the Freedom of Information Act (FOIA)
- Establish centralized priorities
- Achieve greater rationalization of resources
- Improve oversight.

In response to these challenges, I am pleased to report that the principal agencies involved in conducting classification reviews of records accessioned into the National Archives have agreed, in principle, to create a pilot National Declassification Initiative, with the objective of more effectively integrating the work they are doing in this area. This initiative is intended to address the policies, procedures, structure and resources needed to create a more reliable Executive branch-wide declassification program. The details of this proposal need to be further developed and implemented during the weeks and months to come.

As Director of ISOO, I believe the keys to the success of a National Declassification Initiative are to ensure that it has the authority, expertise and resources to ensure the decisions to either declassify or continue the classification of historically valuable

permanent records of the Federal government are appropriate and reflect the best informed judgments of all parties. There are a number of examples where a concerted Executive branch-wide approach has worked in the past two decades, such as the Iran-Contra, POW/MIA, Chile-Pinochet, and Nazi War Crimes reviews.

Furthermore, I believe that a National Declassification Initiative could assist in the development of standardized guidelines and protocols, provide a forum for agencies to better understand the various dynamics entailed in assessing and determining the appropriate action to take following a declassification review, and ensure greater consistency in results. This initiative, representing a “confederation” of existing agency authorities, expertise, and resources, could also help fill critical training voids for agency personnel involved in declassification reviews. Ideally, it would eventually streamline the multiple, independent agency reviews of the same material, and therefore be substantially more fiscally prudent than the current declassification review process.

Recognizing that a focus of this hearing includes policies and procedures for handling Sensitive But Unclassified (SBU) information, it is important to articulate recent initiatives by the President to ensure the robust and effective sharing of terrorism information vital to protecting Americans and the Homeland from terrorist attacks. To that end, this past December the President announced a set of guidelines and requirements that represent a significant step in the establishment of the Information Sharing Environment (ISE) called for by section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA). Specifically, in order to promote and enhance the effective and efficient acquisition, access, retention, production, use, management, and sharing of SBU information, including homeland security information, law enforcement information, and terrorism information, the President has mandated the standardization of procedures for designating, marking, and handling SBU information across the Federal Government. Clear milestones and accountability for achieving this goal have been laid out for the entire Executive branch.

Again, I thank you for inviting me here today, Mr. Chairman, and I would be happy to answer any questions that you or the subcommittee might have at this time.