

# SETTING PRIORITIES:

*An*  
**Essential Step**  
in Transforming Declassification

A SUPPLEMENTAL REPORT *of the*



**PUBLIC INTEREST  
DECLASSIFICATION BOARD**

DECEMBER 2014



# PIDB

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December 8, 2014

The Honorable Barack Obama  
President of the United States  
Washington, DC 20500

Dear Mr. President:

The Public Interest Declassification Board (the PIDB) is pleased to provide you with *Setting Priorities: An Essential Step in Transforming Declassification*, a report supplementing key recommendations in our 2012 Report, *Transforming the Security Classification System*. These two reports address the task assigned by your Implementing Memorandum (December 29, 2009) for the PIDB to work with the National Security Advisor to design a fundamental transformation of the security classification system.

We came to realize that prioritizing declassification efforts by important topic areas would be a most effective and efficient way to carry out the PIDB's open government and transparency objectives. After studying declassification practices in use at agencies and at the National Declassification Center (NDC), we concluded that a coordinated government-wide policy focused on declassifying historically significant records with greatest interest to the public made most sense. The *Setting Priorities* report lays out the case for that approach.

Declassification policy remains virtually unchanged since automatic declassification started almost three decades ago. We credit automatic declassification for driving the declassification of over a billion pages of records since then. However, automatic timelines now increasingly impede agencies and the NDC from thoughtfully managing their declassification work. Queues for Freedom of Information Act and Mandatory Declassification Review requests are increasing as pass/fail reviews impede access to information sought by the public.

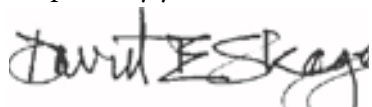
The exponential growth of classified digital records also compels paying less attention to quantity and more to the quality of records reviewed to increase access to information *of substance*. This qualitative aspect of selecting records for declassification will become even more important as an austere budget climate limits resources.

The *Setting Priorities* report offers a structure for ordering declassification policies in this environment. With input from the public, agency classifiers, declassifiers and historians, the report lists topics we believe comprise a sound basis for discussions within government on next steps. Included are topics pertaining to no-longer-sensitive historical nuclear information, an area you noted in your *Second Open Government National Action Plan*.

We hope these recommendations will assist the Records Access and Information Security Interagency Policy Committee/Classification Reform Committee (RAIS IPC/CRC) in its mission to improve government-wide classification practices and then help the NDC and agencies in implementing any policy changes made by the RAIS IPC/CRC.

The PIDB is grateful for the opportunity to facilitate needed change in the government's treatment of national security information and will continue to report to you our views on transforming the security classification system.

Respectfully yours,



David E. Skaggs  
Acting Chair

# Recommendations

## For Setting Priorities in Declassification

- 1 Topic-based declassification should be the normal process rather than the exception.
- 2 The National Declassification Center, in consultation with the public and with agencies, should design and implement a process to solicit, evaluate and prioritize standard topics for declassification government-wide.
- 3 End pass/fail determinations and identify necessary redactions for topic-based reviews.
- 4 The government should require agencies to develop and use new technologies to assist and improve declassification review.
- 5 Agencies and the National Declassification Center must improve risk management practices.
- 6 Revisions to the current Executive Order are needed to lessen the burden of automatic declassification on agencies in support of topic-based declassification review.

# Executive Summary

As an advisory board committed to open government and transparency initiatives, the Public Interest Declassification Board (the PIDB) continues to advocate reform of the security classification system. As an extension to the PIDB's 2012 *Report to the President on Transforming the Security Classification System*, this supplemental report focuses on topic-based declassification prioritization. In it, the PIDB makes the case for the government to adopt a centralized approach to topic-based prioritization and recommends specific policy and process changes aimed at improving access to historically significant records most sought-after by the public. With input from the public, agency classifiers, declassifiers and historians, the recommendations found in this supplemental report are meant to assist the Records Access and Information Security Interagency Policy Committee/Classification Reform Committee (RAIS IPC/CRC) in its work of evaluating the PIDB's 2012 Report recommendations and developing a government-wide approach to transforming classification. Additionally, this supplemental report should help guide the National Declassification Center (NDC) and agencies in implementing any policy changes made by the RAIS IPC/CRC.

Although responsible for the declassification of over one billion pages of records since 1995, the declassification policy known as “automatic declassification” created by Executive Order 12958, “Classified National Security Information,” and continued in its successor Executive Order, E.O. 13526, nonetheless encourages the wasteful use of limited resources. It focuses declassification review efforts on those records approaching 25 years of age, regardless of historical value or researcher interest. Automatic declassification means that records with little

or no perceived historical value or researcher interest receive the equal review treatment as records of great historical significance and high researcher interest. Automatic declassification should no longer be the sole policy driving declassification programming across government. It is not meeting the objectives of the President's Executive Order and has, in fact, brought about expensive re-reviews, added unnecessary costs and fueled a risk adverse process that limits quality declassification review.

As the volume of information continues to increase exponentially in the digital era, topic-based prioritization would ensure declassification review of records of the greatest potential for use by the public, historians, public policy professionals and the national security community itself. It also would more closely align with electronic infor-

mation management practices designed to ensure discovery and access to relevant information. The PIDB provides six recommendations in support of topic-based prioritization in order to transform the management of national security information by giving attention to records of greatest public interest:

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**1 Topic-based declassification should be the normal process rather than the exception.**

By using established topical priorities (rather than solely age) to organize the review of classified records, the government can focus limited resources on the records most important to the public and of greatest interest to researchers. Topic-based prioritization will depend on communication and coop-

eration among historians, policymakers, classifiers, records and information managers, declassification reviewers and technologists to ensure agencies have preserved the records of highest value and greatest public interest and are able to conduct quality reviews.

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**2 The National Declassification Center, in consultation with the public and with agencies, should design and implement a process to solicit, evaluate and prioritize standard topics for declassification government-wide.**

Establishing effective priorities that satisfy the widely varied interests of researchers, the public and the needs of agencies will not be simple and

will require senior-level decision-making. Public participation in this process will be critical to its success.

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**End pass/fail determinations and identify necessary redactions for topic-based reviews.**

Pass/fail review necessitates wasteful, expensive re-reviews of records first reviewed only in part

and should no longer be an acceptable practice for agencies to conduct.

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**The government should require agencies to develop and use new technologies to assist and improve declassification review.**

When seeking out technologies, agencies should use a coordinated, government-wide approach to better leverage resources and technical expertise. The use and sharing of workflow technological tools should increase across the government. Beyond workflow tools,

the government remains in need of advanced technological tools to assist analysis and decision-making in support of declassification review. Policy changes should support the adoption of these technologies, including advanced analytics and machine-learning.

## 5 Agencies and the National Declassification Center must improve risk management practices.

A centralized declassification policy that focuses on high-value records of public interest is a first step to better manage limited resources and deliver public access to records under a consistent risk management policy. The government must study and pilot

risk management principles already realized in the private sector in order to better understand how formalized, statistically-based processes will more precisely mitigate risk for the purposes of declassification.

## 6 Revisions to the current Executive Order are needed to lessen the burden of automatic declassification on agencies in support of topic-based declassification review.

While ideally the government should do both, severely limited resources in this area requires tough choices. Lessening the burden of automatic declassification, however, should not reduce the overall declassification activity across government. To address agency questions about lack of resources, the NDC

should have authority to certify that agencies which undertake priority-based reviews and maintain current levels of funding for declassification overall receive an appropriate grace period to review their other non-prioritized records for automatic declassification, given certain stipulations.

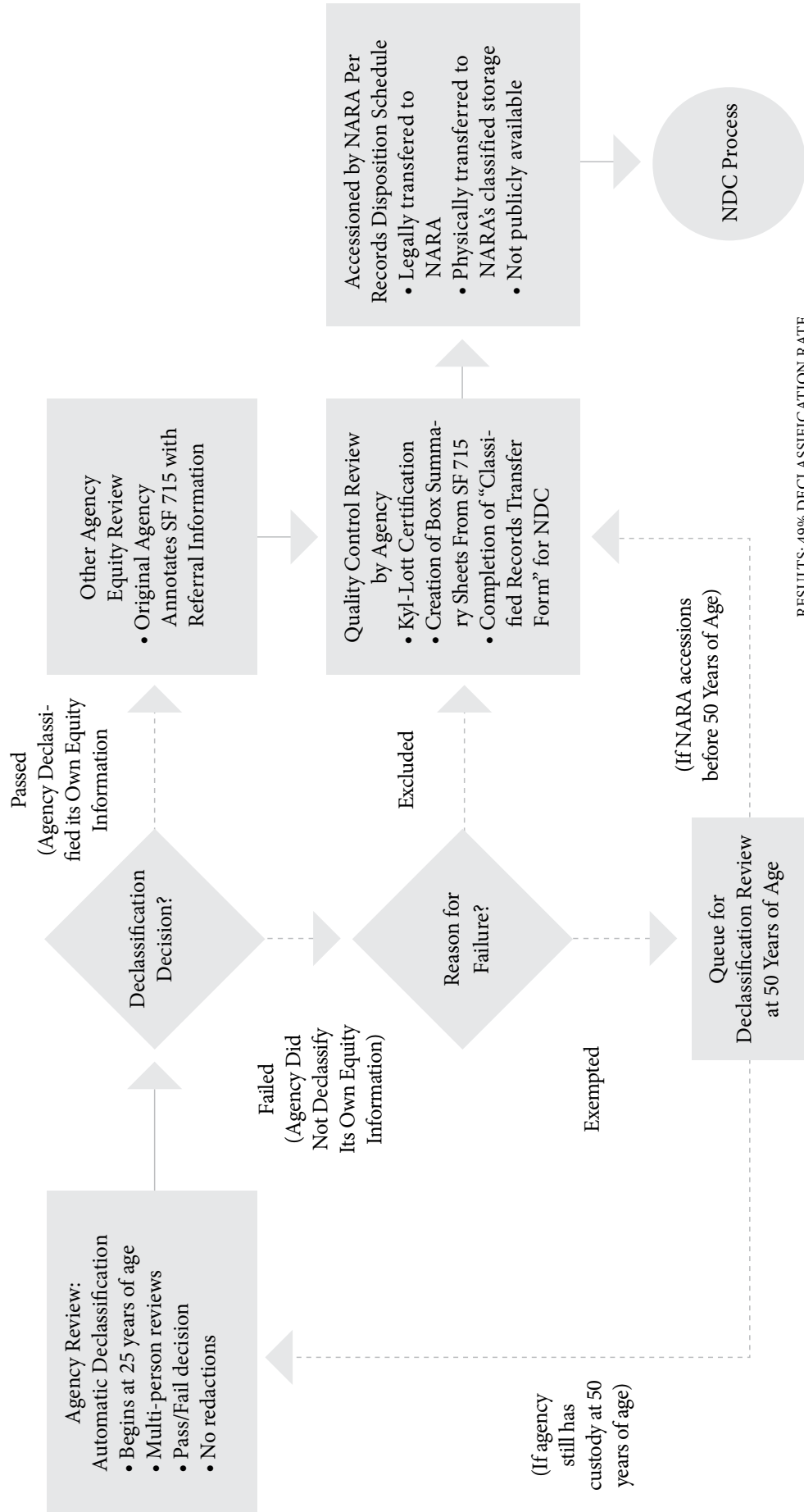
## Conclusion

In establishing a process to implement topic-based declassification prioritization, transparency and public participation are critical to success. Prioritizing records for declassification review, adopting innovative technologies, organizing information technology and

communications architectures, integrating systems and using public-private partnerships committed to resourcing these activities are essential next steps in ensuring long-term sustainability of a transformed security classification system.

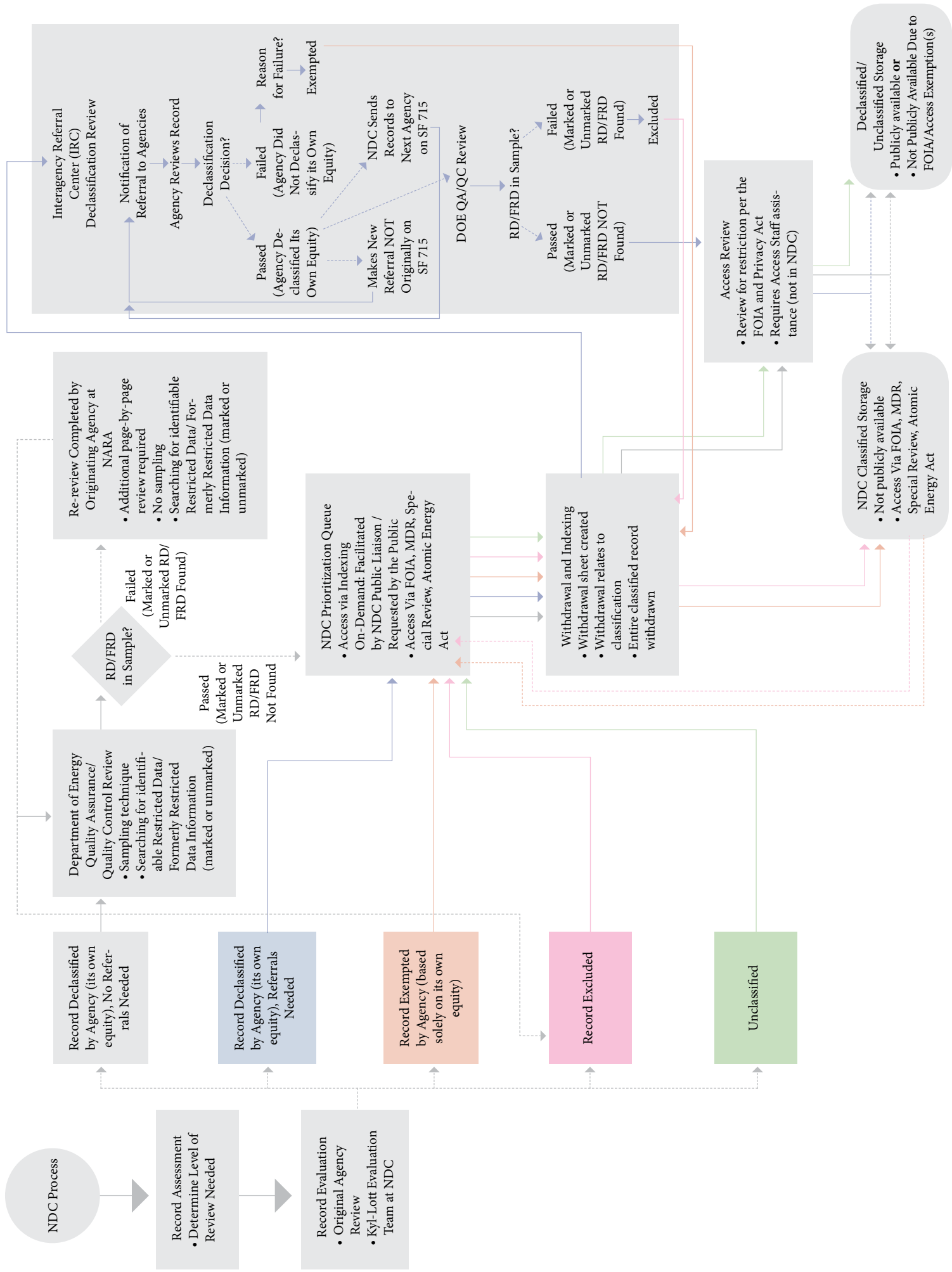


# CURRENT PROCESS FOR 25-YEAR AUTOMATIC DECLASSIFICATION REVIEW



RESULTS: 49% DECLASSIFICATION RATE





PROCESS RESULTS: 60% DECLASSIFICATION RATE

# Introduction

In response to the President’s December 2009 Implementing Memorandum, “Classified National Security Information,” the Public Interest Declassification Board (the PIDB) issued its *Report to the President on Transforming the Security Classification System* in 2012.<sup>1</sup> The 2012 Report concluded that the government must balance democratic values and national security interests by limiting government secrets to the minimum necessary and through the timely declassification of those secrets. Achieving that balance requires far-reaching reform in the management of national security information.

The PIDB continues to advocate for this transformation. Long-standing policies and processes governing classification and declassification are outdated and unsustainable given the exponential growth of information in the digital era and the limits on resources available to agencies. New paradigms are needed. Organizing current classification and declassification activity across the government, adopting technologies to assist

decision-making and improve risk management, as well as building public-private partnerships to leverage resources will support the modernization efforts previously recommended by the PIDB in the 2012 Report.

This supplemental report focuses on one of the 2012 Report’s fourteen recommendations, improving declassification efforts of historically significant records. One of the roles of the PIDB

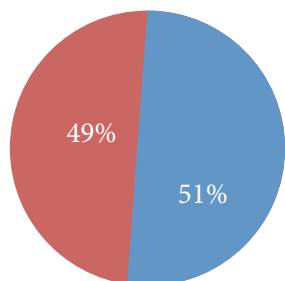
## Rate of Declassification for Pass/Fail Determinations Conducted during 25-Year Automatic Declassification Review \*\*

Year	Percentage Declassified	Percentage Remaining Classified
2009*	55.4%	44.6%
2010	53.4%	46.6%
2011	51.6%	48.4%
2012	44.3%	55.7%
2013	49.1%	50.9%

\*2009 figures include pages from automatic and systematic declassification reviews as only a combined figure exists for this year. Both automatic and systematic declassification reviews entail “pass/fail” decisions.

### Average Rate of Declassification during Automatic Declassification Review, FY 2009–2013

■ Percent Declassified   ■ Percent Remaining Classified



\*\*All figures taken from the 2013 Annual Report to the President from the Information Security Oversight Office.

is to make recommendations to the President regarding proposed initiatives to identify, collect, and review for declassification classified records and materials of extraordinary public interest.<sup>2</sup> The PIDB previously recommended identifying and setting historically significant records aside as early as possible after their creation to ensure their preservation, long-term access and availability to agency policymakers and historians. Agency historians should play a critical role to assist in the prioritization of these records. This supplemental report advocates topic-based prioritization as a next step in transforming the management of national security information. It advances some issues, concepts and ideas for refining processes, applying technologies and reorganizing government offices, units and functions in order to give priority attention to records of greatest public interest. These changes will accelerate the use of those records by historians, public policy professionals and the national security community itself.

As it developed this supplemental report on advocating for topic-based declassification prioritization, the PIDB sought input from users of the declassification system, including the public, classifiers, declassifiers and historians. The PIDB wanted to discover the most useful processes in place to better match what is declassified

with what information the public wants to view. There is recognition by all users of the declassification system that automatic declassification under Executive Order 12958, “Classified National Security Information,” (E.O. 12958) instituted limits which the government must address to successfully manage its national security information.<sup>3</sup>

E.O. 12958 for the first time placed the burden of proof on agencies seeking to preserve the security classification of their records. When issued in 1995, it established a finite declassification deadline where information was automatically declassified at 25 years of age. It required agencies seek permission from an interagency body to exempt specific information from automatic declassification. Although partially unintended, it forced most agencies with strong and legitimate security concerns to develop capacity to ensure a review of all records for sensitive information before the records became 25 years old, when they are subject to automatic declassification. This model, continued in E.O. 13526, entails cumbersome, costly, laborious and manual page-by-page declassification reviews. It is in stark contrast with the original intent of E.O. 12958 to encourage agencies to identify records that could be released without review when 25 years old. Given their commitment to page-by-page review of every classified record, agencies naturally sought exemptions to automatic declassification, further skewing the process in favor of limiting declassification and erring on the side of protection. Additionally, agencies do not use advanced technological tools and little automation exists to help reduce risk and streamline processes, hindering timely declassification even further.

Despite the undoubted success of automatic declassification – the government has declassified well over one billion pages since 1995– its intended purpose has not been fully realized. In fact, few records have ever been “automatically” declassified without some type of “eyes-on” review. Out of an abundance of caution and an aversion to any risk, agencies have exempted many

more records from automatic declassification than originally anticipated. Often the use of a “pass/fail” system will keep an entire record classified even if it contains only a single item warranting continued classification. The understandable justifications for such shortcuts are that the government chronically underfunds declassification programs and the first priority for agencies is to avoid the unintended release of sensitive information. Compounding this problem is the general view that declassification programs are not core to the missions of the agencies. The ideal circumstance, of course, is for agencies to allocate sufficient resources to bolster all declassification processes equally. Realistically, additional resources will not be forthcoming in the near-term for agencies to achieve this desired outcome. Therefore, under these circumstances, the PIDB recommends reviewing first the most significant and sought-after records eligible for declassification, rather

than simply giving 25 year-old records priority because of their age.

This is a particularly opportune time for the National Declassification Center (NDC) to initiate a pilot project to test the feasibility of the recommendations in this supplemental report. Under the direction of the NDC, agencies have just completed processing the 357 million page backlog of older classified records as required by E.O. 13526.<sup>4</sup> Completing this challenge gave the NDC the experience and credibility to direct the transformation of the declassification review process the PIDB is recommending. It also demonstrated that agency declassification programs can operate successfully within a centralized declassification program led by the NDC. Prior to the establishment of the NDC, agencies largely performed in separate channels with little coordination or attention to the public interest.

# Declassification

## Priorities and Public Input

Topic-based declassification is not a concept new to the NDC or to agencies. Agencies often review records on a given topic when Freedom of Information Act (FOIA) or Mandatory Declassification Review (MDR) requests require such action. The President may direct a declassification review of specific topical information, or Congress may pass legislation targeting the declassification of specific information.<sup>5</sup> Agencies review records for public access in response to requests for information from the Congress.<sup>6</sup> Current events, including unauthorized disclosures, may also influence the prevalence of topical declassification.<sup>7</sup>

In preparation of this supplemental report, the PIDB asked for advice and comments from a wide range of government and non-government stakeholders. The PIDB wanted to see if others saw topic-based prioritization as a viable way to improve declassification and make more historically significant records available to the public. At a public meeting at the National Archives and Records Administration (NARA) in November 2013, the PIDB opened discussion and solicited feedback and suggestions about the concept of prioritized declassification review and potential topics for consideration. A panel of experts inside and outside government offered comments on the potential role of prioritization in declassification review based on their experiences and perspectives.<sup>8</sup>

Concurrently, the PIDB re-launched its *Transforming Classification* blog to solicit additional comments over an extended period of time from stakeholders about potential topics that merited prioritization. (Each post and all categories of topics, however, still remain open for continued comment and discussion on the blog.)<sup>9</sup> The PIDB staff compiled and analyzed all the comments under five categories: Topics Less than 25 Years Old, Topics 25 Years Old and Older, Topics Related to Formerly Restricted Data (FRD) Information, General Topics of Interest, and Topics Specifically Related to the Presidential Libraries. The Appendix of this supplemental report includes all 149 unique topics nominated by commentators as of this supplemental report's publication.

# Recommendations

## For Priority-based Declassification Review

The recommendations listed below are meant to serve as a guide for the Records Access and Information Security Interagency Policy Committee/Classification Reform Committee (RAIS IPC/CRC) as it considers how to best evaluate topic-based prioritization and design an implementation strategy.

### 1 Topic-based declassification should be the normal process rather than the exception.

Topic-based declassification reviews should be the preferred approach in conducting declassification to ensure the timely release of the most sought-after records of historical interest. Currently, all classified records of a certain age receive the same attention, regardless of their historical value or potential researcher interest. Such indiscriminate use of dwindling government resources makes no sense. By using established topical priorities (rather than solely age) to organize the review of classified records, the government can focus limited resources on the records most important to the public and of greatest interest to researchers. This will make most cost-efficient use of archival records and, as a corollary, limit spending on reviewing records rarely requested, or of little to no interest to the public or researchers.

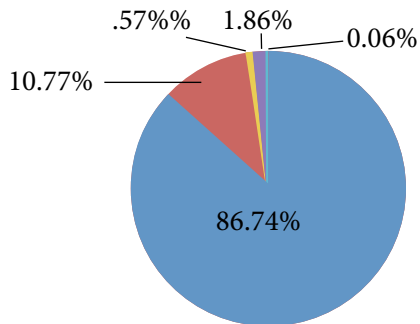
Topic-based declassification review will require and encourage greater subject matter expertise among declassification reviewers, which in turn will improve the quality of their reviews. As an added benefit, this type of review will lead to

fewer secondary re-reviews and better public-release rates, elements essential to a more nimble system. Topic-based prioritization will depend on communication and cooperation among historians, policymakers, classifiers, records and information managers, declassification reviewers and technologists to ensure agencies have preserved the records of highest-value and greatest public interest and are able to conduct quality reviews.<sup>10</sup> The adoption of centers designed to co-locate declassification and historical research and writing, as recommended in the 2012 Report, will encourage collaboration and integration of resources in support of topic-based declassification review. Some government advisory studies and professional associations have recently recommended that the national security departments and agencies converge their overall management of declassification and archives around these types of centers, which can be virtual and physically decentralized.<sup>11</sup>

Reviewing and declassifying records by topic rather than solely age may initially be more

### Declassification Review Activity, FY 2013

- Reviewed for Automatic Declassification: 52,470,623 Pages
- Reviewed for Systematic Declassification: 6,515,055 Pages
- Reviewed for Discretionary Declassification: 346,351 Pages
- Reviewed for Mandatory Declassification Review Requests: 1,122,502 Pages
- Reviewed for Mandatory Declassification Review Appeals: 33,390 Pages



expensive per page because it requires agencies to first find the prioritized records. However, this requirement should provide an incentive for agencies to improve their records management programs and historical staff. The benefits warrant any added expense and directly complement the modernization initiatives directed to agencies by the President in his Memorandum on Managing Government Records.<sup>12</sup> As the government continues its transition into the digital era, agencies must recognize traditional paper-based processes, including archival processing, are not applicable in the same manner as in the electronic realm. Accessing digital information will require reconsidering records management processes and adapting archival principles to meet the President's directive and the new demands of a digital government.

## 2

**The National Declassification Center, in consultation with the public and with agencies, should design and implement a process to solicit, evaluate and prioritize standard topics for declassification government-wide.**

The NDC should lead an effort to solicit and evaluate topics to prioritize for declassification. The objective should be to produce a centralized government-wide set of priority topics for declassification. This effort should include ample public participation. It likely will require adopting the recommendation in the PIDB's 2012 Report for a member of the public to serve on the NDC's Advisory Panel.<sup>13</sup> Involving the public and stakeholders in determining priorities is crucial to the success of priority-based reviews and to the credibility of the declassification system.

The expansive and varied list in the Appendix, provided to the PIDB by both the public and agencies, reflects the complexity of this challenge. Still the potential advantages of topic-based prioritization outweigh its disadvantages. Establishing effective priorities that satisfy the widely varied interests of researchers and the needs of agencies will not be simple and will require

senior-level decision-making. The list in the Appendix is meant to provide a preliminary screen for assessing the *value* of the information being considered for declassification under current policies, including automatic declassification. It will aid understanding as to whether those policies are fulfilling their intended purposes and serving the public. The list is too extensive and diffuse, though, to inform decisions leading to implementation of a priority-based declassification program. However, it does provide a representative starting point for the NDC to begin consultations with researchers, agencies and the PIDB.

Any process developed to select topics for prioritization should consider the organic nature of archival research which defines and scopes the breadth of a given topic during the research process. Each year, at least one of the priorities should include topics less than 25 years old that are notably available in records found in the Presidential



Libraries. From the standpoint of their historical significance, the records of former Presidents are, arguably, the most important records needed by the public to obtain an accurate and complete understanding of the nation's history and role in the world. Moreover, any topics the NDC and agencies have exhaustively reviewed for declassification in

the past should naturally receive a lower-level priority.

Topic-based declassification review will require increased leadership from the NDC and better coordination among agencies. The PIDB believes that, with active White House guidance and support, the NDC and the agencies can meet those challenges.

### 3 End pass/fail determination and identify necessary redactions for topic-based declassification reviews.

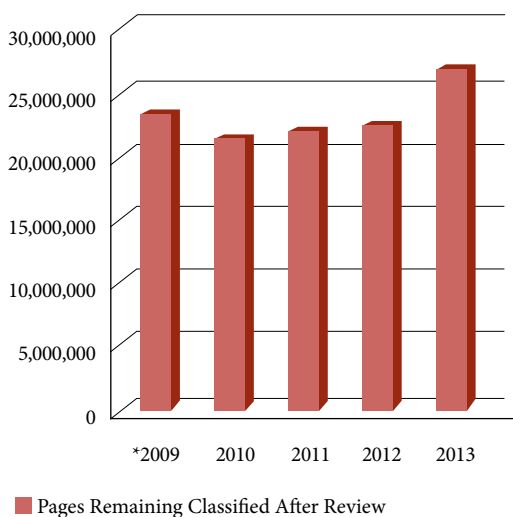
Current automatic declassification protocol requires an agency to do a cumbersome page-by-page review to assess its own classified national security information. Seeking to best use limited resources, agencies make declassification decisions on a pass/fail basis using the nine exemptions in E.O. 13526. The agencies do not attempt to make discrete redactions on records when

conducting automatic declassification reviews. A single word in a record determined to require continued classification beyond 25 years will cause the entire record to “fail.” This process, originally designed by agencies to conserve limited resources, actually does the opposite. A record that “fails” and remains classified is often not reviewed in its entirety. It enters a new queue for later secondary review. Secondary reviews occur either when the new automatic declassification deadline dictates potential release or when there is an access request for the record. An entirely new, page-by-page review must begin on the record during this secondary review. The cycle of conducting page-by-page declassification reviews and making pass/fail declassification decisions starts anew.

Policies requiring declassification reviews using redactions have historically resulted in a significantly higher declassification rate than have policies supporting pass/fail review. They also have the additional benefit of adding far fewer records to a growing backlog of pages in need of re-review when they are 50 years in age.

The declining rate of records agencies actually do declassify is one consequence of pass/fail review, as is a mounting backlog of records awaiting secondary review, with no relief available for understaffed and under-resourced agencies in sight. Topic-based declassification review should facilitate – indeed, it should require – the end of pass/fail review that necessitates wasteful, expensive re-reviews of records first reviewed only in part.

**Pages Remaining Classified after Pass/Fail Determination Conducted during Automatic Declassification Review, FY 2009–2013**

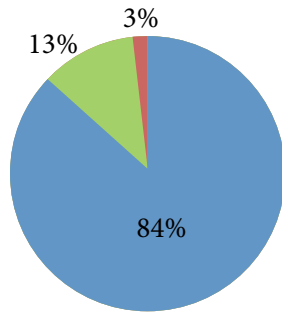


*In these five years alone, agencies added 115,088,442 pages to a growing backlog of records requiring re-review when they are 50 years in age.*

\*2009 figures include pages from automatic and systematic declassification reviews as only a combined figure exists for this year. Both automatic and systematic declassification reviews entail “pass/fail” decisions.

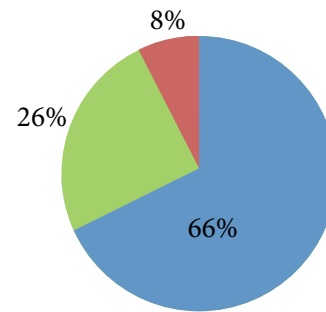
### Disposition of Mandatory Declassification Review Requests, FY 2013

■ Declassified in their Entirety: 943,035 Pages  
 ■ Declassified in Part: 150,857 Pages  
 ■ Denied: 28,610 Pages



### Disposition of Mandatory Declassification Review Requests, FY 1996 - FY 2013

■ Declassified in their Entirety: 3,593,759 Pages  
 ■ Declassified in Part: 1,381,596 Pages  
 ■ Denied: 446,978 Pages



## 4 The government should require agencies to develop and use new technologies to assist and improve declassification review.

As noted in the PIDB's 2012 Report, technology for records management and declassification review is essential if the government is to manage successfully the exponential growth in digital classified records and enable timely public access to this valuable information. One such promising response to this recommendation, formalized in a commitment found in the President's *Second Open Government National Action Plan*, is the research the Central Intelligence Agency (CIA) is conducting in collaboration with NARA and the Center for Content Understanding (CCU) at the Applied Research Laboratory at the University of Texas at Austin.<sup>14</sup> Scientists there are piloting the use of technological capabilities that perform rules-based analysis in support of decision-making for the purposes of aiding classification and declassification of national security information. This research is the sole pilot program the PIDB found of this level of sophistication being conducted in support of classification and declassification. The efforts by the CIA, NARA and the CCU should receive additional resources dedicated to continuing and advancing this important work critical to the sustainability of the classification

and declassification systems. The PIDB anticipates additional study in this area and intends to compose a second supplementary report on this issue in 2015.

When seeking out technologies, agencies should use a coordinated, government-wide approach to better leverage resources and technical expertise.<sup>15</sup> The use of advanced analytics to best assist classification and declassification requires interconnected information technology and communication architectures across agencies, including NARA. An interconnected architecture requires that agencies have access to classified networks, such as the Joint Worldwide Intelligence Communications System (JWICS). Additionally, the NDC and each Presidential Library should receive access to the classified network through a JWICS terminal. Prior to approval, all plans for future Presidential Libraries should specify how this interconnectivity will be constructed at each repository.

Currently, some agencies use workflow technological tools to assist their management of records. Use of these workflow tools should increase across the government. Agencies and the NDC should share these workflow tools where possible to be better able to integrate

capabilities and streamline and automate processes. Workflow tools notwithstanding, the government still remains in need of advanced technological tools to assist analysis and decision-making in support of declassification review. We have reason to believe that declassification technologies can help agencies lower risk aversion and limit mistakes, while saving significant costs. Policy changes should support the adoption of these technologies, including advanced analytics and machine-learning. As when designing new risk management policies and practices, there must be understanding and agreement that the current practice of having two or more persons conduct a page-by-page declassification review for each record is an unsustainable practice.<sup>16</sup> Declassification review requires tech-

nology to assist more than workflow solutions.

Until technology plays a greater role in declassification, topic-based declassification review will ensure that agencies review the most sought-after and historically significant records before other records of little perceived value or public interest. Agencies will need to test the policy and process changes recommended in this supplemental report to be sure a topic-based declassification system actually produces better outcomes in the *quality* of the public releases. To be clear, funding and implementing technologies for use in records access and declassification programs is vital to ensuring the government continues to provide access to its records. Strong leadership from the NDC and agencies should support the cultural changes needed to achieve transformation.

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## 5 Agencies and the National Declassification Center must improve risk management practices.

Managing and mitigating risk during declassification review is paramount. A centralized declassification policy that focuses on high-value records of public interest is a first step to better manage limited resources and deliver public access to records under a consistent risk management policy. A corollary of focusing declassification reviews on the most important historical records is that agencies will need to permit the automatic declassification of a larger volume of older, less important records. This will necessitate a risk assessment of those records. These records likely have little to no user interest and may also have a low grade of sensitivity associated with them. Yet, agencies and the NDC continue to spend many of their limited resources reviewing certain records likely to have no researcher interest or little discernible historical value.

Agencies' tolerance for risk varies greatly. Some agencies understand and recognize the significant benefits of adopting a tolerable level of risk in their declassification review processes, while other agencies consider a zero-tolerance for risk an effective means

to manage their information. Consistent policies and processes across government are necessary to ensure appropriate sharing and protection of national security information. More intentional risk management is especially important as the government works to manage increasing volumes of classified digital information. In this respect, policies designed for paper records are simply impractical and impossible to maintain. Furthermore, clinging to manually-intensive processes diverts increasingly dwindling resources. There must be an understanding and agreement that the current practice of having one, two or more persons conduct a laborious page-by-page declassification assessment for each record under review is an unsustainable practice. Increasing volumes of records in need of review will necessitate managing scarce resources more efficiently to sustain declassification activity. Increasing risk tolerance by implementing informed and calculated declassification process changes will help achieve this end.

Establishing a formal risk management policy for the declassification review of records will require the

use of risk management principles already realized in other businesses. The government must study the current risk management policies and practices designed and adopted in the private sector, such as those adopted in the technology, finance, emergency-response and insurance industries. The private sector has been incentivized to discover and institute statistically-sound methodologies that limit risk without compromising operations to achieve success in the marketplace. Seeking to limit and mitigate risk, rather

than eliminate it entirely, is the realistic and correct business philosophy in these instances, a perspective agencies and the NDC should also learn to embrace. The government must study and pilot these risk management principles in order to better understand how formalized, statistically-based processes will more precisely mitigate risk. Mitigating risk in this area will improve both the security of truly sensitive information and the accessibility of information that should be declassified and be made available to the public.

**6 Revisions to the current Executive Order are needed to lessen the burden of automatic declassification on agencies in support of topic-based declassification review.**

Agencies may complain, understandably, that they cannot simultaneously fulfill the requirements both of topic-based prioritization reviews and reviews of all records approaching automatic declassification. Absent new resources, any topic-based declassification efforts face zero-sum competition with other declassification efforts. This is especially true for reviews made under automatic declassification programs. The government must evaluate any trade-off carefully to maintain the leverage for agencies to fund traditional declassification review programs adequately. Agencies should be required to maintain declassification reviews at least at current yearly

rates. This will ensure that lessening the burden of automatic declassification on agencies will not reduce overall declassification activity across the government.

To address agency questions about lack of resources, the NDC should have authority to certify that agencies which undertake topic-based declassification reviews and maintain current levels of funding for declassification overall receive an appropriate grace period to review their other non-prioritized records for automatic declassification. The NDC may certify an agency and approve a grace period, with the stipulation that: (1) the NDC will make available a

**Estimated Declassification Costs and Rates of Declassification, FY 2013**

Government Declassification FY 2013	Review Basis	Cost	Pages Reviewed	% Declassified in Full/Part	% Still Classi- fied in Full
Automatic Declassification	Pass-Fail	86,550,480	52,470,623	49.12	50.88
Systematic Declassification	Pass-Fail	10,745,230	6,515,055	26.06	73.92
Discretionary Declassification	Redaction	568,689	346,351	16.08	83.92
Mandatory Declassification Review Requests	Redaction	1,855,722	1,122,502	97.45	2.55
Mandatory Declassification Review Appeals	Redaction	59,862	33,390	92.02	7.98
Totals		\$99,779,983	60,487,921		

listing for public review and comment of all such deferred records before the NDC approves any grace period to an agency; (2) within any approved grace period all such records will remain subject to mandatory declassification review and all other access requests made by the public; and (3) at the end of any approved grace period all such deferred records will be automatically declassified unless exempted under the provisions of E.O. 13526, section 3.3(h), which contains a more stringent standard for allowing continued classification.<sup>17</sup> Accepting this recom-

mendation would require an amendment of E.O. 13526, as may also be true of other recommendations in this report.

Implementing topic-based declassification review, even while minimizing the burden of automatic declassification, likely means agencies may not review some classified records before they are subject to automatic declassification at 25 years of age. However, if agencies adopt reasonable risk assessment practices (another potential benefit of this recommended policy change; see recommendation 5, above), it should be possible to do both.

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## Conclusion

The government's efforts to declassify national security records should focus on providing the public with the most sought-after and historically significant information. In close consultation with its stakeholders, the NDC should design and implement a process to solicit, evaluate and prioritize topics for declassification government-wide. The RAIS IPC/CRC should consider policy changes, such as those recommended by the PIDB in this report, that will support the prioritization of the most historically significant and sought-after information the public desires. The Appendix's list of topics suggested by agencies and the public is a suitable starting point. It should help guide the NDC and agencies as they continue the difficult task of reviewing millions of pages of records for

declassification and it should forge a new pathway through an outdated, unsustainable system. The PIDB recognizes that any prioritization proposed or accomplished will be inherently subjective. This is precisely why transparency and public participation to establish this process are critical to its success. Prioritizing records for declassification review, adopting innovative technologies, organizing architectures, integrating systems and using public-private partnerships committed to resourcing these activities are essential next steps in ensuring long-term sustainability of a transformed security classification system. Changing course will be difficult; the PIDB is ready to assist the public, the RAIS IPC/CRC, the NDC and the agencies in designing new criteria and processes.

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## Appendix A

### List of Topics Suggested for Prioritized Review

#### Topics Less than 25 Years Old:

- 9/11 and Terrorism
- 9/11 Command Post transcripts and operations records
- 9/11 Commission records
- Antarctic affairs, relating to the Convention on the Regulation of Antarctic Mineral Resource Activities and the Protocol to the Antarctic Treaty on Environmental Protection
- Bosnia/Kosovo War and Peacekeeping missions
- Collapse of the Union of Soviet Socialist Republics (U.S.S.R.), 1991
- Deputies Committee and Principals Committee meetings for the George H. W. Bush and William J. Clinton administrations
- Department of Defense satellite images and surveillance of Rwanda in the spring and summer of 1994
- Department of Defense withdrawal of United Nations Assistance Mission in Rwanda (UNAMIR)
- Foreign Intelligence Surveillance Court opinions
- German reunification diplomacy, 1990 (including items

#### Topics 25 Years Old or Older:

- Cold War era efforts to subvert European Communist parties
- Cold War in Europe, 1947-1991
- Cold War U.S. and North Atlantic Treaty Organization (NATO) Military Strategy
- Collapse of Communism in East-Central Europe, 1989
- Cuban Missile Crisis
- Decision to Transform Office of Strategic Services into the Central Intelligence Agency
- Defense Technical Information Center technical reports before 1970
- Department of Defense classified Motion Picture and Audiovisual Materials before 1980
- Department of Energy Office of Scientific and Technical reports before 1970
- Iran coup of 1953 (its origins)
- Iran Hostage Rescue Mission
- John F. Kennedy assassination
- Korean Air Lines Flight 007
- National Security Agency technical reports before 1945
- Office of Policy Coordination (OPC), 1948-1952
- Post-World War II recruitment/entry of Third Reich scientists/rocket engineers
- cited in the book by Philip Zelikow and Condoleezza Rice)
- Guantanamo/Detainee issues after 9/11
- Gulf War (Desert Shield/Desert Storm)
- Humanitarian Crises and the surrounding decisions/negotiations (Rwanda, Somalia, Sudan, Haiti)
- Iraq War, 2001-2004, including preparations, the decision to invade in 2003 and the surge of U.S. military assets (discussion/policy and war planning)
- North Atlantic Treaty Organization (NATO) expansion, 1993-2004
- NATO's Kosovo campaign, 1998-1999
- National Security Council email, 1982- present
- Negotiations for denuclearization of Ukraine, Kazakhstan, Belarus, 1992-1996
- United Nations Conference on Environment and Development (UNCED), or the 'Earth Summit' in Rio, 1992
- United Nations Framework Convention on Climate Change (UNFCCC)
- Yugoslav Wars and Dayton Accords, 1992-1995
- Soviet intervention/withdrawal in Afghanistan and U.S. support of the Mujahedeen
- Soviet Space Program
- Strategic Defense Initiative development
- Terrorist hijackings/events in the 1970s and 1980s (Dozier, Lebanon bombings, Achille Lauro)
- U.S. Intelligence Community interest in Korean Peninsula (through 1980s)
- U.S. Intelligence Community interest in the Soviet Space program - especially from the National Security Agency
- U.S. military support to Israel and Egypt
- U.S.-Panamanian relations during the Torrijos/Noriega period
- U.S. Strategic Air Command's Airborne alert/airborne indoctrination (including over-flight) (Air Force, Departments of Energy and State, Joint Chiefs of Staff, U.S. Strategic Command)
- Union of Soviet Socialist Republics/Cold War and Africa
- Vietnam War (Prisoners of War and Missing in Action Cases, Paris Peace Talks, Electronic Intelligence, Communications Intelligence)
- Watergate

**Formerly Restricted Data-Related Topics:**

- Chernobyl meltdown
- Cuban Missile Crisis
- Deployment, storage and number of U.S. tactical and strategic nuclear weapons prior to 1980 (i.e. Davy Crockett, Honest John, Jupiter, etc.)
- Manhattan Project (but without Restricted Data)
- Nuclear-armed air defense interceptors - manned (F-89, F-101, F-102, F-106) and unmanned (Nike-Hercules and Bomarc) (Air Force, ARMY, Department of Energy, Joint Staff)
- Overseas storage locations and foreign port visits by U.S. Naval ships
- Post-World War II Development of nuclear weapons complex (but without Restricted Data)
- Short-range and INF-range nuclear surface-to-surface missiles (cruise, ballistic) (Air Force, Army, Departments of Energy and State, Joint Staff, Strategic Command)
- U.S.-Canada military nuclear cooperation (Air Force, Army, Departments of Energy and State, Joint Chiefs of Staff, Office of the Secretary of Defense)
- U.S.-United Kingdom military nuclear cooperation (Air Force, Departments of Energy and State, Joint Chiefs of Staff, Office of the Secretary of Defense)
- Yields of nuclear weapons fully retired for 25+ years (Department of Energy, Office of the Secretary of Defense)

**General Topics of Interest:**

- Administrative record of classification and declassification operations within the agencies
- Annual command histories of the unified and specified commands (Strategic Air Command, Atlantic Command, European Command, North American Air Defense Command, Pacific Command, etc.)
- Bureau of Oceans and International Environmental and Scientific Affairs (OES) of the State Department
- Camp David/Mideast Peace Accords, 1978
- U.S. – People's Republic of China relations
- CIA Records Search Tool (CREST) Database
- Coordination with other governments regarding foreign government or international organization equities in U.S. documents
- Deliberations about Executive Orders or Presidential Decisions relating to national security information
- Historical agency declassification guidelines
- Inspectors General and Information Security Oversight Office inspection results of various agencies' declassification operations
- Iranian-backed attacks on the U.S.
- Legal advice by agencies and Department of Justice regarding Freedom of Information Act implementation, systematic review, and/or responses to Congressional openness initiatives
- National Security Council meeting minutes/Policy Committee minutes
- U.S. invasion of Panama
- Outside the Contiguous U.S. fighter-bomber Quick Reaction Alert (Air Force, Departments of Energy and State, Joint Chiefs of Staff, U.S. Strategic Command)
- President-foreign leader Telcons/Memcons/Secure Video Conferences
- Prisoner of War records from the Korean and Vietnam Wars
- Presidential Directives
- Secret law
- U.S./Israel/Middle East policy, 1948-2008
- U.S. United Nations representative correspondence with the Department of State and National Security Council
- White House Office of Legal Counsel opinions

## Topics Suggested for Prioritized Declassification at the Presidential Libraries

Harry S Truman	Dwight D. Eisenhower	John F. Kennedy	Lyndon B. Johnson
<ul style="list-style-type: none"> <li>• Psychological Strategy Board records, 1951-1953. <i>(Portions of the declassification stamps bearing the reviewer's number (not his/her name) have been redacted in subsequent Mandatory Declassification Review and Remote Archives Capture Project reviews from the early 1980s. Often those are the only redactions made in documents that otherwise could be released in full. Over the years, these stamp redactions have sometimes been made under agency statute and at other times for national security. )</i></li> </ul>	<ul style="list-style-type: none"> <li>• Operations Coordinating Board file series, 1953-1961</li> <li>• Psychological Strategy Board records series</li> </ul>	<ul style="list-style-type: none"> <li>• Africa</li> <li>• Cuba Intelligence Information</li> <li>• President's Intelligence Checklists</li> <li>• Secret recordings</li> <li>• Vietnam</li> </ul>	<ul style="list-style-type: none"> <li>• Congo</li> <li>• Dominican Republic Intervention</li> <li>• India-Pakistan War and conflict</li> <li>• Middle East, particularly the Six Day War and its aftermath</li> <li>• Secret audio recordings</li> <li>• Vietnam</li> </ul>

Richard M. Nixon	Gerald R. Ford	Jimmy Carter	Ronald W. Reagan
<ul style="list-style-type: none"> <li>• Africa</li> <li>• Aid to Israel</li> <li>• Chile</li> <li>• China</li> <li>• India-Pakistan War</li> <li>• Latin America</li> <li>• Secret audio recordings</li> </ul>	<ul style="list-style-type: none"> <li>• Arms Control and Strategic Arms Limitation Talks</li> <li>• Chemical and Biological warfare</li> <li>• Church Committee records</li> <li>• Intelligence investigatory bodies: Rockefeller Committee, Church Committee and Pike Committee</li> <li>• Nuclear Cooperation and nonproliferation</li> <li>• Pike Committee records</li> <li>• Scanned Remote Archives Capture (RAC) documents awaiting review</li> </ul>	<ul style="list-style-type: none"> <li>• Central America</li> <li>• Cuba and the Southern Cone (Argentina and Chile)</li> <li>• Energy</li> <li>• Nuclear Proliferation and nonproliferation</li> <li>• U.S./China Relations</li> <li>• U.S./Egypt and Israel Relations</li> <li>• U.S./India Relations</li> </ul>	<ul style="list-style-type: none"> <li>• Able Archer NATO Military exercise</li> <li>• Afghanistan and U.S.S.R. occupation</li> <li>• Central America</li> <li>• Falklands War</li> <li>• Lebanon</li> <li>• Libya and terrorism</li> <li>• Pakistan</li> <li>• United Kingdom</li> <li>• U.S.S.R.</li> </ul>



George H. W. Bush	William J. Clinton	George W. Bush
<ul style="list-style-type: none"> <li>• Collapse of the U.S.S.R.</li> <li>• Deputies Committee and Principals Committee meetings</li> <li>• Gulf War I</li> <li>• Somalia</li> <li>• Tiananmen Square and U.S./China Relations</li> <li>• Yugoslavia</li> </ul>	<ul style="list-style-type: none"> <li>• Bosnia and Kosovo</li> <li>• Closing U.S. Embassy in Kigali</li> <li>• Intervention in Haiti</li> <li>• Deputies Committee and Principals Committee meetings</li> <li>• Northern Ireland Peace Process</li> <li>• Presidential Decision Directive 25, specifically in relation to Rwanda and Somalia</li> <li>• Rwanda</li> <li>• Support withdrawal of United Nations Assistance Mission in Rwanda (UNAMIR)</li> <li>• Sudan airstrikes</li> <li>• Afghanistan airstrikes</li> <li>• Terrorism: <i>U.S.S. Cole</i>, embassy bombings, and the hunt for Osama bin Laden</li> </ul>	<ul style="list-style-type: none"> <li>• 9/11</li> <li>• Foreign Intelligence Surveillance Act</li> <li>• Telecon/Memcons</li> <li>• Vietnam War records that are still classified</li> <li>• Weapons of Mass Destruction Commission documents</li> </ul>

## Appendix B

### Biographical Information of PIDB Members

#### Presidential Appointees

**Martin C. Faga** was the President and Chief Executive Officer of The MITRE Corporation for six years, retiring in 2006. Before joining MITRE, Mr. Faga served as Assistant Secretary of the Air Force for Space from 1989 until 1993. At the same time, he served as Director of the National Reconnaissance Office, responsible to the Secretary of Defense and the Director of Central Intelligence for the development, acquisition and operation of all U.S. satellite reconnaissance programs. Mr. Faga has been awarded the National Intelligence Distinguished Ser-

vice Medal, the Department of Defense Distinguished Public Service Medal, the Air Force Exceptional Civilian Service Medal and the NASA Distinguished Service Medal. In 2004, he was awarded the Intelligence Community Seal Medallion. He was first appointed to the PIDB in October 2004, and again in January 2009 and February 2012. He has also served on the President's Intelligence Advisory Board. Mr. Faga graduated from Lehigh University with a B.S. and an M.S. in electrical engineering.

**William H. Leary** was the Special Adviser to the National Security Advisor and Senior Director for Records and Access Management on the National Security Staff until his retirement in 2011. In that capacity, he served as Chair of the Interagency Security Classification Appeals Panel and Chair of the Records Access and Information Security Interagency Policy Committee. A strong proponent of governmental transparency, Mr. Leary was one of the primary executive branch officials behind the creation of the PIDB in 2000 and the development

of President Obama's Executive Order 13526 on Classified National Security Information. Prior to joining the National Security Council staff, he served as the Deputy Director of the Agency Services Division at the National Archives and Records Administration for five years. From 1968 until 1973, Mr. Leary taught American history at the University of Virginia, the College of William and Mary and the University of South Alabama. He received his B.A. in foreign affairs and M.A. and A.B.D. in history, all from the University of Virginia.

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**Elizabeth Rindskopf Parker** is Dean Emerita at the University of the Pacific, McGeorge School of Law, having served as dean from 2002-2012. Previously, she served as general counsel for the University of Wisconsin System (1999 to 2002); general counsel to the Central Intelligence Agency (1990 to 1995); Principal Deputy Legal Adviser, U.S. Department of State (1989-1990); general counsel, National Security Agency (1984-1989) and as Acting Assistant Director (Mergers and Acquisitions) at the Federal Trade Commission. In addition to her experience managing government legal offices, Ms. Parker also served as the director of the New Haven Legal Assistance

Association, Inc. (1973-1976) after handling civil rights and civil liberties litigation as a co-operating attorney with the NAACP Legal Defense and Education Fund, Inc. She has been a member of the Special Advisory Group to the Director of National Intelligence since 2009 and has twice been appointed by the Chief Justice of the U.S. Supreme Court as the academic member of the International Judicial Relations Committee; she is also a member of the Board of Trustees of the MITRE Corporation and is a member of the Council on Foreign Relations. Both her law (1968) and undergraduate (cum laude, 1964) degrees are from the University of Michigan.

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**Nancy E. Soderberg** was reappointed by the President on November 16, 2012 and served as Chair of the PIDB until December 2, 2014. She is a national security expert with vast experience at the White House, United Nations, and Congress. While at the National Security Council, she worked extensively on declassification issues. She is currently the President and CEO of Soderberg Global Solutions and a Distinguished Visiting Scholar at the University of North Florida. From 2009-2013, she was the President of the Connect U.S. Fund, a non-profit organization that focuses on promoting U.S. global engagement. Ambassador Soderberg served as Vice President of the International Crisis Group from 2001 until 2005. She was the U.S.

Representative for Special Political Affairs at the United Nations from 1997 to 2001, with the rank of Ambassador, and Deputy Assistant to the President for National Security Affairs and Staff Director of the National Security Council from 1993 until 1997. From 1985 to 1992, she served as a Foreign Policy Advisor to Senator Edward M. Kennedy. Ambassador Soderberg has written *The Superpower Myth: The Use and Misuse of American Might* and co-authored, with Brian Katulis, *The Prosperity Agenda: What the World Wants from America - and What We Need in Return*. She is a member of the Council on Foreign Relations. She earned a B.A. from Vanderbilt University and an M.S. from Georgetown University's School of Foreign Service.

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## Congressional Appointees

**David E. Skaggs (Acting Chair)** was reappointed by Rep. Nancy Pelosi, Minority Leader of the House, on March 29, 2012, following her previous appointments of January 19, 2005 and June 6, 2009. He is the Co-Chair of the Board of the Office of Congressional Ethics and practices law with the firm McKenna, Long, and Aldridge. He served 12 years in Congress from 1987 to 1999 as the Representative from the 2nd Congressional District in Colorado, including eight years on the House Appropriations Committee and six years on the House Permanent Select Committee

on Intelligence. After leaving Congress, he served as Executive Director of the Center for Democracy and Citizenship at the Council for Excellence in Government from 1999 to 2006 and as Executive Director of the Colorado Department of Higher Education from 2007 to 2009. He is an adjunct professor at the University of Colorado Law School. Mr. Skaggs has a B.A. in philosophy from Wesleyan University and an LL.B from Yale Law School. He served as a Marine Corps officer on active duty from 1968 to 1971, including a tour in Vietnam.

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**Admiral William O. Studeman, USN (Ret.)** was appointed by Rep. John Boehner, Speaker of the House, on May 18, 2012. He retired from Northrop Grumman Corporation as Vice President and Deputy General Manager of a Northrop Business Sector in 2005. Admiral Studeman's flag tours included Navy Director of Long Range Planning, Director of Naval Intelligence, Director of the National Security Agency and Deputy Director of Central Intelligence (as both Deputy Director of CIA and oversight of the Intelligence Commu-

nity Management Staff, the precursor to the Office of the Director of National Intelligence), with extended periods as Acting Director. He served as a Member of the Weapons of Mass Destruction Commission and currently serves on numerous advisory boards. Admiral Studeman teaches Intelligence and Cyber studies at several universities. He holds a B.A. in history from the University of the South in Sewanee, TN, and an M.A. in public and international affairs from George Washington University.

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**Sanford J. Ungar** was reappointed to the PIDB by Sen. Harry Reid as Majority Leader of the Senate on March 6, 2014. He recently stepped down as the tenth President of Goucher College in Baltimore, Maryland and is now serving as a distinguished scholar in residence at the Georgetown University. Prior to assuming his position at Goucher, Mr. Ungar served as Director of the Voice of America, Dean of the School of Communication at American University in Washington, D.C., Washington editor of *The At-*

*lantic*, managing editor of *Foreign Policy* magazine, and a staff writer for *The Washington Post*. He is a former host of “All Things Considered” on National Public Radio and has published six books, including *The Papers & The Papers: An Account of the Legal and Political Battle over the Pentagon Papers*. Mr. Ungar obtained his B.A. in Government from Harvard College and a Master’s degree in International History from the London School of Economics and Political Science.

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**Kenneth L. Wainstein** was appointed to the PIDB by Sen. Mitch McConnell as Minority Leader of the Senate on September 17, 2013. He currently is Chair of the White Collar Defense and Investigations Group at Cadwalader, Wickersham & Taft LLP, where he specializes in white collar and criminal defense and corporate investigations. He is also an adjunct professor of law at the Georgetown University Center of Law. Previously, Mr. Wainstein served as an Assistant U.S. Attorney, first in the Southern District of New York and then in the District of Columbia. In 2001, he served as the Director of the Executive office for U.S. Attorneys. In 2002, Mr. Wainstein joined the Federal Bureau of Investigation as General Counsel. FBI Director Robert S. Mueller appointed him Chief of Staff in 2003. Mr. Wainstein was appointed by President George W. Bush to serve as the United States Attorney for the District of Columbia in 2004, a position he

held until his appointment as Assistant Attorney General for National Security at the Justice Department in 2006. As the first Assistant Attorney General for National Security, he established and led the new National Security Division, which consolidated the Justice Department’s law enforcement and intelligence activities on counter-terrorism and counter-intelligence matters. In 2008, after 19 years at the Justice Department, Mr. Wainstein was named Homeland Security Advisor by President George W. Bush. As the Assistant to the President for Homeland Security and Counter-Terrorism, he advised the President on all homeland security matters, chaired the Homeland Security Council, and oversaw the inter-agency coordination process for homeland security and counter-terrorism programs. Mr. Wainstein holds a B.A. from the University of Virginia and a J.D. from the University of California, Berkeley.

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## Appendix C

### PIDB Authorizing Statute

#### Enabling Legislation:

- Public Law 113–126 - Intelligence Authorization Act for Fiscal Year 2014 - Section 311 extends the Public Interest Declassification Act of 2000 until 2018.
- Public Law 111–259 - Intelligence Authorization Act for Fiscal Year 2010 - Section 365 improves the review authority of the Public Interest Declassification Board.
- Public Law 112–235 - Public Interest Declassification Board Reauthorization Act of 2012 - Section 2 extends the Public Interest Declassification Act of 2000 until 2014 and amends the appointments of members.
- Public Law 110–53 - Implementing Recommendations of the 9/11 Commission Act of 2007 - Section 602(2) of the Act provides the PIDB authority to make reviews and recommendations.
- Public Law 108–458 - Intelligence Reform and Terrorism Prevention Act of 2004 - Section 1102 of the Act provides an extension and improvement authorities of the Public Interest Declassification Board.
- Public Law 106-567 - Public Interest Declassification Act of 2000, as amended - Establishes the PIDB and gives it its authority and purpose.

The Public Interest Declassification Board's Authorizing Statute  
Public Law 106-567-Public Interest Declassification Act of 2000, as amended

SEC. 701. SHORT TITLE.

This title may be cited as the “Public Interest Declassification Act of 2000”.

SEC. 702. FINDINGS.

Congress makes the following findings:

- (1) It is in the national interest to establish an effective, coordinated, and cost-effective means by which records on specific subjects of extraordinary public interest that do not undermine the national security interests of the United States may be collected, retained, reviewed, and disseminated to Congress, policymakers in the executive branch, and the public.
- (2) Ensuring, through such measures, public access to information that does not require continued protection to maintain the national security interests of the United States is a key to striking the balance between secrecy essential to national security and the openness that is central to the proper functioning of the political institutions of the United States.

SEC. 703. PUBLIC INTEREST DECLASSIFICATION BOARD.

(a) ESTABLISHMENT. —

- (1) There is established within the executive branch of the United States a board to be known as the “Public Interest Declassification Board” (in this title referred to as the ‘Board”).
- (2) The Board shall report directly to the President or, upon designation by the President, the Vice President, the Attorney General, or other designee of the President. The other designee of the President under this paragraph may not be an agency head or official authorized to classify information under Executive Order 12958, or any successor order.

(b) PURPOSES. — The purposes of the Board are as follows:

- (1) To advise the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and such other executive branch officials as the Board considers appropriate on the systematic, thorough, coordinated, and comprehensive identification, collection, review for declassification, and release to Congress, interested agencies, and the public of

declassified records and materials (including donated historical materials) that are of archival value, including records and materials of extraordinary public interest.

- (2) To promote the fullest possible public access to a thorough, accurate, and reliable documentary record of significant United States national security decisions and significant United States national security activities in order to—
    - (A) support the oversight and legislative functions of Congress;
    - (B) support the policymaking role of the executive branch;
    - (C) respond to the interest of the public in national security matters; and
    - (D) promote reliable historical analysis and new avenues of historical study in national security matters.
  - (3) To provide recommendations to the President for the identification, collection, and review for declassification of information of extraordinary public interest that does not undermine the national security of the United States, to be undertaken in accordance with a declassification program that has been established or may be established by the President by Executive order.
  - (4) To advise the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and such other executive branch officials as the Board considers appropriate on policies deriving from the issuance by the President of Executive orders regarding the classification and declassification of national security information.
  - (5) To review and make recommendations to the President in a timely manner with respect to any congressional request, made by the committee of jurisdiction or by a member of the committee of jurisdiction, to declassify certain records, to evaluate the proper classification of certain records, or to reconsider a declination to declassify specific records.
- (c) MEMBERSHIP. —
- (1) The Board shall be composed of nine individu-

als appointed from among citizens of the United States who are preeminent in the fields of history, national security, foreign policy, intelligence policy, social science, law, archives, including individuals who have served in Congress or otherwise in the Federal Government or have otherwise engaged in research, scholarship, or publication in such fields on matters relating to the national security of the United States, of whom—

- (A) five shall be appointed by the President;
- (B) one shall be appointed by the Speaker of the House of Representatives;
- (C) one shall be appointed by the majority leader of the Senate;
- (D) one shall be appointed by the minority leader of the Senate; and
- (E) one shall be appointed by the minority leader of the House of Representatives.

(2) (A) Of the members initially appointed to the Board by the President—

- (i) three shall be appointed for a term of 4 years;
- (ii) one shall be appointed for a term of 3 years; and
- (iii) one shall be appointed for a term of 2 years.

(B) The members initially appointed to the Board by the Speaker of the House of Representatives or by the majority leader of the Senate shall be appointed for a term of 3 years.

(C) The members initially appointed to the Board by the minority leader of the House of Representatives or the Senate shall be appointed for a term of 2 years.

(D) Any subsequent appointment to the Board shall be for a term of 3 years from the date of the appointment.

(3) A vacancy in the Board shall be filled in the same manner as the original appointment.

(4) A member of the Board may be appointed to a new term on the Board upon the expiration of the member's term on the Board, except that no member may serve more than three full terms on the Board.

(d) CHAIRPERSON; EXECUTIVE SECRETARY. —

- (1) (A) The President shall designate one of the members of the Board as the chairperson of the Board.
- (B) The term of service as Chairperson of the Board shall be 2 years.

(C) A member serving as Chairperson of the Board may be redesignated as Chairperson of the Board upon the expiration of the member's term as Chairperson of the Board, except that no member shall serve as Chairperson of the Board for more than 6 years.

(2) The Director of the Information Security Oversight Office shall serve as the Executive Secretary of the Board.

(e) MEETINGS. — The Board shall meet as needed to accomplish its mission, consistent with the availability of funds. A majority of the members of the Board shall constitute a quorum.

(f) STAFF. — Any employee of the Federal Government may be detailed to the Board, with the agreement of and without reimbursement to the detailing agency, and such detail shall be without interruption or loss of civil, military, or foreign service status or privilege.

(g) SECURITY. —

(1) The members and staff of the Board shall, as a condition of appointment to or employment with the Board, hold appropriate security clearances for access to the classified records and materials to be reviewed by the Board or its staff, and shall follow the guidance and practices on security under applicable Executive orders and Presidential or agency directives.

(2) The head of an agency shall, as a condition of granting access to a member of the Board, the Executive Secretary of the Board, or a member of the staff of the Board to classified records or materials of the agency under this title, require the member, the Executive Secretary, or the member of the staff, as the case may be, to—

- (A) execute an agreement regarding the security of such records or materials that is approved by the head of the agency; and
- (B) hold an appropriate security clearance granted or recognized under the standard procedures and eligibility criteria of the agency, including any special access approval required for access to such records or materials.

(3) The members of the Board, the Executive Secretary of the Board, and the members of the staff of the Board may not use any information acquired in the course of their official activities on the Board for nonofficial purposes.

(4) For purposes of any law or regulation governing access to classified information that pertains to the

national security of the United States, and subject to any limitations on access arising under section 706(b), and to facilitate the advisory functions of the Board under this title, a member of the Board seeking access to a record or material under this title shall be deemed for purposes of this subsection to have a need to know the contents of the record or material.

(h) COMPENSATION. —

- (1) Each member of the Board shall receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay payable for positions at ES-1 of the Senior Executive Service under section 5382 of title 5, United States Code, for each day such member is engaged in the actual performance of duties of the Board.
- (2) Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of the duties of the Board.

(i) GUIDANCE; ANNUAL BUDGET. —

- (1) On behalf of the President, the Assistant to the President for National Security Affairs shall provide guidance on policy to the Board.
- (2) The Executive Secretary of the Board, under the direction of the Chairperson of the Board and the Board, and acting in consultation with the Archivist of the United States, the Assistant to the President for National Security Affairs, and the Director of the Office of Management and Budget, shall prepare the annual budget of the Board.

(j) SUPPORT. — The Information Security Oversight Office may support the activities of the Board under this title. Such support shall be provided on a reimbursable basis.

(k) PUBLIC AVAILABILITY OF RECORDS AND REPORTS. —

- (1) The Board shall make available for public inspection records of its proceedings and reports prepared in the course of its activities under this title to the extent such records and reports are not classified and would not be exempt from release under the provisions of section 552 of title 5, United States Code.

- (2) In making records and reports available under paragraph (1), the Board shall coordinate the release of such records and reports with appropriate officials from agencies with expertise in classified information in order to ensure that such records and reports do not inadvertently contain classified information.

(l) APPLICABILITY OF CERTAIN ADMINISTRATIVE LAWS. — The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Board under this title. However, the records of the Board shall be governed by the provisions of the Federal Records Act of 1950.

SEC. 704. IDENTIFICATION, COLLECTION, AND REVIEW FOR DECLASSIFICATION OF INFORMATION OF ARCHIVAL VALUE OR EXTRAORDINARY PUBLIC INTEREST.

(a) BRIEFINGS ON AGENCY DECLASSIFICATION PROGRAMS. —

- (1) As requested by the Board, or by the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence of the House of Representatives, the head of any agency with the authority under an Executive order to classify information shall provide to the Board, the Select Committee on Intelligence of the Senate, or the Permanent Select Committee on Intelligence of the House of Representatives, on an annual basis, a summary briefing and report on such agency's progress and plans in the declassification of national security information. Such briefing shall cover the declassification goals set by statute, regulation, or policy, the agency's progress with respect to such goals, and the agency's planned goals and priorities for its declassification activities over the next 2 fiscal years. Agency briefings and reports shall give particular attention to progress on the declassification of records and materials that are of archival value or extraordinary public interest to the people of the United States.

- (2)(A) The annual briefing and report under paragraph (1) for agencies within the Department of Defense, including the military departments and the elements of the intelligence community, shall be provided on a consolidated basis.

- (B) In this paragraph, the term “elements of the intelligence community” means the elements of the intelligence community specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).
- (b) RECOMMENDATIONS ON AGENCY DECLASSIFICATION PROGRAMS. —
- (1) Upon reviewing and discussing declassification plans and progress with an agency, the Board shall provide to the head of the agency the written recommendations of the Board as to how the agency’s declassification program could be improved. A copy of each recommendation shall also be submitted to the Assistant to the President for National Security Affairs and the Director of the Office of Management and Budget.
- (2) Consistent with the provisions of section 703(k), the Board’s recommendations to the head of an agency under paragraph (1) shall become public 60 days after such recommendations are sent to the head of the agency under that paragraph.
- (c) RECOMMENDATIONS ON SPECIAL SEARCHES FOR RECORDS OF EXTRAORDINARY PUBLIC INTEREST. —
- (1) The Board shall also make recommendations to the President regarding proposed initiatives to identify, collect, and review for declassification classified records and materials of extraordinary public interest.
- (2) In making recommendations under paragraph (1), the Board shall consider the following:
- (A) The opinions and requests of Members of Congress, including opinions and requests expressed or embodied in letters or legislative proposals, and also including specific requests for the declassification of certain records or for the reconsideration of declinations to declassify specific records.
- (B) The opinions and requests of the National Security Council, the Director of National Intelligence, and the heads of other agencies.
- (C) The opinions of United States citizens.
- (D) The opinions of members of the Board.
- (E) The impact of special searches on systematic and all other on-going declassification programs.
- (F) The costs (including budgetary costs) and the impact that complying with the recommendations would have on agency budgets, programs, and operations.
- (G) The benefits of the recommendations.
- (H) The impact of compliance with the recommendations on the national security of the United States.
- (d) PRESIDENT’S DECLASSIFICATION PRIORITIES. —
- (1) Concurrent with the submission to Congress of the budget of the President each fiscal year under section 1105 of title 31, United States Code, the Director of the Office of Management and Budget shall publish a description of the President’s declassification program and priorities, together with a listing of the funds requested to implement that program.
- (2) Nothing in this title shall be construed to substitute or supersede, or establish a funding process for, any declassification program that has been established or may be established by the President by Executive order.
- (e) DECLASSIFICATION REVIEWS. —
- (1) IN GENERAL – If requested by the President, the Board shall review in a timely manner certain records or declinations to declassify specific records, the declassification of which has been the subject of specific congressional request described in section 703(b)(5).
- (2) AUTHORITY OF THE BOARD – Upon receiving a congressional request described in section 703(b)(5), the Board may conduct the review and make the recommendations described in that section, regardless of whether such a review is requested by the President.
- (3) REPORTING – Any recommendations submitted to the President by the Board under section 703(b)(5), shall be submitted to the chairman and ranking minority member of the committee of Congress that made the request relating to such recommendations.
- SEC. 705. PROTECTION OF NATIONAL SECURITY INFORMATION AND OTHER INFORMATION.
- (a) IN GENERAL. — Nothing in this title shall be construed to limit the authority of the head of an agency to classify information or to continue the classification of information previously classified by that agency.

- (b) SPECIAL ACCESS PROGRAMS. — Nothing in this title shall be construed to limit the authority of the head of an agency to grant or deny access to a special access program.
- (c) AUTHORITIES OF DIRECTOR OF NATIONAL INTELLIGENCE. — Nothing in this title shall be construed to limit the authorities of the Director of National Intelligence as the head of the intelligence community, including the Director’s responsibility to protect intelligence sources and methods from unauthorized disclosure as required by section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6)).
- (d) EXEMPTIONS TO RELEASE OF INFORMATION. — Nothing in this title shall be construed to limit any exemption or exception to the release to the public under this title of information that is protected under subsection (b) of section 552 of title 5, United States Code (commonly referred to as the “Freedom of Information Act”), or section 552a of title 5, United States Code (commonly referred to as the “Privacy Act”).
- (e) WITHHOLDING INFORMATION FROM CONGRESS. — Nothing in this title shall be construed to authorize the withholding of information from Congress.

SEC. 706. STANDARDS AND PROCEDURES.

- (a) LIAISON. —
  - (1) The head of each agency with the authority under an Executive order to classify information and the head of each Federal Presidential library shall designate an employee of such agency or library to act as liaison to the Board for purposes of this title.
  - (2) The Board may establish liaison and otherwise consult with such other historical and advisory committees as the Board considers appropriate for purposes of this title.
- (b) LIMITATIONS ON ACCESS. —
  - (1) (A) Except as provided in paragraph (2), if the head of an agency or the head of a Federal Presidential library determines it necessary to deny or restrict access of the Board, or of the agency or library liaison to the Board, to information contained in a record or material, in whole or in part, the head of the agency or the head of the

library shall promptly notify the Board in writing of such determination.

- (B) Each notice to the Board under subparagraph (A) shall include a description of the nature of the records or materials, and a justification for the determination, covered by such notice.
- (2) In the case of a determination referred to in paragraph (1) with respect to a special access program created by the Secretary of Defense, the Director of National Intelligence, or the head of any other agency, the notification of denial of access under paragraph (1), including a description of the nature of the Board’s request for access, shall be submitted to the Assistant to the President for National Security Affairs rather than to the Board.
- (c) DISCRETION TO DISCLOSE. — At the conclusion of a declassification review, the head of an agency may, in the discretion of the head of the agency, determine that the public’s interest in the disclosure of records or materials of the agency covered by such review, and still properly classified, outweighs the Government’s need to protect such records or materials, and may release such records or materials in accordance with the provisions of Executive Order No. 12958 or any successor order to such Executive order.
- (d) DISCRETION TO PROTECT. — At the conclusion of a declassification review, the head of an agency may, in the discretion of the head of the agency, determine that the interest of the agency in the protection of records or materials of the agency covered by such review, and still properly classified, outweighs the public’s need for access to such records or materials, and may deny release of such records or materials in accordance with the provisions of Executive Order No. 12958 or any successor order to such Executive order.
- (e) REPORTS. —
  - (1) (A) Except as provided in paragraph (2), the Board shall annually submit to the appropriate congressional committees a report on the activities of the Board under this title, including summary information regarding any denials to the Board by the head of an agency or the head of a Federal Presidential library of access to records or materials under this title.



- (B) In this paragraph, the term “appropriate congressional committees” means the Select Committee on Intelligence and the Committee on Governmental Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Government Reform of the House of Representatives.
- (2) Notwithstanding paragraph (1), notice that the Board has been denied access to records and materials, and a justification for the determination in support of the denial, shall be submitted by the agency denying the access as follows:
  - (A) In the case of the denial of access to a special access program created by the Secretary of Defense, to the Committees on Armed Services and Appropriations of the Senate and to the Committees on Armed Services and Appropriations of the House of Representatives.
  - (B) In the case of the denial of access to a special access program created by the Director of National Intelligence, or by the head of any other agency (including the Department of Defense) if the special access program pertains to intelligence activities, or of access to any information and materials relating to intelligence sources and methods, to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.
  - (C) In the case of the denial of access to a special access program created by the Secretary of Energy or the Administrator for Nuclear Security, to the Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate and to the Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.
- (f) NOTIFICATION OF REVIEW. — In response to a specific congressional request for declassification review described in section 703(b)(5), the Board shall advise the originators of the request in a timely manner whether the Board intends to conduct such review.

#### SEC. 707. JUDICIAL REVIEW.

Nothing in this title limits the protection afforded to any information under any other provision of law. This title is not intended and may not be construed to create any right or benefit, substantive or procedural, enforceable against the United States, its agencies, its officers, or its employees. This title does not modify in any way the substantive criteria or procedures for the classification of information, nor does this title create any right or benefit subject to judicial review.

#### SEC. 708. FUNDING.

- (a) AUTHORIZATION OF APPROPRIATIONS. — There is hereby authorized to be appropriated to carry out the provisions of this title amounts as follows:
  - (1) For fiscal year 2001, \$650,000.
  - (2) For each fiscal year after fiscal year 2001, such sums as may be necessary for such fiscal year.
- (b) FUNDING REQUESTS. — The President shall include in the budget submitted to Congress for each fiscal year under section 1105 of title 31, United States Code, a request for amounts for the activities of the Board under this title during such fiscal year.

#### SEC. 709. DEFINITIONS.

In this title:

- (1) AGENCY.—
  - (A) Except as provided in subparagraph (B), the term “agency” means the following:
    - (i) An Executive agency, as that term is defined in section 105 of title 5, United States Code.
    - (ii) A military department, as that term is defined in section 102 of such title.
    - (iii) Any other entity in the executive branch that comes into the possession of classified information.
  - (B) The term does not include the Board.
- (2) CLASSIFIED MATERIAL OR RECORD.— The terms “classified material” and “classified record” include any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microfilm, sound recording, videotape, machine readable records, and other documentary material, regardless of physical form or characteristics, that has been determined pursuant to Executive order to require protection against unauthorized disclosure in the interests of the national security of the United States.
- (3) DECLASSIFICATION.—The term “declassification” means the process by which records or materials that

have been classified are determined no longer to require protection from unauthorized disclosure to protect the national security of the United States.

- (4) DONATED HISTORICAL MATERIAL.—The term “donated historical material” means collections of personal papers donated or given to a Federal Presidential library or other archival repository under a deed of gift or otherwise.
- (5) FEDERAL PRESIDENTIAL LIBRARY.—The term “Federal Presidential library” means a library operated and maintained by the United States Government through the National Archives and Records Administration under the applicable provisions of the Federal Records Act of 1950.
- (6) NATIONAL SECURITY.—The term “national security” means the national defense or foreign relations of the United States.
- (7) RECORDS OR MATERIALS OF EXTRAORDINARY PUBLIC INTEREST.—The term “records or materials of extraordinary public interest” means records or materials that—
  - (A) demonstrate and record the national security policies, actions, and decisions of the United States, including—

- (i) policies, events, actions, and decisions which led to significant national security outcomes; and
- (ii) the development and evolution of significant United States national security policies, actions, and decisions;

- (B) will provide a significantly different perspective in general from records and materials publicly available in other historical sources; and
  - (C) would need to be addressed through ad hoc record searches outside any systematic declassification program established under Executive order.
- (8) RECORDS OF ARCHIVAL VALUE.—The term “records of archival value” means records that have been determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the Federal Government.

#### SEC. 710. EFFECTIVE DATE; SUNSET.

- (a) EFFECTIVE DATE. — This title shall take effect on the date that is 120 days after the date of the enactment of this Act.
- (b) SUNSET. — The provisions of this title shall expire on December 31, 2018, unless reauthorized by statute.

# Endnotes

- 1 *Report to the President on Transforming the Security Classification System*, <http://www.archives.gov/declassification/pidb/recommendations/transforming-classification.html>, December 6, 2012. The President tasked the Public Interest Declassification Board to “design a more fundamental transformation of the security classification system,” in his Implementation of the Executive Order, “Classified National Security Information” Memorandum, dated December 31, 2009, 75 Federal Register 733, Document Number E9-31424.
- 2 Public Law 106-567, “Public Interest Declassification Act of 2000, as amended.” Section 704 (c) states “(c) Recommendations on special searches for records of extraordinary public interest. (1) The Board shall also make recommendations to the President regarding proposed initiatives to identify, collect, and review for declassification classified records and materials of extraordinary public interest. (2) In making recommendations under paragraph (1), the Board shall consider the following: (A) The opinions and requests of Members of Congress, including opinions and requests expressed or embodied in letters or legislative proposals, and also specific requests for the declassification of certain records or for the reconsideration of declinations to declassify specific records. (B) The opinions and requests of the National Security Council, the Director of Central Intelligence, and the heads of other agencies. (C) The opinions of United States citizens. (D) The opinions of members of the Board. (E) The impact of special searches on systematic and all other ongoing declassification programs. (F) The costs (including budgetary costs) and the impact that complying with the recommendations would have on agency budgets, programs, and operations. (G) The benefits of the recommendations. (H) The impact of compliance with the recommendations on the national security of the United States.” <http://www.archives.gov/declassification/pidb/legislation/pdfs/public-law-106-567.pdf>, September 17, 2014.
- 3 Executive Order 12958, “Classified National Security Information,” 60 Federal Register 19825, Document Number 95-9941. Signed on April 17, 1995 by President William J. Clinton, E.O. 12958 created new standards for the process of identifying and protecting classified information, and led to an unprecedented effort to declassify historical records of U.S. diplomatic and national security activities. E.O. 12958 was amended and effectively replaced by President George W. Bush on March 25, 2003. Executive Order 12958, as amended by Executive Order 13292, “Classified National Security Information,” 68 Federal Register 15315, Document Number 03-7736. <http://www.archives.gov/isoo>, October 2014.
- 4 Executive Order 13526, “Classified National Security Information,” 75 Federal Register 68675, Document Number 2010-28360. President Barack Obama signed E.O. 13526 on December 29, 2009. E.O. 13526 superseded E.O. 12958, as amended by President George W. Bush in 2003. In it, President Obama established the National Declassification Center (NDC). The

Implementing Memorandum for E.O. 13526 specifies that “under the direction of the National Declassification Center (NDC), and utilizing recommendations of an ongoing Business Process Review in support of the NDC, referrals and quality assurance problems within a backlog of more than 400 million pages of accessioned Federal records previously subject to automatic declassification shall be addressed in a manner that will permit public access to all declassified records from this backlog no later than December 31, 2013.” <http://www.archives.gov/isoo>, October 2014. The “Biannual Report on Operations of the National Declassification Center Reporting period: July 1, 2013–December 31, 2013,” issued by the NDC, stated, “On December 31, 2013, the NDC met the goal of addressing quality assurance problems within the backlog of accessioned Federal records at the National Archives and Records Administration (NARA) as directed by the December 29, 2009 Presidential Memorandum accompanying Executive Order (E.O.) 13526.” <http://www.archives.gov/declassification/ndc/reports/2013-biannual-july-december.pdf>, October 2014.

5 One example of a declassification action directed by a President is the declassification and release of the Pinochet Records, authorized by the National Security Council (NSC), “Declassifying Documents Related to Human Rights Abuses in Chile,” issued on February 1, 1999, on behalf of President William J. Clinton (<http://nixon.archives.gov/forresearchers/find/textual/pinochet.php>). The NSC requested cooperation from all national security agencies in undertaking “a compilation and review for release of all documents that shed light on human rights abuses, terrorism and other acts of political violence during and prior to the Pinochet era in Chile (1973-1990).” One example of a declassification action legislated by the Congress is the “President John F. Kennedy Assassination Records Collection Act of 1992,” or the JFK Records Act, which is a public law that directed the National Archives and Records Administration to establish a collection of records consisting of copies of all U.S. government records relating to the assassination of President John F. Kennedy in

1963. Of important note is that the Act directed agencies to perform declassification activity and it legislated criteria for exemptions much more stringent than would later be required under E.O.12958 and its successor orders. The Act requires that each assassination record be publicly disclosed in full, and be available in the collection no later than the date that is 25 years after the date of enactment of the Act (i.e., October 26, 2017), unless the President of the United States certifies that: (1) continued postponement is made necessary by an identifiable harm to the military defense, intelligence operations, law enforcement, or conduct of foreign relations; and (2) the identifiable harm is of such gravity that it outweighs the public interest in disclosure. <http://www.gpo.gov/fdsys/pkg/BILLS-103hr4569enr/html/BILLS-103hr4569enr.htm>, October 2014.

6 One example of this type of request was made by the Congress on April 3, 2014 when the Senate Select Committee on Intelligence (SSCI) formally requested the President authorize the declassification of the SSCI’s Report relating to the Central Intelligence Agency’s post-9/11 program of rendition, detention and interrogation (the SSCI Report).

7 One example of unauthorized disclosures influencing topical declassification occurred on May 14, 2014 when the Office of the Director of National Intelligence and the Department of Justice released, in redacted form, a previously classified series of Foreign Intelligence Surveillance Court filings and orders from 2009-2010 concerning the collection of bulk telephony metadata under Section 215 of the USA Patriot Act. A series of unauthorized disclosures in 2013 made public information about the collection of bulk telephony metadata. Under the telephony metadata collection program, telecommunications service providers, as required by court orders issued by the Foreign Intelligence Surveillance Court, produce to the Government certain information about telephone calls, principally those made within the United States and between the United States and foreign countries. This information is limited to telephony metadata, which includes information about what telephone numbers were used to make and

receive the calls, when the calls took place, and how long the calls lasted. Importantly, this information does not include any information about the content of those calls — the Government cannot, through this program, listen to or record any telephone conversations. <https://info.publicintelligence.net/DoJ-NSABulkCollection.pdf> <http://www.icontherecord.tumblr.com/>

- 8 Panel Discussion, “Perspectives on Prioritizing Government Records for Declassification and Public Access.” Panelists included Stephen Randolph, The Historian, Department of State; Joseph Lambert, Director, Information Management Services, Central Intelligence Agency; Michael Dobbs, Journalist and Scholar-in-Residence, The Holocaust Museum; and Steven Aftergood, Federation of American Scientists (moderator).
- 9 *Transforming Classification*, <http://blogs.archives.gov/transformingclassification>.
- 10 Recommendation 11 from the *Report to the President on Transforming the Security Classification System*, <http://www.archives.gov/declassification/pidb/recommendations/transforming-classification.html>, December 6, 2012.
- 11 For example, there are concept papers which have recommended that the Director of National Intelligence (DNI) migrate the currently CIA-centric Center for the Study of Intelligence into an Intelligence Community-wide (IC) center. In this model, declassifiers, classification policy and technology officials, historians, case studies and public policy researchers (and possibly educational support) are assigned to their department or agency, as well as to the IC Center. This will lead to better integration, focus and management of declassification policies, processes, workflows, technologies, guidance and interaction. Such a proposal has not yet been adopted by the DNI or IC to date, although the concept has been around for years.
- 12 Managing Government Records, Memorandum for the Heads of Executive Departments and Agencies, A Presidential Document by the Executive Office of the President on November 28, 2011, 76 Federal Register 75423, Document Number 2011-31096. The Office of Management and Budget issued M-12-18, Managing Government Records Directive on August 24, 2012. This Directive creates a robust records management framework that complies with statutes and regulations to achieve the benefits outlined in the Presidential Memorandum. This Directive was informed by agency reports submitted pursuant to Sec. 2 (b) of the Presidential Memorandum and feedback from consultations with agencies, interagency groups and public stakeholders.
- 13 Recommendation 8 D from the *Report to the President on Transforming the Security Classification System*, <http://www.archives.gov/declassification/pidb/recommendations/transforming-classification.html>, December 6, 2012.
- 14 *The Second Open Government National Action Plan of the United States* (NAP), published December 5, 2013, is a series of “commitments to build a more open, transparent, and participatory United States Government.” The three main initiatives found in the NAP are to open government to increase public integrity, manage resources more effectively and improve public resources. [http://www.whitehouse.gov/sites/default/files/docs/us\\_national\\_action\\_plan\\_6p.pdf](http://www.whitehouse.gov/sites/default/files/docs/us_national_action_plan_6p.pdf), December 5, 2013.
- 15 One example of a technical integration effort across agencies is the development and implementation of the Intelligence Community Information Technology Enterprise (IC ITE). IC ITE is the Intelligence Community’s (IC) integrated information enterprise that enables intelligence collection, analysis and sharing through innovative, robust and secure capabilities. It promotes greater integration, information sharing, and information safeguarding through a common IC information technology (IT) approach that substantially reduces costs. IC ITE moves the IC from an agency-centric IT architecture to a common platform where the IC easily and securely shares technology, information and resources. By managing and providing the IC’s IT infrastructure and services as a single enterprise, the IC will not only be more efficient, but will also establish a powerful platform to deliver more innovative and secure technology to desktops at all levels across the intelligence enterprise. IC IT Enter-

prise Factsheet, <http://www.dni.gov/files/documents/IC%20ITE%20Fact%20Sheet.pdf>, October 2014.

16 At one intelligence agency alone, it is estimated that approximately 1 petabyte of classified records data accumulates every 18 months. It is estimated that one intelligence agency would require two million employees to review manually one petabyte of information each year. *Report to the President on Transforming the Security Classification System*, [\[www.archives.gov/declassification/pidb/recommendations/transforming-classification.html\]\(http://www.archives.gov/declassification/pidb/recommendations/transforming-classification.html\), December 6, 2012.](http://</a></p></div><div data-bbox=)

17 To be eligible for exemption under section 3.3(h) of E.O. 13526, records need to be at least 45 to 50 years in age. It will be beneficial to grant agencies a 20-year grace period so those records may only be exempted using the significantly higher threshold found in section 3.3(h) of E.O. 13526.



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