

Central Intelligence Agency



Washington, D.C. 20505

00A FILE AREP/ASCI/SSCI
BJUD/HGO

24 August 1987

The Honorable Louis Stokes
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20510

Dear Mr. Chairman:

On 29 May 1985, Mr. Casey sent your predecessor, Representative Hamilton, a report in response to Section 3 in the CIA Information Act of October 1984. After noting that CIA had found it feasible to review selected historical records for declassification and transfer to the National Archives, this report described the new Historical Review Program that CIA had established for that purpose.

In preparing the 1985 report on this new program, Mr. Casey consulted with those officials and historians specified by the CIA Information Act, and appended their report to his. One of the consultants' recommendations, which Mr. Casey especially endorsed, was that they or a comparable panel be reassembled in two or three years to assess the program's progress and to make such further recommendations as are necessary.

On 20 May 1987 the Agency officers responsible for the Historical Review Program therefore met again with this panel of consultants, now chaired by Dr. Frank Burke, Acting Archivist of the United States. I shall enclose the panel's new report, which I believe will be of interest to your Committee. The counsel of these distinguished consultants has again been highly useful, and I am glad to report that CIA is working hard to carry out their recommendations.

As the CIA Information Act directed for the previous 1985 report on the Historical Review Program, I am also sending this report and this letter to the Chairman of the Committee on Government Operations of the House of Representatives, and to the Chairmen of the Committee on the Judiciary and the Select Committee on Intelligence of the Senate.

Sincerely,

[Redacted signature box]

William H. Webster
Director of Central Intelligence

Enclosure

STAT

Central Intelligence Agency



Washington, D. C. 20505

24 August 1987

The Honorable David L. Boren
Chairman
Select Committee on Intelligence
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On 29 May 1985, Mr. Casey sent your predecessor, Senator Durenberger, a report in response to Section 3 in the CIA Information Act of October 1984. After noting that CIA had found it feasible to review selected historical records for declassification and transfer to the National Archives, this report described the new Historical Review Program that CIA had established for that purpose.

In preparing the 1985 report on this new program, Mr. Casey consulted with those officials and historians specified by the CIA Information Act, and appended their report to his. One of the consultants' recommendations, which Mr. Casey especially endorsed, was that they or a comparable panel be reassembled in two or three years to assess the program's progress and to make such further recommendations as are necessary.

On 20 May 1987 the Agency officers responsible for the Historical Review Program therefore met again with this panel of consultants, now chaired by Dr. Frank Burke, Acting Archivist of the United States. I shall enclose the panel's new report, which I believe will be of interest to your Committee. The counsel of these distinguished consultants has again been highly useful, and I am glad to report that CIA is working hard to carry out their recommendations.

As the CIA Information Act directed for the previous 1985 report on the Historical Review Program, I am also sending this report and this letter to the Chairman of the Committee on the Judiciary of the Senate, and to the Chairmen of the Permanent Select Committee on Intelligence and the Committee on Government Operations of the House of Representatives.



William H. Webster
Director of Central Intelligence

Enclosure

Central Intelligence Agency



Washington, D.C. 20505

24 August 1987

The Honorable Joseph R. Biden, Jr.
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On 29 May 1985, Mr. Casey sent your predecessor, Senator Thurmond, a report in response to Section 3 in the CIA Information Act of October 1984. After noting that CIA had found it feasible to review selected historical records for declassification and transfer to the National Archives, this report described the new Historical Review Program that CIA had established for that purpose.

In preparing the 1985 report on this new program, Mr. Casey consulted with those officials and historians specified by the CIA Information Act, and appended their report to his. One of the consultants' recommendations, which Mr. Casey especially endorsed, was that they or a comparable panel be reassembled in two or three years to assess the program's progress and to make such further recommendations as are necessary.

On 20 May 1987 the Agency officers responsible for the Historical Review Program therefore met again with this panel of consultants, now chaired by Dr. Frank Burke, Acting Archivist of the United States. I shall enclose the panel's new report, which I believe will be of interest to your Committee. The counsel of these distinguished consultants has again been highly useful, and I am glad to report that CIA is working hard to carry out their recommendations.

As the CIA Information Act directed for the previous 1985 report on the Historical Review Program, I am also sending this report and this letter to the Chairman of the Select Committee on Intelligence of the Senate, and to the Chairmen of the Permanent Select Committee on Intelligence and the Committee on Government Operations of the House of Representatives.

Sincerely,

A rectangular box containing a handwritten signature in dark ink, which appears to be "W. H. Webster".

William H. Webster
Director of Central Intelligence

Enclosure

Central Intelligence Agency



Washington, D.C. 20505

24 August 1987

The Honorable Jack Brooks
Chairman
Committee on Government Operations
U.S. House of Representatives
Washington, D.C. 20510

Dear Mr. Chairman:

On 29 May 1985, Mr. Casey sent you a report in response to Section 3 in the CIA Information Act of October 1984. After noting that CIA had found it feasible to review selected historical records for declassification and transfer to the National Archives, this report described the new Historical Review Program that CIA had established for that purpose.

In preparing the 1985 report on this new program, Mr. Casey consulted with those officials and historians specified by the CIA Information Act, and appended their report to his. One of the consultants' recommendations, which Mr. Casey especially endorsed, was that they or a comparable panel be reassembled in two or three years to assess the program's progress and to make such further recommendations as are necessary.

On 20 May 1987 the Agency officers responsible for the Historical Review Program therefore met again with this panel of consultants, now chaired by Dr. Frank Burke, Acting Archivist of the United States. I shall enclose the panel's new report, which I believe will be of interest to your Committee. The counsel of these distinguished consultants has again been highly useful, and I am glad to report that CIA is working hard to carry out their recommendations.

As the CIA Information Act directed for the previous 1985 report on the Historical Review Program, I am also sending this report and this letter to the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, and to the Chairmen of the Committee on the Judiciary and the Select Committee on Intelligence of the Senate.

Sincerely,

A rectangular box with a black border, used to redact the signature of William H. Webster.

William H. Webster
Director of Central Intelligence

Enclosure

A Report on the Historical Review Program
of the Central Intelligence Agency

Background. Public Law 98-477, enacted October 15, 1984, required that the Director of Central Intelligence consult with the Archivist of the United States, the Librarian of Congress, and appropriate representatives of the historical discipline selected by the Archivist in preparing "a report on the feasibility of conducting systematic review for declassification and release of Central Intelligence Agency information of historical value." The then Archivist, Robert M. Warner, designated the following historians to serve as consultants: John Lewis Gaddis, Distinguished Professor of History, Ohio University; Richard W. Leopold, William Smith Mason Professor of American History, emeritus, Northwestern University; and Gaddis Smith, Larned Professor of History, Yale University. The Librarian of Congress designated the Assistant Librarian for Research Services, John C. Broderick, as his representative.

The Consultants met at CIA headquarters, Langley, Virginia, March 18-19, 1985, to discuss with the Director and members of his staff the Historical Review Program established by the Agency to meet the requirements of PL 98-477. The Archivist, Robert M. Warner, was accompanied by two members of his staff: Frank G. Burke, Acting Assistant Archivist for the National Archives, and Alan Thompson, Director of the Records Declassification Division. On March 19, Mr. Thompson represented the Archivist. Following the two-day program, arranged by CIA Chief Historian J. Kenneth McDonald, the Consultants submitted their report to

- 2 -

the Director of Central Intelligence April 10, 1985. The Director accepted the Consultants' recommendations and incorporated their findings in his report to Congress May 29, 1985.

One of the recommendations of the April 10 report had been that the same consultants or a comparable group be reassembled "in two or three years" to assess progress toward the stated goals of the Historical Review Program and to make further recommendations, as seemed necessary. In compliance with that recommendation, the Consultants were invited to return to CIA headquarters for a one-day meeting May 20, 1987. The same group of consultants were present, with the exception of Dr. Warner, no longer Archivist of the United States. A list of the participants and an agenda of the meeting are attached to this report. On the eve of the meeting, the organizers had provided a report to the Consultants, dated May 15, 1987, as a summary of developments and as background to their reassessment.

The Historical Review Program. In assessing the accomplishments of the program after two years, the Consultants recognize the inherent difficulties of initiating an ambitious undertaking of this kind. Inevitably, there will be some false starts, and a period of learning-by-doing. Mistakes will occur, which can and should be the basis for later improvement. The Agency's support for the Historical Review Program is commendable, as is its willingness to open the program to further scrutiny.

At the same time, the Consultants believe it important to reiterate the context and the fundamental principles within which the program should be judged. Public Law 98-477, as we asserted in our 1985 report, "attempts to balance the benefits of an informed public with the

- 3 -

national security need for an effective intelligence service." Neither side of this particular equation should be permitted to override the claims of the other. Despite the CIA's statutory obligation to protect intelligence sources and methods, there is a recognized public and historical interest in CIA files. Any assessment of the Historical Review Program, therefore, must address the program's success in balancing these competing claims.

Findings. We have organized our findings with reference to the recommendations in our 1985 report. The original recommendation is provided, followed by a commentary on its fulfillment.

1. That the Historical Review Program examine all permanently valuable records chronologically, beginning with the earliest, including the so-called "designated files."

We find that this recommendation has been fulfilled only in part. To some extent, failures have been those of methodology, and the shortcomings have been recognized by the HRP staff. For example, the Agency shelflists have not proved satisfactory tools for best results, since they have significant gaps. The staff intends to search accession forms for early records, examine more closely the holdings of the History staff, and conduct more research in archival holdings in the Agency's Records Center. These are useful steps and should be taken.

Other shortcomings require more fundamental remedies. We are disappointed that certain significant files have been excluded altogether.

- 4 -

In the Office of the Director of Central Intelligence files, for example, memorandums of conversations and notes of meetings with key staff have been deemed "privileged" and not subject to review, even though an analogous set of State Department records have been treated otherwise and a number of such records released or even published in Foreign Relations of the United States. This exclusion seems to the Consultants a rigid application of principle at the expense of the balance spoken of above. Perhaps national security considerations would require the withholding of most (or all) of these materials. Commitment to the principles of PL 98-477 requires that they be subject to review.

The U-2 files also merit comment. We understand that these files represented a target of opportunity for the program. As such, it was reasonable to begin to review them and to use the experience as a learning process for future application to self-contained, topical files of demonstrated historical interest. We were troubled, however, to learn that half of the available staff is working on the U-2 files. That seems excessive and likely to withhold resources from other worthwhile files.

In connection with its proposal for supplementary documentary publications on intelligence and foreign policy, the Department of State Historical Office has identified ten groups of CIA records of potential value to the project and to which access is sought. This listing, attached to an August 21, 1986, letter, Slany to McDonald, provides a seemingly

- 5 -

excellent checklist of records which the Historical Review Program might well consider for early review. It is not our position that the review program should be tailored to fit a documentary publication, even so useful a one as this seems likely to be. Nevertheless, the aims of the review program and the publication are compatible.

2. That release of sanitized documents is preferable to withholding of whole documents (when certain conditions are met).

The Historical Review Program merits high praise for its acceptance of this recommendation and the guiding principles behind it. We were shown some examples of "sanitized" documents. In our opinion, the HRP treatment successfully retained the significant content of the document, despite necessary excisions.

Our only recommendation here is that HRP reconsider its current practice of completely obliterating the document classification level marking, a datum of considerable potential historical interest in piecing together evidence about the recent past.

3. That those involved in the Historical Review Program, both permanent staff and those employed ad hoc, take full account of the extent to which information about CIA activities is already available other than through release of CIA files.

We find little evidence that this recommendation has been observed. Nor has its corollary, as expressed in the 1985 report: "close consultation with the Historical Office to achieve this goal."

- 6 -

We believe that there must be greater interaction between the Historical Office and the Historical Review Program. Now that the Historical Office is approaching its full complement of authorized positions, such interaction should be easier to achieve. (We were pleased to observe an absence of friction between the two units and an apparently harmonious working relationship. There are, therefore, no fundamental organizational obstacles to the kind of interaction we recommend.)

We note HRP's reliance on CIA annuitants as part-time reviewers in the program. This is an understandable administrative expedient, and one that merits approval. We are also satisfied that the work of the reviewers is itself reviewed for standardization and adherence to guidelines. Nevertheless, it is our impression that insufficient attention is being paid to what is already public information, through Freedom of Information released documentation, publication by former CIA officers, and other means. (This does not imply that a particular document will necessarily be released if its substance is known by other means. It merely guards against uninformed withholding of documentation.)

(Note: In discussion on this point, it was alleged that some persons publish distorted versions of past events in order to encourage release of certain files relating to them. Another person commented that such accounts are "mostly fiction, anyway." The consultants do not think the Agency should be stampeded into premature release on this basis. On the other hand, the surest antidote to "fiction" in such accounts is fact,

- 7 -

particularly in the form of authentic archival files available for public examination.)

In selecting review staff, HRP should guard against any potential or actual self-protection by reviewers. ("Protection" is not pejorative; it implies an attitude tending toward withholding of documentation of events the reviewer was involved with, though it could work the other way as well.) In addition, the review staff should receive systematic briefing by the Historical Staff on "what is known."

There is one other important function the Historical Staff can perform. We were surprised to learn that, although that staff had routinely reviewed declassified records, it had not systematically reviewed those withheld from declassification. The latter task is essential and should be factored into the process.

4. That the Historical Review Program adopt National Archives and Records Administration Standards in selecting records for review.

The Consultants have been pleased to observe the general adoption of NARA Standards in selecting records for review. (There is some overlapping of subject matter between this recommendation and No. 1, above)

Discussion of the HRP and explanation of some statistical graphs disclosed that some documents categorized as "withheld" were so treated, not because of national security considerations, but because they were adjudged not to be permanently valuable. In the future, documents awaiting disposition should be reported differently than those withheld. A more nearly accurate statistical picture will emerge.

- 8 -

A more fundamental question is the character of documents deemed disposable. In the discussion it seemed to be a premise (concurrent in by current NARA schedules for CIA records) that raw intelligence materials which are not part of "finished" reports were disposable, that only "finished" intelligence reports and their supporting raw intelligence merited a permanent place in historical archives. The Consultants dispute this view and request that CIA and NARA review the priority of current disposition standards for the CIA raw intelligence, with emphasis on the 1943-1950 period. There may be national security reasons to withhold such documentation but it is a mistake to conclude that it has no permanent historical value. Historians are interested in reconstructing what was going on around the world, not just those elements selected within the CIA as significant for inclusion in finished reports. CIA records are potentially valuable for both purposes.

It is also our position that the years 1945-1950 form a transitional period of extremely great importance, many of the events and decisions of which are not adequately documented in finished intelligence reports. For this--the Gutenberg or incunabula stage of American intelligence--reviewers and their superiors should err on the side of inclusiveness. Hence field reports of the immediate successors of the OSS should be carefully reviewed for declassification and release. An analogous case in point is field records of the Federal Bureau of

- 9 -

Investigation, once targeted for disposal but retained in compliance with court orders and now recognized by historians, archivists, and the Bureau alike as permanently valuable historical records.

As implied above in connection with the U-2 files, there should be a balance of chronological and topical approaches in selecting records for review. It is also suggested that the potential "yield" of a file be calculated by a quick survey rather than a laborious working through a sequential segment.

5. That the Director of Central Intelligence reassemble these consultants or a comparable group in two to three years to assess progress and to make further recommendations, as seem necessary.

As stated above, we commend the Agency for its voluntary adoption of this recommendation. Whereas the work of the Consultants in 1985 was mandated by PL 98-477, there was no obligation on the part of the Agency to submit its Historical Review Program to further review. That it has done so speaks well of its commitment to the spirit of PL 98-477 and to the realization of its goals.

The timing of this assessment merits comment. Because of staff vacancies, reorganizations, and delays associated with coordination with other agencies, the HRP has (statistically) relatively little to show for its two-year effort, when judged by the criterion expressed in the 1985 report: "release of inactive records, appraised as permanently valuable, to the public via the National Archives." In that respect, a meeting in

- 10 -

1988, rather than 1987, might have seemed preferable, when more material now in the pipeline of review had trickled out the other end.

Nevertheless, we believe the Agency used good judgment in scheduling the follow-up meeting two, rather than three, years after the first report. If this report helps redirect efforts more productively, that decision will have been conclusively validated.

The question naturally arises: What next? Should a permanent panel of Consultants be constituted to advise the Agency on its Historical Review Program? Should the process which the undersigned have undertaken in 1985 and 1987 be institutionalized for future action?

We see some advantages to doing so and offer the following criteria for consideration:

- a. the advisory group should be small, with a rotating body of appointed members. (The Archivist of the U.S. should continue to be an ex-officio member, and possibly the Librarian of Congress or his designee as well.)
- b. the Archivist should be responsible for naming most or all of the historians on the advisory group, possibly in consultation with the executive directors of the American Historical Association, the Organization of American Historians, and the Society of American Archivists. (To maintain credibility, the Agency should not appoint the public members.)

- 11 -

- c. the group should meet no more often than every two years, but should receive interim annual reports about the program (similar to the May 15, 1987, report issued prior to this year's meeting).
- d. every effort should be made to retain some continuity of membership.

6. That the Director of Central Intelligence authorize the publication of selected declassified and releasable intelligence reports and other intelligence related documents in regular or supplementary volumes in the FOREIGN RELATIONS SERIES.

The Consultants strongly commend the Agency, the History Staff, and the Classification Review Division for their positive response to the proposal by the Department of State to prepare a documentary publication on American foreign policy and the emerging intelligence community. We applaud such cooperation and urge joint efforts in the future to enhance the authority and value of such publications.

7. That the Director of Central Intelligence satisfy himself that preservation needs of CIA records are being met.

The Consultants heard a brief report May 20 on preservation measures being adopted by custodians of CIA records. The report was reassuring, and we are pleased that this important matter has not been neglected. The National Archives can provide technical advice and counsel, as needed.

- 12 -

Conclusion. The foregoing pages record both satisfactions and disappointments at the initial progress of the Historical Review Program. Throughout, we have been concerned with the adequacy of documentation of 20th century history and, specifically, of the actions of the United States since 1939. We believe that the shortcomings of the program can be traced to two causes, one of which, in our opinion, is easily remedied, the other less so.

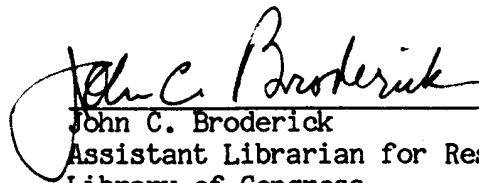
Greater involvement of the Historical staff in the review program will not be difficult. Important steps in that direction have already occurred, but more can be done, especially in the areas of providing historical contexts and in assessing results from the historians' point of view. We do not suggest that the Historical staff has the last word in these matters. We merely believe that the historians can offer important perspectives useful in achieving the goals of PL 98-477. In particular, the historians can help prevent an uninformed judgment about what is or is not likely to be of interest to historians, now and in the future.

The second cause--attitudinal resistance--is less easily overcome, though commendable steps have been taken. It is understandable that those trained in intelligence gathering, assessment, and administration should be initially suspicious of a program to release information for historical research, research which may indeed be carried out even by scholars unfriendly to the Agency and its historic role. Nevertheless, there must be a commitment throughout the Agency to recognize

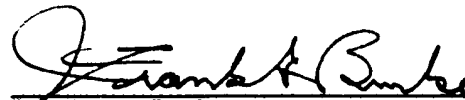
- 13 -

legitimate public interest in CIA files, as specified in PL 98-477. It is not enough for the Director of Central Intelligence, the Classification Review Division, and the History Staff to believe in this principle. Because of "decentralized declassification," the success of the program requires commitment throughout the Agency.

The Consultants do not presume to advise the Agency how to achieve this result. Nevertheless, they believe its achievement a major priority for the new Director of Central Intelligence and his immediate staff.



John C. Broderick
Assistant Librarian for Research Services
Library of Congress



Frank G. Burke
Acting Archivist of the United States

for the Committee:

John Lewis Gaddis
Richard W. Leopold
Gaddis Smith

June 26, 1987

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Transmittal to Congress of 1987 Report on the Historical Review Program

FROM: J. Kenneth McDonald
Chief, DCI History Staff
316 Ames Bldg.

EXTENSION

NO.

ER

87

DATE

10 August 1987

STAT

STAT

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

RECEIVED FORWARDED

1. Chief, Classification Review Division, DDA

10 Aug 87 *10 Aug 87*

JKC

2. *ER*

12 AUG 1987

JKC

3. Executive Secretary

8/12 *8/12*

JCS

5. Director of the Executive Staff

out of town

7. Executive Director

13 AUG 1987

JT

9. Deputy Director of Central Intelligence

24 Aug

J

keep copy for DCI review/skim

11. Director of Central Intelligence

12. *D/OCA*

25 AUG 1987

J

14. *OCA Registry (to McDonald)*



ER 2993 X 87

10 August 1987

MEMORANDUM FOR: Director of Central Intelligence

VIA: Deputy Director of Central Intelligence
Executive Director
Executive Secretary

FROM: J. Kenneth McDonald
Chief, History Staff

SUBJECT: Transmittal to Congress of 1987 Report on the Historical
Review Program

1. For your signature, I have attached letters to the Chairmen of four Congressional Committees, transmitting copies of an external panel's second report on CIA's Historical Review Program.

2. This panel was first convened in 1985, when the Central Intelligence Agency Information Act of 1984 required the Director of Central Intelligence, in consultation with the Archivist of the United States, the Librarian of Congress, and representatives of the historical discipline, to report to Congress by 1 June 1985 on the feasibility of a systematic review program to declassify CIA information of historical value for release to the public.

3. After consultations with these specified officials and historians in March 1985, the DCI's report to Congress of 29 May 1985 (copy attached) noted that this kind of historical review was feasible, described the new Historical Review Program established to carry it out, and endorsed the consultants' recommendation that the DCI reassemble them or a comparable panel in two or three years, to assess the program's progress and to make such further recommendations as might be necessary.

4. The panel's 1985 consultations were extraordinarily helpful in organizing the Historical Review Program, and its report helped assure Congress and the historical profession of the Agency's good faith in undertaking this program. This spring, the Directorate of Administration's Classification Review Division and the DCI History Staff invited the consultants to meet again, on 20 May 1987, to evaluate the program's progress in the two years since their first visit. The same consultants assembled as in 1985, except that Dr. Frank Burke, Acting Archivist of the United States, replaced Dr. Robert Warner, who retired in June 1985.

SUBJECT: Transmittal to Congress of 1987 Report on the Historical Review Program


5. This panel has submitted a report on its 20 May 1987 consultations, which offers both a useful critique of our program's work so far, and sound advice for its future development. Following the example of 1985, when the DCI sent Congress the consultants' report along with his own, the attached letters have been prepared for your signature, to transmit copies of the panel's new report to the same four congressional committee chairmen who received the 1985 reports.

STAT



J. Kenneth McDonald

Attachments

STAT
C/DCI/HS/JKM:nk1/  (10 Aug 87)

Distribution:

- Orig - Addressee w/rpt.
- 1 - CRD/DA w/o rpt
- 1 - OCA w/rpt
- 1 - EXReg w/rpt
- 1 - HS Chrono w/o rpt
- 1 - HRP File w/rpt

Report of the Director of Central Intelligence
to the Committees of Congress
on the
Historical Review Program

On 15 October 1984 President Reagan signed into law the Central Intelligence Agency Information Act (Appendix A), which authorizes the Director of Central Intelligence (DCI) to exempt certain files from search under the Freedom of Information Act. Section 3(a) of this Act also states that

The Director of Central Intelligence, in consultation with the Archivist of the United States, the Librarian of Congress, and appropriate representatives of the historical discipline selected by the Archivist, shall prepare and submit by June 1, 1985, a report on the feasibility of conducting systematic review for declassification and release of Central Intelligence Agency information of historical value.

The Act directs the DCI to submit this report to the Permanent Select Committee on Intelligence and the Committee on Government Operations of the House of Representatives, and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

In response to this requirement, on 18-19 March 1985 the DCI and members of his staff met at CIA Headquarters with the Archivist of the United States, Dr. Robert M. Warner, the Assistant Librarian for Research Services, Dr. John C. Broderick, representing the the Librarian of Congress, and the following three historians selected by the Archivist:

Dr. John Lewis Gaddis, Distinguished Professor of History, Ohio University

Dr. Richard W. Leopold, William Smith Mason Professor of American History Emeritus, Northwestern University

Dr. Gaddis Smith, Larned Professor of History, Yale University

Dr. Frank G. Burke, Acting Assistant Archivist for the National Archives, and Mr. Edwin A. Thompson, Director, Records Declassification Division, accompanied the Archivist on Monday, 18 March, and Mr. Thompson represented the Archivist at the meetings on Tuesday, 19 March. The Historian of the Department of State, Dr. William Z. Slany, and his Deputy, Dr. Neal H. Petersen, also attended Monday when the question of intelligence documents and The Foreign Relations of the United States series was taken up.

The consultants met with the Director of Central Intelligence, Mr. William J. Casey, at lunch on Monday, 18 March 1985. Representing the DCI in the two days' discussions were Director of Information Services, Dr. J. Kenneth McDonald, Chief Historian, and other officials responsible for CIA's new Historical Review Program.

The discussions focused on the Historical Review Program, which responds to the concerns reflected in Section 3 (a) of the CIA Information Act, as explained in the 1 May 1984 Report of the House Permanent Select Committee on Intelligence:

Section 3 is intended to require the Director of Central Intelligence to study the feasibility of a declassification program which would supplement the voluntary declassification review program agreed to in an exchange of letters of October 3 and 4, 1983, between Director of Central Intelligence William J. Casey and Senator Dave Durenberger. Those letters refer to "selective" review of materials that the CIA believes "would be of greatest historical interest and most likely to result in declassification of useful information." The type of systematic review Section 3 requires the Director to consider would take into account similar criteria, but would envisage a greater volume of declassification.

The Committee expects the Director's report to explore the full range of ideas which can contribute to the objective of making available CIA information of historical value on the diplomatic, military and intelligence activities of the United States without risking damage to the security or foreign policy of the Nation. The Committee considers the Foreign Relations of the United States series published by the Department of State to be an excellent example of a project which

contributes to this objective. Because of the especially sensitive nature of the work of the CIA, this type of large-scale chronological disclosure of CIA information of historical value may not be possible. However, the Committee expects the report of the Director of Central Intelligence to explore this possibility on some appropriate scale, along with exploring other ideas which can contribute to the objective set forth above.

In the two days' meetings CIA officers briefed the consultants on plans and procedures adopted for implementing the Historical Review Program. In executive session at the end of these discussions the consultants agreed on their recommendations. On 10 April 1985 the Archivist, Dr. Warner, submitted "A Report to the Director of Central Intelligence by Consultants on the Historical Review Program." The present report to Congress takes full account of the consultants' report and explains how the Historical Review Program has incorporated their recommendations. (Appendix B contains the consultants' report, whose attachments include the meetings' full agenda and biographical summaries of the consultants.)

Casey-Durenberger Agreement

Before describing CIA's Historical Review Program, however, we should give a brief account of the 3-4 October 1983 exchange of letters between Mr. Casey and Senator David Durenberger, which forms the foundation for this new program. (Appendix C has copies of these letters.)

In his 3 October 1983 letter to Mr. Casey, Senator Durenberger observed that their work on the prospective CIA Information Act had highlighted the need to make more declassified materials available to historians. In light of their common concern for history and historians, Senator Durenberger urged Mr. Casey to establish procedures for reviewing and declassifying some of the material in files not covered by the bill's exemptions. Senator Durenberger

added that although a declassification review program would be a burden for the CIA, "it would be a manageable burden and one well worth assuming." Moreover, he offered to lead the effort to provide budget support for positions to be devoted to this enterprise. Establishing such a declassification review program, he concluded, "would demonstrate your commitment to openness in the things that matter, while continuing to safeguard that which must remain secret."

Affirming Senator Durenberger's views on the need for an accurate historical record, Mr. Casey's reply declared,

If Congress is willing to provide the resources, I am prepared to institute a new program of selective declassification review of those materials that we believe would be of greatest historical interest and most likely to result in declassification of useful information.

The agreement in this exchange of letters thus envisioned a CIA historical review program organized after passage of the CIA Information Act, using additional resources Congress would then provide for this purpose.

Transfer of OSS Records

In his letter to Senator Durenberger, however, Mr. Casey explained that on his own initiative he had already asked his Chief Historian to explore a program that would release "usable historical materials from the World War II period." As a result of this initiative CIA took steps to transfer to the National Archives and Records Service (NARS--since 1 April 1985, National Archives and Records Administration, NARA) its entire holdings of declassified World War II Office of Strategic Services (OSS) permanent records, a large collection of major historical importance. In June 1984, after concluding a Memorandum of Understanding with NARS concerning procedures and responsibilities (Appendix D), CIA began its transfer to NARS

of some 2500 cubic feet of declassified OSS operational records in CIA's custody. On 11 June 1984 the National Archives opened for research the first 194 cubic foot increment of these newly declassified OSS records. The opening of this collection for the first time permits thoroughly documented studies of the role of American intelligence in World War II. As Mr. Casey wrote to Senator Durenberger in June 1984, this transfer constitutes "an important first step in implementing the selective declassification program I promised to initiate last October."

By May 1985 the National Archives and Records Administration had accessioned approximately 800 cubic feet of OSS records. The transfer of a collection of this size is a large undertaking for both CIA and NARA, and the two agencies are cooperating closely to maintain the transfer pace. The pressure has probably been heavier on NARA, since a CIA team of 13 had already spent almost four years reviewing these records for declassification before this transfer began. It may be late 1986 before all of these OSS records are open to researchers. In the meantime, while continuing the transfer of OSS records, the Agency is moving systematically to establish its new Historical Review Program on a permanent footing.

Aims

CIA recognizes that it is accountable not only to Congress but also to the American public. Congress, historians, the media and the general public clearly expect us (after proper review) to release documents of historical significance that no longer require protection in the interest of national security. The Freedom of Information Act already makes this clear, and our exemption from searching certain designated operational records under the new

CIA Information Act increases the pressure to declassify other records. Our consultants rightly point out that "in a society as open as that of the United States, excessive secrecy erodes Government credibility and encourages distortions of the historical record." Moreover, as Senator Durenberger observed in his 3 October 1983 letter to Mr. Casey, "The important thing is to make the declassification of historical information a cooperative endeavor, rather than a test of wills fought out in FOIA requests and courtrooms." Needing the confidence of the American public to do our work, we hope to strengthen that confidence by undertaking this program to review CIA records of historical value for declassification and transfer to the National Archives.

In establishing the Historical Review Program, we have not attempted to distinguish between the voluntary program to which Mr. Casey committed CIA in his 4 October 1983 letter to Senator Durenberger, and the systematic program that Section 3 of the CIA Information Act proposes. As the House Report notes, both take into account similar criteria. After exploring a full range of options and ideas, CIA has decided to organize a maximum effort from the outset, to declassify and transfer to the National Archives the greatest feasible volume of historically significant records. Our consultants have examined and evaluated this proposed program, we have incorporated their recommendations into it, and we fully endorse their view that the program's aim

must be release of inactive records, appraised as permanently valuable, to the public via the National Archives, as the most effective means of serving the public interest and especially that of historical research.

Organization

Principal responsibility for this program has been assigned to the

Director of the Office of Information Services (OIS), in the Directorate of Administration, with advice and support from the History Staff in the Office of the DCI. As Senator Durenberger promised, Congress provided CIA with ten additional positions to support this program. Eight of these have been allocated to OIS, and two to the History Staff. Both organizations have moved to fill these positions.

The role of the History Staff is to consult with outside historians, to help the Office of Information Services and the Agency's components select historically important records, and to provide insight and judgments on historical value throughout the review process. The consultants' report, in commending the significant role assigned to an enlarged History Staff in the program, noted that this staff is "best qualified to render judgment on the potential historical value of certain files and records."

The History Staff was reestablished in its present form in 1980, and the Chief Historian recruited from outside CIA in 1981. In addition to its chief and his deputy, the History Staff has four staff historians, two of whom are being added specifically for the Historical Review Program. The History Staff's doctorates are from Oxford, Bryn Mawr, University of North Carolina, Indiana University, Columbia and Johns Hopkins. All have served on college or university history faculties, and they continue to be active in the profession--in scholarly meetings and publications--outside of their CIA work. The History Staff is committed to the success of the Historical Review Program, and its members are unusually well-qualified by training and experience to carry out the duties required of them.

The Office of Information Services has assigned responsibility for the

Historical Review Program to its Classification Review Division. This Division has formed a new Historical Review Branch dedicated to this program, whose full-time staff will be supplemented as needed by qualified contract help. This Branch has taken the lead in finding ways to identify and locate records whose historical interest and declassification potential make them promising candidates for review. The Classification Review Division will coordinate with Agency components the actual review of records once selected. Using its extensive experience as coordinator for CIA's 1977-82 systematic review program, this Division is developing review guidelines and procedures in accordance with relevant CIA and other federal directives.

Although commenting favorably on the Agency staff committed to the Historical Review Program, the consultants concluded that they could not readily judge whether the resources assigned to the program, including an augmented History Staff, are sufficient to make acceptable progress. We therefore endorse their recommendation that

The Director of Central Intelligence reassemble these consultants or a comparable group in two or three years to assess progress and to make further recommendations, as seem necessary.

Selection

As Senator Durenberger suggests in his 3 October 1983 letter to the DCI, we shall use the same criterion to select material for review that the CIA Information Act sets forth for file designation review, that is, "the historical value or other public interest in the subject matter". Since documents of historical value--practically speaking--are those that historians value, CIA's Chief Historian will take into account the recommendations of a wide range of historians--e.g. the historians of the

Departments of State and Defense, the Archivist of the U.S., as well as academic and private historians--in determining what records meet this criterion. Our objective is to evaluate material in light of the contribution its declassification can make to an understanding of intelligence, foreign policy and international developments.

In selecting records, as Mr. Casey noted in his 4 October 1983 reply to Senator Durenberger, we expect to concentrate our efforts on files that are of the greatest historical interest, and are most likely to result in the declassification of useful information. As a general rule this latter consideration--the potential "yield" of declassified documents--will mean focusing first on the Agency's earliest records, as opposed to more recent material. We have begun with our oldest records not only because we expect them to produce the most releasable material, but also because we plan to conform to the regular procedures followed throughout the U.S. government for transferring permanent records to the National Archives, which normally accessions only records 20 years old or older. Moreover, we do not propose to pick out individual documents on particular topics from various files, but rather to adopt National Archives and Records Administrations standards in selecting significant classes of records for review. Following our consultants' recommendation, we have therefore established procedures to examine all permanently valuable records chronologically, beginning with the earliest, including "designated files" in conjunction with the periodic review required by Section 702 of the CIA Information Act.

In deciding which groups of records to review, the program will also follow the two principles that our consultants commend to us as "Finished

First" and "Top Down." As they note, these principles mean that "finished intelligence considered by high-ranking officials should have first priority in review." Finished intelligence deserves priority for two reasons. First, the final version of an intelligence report or estimate is ordinarily what policy-makers see and act on. Secondly, it is less likely than raw data to reveal intelligence sources and methods that must continue to be protected. "Top Down" means that we shall give priority to reviewing the records of the Director of Central Intelligence and his principal subordinates, when--as the consultants note--the potential yield of declassifiable files makes this approach feasible.

Review

Beginning with our post-World War II records, we propose to move systematically to review coherent groups of documents that the National Archives has scheduled as permanent records, and from which we expect to be able to declassify a substantial percentage of records. In this process we shall work closely with the National Archives, using the valuable experience and working relationships we have gained over the years, and most recently in the review and transfer of our OSS operational records. At our March meetings National Archives representatives assured us that, barring unforeseen loss of staff resources, their staff is equal to the task of keeping pace with the Historical Review Program's processing and preparation of records for National Archives' accession.

Our consultants noted that delays in declassification review are often caused by the need to coordinate many documents with other government departments and agencies having equities in them. As they suggest, the DCI,

as head of the Intelligence Community, will seek cooperation from all the relevant agencies in expediting their review of documents submitted to them by the Historical Review Program.

Although we shall declassify and transfer whole documents whenever possible, we agree with our consultants that the transfer of a minimally "sanitized" document (that is, with some excisions) is preferable to withholding it altogether. We shall therefore when necessary sanitize a document for transfer in unclassified form, using the following guidelines from our consultants:

- a. the "sanitizing" may be accomplished with little additional staff effort and minimal impact on the Review program;
- b. the essential significance of the record is retained; and
- c. there is no distortion of bibliographical identity, including authorship and recipient, and use made of the record, even if details of internal dissemination are excised.

As the program moves forward the History Staff will consult with the Classification Review Division and the components controlling records with respect to the consultants' recommendation that those involved in the Historical Review Program "take full account of the extent to which information about CIA activities is already available other than through release of CIA files."

With the transfer of our declassified OSS documents, our oldest records are those of CIA's postwar predecessor organizations, the Strategic Services Unit and the Central Intelligence Group, which cover the period 1 October 1945 to 18 September 1947. CIA has already taken steps to review the Strategic Services Unit records, so that in due course we can transfer those that are declassified to the National Archives. After reviewing the Central

Intelligence Group records we shall move to select records from the files of CIA proper, beginning in 1947. We hope to declassify historically significant documents that will make CIA material available--as the State and Defense Departments' material is generally available--up to the 1960s.

Publication

The consultants and CIA representatives discussed the suggestion of the House Permanent Select Committee on Intelligence (quoted on page 3 above) that CIA explore the possibility of publishing declassified documents in a series similar to the Department of State's Foreign Relations of the United States. State's Historian's Office has in fact considered compiling supplements to earlier Foreign Relations volumes of the 1940s and 1950s, to publish important documents (such as CIA reports and estimates and National Security Council papers) that have been declassified since the publication of the original volumes. This seems the most promising and useful way to publish the most significant declassified CIA documents. In discussions with the consultants at the 18 March meeting, however, the Historian of the Department of State, Dr. William Slany, explained that his office's present commitments and limited resources make it highly unlikely that they can undertake any such supplementary volumes in the foreseeable future.

The consultants nevertheless concluded that the Foreign Relations volumes, whose successive prefaces properly declare them to be "the official record of the foreign policy of the United States," are the appropriate and preferred vehicles for publishing finished intelligence and other documents relating to intelligence activities abroad. "Indeed," the consultants' report observes, "without the inclusion of such documents, either in basic or supplementary volumes, the history of American foreign relations is

impoverished and incomplete." The consultants therefore recommended that

the Director of Central Intelligence authorize the publication of selected declassified and releasable intelligence reports and other intelligence related documents in regular or supplementary volumes in the Foreign Relations series, rather than as separate publications by CIA.

Although State cannot now undertake supplementary volumes to incorporate CIA material for the earlier postwar years, CIA will continue to make documents available for publication in the regular volumes in the Foreign Relations series, which have now reached the Vietnam War era. For a number of years the Agency's History Staff has arranged for Department of State historians to have access to classified CIA files (especially in the several presidential libraries), and our Classification Review Division has reviewed for declassification those CIA documents State's editors select for publication in each Foreign Relations volume. We shall of course continue to help make CIA records available for the forthcoming regular volumes of this distinguished series. We hope, however, that in due course the Historian of the Department of State will be given the resources he needs to publish supplementary Foreign Relations volumes with important CIA and other records that have been declassified since earlier volumes appeared.

Preservation

Noting that security classification requires CIA to retain custody of its records longer than most government agencies, the consultants suggested that special precautions may be necessary to guard against undue deterioration of records. They therefore offered the cautionary recommendation, not based on any observed shortcomings, that "the Director of Central Intelligence satisfy himself that the preservation needs of CIA records are being met." The point is well taken, and CIA is reviewing its ongoing records preservation program.

Conclusions

We cannot conclude without expressing our gratitude to the five distinguished consultants who met on 18-19 March 1985 with the CIA officers responsible for this program. Their well-informed and eminently practical counsel, both at the meetings and in their formal report, has been extraordinarily helpful in our efforts.

We believe that, with our consultants' help, we have investigated carefully the "full range of ideas" that the House Report urged us to explore. Balancing our statutory duty to protect intelligence sources and methods with legitimate public interest in CIA records, our program is designed to make significant historical information available without risking damage to our national security. Although we believe that the Historical Review Program is established on a sound footing, some time will be needed to find out how well our arrangements work in practice. We shall seek advice and make adjustments as we proceed, but we agree that after a reasonable period the program should have another thorough external review. As the consultants recommend, the DCI will invite them or a comparable group in two or three years to assess the program's progress, and to make such further recommendations as are necessary.

Our consultants reported that they found a strong sense of institutional and personal commitment to the Historical Review Program on the part of those in charge of its implementation. CIA is grateful for their confidence, and determined that this new program succeed in releasing intelligence documents that will make possible a more accurate record and fuller understanding of our nation's history since World War II.

Page Denied

Next 15 Page(s) In Document Denied

PUBLIC LAW 98-477—OCT. 15, 1984

98 STAT. 2209

Public Law 98-477
98th Congress

An Act

To amend the National Security Act of 1947 to regulate public disclosure of information held by the Central Intelligence Agency, and for other purposes.

Oct. 15, 1984
[H.R. 5164]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Central Intelligence Agency Information Act".

SEC. 2. (a) The National Security Act of 1947 is amended by adding at the end thereof the following new title:

Central
Intelligence
Agency
Information Act.
50 USC 401 note.

"TITLE VII—PROTECTION OF OPERATIONAL FILES OF THE
CENTRAL INTELLIGENCE AGENCY

"EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW,
PUBLICATION, OR DISCLOSURE

"SEC. 701. (a) Operational files of the Central Intelligence Agency may be exempted by the Director of Central Intelligence from the provisions of section 552 of title 5, United States Code (Freedom of Information Act), which require publication or disclosure, or search or review in connection therewith.

50 USC 431.

"(b) For the purposes of this title the term 'operational files' means—

"(1) files of the Directorate of Operations which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services;

"(2) files of the Directorate for Science and Technology which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems; and

"(3) files of the Office of Security which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources; except that files which are the sole repository of disseminated intelligence are not operational files.

"(c) Notwithstanding subsection (a) of this section, exempted operational files shall continue to be subject to search and review for information concerning—

"(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 of title 5, United States Code (Freedom of Information Act), or section 552a of title 5, United States Code (Privacy Act of 1974);

"(2) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code (Freedom of Information Act); or

"(3) the specific subject matter of an investigation by the intelligence committees of the Congress, the Intelligence Over-

98 STAT. 2210

PUBLIC LAW 98-477—OCT. 15, 1984

sight Board, the Department of Justice, the Office of General Counsel of the Central Intelligence Agency, the Office of Inspector General of the Central Intelligence Agency, or the Office of the Director of Central Intelligence for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity.

“(d)(1) Files that are not exempted under subsection (a) of this section which contain information derived or disseminated from exempted operational files shall be subject to search and review.

“(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) of this section shall not affect the exemption under subsection (a) of this section of the originating operational files from search, review, publication, or disclosure.

“(3) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under subsection (a) of this section and which have been returned to exempted operational files for sole retention shall be subject to search and review.

“(e) The provisions of subsection (a) of this section shall not be superseded except by a provision of law which is enacted after the date of enactment of subsection (a), and which specifically cites and repeals or modifies its provisions.

Courts, U.S.

“(f) Whenever any person who has requested agency records under section 552 of title 5, United States Code (Freedom of Information Act), alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code, except that—

“(1) in any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Central Intelligence Agency, such information shall be examined ex parte, in camera by the court;

“(2) the court shall, to the fullest extent practicable, determine issues of fact based on sworn written submissions of the parties;

“(3) when a complaint alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission, based upon personal knowledge or otherwise admissible evidence;

“(4)(A) when a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Central Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in subsection (b) of this section; and

“(B) the court may not order the Central Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under subparagraph (A) of this paragraph, unless the complainant disputes the Central Intelligence Agency's showing with a sworn written

PUBLIC LAW 98-477—OCT. 15, 1984

98 STAT. 2211

submission based on personal knowledge or otherwise admissible evidence;

"(5) in proceedings under paragraphs (3) and (4) of this subsection, the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36;

28 USC app.

"(6) if the court finds under this subsection that the Central Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Central Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code (Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section; and

"(7) if at any time following the filing of a complaint pursuant to this subsection the Central Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

"DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES

"Sec. 702. (a) Not less than once every ten years, the Director of Central Intelligence shall review the exemptions in force under subsection (a) of section 701 of this Act to determine whether such exemptions may be removed from any category of exempted files or any portion thereof.

50 USC 432.

Ante, p. 2209.

"(b) The review required by subsection (a) of this section shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

"(c) A complainant who alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with this section may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining (1) whether the Central Intelligence Agency has conducted the review required by subsection (a) of this section within ten years of enactment of this title or within ten years after the last review, and (2) whether the Central Intelligence Agency, in fact, considered the criteria set forth in subsection (b) of this section in conducting the required review."

Courts, U.S.

(b) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

"TITLE VII—PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY

"Sec. 701. Exemption of certain operational files from search, review, publication, or disclosure.

"Sec. 702. Decennial review of exempted operational files."

(c) Subsection (q) of section 552a of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(q)"; and

98 STAT. 2212

PUBLIC LAW 98-477—OCT. 15, 1984

(2) by adding at the end thereof the following:
“(2) No agency shall rely on any exemption in this section to withhold from an individual any record which is otherwise accessible to such individual under the provisions of section 552 of this title.”.

5 USC 552.
Reports.
50 USC 432 note.

SEC. 3. (a) The Director of Central Intelligence, in consultation with the Archivist of the United States, the Librarian of Congress, and appropriate representatives of the historical discipline selected by the Archivist, shall prepare and submit by June 1, 1985, a report on the feasibility of conducting systematic review for declassification and release of Central Intelligence Agency information of historical value.

(b)(1) The Director shall, once each six months, prepare and submit an unclassified report which includes—

(A) a description of the specific measures established by the Director to improve the processing of requests under section 552 of title 5, United States Code;

(B) the current budgetary and personnel allocations for such processing;

(C) the number of such requests (i) received and processed during the preceding six months, and (ii) pending at the time of submission of such report; and

(D) an estimate of the current average response time for completing the processing of such requests.

(2) The first report required by paragraph (1) shall be submitted by a date which is six months after the date of enactment of this Act. The requirements of such paragraph shall cease to apply after the submission of the fourth such report.

(c) Each of the reports required by subsections (a) and (b) shall be submitted to the Permanent Select Committee on Intelligence and the Committee on Government Operations of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

Effective date.
50 USC 431 note.

SEC. 4. The amendments made by subsections (a) and (b) of section 2 shall be effective upon enactment of this Act and shall apply with respect to any requests for records, whether or not such request was made prior to such enactment, and shall apply to all civil actions not commenced prior to February 7, 1984.

Approved October 15, 1984.

LEGISLATIVE HISTORY—H.R. 5164 (S. 1324):

HOUSE REPORTS: No. 98-726, Pt. 1 (Permanent Select Committee on Intelligence) and Pt. 2 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 17, 19, considered and passed House.

Sept. 28, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984):
Oct. 15, Presidential statement.



National Archives



Executive Registry
85- 1544

Washington, DC 20408

APR 10 1985

Honorable William J. Casey
 Director
 Central Intelligence Agency
 Washington, DC 20505

Dear Mr. Casey:

I take great pleasure in sending you "A Report to the Director of Central Intelligence by Consultants on the Historical Review Program." We hope that the counsel provided will be helpful in the further development of an effective program and result in making Central Intelligence Agency (and predecessor organization) records available to researchers in the National Archives just as soon as they no longer require national security protection.

Please accept too, our thanks to Dr. J. Kenneth McDonald and and their staffs for the conference arrangements and for providing us with essential information on CIA records, programs, review experience, and proposals for conducting the historical review program. The well organized briefings and the comments they contributed to our discussions were extremely helpful.

Sincerely,

ROBERT M. WARNER
 Archivist of the United States

Enclosure

I very much enjoyed our luncheon discussion with you. It was most pleasant.

RW

A REPORT TO THE DIRECTOR OF CENTRAL INTELLIGENCE
BY CONSULTANTS ON THE HISTORICAL REVIEW PROGRAM

Public Law 98-477, enacted October 15, 1984, requires that the Director of Central Intelligence consult with the Archivist of the United States, the Librarian of Congress, and appropriate representatives of the historical discipline selected by the Archivist in preparing "a report on the feasibility of conducting systematic review for declassification and release of Central Intelligence Agency information of historical value." The Archivist designated the following historians to serve as consultants: John Lewis Gaddis, Distinguished Professor of History, Ohio University; Richard W. Leopold, William Smith Mason Professor of History, emeritus, Northwestern University; and Gaddis Smith, Larned Professor of History, Yale University. The Librarian of Congress was represented by the Assistant Librarian for Research Services, John C. Broderick. The Archivist, Robert M. Warner, was accompanied by two members of his staff: Frank G. Burke, Acting Assistant Archivist for the National Archives, and Alan Thompson, Director of the Records Declassification Division. On March 19, Mr. Thompson represented the Archivist. (Biographical summaries about the consultants are attached to this report.)

The Consultants met at CIA headquarters, Langley, Virginia, March 18-19, 1985, to discuss with the Director and members of his staff the Historical Review Program established by the Agency to meet the requirements of PL 98-477. The two-day program, arranged by CIA Chief Historian J. Kenneth McDonald, provided the consultant group with an opportunity to acquaint itself

with plans and procedures adopted by CIA and to discuss relevant issues with the staff members responsible for implementing the Historical Review Program in all its aspects. Following the briefings, the consultants met in executive session to formulate their recommendations. (A full agenda of the meeting is attached to this report.)

In the view of the consultants, PL 98-477 attempts to balance the benefits of an informed public with the national security need for an effective intelligence service. The Director of Central Intelligence has accepted the validity of public and historical interest in CIA files, consistent with the need to protect sources and foreign relations (Casey to Durenberger, October 4, 1983). The consultants likewise recognize the need to balance CIA's statutory obligation to protect intelligence sources and methods with legitimate historical interest in CIA records. PL 98-477, the Agency's Historical Review Program, and the work of the undersigned consultants seem to be important steps toward achieving such a balance.

Nevertheless, the consultants urge recognition of the fact that, in a society as open as that of the United States, excessive secrecy erodes Government credibility and encourages distortions of the historical record. The Department of State's decision in 1955 to release documentation on the Yalta Conference, only ten years after the event, provides an excellent example of how a policy of generous disclosure can promote more balanced discussion of controversial events without in any way compromising the interests of national security. We hope to see the CIA historical review program produce comparable results. We wish also to stress that the availability of full and reliable historical documentation is indispensable

for the education of students from whose ranks will come future officers of the Executive Branch, legislators, and teachers and commentators dealing with issues of national security policy.

We commend the decision by the Director and the Agency to assign a prominent role to the Historical Office in providing insight and judgments on historical value throughout the review process.

Aims and Methods. The aim of the Historical Review Program must be release of inactive records, appraised as permanently valuable, to the public via the National Archives, as the most effective means of serving the public interest and especially that of historical research. To that end the consultants recommend that (1) the Historical Review Program examine all permanently valuable records chronologically, beginning with the earliest, including the so-called "designated files" (i.e., those identified in PL 98-477, under Sec. 701 (b)). It is understood that the Agency is required to make a decennial review of exempted operational files. (CIA staff indicate that such a review will occur more often than every ten years.) Nevertheless, because records affecting a single activity of historical importance may appear in several files, including "designated files," it is hoped that the review program will include the latter files, in the expectation that one or more of the following actions may take place: dedesignation, declassification, and release to the public through transfer to the National Archives.

Ideally, whole office file systems, whole file series, and whole documents should be released as a result of the Historical Review Program. However, the consultants recommend that, when necessary, (2) release of sanitized documents is preferable to withholding of whole documents, when the following conditions are met: (a) the "sanitizing" may be accomplished with

little additional staff effort and minimal impact on the Review Program, (b) the essential significance of the record is retained, and (c) there is no distortion of bibliographical identity, including authorship and recipient, and use made of the record, even if details of internal dissemination are excised.

The consultants recommend that (3) those involved in the Historical Review Program, both permanent staff and those employed ad hoc, take full account of the extent to which information about CIA activities is already available other than through release of CIA files. They suggest close consultation with the Historical Office to achieve this goal.

Criteria. The consultants recommend that (4) the Historical Review Program adopt National Archives and Records Administration standards in selecting records for review (e.g., oldest records first, coherent groups, etc.). Further, the historical value and potential "yield" should be considered, keeping in mind the principle stated above, that the review program should ultimately lead to release of inactive files through the National Archives. Throughout, it should be remembered that "historical value equals that which is of value to historians," primarily those records that illuminate major national policies in the area of foreign affairs and national security. Although the basic approach in the review program will be determined by the nature of information in the files examined, we urge that both chronological and topical approaches be adopted. Two other principles may be expressed as follows: "finished first" and "top down." The final version of an intelligence report will be of value to historians, even if the raw material leading to the report remains classified and/or unreleased. It may be that the final report is the only version which the policy-maker had

available to him or her, in any case. The second principle applies to the order of priority. In other words, the files of the agency heads and principal subordinates are likely to be of greatest historical interest and value. Insofar as possible, such files should be high on the list of priorities for review, assuming that the "yield" in releasable files makes such an approach feasible. Ultimately, all records should be reviewed. Although finished intelligence considered by high ranking officials should have first priority, definitive history must be based on access to a mass of "unfinished," operational and administrative records. Furthermore, there is no way for one generation to know with certainty what historians of subsequent generations will consider most significant.

Organization and Procedures. The consultants were pleased to find a strong sense of institutional and personal commitment to the Historical Review Program on the part of those in charge of its implementation. We especially commend the decision of the agency to allot a full-time, dedicated staff to the effort, supplemented by qualified contractual assistance when warranted. As stated earlier, another plus in the plan is the significant role assigned to the revitalized and enlarged Historical Office. That staff is best qualified to render judgment on the potential historical value of certain files and records. That judgment is only a part of the entire review program, we acknowledge, but an essential ingredient nevertheless.

The consultants concluded that the important question of allocation of resources could not be readily addressed at this time. Whether the dedicated staff assigned to the Historical Review Program, including an augmented Historical Office staff, is sufficient to make acceptable progress, we cannot

say. For that reason, the consultants recommend that (5) the Director of Central Intelligence reassemble these consultants or a comparable group in two to three years to assess progress and to make further recommendations, as seem necessary.

We also urge the Director of Central Intelligence to use his authority as head of the Intelligence Community to insure that all relevant agencies of Government cooperate in the important undertaking which his agency has begun. The pace of the Historical Review Program should not be delayed by necessary actions of review by other agencies. During the two-day deliberations, National Archives and Records Administration representatives indicated that, barring unforeseen loss of staff resources, the NARA staff is equal to the task of keeping pace with the output of the Historical Review Program in processing and making available releasable documents in the National Archives.

Additional Considerations. The consultants discussed official disclosure through publication as well as through release of retired files to the National Archives. They also heard from representatives of the Department of State Historical Office concerning the publication series Foreign Relations of the United States (see agenda). The Foreign Relations volumes are "the official record of the foreign policy of the United States," as their successive prefaces avow. The volumes are, therefore, the appropriate and preferred vehicles for publishing "finished intelligence" (National Intelligence Estimates and the like) and other documents relating to intelligence activities abroad affecting foreign relations and national security. Indeed, without the inclusion of such documents, either in basic or supplementary volumes, the history of American foreign relations is impoverished and

incomplete. The consultants recommend, therefore, that (6) the Director of Central Intelligence authorize the publication of selected declassified and releasable intelligence reports and other intelligence related documents in regular or supplementary volumes in the FOREIGN RELATIONS series, rather than as separate publications by CIA.

The consultants are also concerned about the possible physical condition of CIA files, in an age when the preservation of paper documents is recognized as a costly and inescapable responsibility of archives and libraries. Because of the generally longer period of retention of records in CIA custody than would be customary for less sensitive material elsewhere, it may be necessary to take special precautions to guard against undue deterioration of records. The consultants recommend, therefore, that (7) the Director of Central Intelligence satisfy himself that preservation needs of CIA records are being met, through proper environmental conditions for storage of historically significant but deteriorating records, through conversion to a secondary format (microfilm, microfiche, optical disk, etc.), or other means, as appropriate. (This recommendation is a precaution, not a commentary based upon any observed shortcoming in the Agency's preservation program.)

Summary of Recommendations:

1. an inclusive, systematic review program,
leading to regular retirement of records
to the National Archives.
2. release of minimally sanitized documents
in preference to withholding of whole documents.


3. awareness in the review program of information about CIA already publicly known.
4. adoption of archivally-tested selection criteria for review program.
5. assessment of progress of review program in 2-3 years by comparable or identical group of consultants.
6. publication of appropriate declassified CIA documents in Foreign Relations of the United States.
7. an ongoing concern for preservation considerations.

The consultants express their appreciation to William J. Casey, Director of Central Intelligence, and his staff for the courtesies extended during the two days of deliberations. Special thanks are due to Chief Historian Kenneth McDonald and to Ben DeFelice, Director of Information Services, under whose responsibility the Historical Review Program will proceed. It was a productive two days of serious exchanges of information, for which the consultants and the agencies and disciplines which they represent are appreciative.


Respectfully submitted,



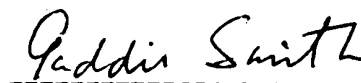
John C. Broderick




John Lewis Gaddis



Richard W. Leopold



Gaddis Smith



Robert M. Warner

April 9, 1985
Date

HISTORICAL REVIEW PROGRAM

Meetings 18-19 March 1985

Agenda

Monday, 18 March

10:30 a.m. Convene in Conference Room, 7D32 Headquarters

Welcome and Introductions (Ken McDonald)

10:45 a.m. Origins & Overview of the Historical Review Program (Ken McDonald)

CIA's Records System

11:45 a.m. Break for Lunch

12:00 noon Lunch

1:30 p.m. Reconvene in Conference Room 7D32

Comments on the Historical Review Program

The Classification Review Division: Role & Experience

2:15 p.m. Directorate of Operations & the Historical Review Program

2:45 p.m. Directorate of Intelligence & the Historical Review Program

3:15 p.m. Break

3:30 p.m. The National Archives' Role in the Historical Review Program
(Robert Warner or other NARS representative)

4:00 p.m. Foreign Relations of the U.S. & the Historical Review Program
(Neal Petersen, Department of State)

4:30 p.m. Discussion and planning for Tuesday morning session

5:00 p.m. Adjourn

Tuesday, 19 March

9:30 a.m. Convene in Conference Room, 7D32

12:00 noon Lunch

1:30 p.m. Convene in Conference Room, 7D32 (Consultants only)

4:00 p.m. Full group reconvenes in Conference Room, 7D32

4:30 p.m. Adjourn

N.B. Sometime on Tuesday afternoon an Agency representative will deliver honoraria checks and reimburse consultants' expenses.

HISTORICAL REVIEW PROGRAM

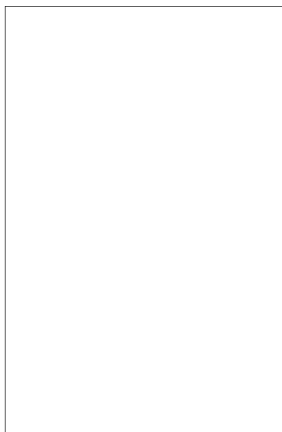
Meetings 18-19 March 1985

Participants

I. Consultants

- John C. Broderick Assistant Librarian for Research Services, Library of Congress
- John Lewis Gaddis Distinguished Professor of History, Ohio University
- Richard W. Leopold William Smith Mason Professor of American History Emeritus, Northwestern University
- Gaddis Smith Larned Professor of History, Yale University
- Robert M. Warner Archivist of the United States

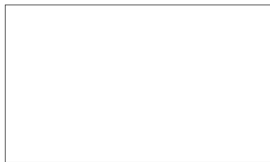
II. CIA



- Deputy Director of Information Services
- Director of Information Services
- Chief, Information Management Branch, Resources Division, Office of Information Services
- Staff Historian, DCI History Staff
- Chief, Classification Review Division
- Information Review Officer, Directorate of Intelligence

Ken McDonald

Chief, DCI History Staff



- Chief, Historical Review Branch, Classification Review Division, Office of Information Services
- Director, Information Management Staff, Directorate of Operations

III. Others

- Frank G. Burke Acting Assistant Archivist for the National Archives
- Neal H. Petersen Deputy Historian, Department of State (Monday 4 p.m.)
- William Z. Slany The Historian, Department of State (Monday 4 p.m.)
- Edwin A. Thompson Director, Records Declassification Division, NARS

STAT

STAT

Page Denied

Next 5 Page(s) In Document Denied

BARRY GOLDWATER, ARIZ., CHAIRMAN
 DANIEL PATRICK MOYNIHAN, N.Y., VICE CHAIRMAN
 JAKE GARN, UTAH
 JOHN H. CHAFFEE, R.I.
 RICHARD G. LUGAR, IND.
 MALCOLM WALLOP, WYO.
 DAVID DURENBERGER, MINN.
 WILLIAM V. ROTH, JR., DEL.
 WILLIAM S. COHEN, MAINE
 WALTER D. HULLDESTON, KY.
 JOSEPH R. BIDEN, JR., DEL.
 DANIEL K. INOUE, HAWAII
 HENRY M. JACKSON, WASH.
 PATRICK J. LEAHY, VT.
 LLOYD BENTSEN, TEX.

Executive Registry
 83-1700/8...

United States Senate

SELECT COMMITTEE ON INTELLIGENCE
 WASHINGTON, D.C. 20510

HOWARD M. BAKER, JR., TENN., EX OFFICIO
 ROBERT C. BYRD, W. VA., EX OFFICIO

ROBERT R. SIMMONS, STAFF DIRECTOR
 GARY J. SCHMITT, MINORITY STAFF DIRECTOR

October 3, 1983

The Honorable William J. Casey
 Director of Central Intelligence
 Central Intelligence Agency
 Washington, D.C. 20505

Dear Bill:

Last April, our Chairman, Barry Goldwater, introduced a bill that would relieve the Central Intelligence Agency from the burden of searching some of its files in response to Freedom of Information Act requests. While several of us had concerns regarding aspects of this bill, we all agreed with you that it was foolish to require the CIA to search its most sensitive files for documents that would almost never be declassified and released.

Five months of work are now nearing culmination in a bill that we all will be able to support wholeheartedly. You and we have crafted solutions to such difficult problems as the nature of judicial review under this bill, the extent to which the files on activities that have been the subject of investigations will remain open to search and review under FOIA, and how intelligence memoranda or policy memoranda that are circulated outside of designated files but then returned to those files for safekeeping will remain accessible for FOIA search and review. We have also agreed that the CIA will review its designations at least once every ten years to see whether some files--or portions of files--should be removed from designated status.

I think that now is an excellent time to make parallel progress on an issue that our work on S.1324 has highlighted. This is the need to make more declassified materials available to historians. We both know how important history is. I am an avid reader of history and you are a writer of it. We both have been shaped in part by history that we have read over the years. As historians write the definitive works on the post-World War II era, it is terribly important that their studies be based on as full a record as possible, consistent with the need to protect our national security.

DCI
 SEC
 10/3/83

The Honorable William J. Casey
October 3, 1983
Page Two

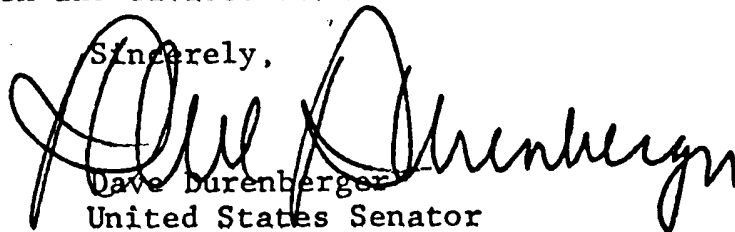
You have recognized this in putting forth a bill that leaves unchanged current FOIA access to intelligence memoranda, policy documents, and files on those covert action operations the existence of which is no longer properly classified. The importance of an accurate historical record is also recognized in your criteria for removing files from designation, which are to include "historical value or other public interest in the subject matter" and "the potential for declassifying a significant part of the information."

I urge you to take the next, vitally important step: to establish procedures for reviewing and declassifying some of the material in your non-designated or de-designated files. Your declassification review program need not review the mass of documents that are either of no interest to historians or still too sensitive to be released. Rather, you could reasonably base your selection of material for review on the same criteria that you have set forth for the review of file designations. The important thing is to make the declassification of useful historical information a cooperative endeavor, rather than a test of wills fought out in FOIA requests and courtrooms.

A declassification review program would be a burden for the CIA, but it would be a manageable burden and one well worth assuming. The CIA would retain control over the size of this effort, and you could avoid the sort of crises and bottlenecks that bedevil areas like FOIA, in which the pace of work may be dictated by the level of outside requests and the vagaries of litigation. You already have a CIA Historian, so it might be reasonable to give him a major role in declassification review. I would be happy to lead the effort to provide you budget support for a dozen positions, say, to be devoted to this enterprise.

Establishment of a declassification review program would be a fitting complement to the fine Intelligence Information Act that I am sure we will pass. It would demonstrate your commitment to openness in the things that matter, while continuing to safeguard that which must remain secret. And it would make a lasting contribution to public understanding of the role of intelligence in a complex and divided world.

Sincerely,



Dave Durenberger
United States Senator

Central Intelligence Agency



Washington, D.C. 20505

CH HISTORY
STAFF

OLL 83-2403

4 OCT 1983

Honorable Dave Durenberger
United States Senate
Washington, D.C. 20510

Dear Senator Durenberger:

I received your letter yesterday with its kind words about our efforts on the Intelligence Information Act. We have worked diligently through the spring and summer to reach agreement with you and your colleagues on this bill. We have done this because we are convinced, as you are, that the bill will relieve us of a needless burden without harming the interests of the press, authors, or the public at large. I am gratified to hear you say that as a result of our efforts you will be able to support this bill. I certainly believe it merits everyone's support.

Your views regarding the need for an accurate historical record are ones that I share. If Congress is willing to provide the resources, I am prepared to institute a new program of selective declassification review of those materials that we believe would be of greatest historical interest and most likely to result in declassification of useful information.

The term "selective" is very important. There is no point in reviewing files that we basically know will contain little releasable information. And it makes no sense to review -- or even to release -- material that has become releasable only because it is trivial. Our professionals have a pretty good sense of what is likely to prove releasable; and we would be happy to work with our Historian, other agency historical offices, the Archivist of the United States, and others to determine what topics are of the greatest interest and importance. Historians would have to trust us, however, to make these professional judgments in good faith. A declassification review program could function only if we maintained control over the workload and concentrated our limited resources on the areas where they would do the most good.



One certain consequence of this selectivity would be a concentration of our efforts on the review of older, as opposed to more recent, material. Such material which documents the early years of CIA could well result in the release of information that explains the role of intelligence in the making of foreign policy. As a general rule, we are likely to limit the declassification review program to files at least 20 or 30 years old. However, these older files would certainly contain information which continues to be relevant to today's world. I am hopeful that whatever material we can release, consistent with the need to protect sources and foreign relations, will make a major contribution to historical research and interpretation.

At the moment, I do not know whether our small historical staff would be in a position to manage a selective declassification review program. But no matter where such a program would be placed organizationally within the Agency, I understand that what you are suggesting is a program provided with adequate resources. Several weeks ago, on my own initiative, I had requested the Historian of the CIA to explore a program that would result in the release of usable historical materials from the World War II period. I look forward to working with additional resources having, as you suggest, the mission of declassifying and releasing historical materials that no longer require protection.

Please allow me again to express my appreciation for your support of S. 1324. With the enactment of this important legislation and the achievement of the necessary budget support, I believe this Agency would be more than willing to undertake a new selective declassification review program. With your leadership and support, we can forge a workable means of informing the public while still protecting our nation's secrets.

Sincerely,

7c7 William J. Casey
William J. Casey
Director of Central Intelligence

DISTRIBUTION:

Original - Addressee

1 - DCI

1 - DDCI

1 - Ex Dir

1 - Exec Registry

1 - DDA

1 - General Counsel

✓ 1 - Chief, History Staff

EM:KAD:csh (3 October 1983)

Retyped: EM.KAD:maw (4 October 1983)

MEMORANDUM OF UNDERSTANDING
BETWEEN THE CENTRAL INTELLIGENCE AGENCY
AND THE NATIONAL ARCHIVES AND RECORDS SERVICE

SUBJECT: Accessioning Records of CIA Predecessor Wartime Organizations into the National Archives of the United States - Associated Responsibilities and Procedures

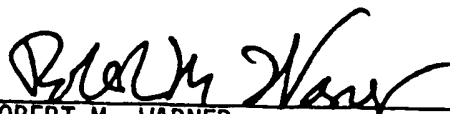
1. In considering the transfer of Records of the Central Intelligence Agency (CIA) Predecessor wartime organizations, primarily those of the Office of Strategic Services (OSS), to the National Archives and Records Service (NARS) for accessioning and release to the public, the CIA has expressed concerns that the records may contain information that is inappropriate for immediate access. For purposes of simplicity, these records will hereafter be referred to as the "OSS records." NARS has provided assurances that its processing procedures will address and resolve these concerns before access is provided. This Memorandum of Understanding reflects mutual agreement that the CIA and NARS review procedures, outlined below will serve to expedite the release of OSS records to the public while providing appropriate safeguards against premature access.
2. The OSS records will be examined for declassification by the CIA. Documents or portions of documents under the final declassification jurisdiction of the CIA (successor Agency) which are found still to contain national security information despite the passage of time will be withdrawn from the records and withheld in the custody of the CIA. A withdrawal card bearing a unique number will be substituted for the withdrawn material. Upon completion of the CIA's examination, the records appropriate for transfer as permanent records will be sent to NARS for accessioning. The records will consist of declassified and unclassified material, except as indicated below.
3. Classified material which the CIA has determined does not require continued protection insofar as that agency's interests are concerned, but which may require continued national security protection in the interest of some other U.S. agency or of a foreign government will be transferred along with the declassified and unclassified OSS records. Such classified material will be identified by the CIA examiners by placing a tab around the relevant material or by affixing a tag to the individual items. It will be the responsibility of National Archives declassification specialists to review such identified classified material for possible declassification at appropriate intervals in accordance with applicable Executive Orders and Information Security Oversight Office directives. The CIA's Information and Privacy Coordinator will assist NARS officials responding to access requests when the identification of the responsible U.S. agency is unclear or when transmittal to the appropriate foreign government is required for declassification determination.
4. NARS will screen and withhold from access and/or refrain from copying for the public declassified or unclassified accessioned OSS records containing information about a living individual which reveal details of a highly personal nature that the individual could reasonably assert a claim to withhold from the public to avoid a clearly unwarranted invasion of privacy, including but not

2


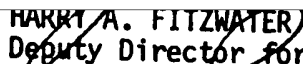
limited to information about the physical or mental health or the medical or psychiatric care or treatment of the individual, and that contain personal information not known to have been previously made public, and relate to events less than 75 years old (41 CFR 105.61.5302-4).

5. It is agreed that the OSS records still contain sensitive documents which could cause adverse international repercussions. Therefore, as records are transferred, NARS will conduct initial screening on a series or subseries basis. When files or documents are requested, a re-screening will be performed on potentially sensitive records before such items are furnished to researchers. At such time, NARS reviewers will exercise discretion regarding the release of records that might cause national or international repercussions. In case of doubt, or where CIA has identified sensitive records, NARS will consult with appropriate information specialists of the CIA concerning the propriety and/or legal basis for continued denial or release.

6. The procedures set forth in this Memorandum of Understanding will become effective upon execution of this Memorandum of Understanding by both NARS and CIA.


ROBERT M. WARNER
Archivist of the United States

May 25, 1984
Date

STAT 

HARRY A. FITZWATER
Deputy Director for Administration
Central Intelligence Agency

5 June 1984
Date