

OGC 81-02256
31 March 1981

MEMORANDUM FOR: Chairman, COMIREX

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FROM:

[REDACTED]
Associate General Counsel for
Intelligence Community Affairs

SUBJECT: Proposed Extension of Classification of Imagery
and Imagery-Derived Information

REFERENCE: Your Memorandum to DCI, dated 9 March 1981,
Subject: Declassification Review Policy for
Twenty-Year-Old Overhead Imagery

1. The issue raised by the reference, which proposes to extend the classification of imagery for 30 additional years, is whether classification can be extended without an initial declassification review. The language of section 3-401 of Executive Order (EO) 12065 would seem to indicate that classification cannot be so extended:

Classified information ... shall be reviewed for declassification as it becomes twenty years old When classification is extended beyond twenty years, a date no more than ten years later shall be set for declassification or for the next review (Emphasis added.)

2. Section 3-401 also states that:

The Director of the Information Security Oversight Office [ISOO] may extend the period between subsequent reviews for specific categories of documents or information.

The Director, ISOO, has authorized extension of the period for subsequent reviews for six categories of information set forth in his memorandum of 20 October 1979. Imagery falls within the category:

[i]nformation involving or concerning intelligence sources and methods and covered under special access, distribution and protection programs continued or established pursuant to section 4-2 of Executive Order 12065.

The ISOO memorandum goes on to provide, however, that the requirement in section 3-401 for a subsequent review in ten years may be waived only for information that:

has been systematically reviewed following its 20th anniversary, or its 30th anniversary in the case of foreign government information;

is identified through such review as requiring continued classification for a period in excess of 20 additional years;

cannot, when so reviewed, be assigned a definitive date or event for declassification, thus requiring at least one additional review; and

has its classification extended beyond 20 years, or 30 years in the case of foreign government information, by an agency head or official designated by the President as authorized to do so under Executive Order 12065.

The ISOO memorandum then provides that:

Information to which this waiver is applied shall be rereviewed 30 years after its initial systematic review, and thereafter at 10-year intervals if necessary. (Emphasis added.)

Thus, the ISOO memorandum expressly requires an initial review (and the fulfillment of additional conditions) before the ten-year subsequent review requirement may be waived and classification can be extended for a 30-year period. As I understand it, no initial systematic review of imagery or imagery-derived information has been accomplished or initiated.

3. One approach that has been suggested is to consider imagery and imagery-derived documents for review in mass on the

theory that factors common to the entire class of documents would clearly warrant continued classification of all such materials. Unfortunately, such an approach does not find support in EO 12065, the ISOO memorandum of 20 October 1979, nor Agency regulations. Indeed, section 3-402 of EO 12065, in directing establishment of agency guidelines for systematic review of 20-year old information, provides that:

[t]hese guidelines shall state specific, limited categories of information which, because of their national security sensitivity, should not be declassified automatically, but should be reviewed item-by-item to determine whether continued protection beyond twenty years is needed.

In addition, section 3-403 permits the Secretary of Defense and the DCI, respectively, to establish special procedures, notwithstanding sections 3-401 and 3-402, for the systematic review of classified cryptologic information and classified information concerning the identities of clandestine human agents. Conspicuously absent from this provision which permits special treatment of two categories of information is imagery and imagery-derived information.

4. Furthermore, paragraph 15i of [] dated 28 November 1978, in requiring Agency guidelines for systematic review of classified information under the Agency's jurisdiction, provides that:

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[s]uch guidelines shall specify limited categories of information covered under Agency classification criteria ... that cannot, because of its national security sensitivity, be declassified automatically, but requires item-by-item review to determine whether continued protection is needed.

Thus, I can find no support for the suggestion that the systematic review required by EO 12065 can be accomplished in the broad categorical fashion that may be implicit in the referenced memorandum.

5. There are at least three alternative courses of action that can be pursued in this matter:

a. Add imagery and imagery-derived information to section 3-403 of EO 12065, thus allowing the DCI to estab-

lish special procedures for systematic review of materials containing such information. This could be proposed in the course of the EO 12065 review now underway.

b. Seek a Presidential waiver from the requirement for item-by-item review in the case of imagery and imagery-derived information.

c. Promulgate DCI guidelines for the systematic review of imagery and imagery-derived information and provide that materials which warrant continued classification under such guidelines will be forwarded to the DCI for approval of extended classification under EO 12065 and the ISOO memorandum of 20 October 1979. In connection with this option, consideration could be given to requesting that ISOO approve a sampling technique for an initial review which, as I understand it, has been used in some initial reviews that have already been conducted.

6. This Office would be glad to assist you further in this matter.



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cc: C/DIS/DDA

Added distribution: (THW:ydc/6 Apr 81)

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Approved For Release 2005/12/01 : CIA-RDP93B01194R000700010011-2

DIRECTOR OF CENTRAL INTELLIGENCE
Committee on Imagery Requirements and Exploitation

DCI-CT-81-0770
9 March 1981

Executive Registry
81-6763

Central Counsel
81-02041

MEMORANDUM FOR: Director of Central Intelligence
THROUGH : Deputy Director of Central Intelligence
THROUGH : Acting Deputy to the DCI for Collection Tasking *CU*
SUBJECT : Declassification Review Policy for Twenty Year
Old Overhead Imagery (U)

1. Action Requested: Approve and sign the attached memorandum to the National Foreign Intelligence Board outlining declassification review policy guidelines for classified overhead imagery materials that are twenty years old. (U)

2. Background: Executive Order 12065 requires that classified materials shall be reviewed for declassification as they become twenty years old (Tab A). Thus all the U-2 photographic coverage for the 1956-60 period and the initial satellite imagery materials for the 1960-61 period are now subject to declassification review. (S)

3. The continuing importance of imaging systems as intelligence sources and the large volumes of the imagery-derived sensitive intelligence of Communist and other countries warrant special attention with respect to the declassification review procedures concerning any overhead imagery-derived materials. These materials have been widely used and disseminated in numerous intelligence, military planning and targeting, mapping, and civil programs over the years. (S)

4. It is therefore especially important to establish an overall DCI policy that will preclude unilateral -- and potentially inconsistent -- declassification actions by recipient organizations without adequate appreciation of all the aspects of sensitivity concerning these materials, and of the basic DCI responsibility for the protection of such a sensitive intelligence source. Even one such action could have a major negative impact with reference to intelligence targeting methods, collection system technology and foreign relations. Such an action would also run counter to our positions taken in current FOIA litigation that no classified imagery can be publicly released. (S)



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5. The attached policy guidelines briefly outline the intelligence sensitivities and the potential adverse impact on US foreign relations that must be considered in any declassification review of imagery-derived materials. They also emphasize your responsibility for making decisions for the continued protection of intelligence sources and methods in any such review procedure. The general policy incorporated in the guidelines memorandum includes the following points:

- o Classification of all such materials will be generally extended for an additional thirty years, in accordance with the provisions of (1) Section 3-401 of Executive Order 12065 (Tab A) and (2) the 20 October 1979 waiver by the Director of the Information Security Oversight Office that specifically includes information involving such intelligence sources and methods (Tab B).
- o This policy applies to: (a) the primary imagery record; (b) the subsequent reproductions, in full or partial frame; and (c) the textual, graphic, magnetic, and digitized information derived from the imagery, constituting the hard-core detailed information concerning the location and physical characteristics of military and other intelligence targets in denied areas.
- o Declassification of individual items or specifically identified categories of materials is not precluded -- but such action would take place only on the basis of your decisions, or those of the Chairman, COMIREX, acting on your behalf.

(S)

6. The attached guidelines focus on the potential problems in protecting major intelligence collection sources that would arise from an uncontrolled declassification review process. By reserving decisions on declassifying imagery-derived materials to yourself, the guidelines preclude the numerous intelligence, military, and mapping organizations that have extensively used these materials from taking unilateral declassification actions. Such actions could prove detrimental to protecting the sensitive portions of these materials from public disclosure, from FOIA and other requests for release, and could create obstacles to the promotion of US foreign policy objectives. (S)

DCI-CT-81-0770

7. Staff Position: These policy guidelines have been reviewed and concurred in by COMIREX members on behalf of their respective NFIB organizations and by the DCI Office of General Counsel. They were developed in collaboration with the Classification Review Division of the Deputy Director for Administration's Information Services Staff. That Staff is prepared to follow through with information copies to the Information Security Oversight Office after your approval. (C)

8. The guidelines also would be incorporated in the Consolidated Imagery Policy Manual now being developed. Since this manual is not expected to be available for distribution until spring 1981, the guidelines will be initially disseminated through the COMIREX structure to all users of classified materials derived from satellite imagery. (C)

9. Recommendation: I recommend that you approve and sign the attached memorandum to NFIB conveying your policy guidelines on the declassification review procedures for classified overhead imagery materials. (U)

[Redacted Signature Box]

Chairman

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CONCUR/~~NON-CONCUR~~:

[Redacted Signature Box]

Acting Deputy to the DCI for ~~for~~ Collection Tasking

10 Mar. 81

Date

CONCUR/~~NON-CONCUR~~:

Deputy Director of Central Intelligence

Date

APPROVE/DISAPPROVE:

Director of Central Intelligence

Date

DCI-CT-81-0770

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The Director of Central Intelligence
Approved For Release 2005/12/01 : CIA-RDP93B01194R000700010011-2
Washington, D.C. 20505

MEMORANDUM FOR: National Foreign Intelligence Board

SUBJECT : Policy on Declassification Review of Overhead
Imagery Materials

1. Purpose. This memorandum provides the policy guidelines that will govern the systematic declassification review of materials derived from the national overhead imagery collection programs. (U)

2. Authority. These guidelines are issued pursuant to the statutory authority and responsibility of the Director of Central Intelligence for protection of intelligence sources and methods. The policy and guidelines herein are in accordance with the provisions of Section 3-401, Executive Order 12065, and the 20 October 1979 waiver by the Director of the Information Security Oversight Office concerning the subsequent 10-year declassification review requirement specified in Executive Order 12065. That waiver applies to "information involving or concerning intelligence sources and methods and covered under special access, distribution and protection programs continued or established pursuant to Section 4-2 of Executive Order 12065." This category of information includes information concerning overhead reconnaissance imagery. The waiver specifically stipulates that classification can be extended for an additional 30 years beyond the initial systematic review provided for at the 20-year mark. (U)

3. Scope and Background. Section 3-4 of Executive Order 12065 established a declassification review procedure for classified materials as they became twenty years old. Thus, the materials derived from the early platforms of the national overhead imagery program, which include all the U-2 photographic coverage for the 1956-1960 period, and the initial satellite imagery materials now fall within the scope of the declassification review procedures. The continuing critical importance of overhead reconnaissance imaging systems as intelligence sources and methods, as well as the continued political sensitivity of coverage of the USSR, China and other foreign countries, however, require special attention and protection with respect to declassification review procedures. Furthermore, the extensive use of these materials in intelligence, military, and mapping programs requires the establishment of Community-wide guidelines to preclude unilateral actions that might fail to consider all the aspects of sensitivity concerning classified overhead imagery materials. (S)

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REVIEW ON March 2001

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4. In the absence of common Community criteria and coordinated review, inappropriate declassification of such overhead imagery materials could result in one or more of the following adverse effects pertaining to protecting intelligence activities, sources, or methods and promoting the foreign policy and relations of the US:

- o indicate specific foreign intelligence targets, types of targets, or collection strategies of the overhead imagery collection program;
- o provide concrete evidence to support propaganda charges of US spying on foreign countries;
- o reveal aspects of sensitive collection system technological and performance capabilities, limitations, and vulnerabilities that still require classification;
- o indicate that a specific overhead imaging system was operational at a particular point in time and facilitate making estimates concerning sensitive capabilities of current operational systems;
- o assist hostile foreign countries to develop techniques to counter the intelligence collecting capabilities of such systems;
- o reveal inputs, in some instances, of other sensitive intelligence sources at specific points in time.

(S)

5. Considerations such as these require that imagery and derived intelligence materials not yet declassified on the basis of specific DCI authorizations shall remain classified. (U)

6. Policy. All declassification review judgments concerning currently classified imagery and materials derived from the national program for the collection of overhead imagery for intelligence purposes remain reserved to the Director of Central Intelligence. The general policy is that the classification of all such imagery materials will be extended for an additional thirty years beyond the initial systematic review at the 20-year point, pursuant to the above cited waiver by the Director, Information Security Oversight Office. This policy does not preclude declassification of individual products or product categories on a case-by-case basis. Such declassification, however, must proceed from specific review and determination under authority from the DCI or the Chairman of the DCI Committee on Imagery Requirements and Exploitation (COMIREX), acting on behalf of the DCI. (C)

7. Application. This general policy applies to the primary imagery record, to all reproductions therefrom whether in full or partial frame, as well as to other materials derived from the imagery collection programs in various formats -- verbal (written and oral), graphic (line drawings and other types of sketches), maps and charts, and digitized and magnetic products used in automatic data processing or other computerized programs. The policy applies to the various uses of these materials in intelligence, military, and other federal government applications in memoranda, reports, and other publications, whether prepared as briefings, target materials, maps, charts, or budget presentations. In sum, regardless of the issuing agency or department and of the basic current classification, the declassification of any documents, publications, or other materials which contain overhead imagery derived information will be accomplished only with the approval of the DCI. However, organizations that declassify non-sensitive categories of imagery-derived materials on the basis of DCI (Chairman, COMIREX) approved guidelines will continue such declassification actions without reference to this general declassification review policy. (C)

8. Implementation. This policy can be readily implemented in those instances where the imagery and the derived information were controlled within special access programs and marked with distinctive compartmentation designators, with attribution to the classified imagery collection source being explicitly indicated. On the other hand, the actual source of an even larger volume of materials derived from the classified imagery collection program may not be immediately identifiable. To meet essential military, intelligence, and mapping purposes, past DCI authorizations extended dissemination of the derived data outside of the compartments -- with the stipulations that there would be no attribution to the classified overhead imagery source and no use of photo interpretation terminology. The DCI approval of these "sanitization guidelines," as codified in the 1965 Manual for Sanitization, Decontrol, and Downgrading*, permitted and facilitated the incorporation of literally millions of bits of imagery-derived intelligence data -- without source attribution -- into various product formats such as were regularly listed in appropriate appendices to the 1965 manual. For your reference, these listings are available in the Office of the Chairman, COMIREX. (S)

*Manual for Sanitization, Decontrol and Downgrading (of TALENT-Controlled Materials): USIB-D-41.12/16; [redacted] NPIC)

9. In view of this background, therefore, it will be necessary to exercise caution in any declassification review of such derivative materials. As a rule, the inclusion of any source-unattributed descriptive data concerning the exterior physical features (layout, dimensions, number of buildings, equipment, etc.) at specific locations or installations in Communist or other denied areas in these types of products produced after 1956 should be considered as being derived from these imagery sources -- unless there is specific evidence to the contrary. (S)

10. Questions concerning the interpretation and application of these policy guidelines should be referred to the Chairman of the DCI Committee on Imagery Requirements and Exploitation (COMIREX) for resolution. (U)

William J. Casey

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