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***Information Review & Release (IRR) News for 7 - 11 July 2003  
Executive Summary***

**Immediate Calendar:**

~~(U//ATUO)~~ **22 July 2003: Interagency Security Classification Appeals Panel (ISCAP):** Next Principals' meeting at EEOB in Washington, DC.

**Future Planning Calendar:**

~~(U//ATUO)~~ **13 August 2003: Interagency Security Classification Appeals Panel (ISCAP):** Next Liaisons' meeting at Crystal City.

~~(U//ATUO)~~ **31 December 2006:** The Automatic Declassification Date per Executive Order 12958, as amended.

**Overview of IRR Activities Last Week:**

~~(U//ATUO)~~ **Litigation**

~~(U//ATUO)~~ **Appeals Court Agrees that CIA Can Protect Biographies on Cubans**

~~(U//ATUO)~~ The US Court of Appeals for the DC Circuit on 8 July 2003 affirmed the judgment of a lower court that CIA could protect from disclosure a compendium of biographies on Cuban personalities prepared in 1962. The case originated with a FOIA request in 1993 by the Assassination Archives and Research Center (AARC) for the release of a five-volume compendium. CIA denied the request, citing FOIA exemptions b(1) (classified in the interest of national defense) and b(3) (DCI's statutory obligation to protect sources and methods). AARC filed suit in district court. The district court upheld the Agency's decision to deny the material, after which AARC appealed. The Court of Appeals rendered its decision in favor of the CIA this week, focusing on the CIA's exemption 3 argument, agreeing with CIA's assertion that release of the compendium could jeopardize sources and methods because it would "reveal those individuals in whom CIA had an intelligence interest and could provide leads to identifying the intelligence sources who or which acquired the information." The court also rejected the plaintiff's argument that "all intelligence sources and methods used in the Compendium" had been released previously under the JFK Act, therefore CIA had "effected a waiver of the Exemption with respect to at least some of the information ...." The court responded, "given our deference to the Agency's judgement on the matter ... we uphold the Agency's determination that disclosure ... even in light of the JFK Act disclosures, can reasonably be expected to lead to the disclosure of intelligence sources and methods."

~~(U//ATUO)~~ **FOIA Requests**

~~(U//ATUO)~~ **National Security Archive Seeks Information on Colombian Security Consultant**

~~(U//ATUO)~~ The National Security Archive seeks records pertaining to "the activities of Defense Systems Colombia (DSC), a security consultant to provide counterinsurgency training to Colombian police and military officers since 1996." In addition, "all records that relate to Defence Systems Limited, a British-based company that is associated with DSC, as well as ArmorGroup, a US based defense contractor that also works closely with DSC."

~~(U//ATUO)~~ **Requester Wants Information on Koreans**

~~(U//ATUO)~~ A requester from Washington, DC wants information on Korean journalist Moon Myong Ja and Korean citizen Park Kyong Yun.

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(b)(3)  
(b)(5) [Redacted]

**(U//~~ATUO~~) Californian Wants To Know if CIA Uses Federal Prisoners**

(U//~~ATUO~~) A requester seeks records on "any US government agency and/or organization's use of federal prisoners during their period of incarceration," and if so, he asks that we provide "contact and/or application information..."

The requester's return address is a US Penitentiary in Atwater, California.

- The FOIA case manager advised the requester that the CIA "does not have any programs that use federal prisoners" and reminded the requester that the mission of the CIA is primarily concerned with foreign intelligence as it relates to US security interests. The case manager also informed the requester that he will have to contact directly each of the other US government agencies for information on their programs.

(b)(3) [Redacted]

**(U//~~ATUO~~) CIA Declassification Center**

**(U//~~ATUO~~) ERWG Meets at NARA I**

(U//~~ATUO~~) On 9 July 2003, the Information Security Oversight Office (ISOO) hosted the monthly meeting of the External Referral Working Group (ERWG) at the National Archives in Washington, DC. Acting Chair [Redacted] of the CIA Declassification Center, welcomed 36 attendees representing 17 federal organizations. ISOO's Linda Ebben updated the participants on the process and schedule for finalizing the new implementing directive for EO 12958, as amended. She noted that ISOO held meetings with working groups in June 2003 and that their final comments were due COB 9 July 2003. The comments will be consolidated and sent to the Classification Management Working Group (CMWG) for review during the July-August timeframe. After that, all agencies will get a second chance to comment on the draft directive before August 16. ISOO will prepare the final version and send it to the NSC for consultation in late August. The Implementing Directive must be published in the Federal Register by 22 September 2003, as detailed in EO 12958, as amended. [Redacted] CIA, provided members

with an updated "ERWG's Referral Workload Survey," noting that the survey now contained a breakout of records located at the Washington National Records Center (WNRC). She urged members to review the survey and provide feedback. [Redacted] speaking on the NSC's behalf, alerted ERWG members to problems that the NSC has had in receiving mail through the United States Postal Service (USPS). Since October 2001, the NSC has only received certified or registered mail. Therefore, if agencies have sent material to the NSC through the regular mail since Oct 2001, they should do the following: if the material is unclassified and 10 pages or less, they may fax it to the NSC at [Redacted] Unclassified documents of more than 10 pages and documents classified up to Secret should be sent via registered mail and for documents classified Top Secret, agencies should contact Rod Soubers, NSC at [Redacted]

[Redacted] then updated the members on the status of the Equity Notification Database (END), noting that Congress will possibly provide funding for the database. He notified the ERWG that the RAC (Remote Archive Capture) program was in the process of doing a final quality control check on OGA CDs that were ready to go to the presidential libraries and invited interested agencies to visit and do a final inspection of their material. [Redacted]

[Redacted] also encouraged them to contact [Redacted] CIA, to schedule time to conduct electronic review of RAC documents especially because an additional 226,837 pages from the Ford Presidential Library are now available for review.

- The ERWG was formed in 1996 to coordinate declassification policies, standards, and procedures among the agencies affected by Executive Order 12958 on Classified National Security Information. [Redacted]

**(U//~~ATUO~~) From the Archives: DCI Colby and "Fact of":**

(U//~~ATUO~~) A 22 August 1974 Memorandum for Assistant Secretary to the President for National Security Affairs Henry Kissinger from DCI William Colby sought clarification of a 23 November 1972 NSC Memorandum on the "Modification of the Security Controls for the Products of Photographic Reconnaissance Satellites." The NSC Memorandum stated, "the fact that the USG conducts a photographic satellite reconnaissance program for foreign intelligence collection be classified SECRET." The DCI was seeking instructions "as to whether this provision shall be continued or changed to provide the 'fact of' the program be unclassified." He further noted that, "The fact that

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the USG conducts a photographic satellite reconnaissance program is widely known and is frequently the subject of press and public comment," and pointed out that "communications intelligence programs remain classified despite unclassified (and statutory) recognition that the USG conducts communications intelligence operations." The DCI further argued, "Declassifying the 'fact of' the program would also open the opportunity of declassifying individual products of the program for public release where necessary classified aspects are not revealed," and noted, "the erroneous disclosure of U-2 photography over Cuba in 1962, and its value in convincing the world of the presence there of offensive missiles, was a dramatic example of the potential use of such material. Finally it is almost impossible to justify the retention of a classification for the 'fact of' the program under Executive Order 11652 standards for classification." [redacted]

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This is a record. [redacted]

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CC:

Sent on 17 July 2003 at 03:35:58 PM

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