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27 March 1992

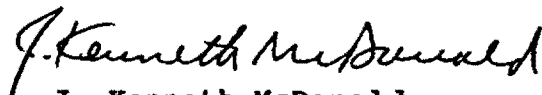
MEMORANDUM FOR: Director of Central Intelligence
FROM: Historical Review Task Force
SUBJECT: Task Force Report on Historical Review Program
Declassification Guidelines

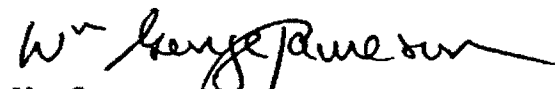
1. The accompanying report responds to your 13 February 1992 request that we form a Task Force to prepare declassification guidelines for the Historical Review Program.

2. Attached to the report is a revised Headquarters Regulation (HR 70-14), which establishes general policies and guidelines to ensure that the Historical Review Program has an impetus toward declassification. The guidance in this Regulation will enable the Program both to fulfill the expectations of the Congress when Mr. Casey established the Program in 1985, and to give the American people the expanded access to CIA's historical records that you announced in your 21 February speech in Tulsa.

3. We asked the deputy directors and independent office heads to select Task Force members who could address both general policy and declassification issues, and we asked members to express their components' views as well as their own. We have attached a list of Task Force members and of other Agency officers who took part in our work. The Task Force met eight times as a group, and we met separately with many of its members and consulted with other federal agencies, including the National Archives and Records Administration, the Departments of State and Defense, the National Security Agency, and the Information Security Oversight Office.

4. Our report reflects a consensus of the Task Force members, and we are grateful for the knowledge, judgment, and good will that all members brought to our efforts. We are prepared to discuss the Task Force's work and report at your convenience.


J. Kenneth McDonald
Chief, CIA History Staff
Co-chairman


W. George Jameson
Chief, Litigation Division
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Attachment

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MEMBERSHIP

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**REPORT OF THE DCI TASK FORCE ON
HISTORICAL REVIEW PROGRAM
DECLASSIFICATION GUIDELINES**

1. On 13 February 1992, the Director of Central Intelligence asked W. George Jameson, Chief of the Litigation Division, OGC, and J. Kenneth McDonald, Chief of the CIA History Staff, to co-chair a Task Force to prepare declassification guidelines for a reorganized and expanded Historical Review Program. This report is the result of the work of that Task Force.

2. Premises: The DCI's speech on "CIA and Openness" to the Oklahoma Press Association of 21 February 1992 expressed the intent to make CIA and the intelligence process more visible and understandable in light of changing world circumstances, and from this the Task Force operated on the following premises:

A. The Historical Review Program (Program) established in 1985 will become the responsibility of the Center for the Study of Intelligence (CSI).

B. Custody, control, and declassification authority for records reviewed under the Program will be transferred from the originating offices to the Director, CSI, in order to accelerate declassification review.

C. The Program will fully conform to EO 12356, "National Security Information," and maintain the DCI's broad statutory authority to protect intelligence sources and methods.

D. As part of CIA's movement toward greater openness, the DCI has directed that the Program have "a bias toward declassification of historical documents."

E. The Program will review for declassification three principal categories of CIA records:

- All documents 30 years old or older (except for certain operational files exempted from FOIA search and review by the CIA Information Act of 1984).

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- All National Intelligence Estimates on the former Soviet Union 10 years old or older.
 - Records (including operational files) on selected topics and events of particular historical value or public interest.

F. On an annual basis, CIA will publish an index of all documents the Agency has declassified and approved for release.

3. **Objective and Products:** The Task Force's primary goal was to prepare guidelines to help this voluntary Program make sound and consistent declassification decisions and to ensure that the Program has an impetus toward declassification. Recognizing the futility of any attempt to formulate rigid instructions that dictate decisions for all possible cases, or exhaustive lists of categories of information that reviewers automatically must declassify or protect, the Task Force prepared for DCI approval a proposed revision of Headquarters Regulation 70-14 (attached), which establishes general policies and guidelines for the Program.

The Task Force expects that the guidelines in this document will advance the Program's objective to declassify and release the maximum volume of information to the public consistent with national security by emphasizing clearly and specifically that:

- The Program is guided by a presumption for disclosure.
- The CSI rather than the components will exercise declassification authority for historical records.
- Reviewers may not automatically protect or release documents.
- Reviewers may not withhold information without articulating with reasonable specificity the possible damage to national security expected from disclosure of the information.
- The guidelines, firm in principle yet flexible in application, identify certain factors that reviewers must consider in determining whether damage could result.
- The Program will continue to protect information, including intelligence sources and methods, that could damage the national security.

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4. Organization: The History Staff in CSI, after consulting with a wide range of historians, will select groups of permanent records (excepting certain operational files) 30 years old or older for systematic declassification review, and locate and collect for review records on specific events or topics of historical interest selected with the DCI's approval. A new Historical Review Group in CSI will carry out declassification review in accordance with the Program's guidance. (The Program will ordinarily focus on inactive records, although on occasion it may be necessary to review active files.) At the beginning of each calendar year, the Director of CSI will submit a report to the DCI on the Program's work during the preceding year, and on its plans for the coming year.

5. Guidelines for Declassification: In preparing the guidelines in the Regulation to give new impetus to declassification, the Task Force focused on the following issues:

A. Presumption for Disclosure: To carry out the DCI's commitment to the Program, the Task Force emphasized the presumption for disclosure. Since EO 12356 provides that information may be classified only if its disclosure reasonably could be expected to cause damage to the national security, an essential Task Force objective was to prepare useful guidance for reviewers to determine damage. Unless reviewers can articulate how disclosure could damage the national security, they must declassify information even if it concerns matters the Agency has routinely withheld from public release, such as CIA presence in a specific country, the fact of certain covert action operations, Agency organization and personnel, and information withheld solely on grounds of the "mosaic" effect. Since most records will be at least 30 years old, and most operational records will be exempt from systematic review, the Task Force expects that the Program can declassify substantial amounts of information without damage to national security.

B. Sources and Methods: The Task Force was careful to ensure that the Program's guidelines do not undermine the DCI's broad authority to protect intelligence sources and methods. The guidelines reiterate EO 12356's presumption that the unauthorized disclosure of intelligence sources, methods, or foreign government information will damage the national security. Such information, however, will not be automatically withheld under this Program. Although members were concerned about cover disclosure issues, the Task Force agreed that as an intelligence method, cover will be governed by these guidelines.

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C. CIA Presence Abroad: The Regulation does not automatically protect the fact of the presence of CIA representatives in a specific country or relationships with foreign governments. Such information may be protected upon a reasonable showing of possible damage. The Task Force concluded that in many cases such presence or relationship might be disclosed by substituting for deleted particulars such terms as "CIA representatives" and "government officials" or "authorities."

D. Publicly Available Information: Under this Program, the extent to which information is already available to the public, especially information that the Publications Review Board has approved for publication, will be a significant consideration in declassification review. There is a presumption that information that has appeared publicly will not damage national security, unless a reviewer can articulate how official confirmation could cause additional damage.

E. Protection of Unclassified Material: Reviewers may withhold some information even if it is unclassified. (Examples are information protected by discretionary privileges such as deliberative process--especially involving the Director and President--attorney work product, attorney-client, and witness statements.) This material also will not automatically be protected, and reviewers must articulate expected harm to US interests in order to protect it. Much of the information in this category will probably be disclosed. Information prohibited by law from disclosure (e.g., privacy data) will continue to be protected.

6. Procedures: To be effective in accelerating the declassification review, the Program will ensure that components are consulted. The Regulation addresses this and certain procedural matters as follows:

A. Consultation: The CSI will advise the responsible components of its selection of records and consult with them as necessary in conducting its review.

B. Appeal Process: Records approved by the Director of CSI for declassification will be made available to the appropriate deputy directors or heads of independent offices, who will have 30 working days to appeal any decision to the Director, CSI. If the appeal is denied, they will have 10 working days to appeal that decision to the DCI.

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C. **Re-review:** In its review, the CSI will identify records that cannot be released, and will review them again not more than 10 years later.

D. **Index:** CIA will publish an annual index of all Agency documents approved for release (e.g., under the FOIA, but not the Privacy Act). This will serve both the public and the Program's research needs. It has been suggested that CSI publish this index, but the Task Force is convinced that such an index will require ADP expertise, personnel, and equipment far beyond anything available in the Center. Although the Historical Review Group will record its final review determinations, the Task Force recommends that the Office of Information Technology (OIT) be asked to develop and maintain this index.

7. **Application to Other Review Programs:** The guidelines will inevitably have an impact on the release of Agency information under other review programs, such as the FOIA. While standards need to be consistent, many different factors will determine whether CIA will release information in any given situation. The Task Force therefore agreed that the Program's guidelines for historical records should be taken into account Agency-wide, but that their specific application to other review programs should be the subject of future study.

8. **Resources:** The Agency's current means of recording declassification and other disclosure decisions are rudimentary, fragmented, and entirely inadequate. The Task Force believes OIT should develop and maintain a data base both to track all Agency disclosures and to facilitate the publication of the annual index. Additional resources for OIT may be required. Directorates and independent offices also will require additional resources both to conduct appeals of the Program's decisions, and to cope with the impact of the new declassification guidelines on their review of Agency information under the FOIA and other programs.

9. **Conclusion:** The Task Force recognizes that applying the proposed guidelines will raise some complex issues that CSI can only resolve by consulting the rest of the Agency as the Program actually gets underway. While making the Program succeed will demand extraordinary energy, commitment, and sound judgment, we believe that our guidelines give the Program the foundation it needs to begin its pioneering work.

Attachment