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SECRECY & GOVERNMENT BULLETIN

To Challenge Excessive Government Secrecy and
To Promote Public Oversight and Free Exchange
In Science, Technology, Defense, and Intelligence

Issue No. 40
October 1994
ISSN 1061-0340

Justice Department Holds Up Executive Order

It is unlikely that the long-overdue new executive order on classification will be completed in the near future, Administration officials say.

Approval of the draft executive order is being held up by Justice Department officials who are concerned that some of the provisions in the draft order could lead to litigation when the government violates those provisions. To protect the government from the threat of citizen lawsuits, they want to modify some of the most significant provisions in the order, such as the requirement to weigh the public interest when making classification decisions.

The foot-dragging by the Justice Department has elicited an surprising degree of disgust from other government officials, though none of them agreed to speak for attribution. The Justice Department did not respond to a request for clarification of its position.

The National Security Council has been trying hard to complete the executive order, said one frustrated NSC source, but "the decision-making process has been emasculated."

Most officials contacted by S&GB could foresee no exit from the current cycle of indecision. But Steven Garfinkel, director of the Information Security Oversight Office, rejected the suggestion that secrecy reform is now hopeless. "I'm confident enough that there will be a new executive order by the end of the calendar year that I would bet five dollars," he said. "But everybody says it's a stupid bet."

A separate executive order on bulk declassification of World War II and other very old records may be approved "within days," Garfinkel said September 26. Release of these records had originally been contemplated for the D Day commemoration last June 6 (see S&GB 37).

Intelligence Agency Budgets Leaked

There are no reliable measurements of how often government officials leak classified information to the press or the public. But with the paralysis of the Administration's secrecy reform initiative, it certainly *seems* that more and more officials are ignoring archaic secrecy rules and releasing classified documents to unauthorized personnel. Plain brown envelopes proliferate in the mail and the phrase "you didn't get this from me" initiates hasty transactions in coffee shops and metro stops.

Among the most significant leaks recently is a "Secret"-level Defense Department budget document that provides the classified budgets for several intelligence agencies. The document, an August 16 "program decision memorandum" issued by Deputy Defense Secretary John Deutch, was obtained by the

trade publication *Defense Week* and written up in its August 29, 1994 issue.

The classified 1995 agency budgets that are listed in the memo include those of the National Security Agency (\$3.471 billion), the Defense Intelligence Agency (\$621.9 million), and the Central Imagery Office (\$122.6 million).

The CIA, the White House and Congress have consistently blocked disclosure of even the *total* intelligence budget because, they say, that would somehow lead to disclosure of the individual agency budgets, which would lead to some other thing that would be really bad. But now, due to the default policy of leaking classified information (and vigilant reporting by *Defense Week*), several of those individual agency budgets have been officially disclosed.

The actual budget numbers come as no big surprise. FAS budget estimates for the NSA and the DIA based on unclassified indicators turned out to be accurate to within 5%.

What is far more significant is the relative ease with which this kind of classified information could be obtained. After all, this is not some dusty, decades-old document that is still classified due to neglect. Nor is it an unofficial, but fully authorized disclosure to a favored journalist. Rather, this document is currently classified information whose continued secrecy was specifically endorsed by the Congress as recently as a couple of months ago.

Of course, that doesn't mean that it is *properly* classified. If a copy of the budget chart were to be acquired by Russian or Chinese intelligence, not to mention the Haitian military or "warlord" Aideed, it simply wouldn't matter. Classification today is not a reliable indicator of national security sensitivity, and its vanishing credibility is one reason why secrecy rules are increasingly being ignored.

If it is true that leaks of classified documents are becoming an ever more important source of public information, it is hard to take much satisfaction in that. The leaks are a sign of institutional decadence: The government has found it easier to let the classification system disintegrate than to establish new standards that command respect and loyalty.

A copy of the classified budget chart excerpted from the August 16 Deutch memorandum is available from S&GB. (US citizens only.) Classification markings have been removed.

DOE Declassification Database to go Online

The Energy Department continues to behave as if secrecy reform were both possible and necessary. DOE's latest innovation is a bibliographic database of declassified DOE documents that is expected to become accessible through the Internet beginning in

November.

Until now, DOE has not maintained a central listing of classified documents that have been reviewed, declassified and released. "The new automated database, known as the DOE OPENNET, will enable the interested stakeholder to identify documents of interest, determine their locations within the DOE complex, and to obtain copies from the parent organization," according to a June 28 memorandum from DOE Under Secretary Charles B. Curtis directing establishment of the OPENNET Project. A copy of the Curtis memo is available from S&GB.

OPENNET is being developed "in response to stakeholder concerns that they simply did not know what documents were available within the Department," said A. Bryan Siebert, Director of the DOE Office of Declassification.

The Office of Scientific and Technical Information at Oak Ridge, Tennessee, will act as the system developer, database repository, and system operator. Energy Secretary Hazel O'Leary is expected to announce the availability of OPENNET and its access procedures in late October.

Besides DOE, other agencies including State, the FBI and the CIA are beginning to invest in automated document management systems to facilitate document review and declassification. According to an article in *Federal Computer Week* (9/19/94, p.1), a new market in automated declassification products is beginning to emerge. Manufacturers of optical scanners as well as imaging and database software are said to see an opportunity to "turn paper into gold."

First CIA Annual Report Released

The Central Intelligence Agency has released its first-ever Annual Report to the Congress.

The unclassified annual report was prepared in response to an amendment to the National Security Act authored last year by House Intelligence Committee Chairman Dan Glickman. That amendment requires the DCI to submit a report each year describing "the activities of the intelligence community during the preceding fiscal year, including significant successes and failures that can be described in an unclassified manner."

As might be expected from an agency that believes intelligence is none of the public's business, the new 1993 Annual Report is thin (12 pages), insubstantial, and even more self-serving than the typical government agency annual report. But it is nevertheless significant as an indication of how the CIA sees itself and how it wishes to be perceived by the public. The report is dated April 1994, although it only recently became available.

Last year Rep. Glickman expressed the hope that "This report will help make intelligence a little less mysterious and a little more understandable to the average American, a process which in my judgment is essential if support for adequate funding is to be assured."

Unfortunately, the CIA report is not a serious document. An honest, self-critical assessment might be too much to expect from any government agency, but this report seems to be targeted at an audience that wishes mainly to be reassured, not informed.

Thus, the report contains sentences like "We have adapted to changing international circumstances... and will continue to adapt." And "Through our quality improvement programs we are realizing benefits... in virtually all areas of intelligence effort." The reader is assured that the CIA is competent, significantly engaged in every important national security issue, and proactively reforming itself while cutting costs.

The CIA report seems to argue that the continuing need for excellent intelligence implies the continuing need for essential the same intelligence

infrastructure that exists today. But this, of course, is a non sequitur.

Despite the instruction to report on intelligence failures as well as successes, the CIA Annual Report does not acknowledge a single significant failure. Everything must be OK.

A copy of the CIA Annual Report is available from S&GB.

Other Stuff

- As of FY 1995, the Information Security Oversight Office is being transferred from the General Services Administration to a new bureaucratic home in the Office of Management and Budget. The policy implications of the move, if any, are unknown.

- A Presidential Decision Directive mandating the establishment of a Security Policy Board (see S&GB 38) was approved. The new Board was expected to meet September 27 to discuss unresolved issues in the National Industrial Security Program, which has a September 30 deadline for completion of the NISP Operating Manual. A copy of the June 1 charter for the Joint Security Executive Committee, the precursor to the Security Policy Board established by DCI Woolsey and DepSecDef Deutch, is available from S&GB.

- "Recent history suggests that security policy and action may well be doomed unless the citizenry comprehend and approve of them," writes Congressional Research Service scholar Harold C. Relyea rather optimistically in his new book, *Silencing Science: National Security Controls and Scientific Communication* (Ablex Publishing, Norwood, NJ, 1994). Relyea explores the tension between the ideal of scientific freedom and the imperatives of national security. Along the way, he illuminates the entire apparatus of government controls on scientific information, including classification, export controls, invention secrecy, and restrictions on scientific meetings, with particular focus on the turmoil of the 1980s. Most of the mechanisms for government control of scientific information that were created throughout the cold war are still in place, Relyea notes, and are "ready to be applied in new contexts of national security."

- "Historically, efforts with which I am familiar to modify each successive executive order [on classification] and to establish information security policies that meet modern needs have been unsuccessful," writes Maynard C. Anderson, who until his recent retirement was a plain-speaking Assistant Deputy Under Secretary of Defense. In an essay entitled "Is the Future Behind Us?" Anderson says that "Except for a few periods of optimism on my part when I thought that we would rise above the continuing cycles of bureaucracy reinvention, I must conclude that mediocrity has reigned in the administration of the United States information security program.... Today, there is a widely accepted conclusion that the information security program is inefficient and there seems to be no one in charge overall." Anderson surveys the current disarray and offers recommendations along the lines of increased "centralized authority and decentralized management." His essay appears in the first 1994 issue of *Viewpoints*, a periodical of the National Classification Management Society, an organization of information security professionals. For membership or subscription information, contact NCMS, 6116 Roseland Drive, Rockville, Maryland 20852.

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Secrecy & Government Bulletin is written by Steven Aftergood. The Federation of American Scientists Project on Secrecy & Government is supported by grants from the Rockefeller Family Fund, the Millstream Fund, the Deer Creek Foundation, and the C.S. Fund. This publication may be freely reproduced.