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Chapter IV—Codified Presidential Documents E. O. 11652

EXECUTIVE ORDER 11652—CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION AND MATERIAL (AS AMENDED)

SOURCE: Executive Order 11652, 37 FR 5209, Mar. 10, 1972, as amended by the following:

E.O. 11714, 38 FR 10245, Apr. 26, 1973.

The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act and in the current public information policies of the executive branch.

Within the Federal Government there is some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States, of both an overt and covert nature, it is essential that such official information and material be given only limited dissemination.

This official information or material, referred to as classified information or material in this order, is expressly exempted from public disclosure by Section 552(b)(1) of Title 5, United States Code. Wrongful disclosure of such information or material is recognized in the Federal Criminal Code as providing a basis for prosecution.

To ensure that such information and material is protected, but only to the extent and for such period as is necessary, this order identifies the information to be protected, prescribes classification, downgrading, declassification and safeguarding procedures to be followed, and establishes a monitoring system to ensure its effectiveness.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, it is hereby ordered:

SECTION 1. Security Classification Categories. Official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") shall be classified in one of three categories, namely "Top Secret," "Secret," or "Confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of national security, except



as otherwise expressly provided by statute. These classification categories are defined as follows:

(A) "*Top Secret.*" "Top Secret" refers to that national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification shall be used with the utmost restraint.

(B) "*Secret.*" "Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning "Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification "Secret" shall be sparingly used.

(C) "*Confidential.*" "Confidential" refers to that national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

SEC. 2. *Authority to Classify.* The authority to originally classify information or material under this order shall be restricted solely to those offices within the executive branch which are concerned with matters of national security, and shall be limited to the minimum number absolutely required for efficient administration. Except as the context may otherwise indicate, the term "Department" as used in this order shall include agency or other governmental unit.

(A) The authority to originally classify information or material under this order as "Top Secret" shall be exercised only by such officials as the President may designate in writing and by:



Chapter IV—Codified Presidential Documents E. O. 11652

- (1) The heads of the Departments listed below;
- (2) Such of their senior principal deputies and assistants as the heads of such Departments may designate in writing; and
- (3) Such heads and senior principal deputies and assistants of major elements of such Departments, as the heads of such Departments may designate in writing.

Such offices in the Executive Office of the President as the President may designate in writing

Central Intelligence Agency

Atomic Energy Commission

Department of State

Department of the Treasury

Department of Defense

Department of the Army

Department of the Navy

Department of the Air Force

United States Arms Control and Disarmament Agency

Department of Justice

National Aeronautics and Space Administration

Agency for International Development

(B) The authority to originally classify information or material under this order as "Secret" shall be exercised only by:

- (1) Officials who have "Top Secret" classification authority;
- (2) Such subordinates as officials with "Top Secret" classification authority under (A) (1) and (2) above may designate in writing; and
- (3) The heads of the following named Departments and such senior principal deputies or assistants as they may designate in writing.

Department of Transportation

Federal Communications Commission

Export-Import Bank of the United States

Department of Commerce

United States Civil Service Commission

United States Information Agency

General Services Administration

Department of Health, Education, and Welfare

Civil Aeronautics Board

Federal Maritime Commission

Federal Power Commission

National Science Foundation

Overseas Private Investment Corporation



(C) The authority to originally classify information or material under this order as "Confidential" may be exercised by officials who have "Top Secret" or "Secret" classification authority and such officials as they may designate in writing.

(D) Any Department not referred to herein and any Department or unit established hereafter shall not have authority to originally classify information or material under this order, unless specifically authorized hereafter by an Executive order.

SEC. 3. Authority to Downgrade and Declassify. The authority to downgrade and declassify national security information or material shall be exercised as follows:

(A) Information or material may be downgraded or declassified by the official authorizing the original classification, by a successor in capacity or by a supervisory official of either.

(B) Downgrading and declassification authority may also be exercised by an official specifically authorized under regulations issued by the head of the Department listed in Sections 2(A) or (B) hereof.

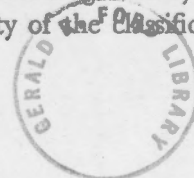
(C) In the case of classified information or material officially transferred by or pursuant to statute or Executive order in conjunction with a transfer of function and not merely for storage purposes, the receiving Department shall be deemed to be the originating Department for all purposes under this order including downgrading and declassification.

(D) In the case of classified information or material not officially transferred within (C) above, but originated in a Department which has since ceased to exist, each Department in possession shall be deemed to be the originating Department for all purposes under this order. Such information or material may be downgraded and declassified by the Department in possession after consulting with any other Departments having an interest in the subject matter.

(E) Classified information or material transferred to the General Services Administration for accession into the Archives of the United States shall be downgraded and declassified by the Archivist of the United States in accordance with this order, directives of the President issued through the National Security Council and pertinent regulations of the Departments.

(F) Classified information or material with special markings, as described in Section 8, shall be downgraded and declassified as required by law and governing regulations.

SEC. 4. Classification. Each person possessing classifying authority shall be held accountable for the propriety of the classifications attrib-



uted to him. Both unnecessary classification and over-classification shall be avoided. Classification shall be solely on the basis of national security considerations. In no case shall information be classified in order to conceal inefficiency or administrative error, to prevent embarrassment to a person or Department, to restrain competition or independent initiative, or to prevent for any other reason the release of information which does not require protection in the interest of national security. The following rules shall apply to classification of information under this order:

(A) *Documents in General.* Each classified document shall show on its face its classification and whether it is subject to or exempt from the General Declassification Schedule. It shall also show the office of origin, the date of preparation and classification and, to the extent practicable, be so marked as to indicate which portions are classified, at what level, and which portions are not classified in order to facilitate excerpting and other use. Material containing references to classified materials, which references do not reveal classified information, shall not be classified.

(B) *Identification of Classifying Authority.* Unless the Department involved shall have provided some other method of identifying the individual at the highest level that authorized classification in each case, material classified under this order shall indicate on its face the identity of the highest authority authorizing the classification. Where the individual who signs or otherwise authenticates a document or item has also authorized the classification, no further annotation as to his identity is required.

(C) *Information or Material Furnished by a Foreign Government or International Organization.* Classified information or material furnished to the United States by a foreign government or international organization shall either retain its original classification or be assigned a United States classification. In either case, the classification shall assure a degree of protection equivalent to that required by the government or international organization which furnished the information or material.

(D) *Classification Responsibilities.* A holder of classified information or material shall observe and respect the classification assigned by the originator. If a holder believes that there is unnecessary classification, that the assigned classification is improper, or that the document is subject to declassification under this order, he shall so inform the originator who shall thereupon re-examine the classification.

SEC. 5. *Declassification and Downgrading.* Classified information and material, unless declassified earlier by the original classifying authority,



shall be declassified and downgraded in accordance with the following rules:

(A) *General Declassification Schedule.* (1) "Top Secret." Information or material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the tenth full calendar year following the year in which it was originated.

(2) "Secret." Information and material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(3) "Confidential." Information and material originally classified "Confidential" shall become automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

(B) *Exemptions from General Declassification Schedule.* Certain classified information or material may warrant some degree of protection for a period exceeding that provided in the General Declassification Schedule. An official authorized to originally classify information or material "Top Secret" may exempt from the General Declassification Schedule any level of classified information or material originated by him or under his supervision if it falls within one of the categories described below. In each case such official shall specify in writing on the material the exemption category being claimed and, unless impossible, a date or event for automatic declassification. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements and shall be restricted to the following categories:

(1) Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(2) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(3) Classified information or material disclosing a system, plan, installation, project or specific foreign relations matter the continuing protection of which is essential to the national security.

(4) Classified information or material the disclosure of which would place a person in immediate jeopardy.

(C) *Mandatory Review of Exempted Material.* All classified information and material originated after the effective date of this order which is exempted under (B) above from the General Declassification Schedule shall be subject to a classification review by the originating Department at any time after the expiration of ten years from the date of origin provided:

- (1) A Department or member of the public requests a review;
- (2) The request describes the record with sufficient particularity to enable the Department to identify it; and
- (3) The record can be obtained with only a reasonable amount of effort.

Information or material which no longer qualifies for exemption under (B) above shall be declassified. Information or material continuing to qualify under (B) shall be so marked and, unless impossible, a date for automatic declassification shall be set.

(D) *Applicability of the General Declassification Schedule to Previously Classified Material.* Information or material classified before the effective date of this order and which is assigned to Group 4 under Executive Order No. 10501, as amended by Executive Order No. 10964, shall be subject to the General Declassification Schedule. All other information or material classified before the effective date of this order, whether or not assigned to Groups 1, 2, or 3 of Executive Order No. 10501, as amended, shall be excluded from the General Declassification Schedule. However, at any time after the expiration of ten years from the date of origin it shall be subject to a mandatory classification review and disposition under the same conditions and criteria that apply to classified information and material created after the effective date of this order as set forth in (B) and (C) above.

(E) *Declassification of Classified Information or Material After Thirty Years.* All classified information or material which is thirty years old or more, whether originating before or after the effective date of this order, shall be declassified under the following conditions:

- (1) All information and material classified after the effective date of this order shall, whether or not declassification has been requested, become automatically declassified at the end of thirty full calendar years after the date of its original classification except for such specifically identified information or material which the head of the originating Department personally determines in writing at that time to require continued protection because such continued protection is essential to

the national security or disclosure would place a person in immediate jeopardy. In such case, the head of the Department shall also specify the period of continued classification.

(2) All information and material classified before the effective date of this order and more than thirty years old shall be systematically reviewed for declassification by the Archivist of the United States by the end of the thirtieth full calendar year following the year in which it was originated. In his review, the Archivist will separate and keep protected only such information or material as is specifically identified by the head of the Department in accordance with (E)(1) above. In such case, the head of the Department shall also specify the period of continued classification.

(F) *Departments Which Do Not Have Authority For Original Classification.* The provisions of this section relating to the declassification of national security information or material shall apply to Departments which, under the terms of this order, do not have current authority to originally classify information or material, but which formerly had such authority under previous Executive orders.

SEC. 6. *Policy Directives on Access, Marking, Safekeeping, Accountability, Transmission, Disposition and Destruction of Classified Information and Material.* The President acting through the National Security Council shall issue directives which shall be binding on all Departments to protect classified information from loss or compromise. Such directives shall conform to the following policies:

(A) No person shall be given access to classified information or material unless such person has been determined to be trustworthy and unless access to such information is necessary for the performance of his duties.

(B) All classified information and material shall be appropriately and conspicuously marked to put all persons on clear notice of its classified contents.

(C) Classified information and material shall be used, possessed, and stored only under conditions which will prevent access by unauthorized persons or dissemination to unauthorized persons.

(D) All classified information and material disseminated outside the executive branch under Executive Order No. 10865 or otherwise shall be properly protected.

(E) Appropriate accountability records for classified information shall be established and maintained and such information and material shall be protected adequately during all transmissions.



(F) Classified information and material no longer needed in current working files or for reference or record purposes shall be destroyed or disposed of in accordance with the records disposal provisions contained in Chapter 33 of Title 44 of the United States Code and other applicable statutes.

(G) Classified information or material shall be reviewed on a systematic basis for the purpose of accomplishing downgrading, declassification, transfer, retirement and destruction at the earliest practicable date.

SEC. 7. Implementation and Review Responsibilities. (A) The National Security Council shall monitor the implementation of this order. To assist the National Security Council, an Interagency Classification Review Committee shall be established, composed of a Chairman designated by the President, the Archivist of the United States, and representatives of the Departments of State, Defense and Justice, the Atomic Energy Commission, the Central Intelligence Agency and the National Security Council Staff. Representatives of other Departments in the executive branch may be invited to meet with the Committee on matters of particular interest to those Departments. This Committee shall meet regularly and on a continuing basis shall review and take action to ensure compliance with this order, and in particular:

(1) The Committee shall oversee Department actions to ensure compliance with the provisions of this order and implementing directives issued by the President through the National Security Council.

(2) The Committee shall, subject to procedures to be established by it, receive, consider and take action on suggestions and complaints from persons within or without the government with respect to the administration of this order, and in consultation with the affected Department or Departments assure that appropriate action is taken on such suggestions and complaints.

(3) Upon request of the Committee Chairman, any Department shall furnish to the Committee any particular information or material needed by the Committee in carrying out its functions.

[Sec. 7(A) as amended by E.O. 11714, 38 FR 10245, Apr. 26, 1973]

(B) To promote the basic purposes of this order, the head of each Department originating or handling classified information or material shall:

(1) Prior to the effective date of this order submit to the Interagency Classification Review Committee for approval a copy of the regulations it proposes to adopt pursuant to this order.

(2) Designate a senior member of his staff who shall ensure effective compliance with and implementation of this order and shall also chair a Departmental committee which shall have authority to act on all suggestions and complaints with respect to the Department's administration of this order.

(3) Undertake an initial program to familiarize the employees of his Department with the provisions of this order. He shall also establish and maintain active training and orientation programs for employees concerned with classified information or material. Such programs shall include, as a minimum, the briefing of new employees and periodic reorientation during employment to impress upon each individual his responsibility for exercising vigilance and care in complying with the provisions of this order. Additionally, upon termination of employment or contemplated temporary separation for a sixty-day period or more, employees shall be debriefed and each reminded of the provisions of the Criminal Code and other applicable provisions of law relating to penalties for unauthorized disclosure.

(C) The Attorney General, upon request of the head of a Department, his duly designated representative, or the Chairman of the above described Committee, shall personally or through authorized representatives of the Department of Justice render an interpretation of this order with respect to any question arising in the course of its administration.

SEC. 8. *Material Covered by the Atomic Energy Act.* Nothing in this order shall supersede any requirements made by or under the Atomic Energy Act of August 30, 1954, as amended. "Restricted Data," and material designated as "Formerly Restricted Data," shall be handled, protected, classified, downgraded and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.

SEC. 9. *Special Departmental Arrangements.* The originating Department or other appropriate authority may impose, in conformity with the provisions of this order, special requirements with respect to access, distribution and protection of classified information and material, including those which presently relate to communications intelligence, intelligence sources and methods and cryptography.

SEC. 10. *Exceptional Cases.* In an exceptional case when a person or Department not authorized to classify information originates information which is believed to require classification, such person or Department shall protect that information in the manner prescribed

by this order. Such persons or Department shall transmit the information forthwith, under appropriate safeguards, to the Department having primary interest in the subject matter with a request that a determination be made as to classification.

SEC. 11. *Declassification of Presidential Papers.* The Archivist of the United States shall have authority to review and declassify information and material which has been classified by a President, his White House Staff or special committee or commission appointed by him and which the Archivist has in his custody at any archival depository, including a Presidential Library. Such declassification shall only be undertaken in accord with: (i) the terms of the donor's deed of gift, (ii) consultations with the Departments having a primary subject-matter interest, and (iii) the provisions of Section 5.

SEC. 12. *Historical Research and Access by Former Government Officials.* The requirement in Section 6(A) that access to classified information or material be granted only as is necessary for the performance of one's duties shall not apply to persons outside the executive branch who are engaged in historical research projects or who have previously occupied policy-making positions to which they were appointed by the President; *Provided*, however, that in each case the head of the originating Department shall:

- (i) determine that access is clearly consistent with the interests of national security; and
- (ii) take appropriate steps to assure that classified information or material is not published or otherwise compromised.

Access granted a person by reason of his having previously occupied a policy-making position shall be limited to those papers which the former official originated, reviewed, signed or received while in public office.

SEC. 13. *Administrative and Judicial Action.* (A) Any officer or employee of the United States who unnecessarily classifies or overclassifies information or material shall be notified that his actions are in violation of the terms of this order or of a directive of the President issued through the National Security Council. Repeated abuse of the classification process shall be grounds for an administrative reprimand. In any case where the Departmental committee or the Interagency Classification Review Committee finds that unnecessary classification or overclassification has occurred, it shall make a report to the head of the Department concerned in order that corrective steps may be taken.

(B) The head of each Department is directed to take prompt and stringent administrative action against any officer or employee of the United States, at any level of employment, determined to have been responsible for any release or disclosure of national security information or material in a manner not authorized by or under this order or a directive of the President issued through the National Security Council. Where a violation of criminal statutes may be involved, Departments will refer any such case promptly to the Department of Justice.

SEC. 14. *Revocation of Executive Order No. 10501.* Executive Order No. 10501 of November 5, 1953, as amended by Executive Orders No. 10816 of May 8, 1959, No. 10901 of January 11, 1961, No. 10964 of September 20, 1961, No. 10985 of January 15, 1962, No. 11097 of March 6, 1963 and by Section 1(a) of No. 11382 of November 28, 1967, is superseded as of the effective date of this order.

SEC. 15. *Effective date.* This order shall become effective on June 1, 1972.

EXECUTIVE ORDER 11667—ESTABLISHING THE PRESIDENT'S ADVISORY COMMITTEE ON THE ENVIRONMENTAL MERIT AWARDS PROGRAM

SOURCE: Executive Order 11667 appears at 37 F.R. 7763, Apr. 20, 1972.

On October 31, 1971, I announced the establishment of the President's Environmental Merit Awards Program. The Administrator of the Environmental Protection Agency and the Commissioner of Education sent letters to high school principals inviting them to participate in this program by establishing local tripartite committees to supervise and direct local Environmental Merit Awards Programs, and to make awards to individual students or groups of students for significant environmental accomplishments by them. These committees were to be composed of students, faculty and interested members of the community.

Today, more than 2,500 high schools, including schools in each of the 50 States, are actively involved in this program.

In view of this encouraging response, I have concluded that I should establish a national committee to advise me of ways in which this program can be further expanded and enhanced and of other ways in which the environmental accomplishments of individuals and groups may be appropriately recognized.

THE WHITE HOUSE
WASHINGTON

Eva:

Please have
~~John~~ Barry get
me a copy of
E.O. 11862, before
the amendment
which is herein
published on



THE WHITE HOUSE
WASHINGTON

Ev2:

Please Xerox p. 619
& put with full
order in "Classification"
desk file.

for Classification



Federal National Mortgage Association

Announcement of Appointment of Five Members of the Board of Directors. June 11, 1975

The President today announced the appointment of five persons as members of the Board of Directors of the Federal National Mortgage Association for terms ending on the date of the annual meeting of the stockholders in 1976. Public Law 90-448 of August 1, 1968, provided for the establishment of this Association and provided for the orderly transfer from the Government to private control, which went into effect in May 1970. The five persons are:

JACK FRANKLIN BENNETT, of Greenwich, Conn., Under Secretary of the Treasury for Monetary Affairs. This is a reappointment.

LEWIS CENKER, of Atlanta, Ga., partner in the law firm of Smith, Cohen, Ringel, Kohler, Martin & Lowe. He succeeds Louis R. Barba, whose term has expired.

ROBERT R. ELLIOT, of Gainesville, Va., General Counsel, Department of Housing and Urban Development. This is a reappointment.

EDWARD E. MENDENHALL, JR., of High Point, N.C., senior partner, Mendenhall-Moore, Realtors. He succeeds John M. Costello, whose term has expired.

JULIAN H. ZIMMERMAN, of Fentress, Tex., chairman of the board and president, Equity Investors, Inc. This is a reappointment.

The Board of Directors consists of 15 members. Five members, which are appointed by the President annually, include one from the homebuilding industry, one from the mortgage lending industry, and one from the real estate industry. Ten persons are elected annually by the common stockholders. The President and Vice President of the Association are selected and appointed by the Board of Directors. The 15 members serve a term of one year, and any of the members may be removed from office by the President for good cause.

Classification and Declassification of National Security Information and Material

Executive Order 11862. June 11, 1975

AMENDING EXECUTIVE ORDER NO. 11652 RELATING TO CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION AND MATERIAL

By virtue of the authority vested in me by the Constitution and statutes of the United States and in implementation of the Energy Reorganization Act of 1974, Public Law 93-438 (88 Stat. 1233), it is hereby ordered:

SECTION 1. Executive Order No. 11652 of March 8, 1972, as amended, is further amended as follows:

(a) Section 2(A) is amended by deleting the words "Atomic Energy Commission" and substituting instead the words "Energy Research and Development Administration."

(b) Section 2(B) is amended by adding the words "Nuclear Regulatory Commission" after the words "Overseas Private Investment Corporation."

(c) Section 7(A) is amended by deleting in the second sentence thereof the words "Atomic Energy Commission" and substituting instead the words "Energy Research and Development Administration."

(d) Section 8 is amended by deleting at the end thereof the words "Atomic Energy Commission" and substituting instead the words "Energy Research and Development Administration."

SEC. 2. This order shall become effective immediately.

GERALD R. FORD

The White House,
June 11, 1975.

[Filed with the Office of the Federal Register, 3:42 p.m.,
June 11, 1975]

International Wheat Agreement

The President's Message to the Senate Transmitting for Advice and Consent to Ratification Protocols Extending the Agreement. June 11, 1975

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocols for the Further Extension of the Wheat Trade Convention and of the Food Aid Convention, which together constitute the International Wheat Agreement, 1971. These Protocols were formulated by a Conference of Governments which met in London on February 14, 1975, and were open for signature in Washington from March 25 through April 14.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the Protocols.

The Protocol for the Further Extension of the Wheat Trade Convention, 1971, extends the Convention until June 30, 1976, and maintains the framework for international cooperation in wheat trade matters. It also continues the existence of the International Wheat Council.

The Protocol for the Further Extension of the Food Aid Convention, 1971, also extends until June 30, 1976, commitments of parties to provide minimum annual quantities of food aid to developing countries. It is the intention of the United States not to deposit ratification of this Protocol unless the European Economic Community becomes a party to the Protocol. The United States

INTERAGENCY CLASSIFICATION REVIEW COMMITTEE

WASHINGTON, D.C. 20408

July 2, 1975

MEMORANDUM FOR:


JERRY H. JONES
SPECIAL ASSISTANT TO THE PRESIDENT
THE WHITE HOUSE

SUBJECT:

ICRC TRAINING PAMPHLET FOR
AUTHORIZED CLASSIFIERS

As part of its continuing emphasis on effective orientation and training programs in the security classification field, the Interagency Classification Review Committee has published the enclosed pamphlet entitled "Know Your Responsibilities as an Authorized Classifier." A copy should be given to each employee who has classification authority. Please let us know how many copies your agency will need and to whom they should be sent. There is no charge.

Active and comprehensive orientation and training programs can be one very effective way to prevent abuse of the classification system. Reports to the ICRC reflect that the overwhelming majority of abuses being committed are in the area of improper classification marking, primarily the failure to mark a document with the required stamps or to its assigned classification and as to its assigned declassification schedule or exemption therefrom. To a lesser extent, the other areas of reported abuse are (1) over- or under-classification and (2) the unauthorized use of classification authority. We hope the pamphlet will be a helpful adjunct to your program by helping to eliminate abuse through more active orientation and training.


WILLIAM L. BROWN
Executive Director



CLASSIFIED
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RESPONSIBILITIES
YOUR
KNOW

When Classifying a Document

Unless specifically exempted, pursuant to one of the four exemption categories set forth in Section 5(B) of Executive Order 11652, by an official authorized to originally classify information or material TOP SECRET, classified information and material must be subject to the General Declassification Schedule (GDS). Alternatively, it may be designated for automatic declassification on a given event or on a date earlier than provided for in the GDS. This is called the Advance Declassification Schedule (ADS). The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements.

Proper marking of a classified document is important! Each classified document shall show on its face its classification and whether it is subject to the ADS or GDS or exempt from the GDS. Only authorized stamps, properly completed, may be used. If a document is stamped "Restricted Data" or "Formerly Restricted Data," such markings are, in themselves, evidence of exemption from the GDS. The face of the document shall also show the office of origin and the date of preparation

and classification. To the extent practicable, the body of the document should be marked to indicate which portions are classified and at what level and which portions are not classified in order to facilitate excerpting and other use. Material containing references to classified materials, which references do not reveal classified information, shall not be classified. Each classified document must also identify in some manner, in accordance with approved procedures, the individual at the highest level that authorized the classification. Where the individual who signs or otherwise authenticates a document has also authorized the classification, no further annotation as to his identity is required. Every authorized classifier should become thoroughly familiar with the proper marking requirements.

If the classifier has any substantial doubt as to which of the classified categories is appropriate, or as to whether the information or material should be classified at all, the least restrictive treatment should be used.

Special Responsibility To Protect

An authorized classifier or other holder of national security information or material shall observe and respect the classification assigned by the originator, giving it the strict protection required by its level of classification. If a holder believes that there is unnecessary classification, that the assigned classification is improper, or that the document is subject to de-

classification under Executive Order 11652, the holder shall so inform the originator, who shall thereupon reexamine the classification. Under no circumstances may a holder make an unauthorized release of national security information. There are provisions in the U.S. Criminal Code and other applicable statutes relating to penalties for such unauthorized disclosures.

Implementation and Review Responsibilities

The Interagency Classification Review Committee (ICRC) was established at the direction of the President to assist the National Security Council in monitoring the implementation of Executive Order 11652. The ICRC has extensive oversight responsibilities, which are outlined in the order and in the implementing National Security directive of May 17, 1972.

Within each department or agency, there is a departmental review committee that has responsibilities to act on all suggestions or complaints with respect to the individual department's administration of the order. Such suggestions or complaints may include those regarding over-classification, failure to declassify, or delay in declassifying not otherwise resolved.

*Interagency Classification Review Committee
Washington, D.C. 20408*



A new system for classifying Government documents relating to national security matters was established on March 8, 1972, by Executive Order 11652 and further implemented by a National Security Council (NSC) directive on May 17, 1972. The change represented the first major overhaul in the classification system of Federal documents in 20 years. Every authorized classifier should obtain a copy of the order, the implementing NSC directive, and the regulations of his or her own department or agency and become thoroughly familiar with their contents.

Authority To Classify

The authority to originally classify information or material under Executive Order 11652 is restricted solely to those offices within the executive branch, enumerated in the order, that are concerned with matters of national security and is limited within those offices to the minimum number of persons absolutely required for efficient administration. This authority may

be exercised only by the heads of the departments or agencies and certain other properly designated officials and subordinates. No one else may assign original classifications. Designated officials may classify information or material only at the level authorized and below. Authority to classify may not be delegated to individuals not properly designated.

Security Classification Categories

Official information or material that requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (collectively termed "national security" information or material) shall be classified in one of three categories; namely, TOP SECRET, SECRET, or CONFIDENTIAL. No other categories shall be used except as expressly provided by statute. These categories may only be used in accordance with the following definitions:

TOP SECRET refers to that national security information or material which requires the highest degree of protection. The test for assigning TOP SECRET classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of exceptionally grave damage include armed hostilities against the United States or its allies, disruption of foreign relations vitally affecting the national security, the compromise of vital national defense plans or complex cryptologic and communications intelligence systems, the revelation of sensitive intelligence operations, and the disclosure of scientific or technological developments vital

to national security. This classification shall be used with the utmost restraint.

SECRET refers to that national security information or material which requires a substantial degree of protection. The test for assigning SECRET classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of serious damage include disruption of foreign relations significantly affecting the national security, significant impairment of a program or policy directly related to the national security, revelation of significant military plans or intelligence operations, and compromise of significant scientific or technological developments relating to national security. The classification SECRET shall be used sparingly.

CONFIDENTIAL refers to that national security information or material which requires protection. The test for assigning CONFIDENTIAL classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

Other designations coupled with one of the above three categories pertain to access restrictions only.

Personal Responsibility

Each person possessing classifying authority shall be held accountable for the propriety of the classification attributed to him. Both unnecessary classification and over-classification must be avoided. Classifications must be based solely on national security considerations. In no case may information be classified to conceal inefficiency or administrative error, to prevent embarrassment to a person or department, to restrain competition or independent initiative, or to prevent for any other reason the release of information that does not require protection in the interest of national security.

Any Government officer or employee who unnecessarily classifies or over-classifies information or material will be so notified. Repeated abuse of the classification process is grounds for an administrative reprimand. The term "classification abuse" means unnecessary classification, over- or under-classification, failure to assign the proper downgrading and declassification schedule, improper application of classification markings, improper placing of a document in an exempt declassification category, any classification or exemption action taken without authority, or an improper delegation of classification authority.

THE WHITE HOUSE

WASHINGTON

March 3, 1976

MEMORANDUM FOR: PHIL BUCHEN

FROM: DUDLEY CHAPMAN DC

SUBJECT: Protection of Classified Information
under the Amended FOIA

The Act as it stood before the 1974 amendments authorized withholding of information "specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy." As amended, withholding is permitted of matters that are "(A) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive Order."

This means that the classification must be correct both procedurally and substantively. The Act makes the documents subject to in camera inspection for purposes of this determination, and affidavits are the normal means of explaining the correctness of the classification.

In his veto message, the President proposed the following presumption which was agreed to by the House floor manager of the bill, Congressman Moorhead:

"that where classified documents are requested, the courts could review the classification, but would have to uphold the classification if there is a reasonable basis to support it. In determining the reasonableness of the classification, the courts would consider all attendant evidence prior to resorting to an in camera examination of the document." Veto Message, 10 Weekly Compilation of Presidential Documents 1318 (1974).



The only cases known to the Department of Justice are several unreported cases in which the classification was upheld on the basis of in camera inspection and the affidavits furnished.



THE WHITE HOUSE
WASHINGTON

TO: PHIL BUCHEN

FROM: JOHN O. MARSH, JR.

 For Direct Reply

 For Draft Response

XX For Your Information

 Please Advise



APR 28 1976

THE WHITE HOUSE
WASHINGTON

April 27, 1976

*you rec'd
earlier
from Wolthuis.*

MEMORANDUM FOR:

JACK MARSH
PHILIP BUCHEN
MAX FRIEDERSDORF

FROM:

BOB WOLTHUIS *RKW*

I got a call this morning from Kempton Jenkins at State who informed me that Senator Gasca has introduced a bill dealing with security classification that would do the following:

1. It would declassify all classified documents submitted to the Congress by the Executive Branch by a simple majority vote of the Foreign Relations Committee.
2. If the committee so votes it would notify the President that he has five days to object.
3. If the President objects to the declassification then the full Senate must vote on whether or not to declassify.
4. If there is no Presidential objection declassification is automatic.
5. If the full committee has voted not to declassify three members can appeal that vote to the full committee. If the full committee sustains its negative decision then the appeal goes to the full Senate for consideration.

This is a preliminary reading of the legislation. I have attached a copy of the resolution.

D- Send to

1. Mike

2. Duo

3. All members ICG

4. Edg W.



submitted the following resolution; which was _____

RESOLUTION

Relating to the public disclosure of certain classified information by the Committee on Foreign Relations.

(Insert title of resolution here)

Resolved, That (a) the Committee on Foreign Relations of the Senate may, subject to the provisions of this resolution, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote.

(b) (1) In any case in which the Committee on Foreign Relations of the Senate votes to disclose publicly any information submitted to it by the executive branch which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is vital and outweighs any public interest in the disclosure.

(3) The Committee on Foreign Relations may disclose publicly such information at any time after the expiration of three days following the day on which it receives an objection from the President pursuant to paragraph (2), unless, prior to the expiration of such three days, three or more members of such committee file a request in writing with the chairman of the committee that the question of public disclosure of such information be referred to the Senate for decision.

(4) In any case in which the Committee on Foreign Relations votes not to disclose publicly any information submitted to it by the executive branch which the executive branch requests be kept secret, such information shall not be publicly disclosed unless three or more members of such committee file, within three days after the vote of such committee disapproving the public disclosure of such information, a request in writing with the chairman of such committee that the question of public disclosure of such information be referred to the Senate for decision, and public disclosure of such information is thereafter authorized as provided in paragraph (5) or (6).

(5) Whenever three or more members of the Committee on Foreign Relations file a request with the chairman of such committee pursuant to paragraph (3) or (4), the chairman shall, not later than the first day on which the Senate is in session following the day on which the request is filed, report the matter to the Senate for its consideration.

(6) ~~One hour after the Senate convenes on the first day of~~
following the day on which any

(B) disapprove the public disclosure of the information in question, in which case the committee shall not publicly disclose such information, or

(C) refer the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the fifth day following the day on which such matter was reported to the Senate the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph.



file a request in writing with the chairman --

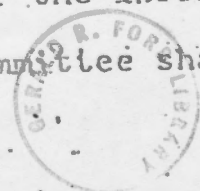
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(6) One hour after the Senate convenes on the first day on which the Senate is in session following the day on which any such matter is reported to the Senate, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may--

(A) approve the public disclosure of the information in question, in which case the committee shall publicly disclose such information,



THE WHITE HOUSE

WASHINGTON

April 27, 1976

MEMORANDUM FOR:

JACK MARSH
~~PHILIP BUCHEN~~
MAX FRIEDERSDORF

FROM:

BOB WOLTHUIS *RKW*

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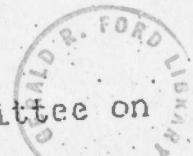


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