

*Information  
Security  
Oversight  
Office*

1990

### ***Authority***

Executive Order 12356, "National Security Information." ISOO receives its policy and program direction from the President through the National Security Council. ISOO is an administrative component of the United States General Services Administration.

### ***Mission***

ISOO oversees the Government-wide information security (security classification) program and reports to the President annually on its status.

### ***Functions***

Develops and issues implementing directives and instructions for the information security program.

Maintains liaison with agency counterparts and conducts on-site inspections and special document reviews to monitor agency compliance with the information security program.

Develops and disseminates security education materials for Government and industry; monitors agencies' security education and training programs.

Receives and takes action on complaints, appeals and suggestions regarding the administration of the information security program.

Collects and analyzes relevant statistical data on each agency's information security program, and reports them annually, along with other information, to the President.

Conducts special studies on identified or potential problem areas in the information security program, and develops remedial approaches for program improvement.

### ***Goals***

To hold classification activity to the minimum necessary to protect the national security.

To ensure the safeguarding of national security information in an effective and efficient manner.

To promote declassification and public access to information as soon as national security considerations permit.



Information Security Oversight Office  
750 17th Street, NW., Suite 530  
Washington, DC 20006



March 19, 1991

Dear Mr. President:

I am pleased to submit the Information Security Oversight Office (ISOO) 1990 Report to the President.

This is the eighth Report that ISOO has issued on the information security program under Executive Order 12356, "National Security Information," issued in 1982. Our findings for FY 1990 are quite positive. Classification activity remained stable at the low levels reported last year, while the declassification of historically valuable records increased significantly. In the meantime, an interagency review of the security classification system continues. The objective of this review is a security classification system even more responsive to our policy goals.

Because of the pertinent time frames, the data reported only marginally reflect the impact of Operation Desert Shield and nothing of Operation Desert Storm. Their impact, which is likely to be significant, will be reflected in ISOO's Report for FY 1991.

Respectfully,

A handwritten signature in cursive script that reads "Steven Garfinkel".

Steven Garfinkel  
Director

The President  
The White House  
Washington, DC 20500



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# Summary of FY 1990 Program Activity

The FY 1990 Report to the President is the eighth to examine the information security program under E.O. 12356. The following data highlight ISOO's findings.

## *Classification*

- The number of original classification authorities increased slightly to 6,492.
- Reported original classification decisions decreased a modest 2% to 490,975.
- Reported derivative classification decisions increased 0.1% to 6,306,745.
- The total of all classification actions reported for FY 1990 remained virtually the same at 6,797,720.
- DOD accounted for 51% of all classification decisions; CIA 33%; Justice 12%; State 3%; and all other agencies 1%.

## *Declassification*

- Under the systematic review program, agencies reviewed 16,254,435 pages of historically valuable records, 45% more than in FY 1989; and declassified 12,219,733 pages, 74% more than in FY 1989.
- Agencies received 5,215 new mandatory review requests.
- Under mandatory review, agencies declassified in full 50,844 pages; declassified in part 67,886 pages; and retained classification in full on 22,194 pages.
- Agencies received 357 new mandatory review appeals.
- On appeal, agencies declassified in whole or in part 19,828 additional pages.

## *Safeguarding*

- Agencies conducted 24,268 self-inspections.
- Agencies reported 22,646 infractions, 3% more than in FY 1989.

# Classification



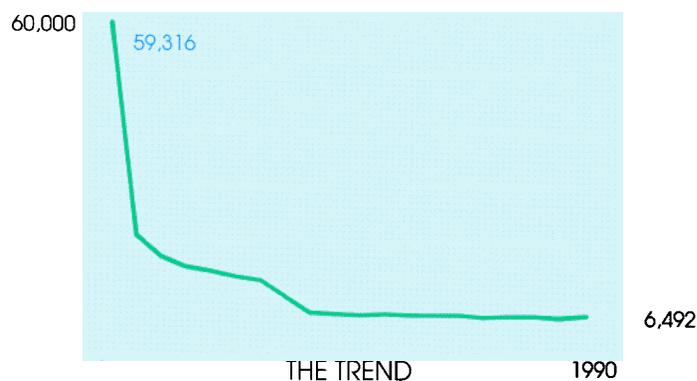
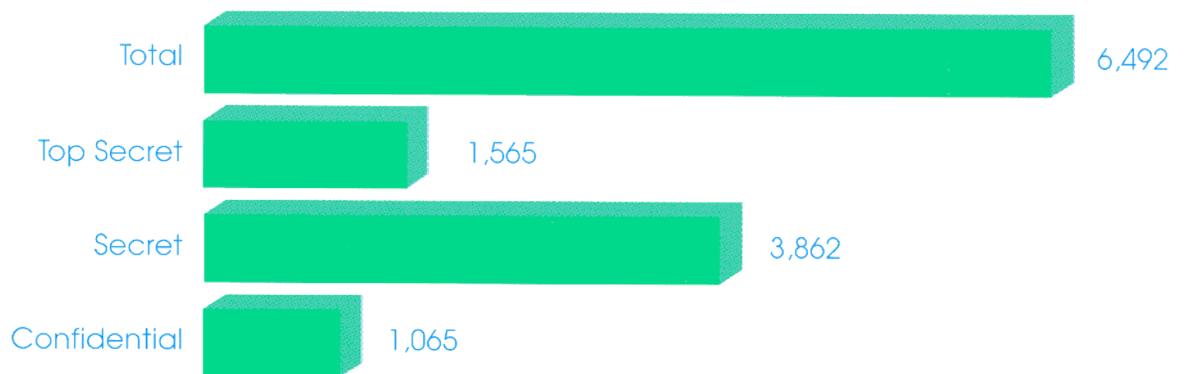
Still fewer than  
6,500 original  
classification  
authorities

## Original Classifiers

Original classification authorities, also called original classifiers, are those individuals designated in writing, either by the President or by selected agency heads, to classify information in the first instance. Under E.O. 12356, only original classifiers determine what information, if disclosed without authority, could reasonably be expected to cause damage to the national security.

For FY 1990, the number of original classifiers throughout the executive branch increased by 25, to a total of 6,492. While this increase may be statistically insignificant, ISOO is concerned about any increase in the number of original classifiers, given its persistent efforts to reduce their numbers. Nevertheless, except for the data reported for

## ORIGINAL CLASSIFIERS FY 1990



1989, there are fewer original classification authorities now than at any other time for which relevant statistics are available.

By classification level in FY 1990, there were slight increases in the number of persons authorized to classify at the **Top Secret** and **Confidential** levels, and a slight decrease in the number of **Secret** level authorities.

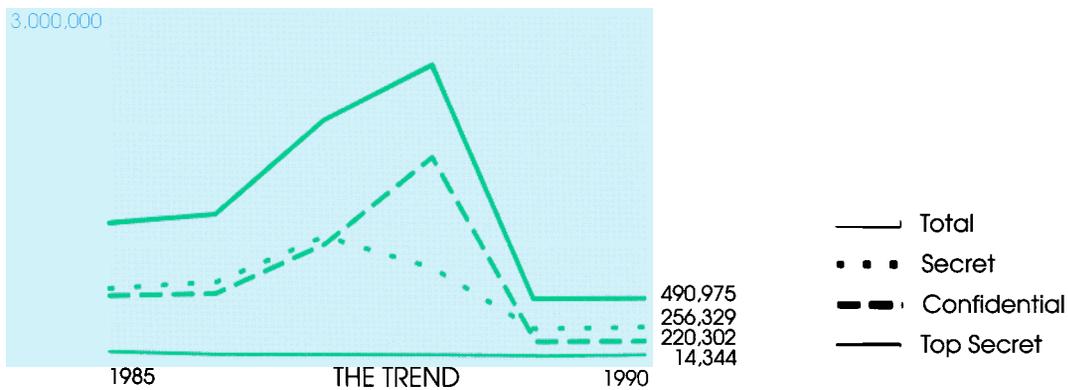
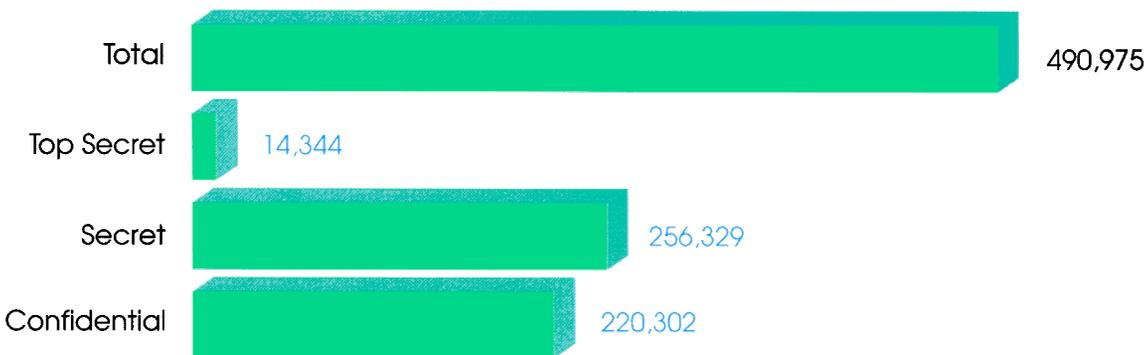
Despite the overall increase, several agencies merit congratulations for continuing to reduce their numbers of original classification authorities in FY 1990. These include CIA, DOE, EPA, NASA, NRC, OMB, OVP and Treasury. Within DOD, which reported a slight overall increase in its number of original classification authorities, several components continued the significant reductions which DOD reported last year. ISOO commends Navy, Air Force, DARPA and DMA for these reductions.

ISOO believes that limiting the number of original classifiers is one of the important means by which the classification system can control itself. Therefore, it will continue to prod agencies to decrease their original classification authorities to the fewest necessary.

### Original Classification

Original classification is an initial determination by an authorized classifier that information requires extraordinary protection, because unauthorized disclosure of the information could reasonably be expected to cause damage to the national security. The process of original classification ordinarily includes both the determination of the need to

#### ORIGINAL ACTIVITY FY 1990



Very important to limit the number of original classifiers

protect the information and the placement of markings to identify the information as classified. By definition, original classification precedes all other aspects of the information security system, e.g., derivative classification, safeguarding, and declassification. Therefore, ISOO often refers to the number of original classification actions as the most important figure that it reports.

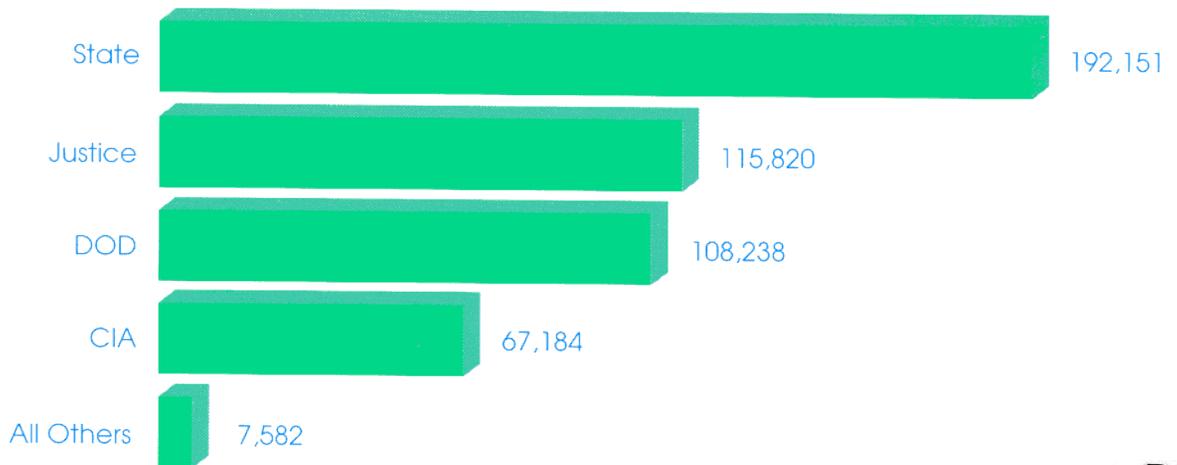
For FY 1990, agencies reported a total of 490,975 original classification decisions. This figure represents a modest 2% decrease of almost 11,000 original classification decisions from the number reported last year. Significantly, however, it also represents the lowest yearly total of original classification decisions ever reported to ISOO.

A 30% decrease in the number of original decisions reported by DOD more than accounts for the overall decrease. This decrease continues the trend established last year when improvements in the DOD sampling system, particularly within Navy, radically lowered the number of reported DOD original decisions. For FY 1990, important DOD classifying components, including Air Force, Army, DMA, DNA and Navy reported significant decreases in original classification. ISOO believes that most of these decreases can be attributed to a better understanding within classifying units of the difference between original and derivative classification.

For the second straight year State, which treats all of its classification decisions as original, reported the highest number of original decisions. State noted a fairly modest 6% increase from the number reported last year. Since State's fully automated system permits the tabulation of classification decisions for the entire year, its total includes classification activity for the months of August and September 1990, following the Iraqi invasion of Kuwait and the start-up of Operation Desert Shield. As a result of the continued decline in reported DOD original decisions, Justice now reports the second largest number, a 19% increase from the number reported last year. Justice's classification activity remains concentrated around the FBI's counterintelligence responsibilities. The last of the big four classifying agencies, CIA, reported a 9% increase in original decisions.

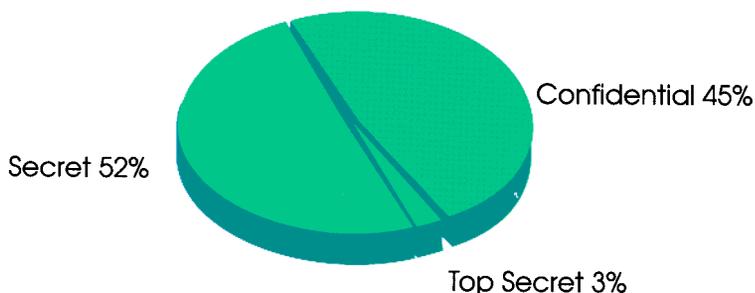
Lowest yearly total of original classification decisions

### ORIGINAL ACTIVITY BY AGENCY FY 1990



The remaining agencies that exercise original classification authority reported a 13% increase in original decisions. Noteworthy for their reported reductions are ACDA, FEMA, OSTP, OVP, Treasury and USTR.

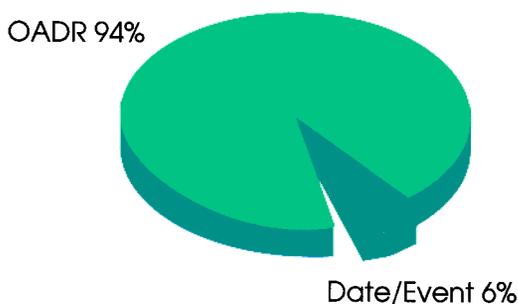
### ORIGINAL CLASSIFICATION LEVELS FY 1990



By classification level, agencies reported modest increases in the numbers of **Top Secret** and **Secret** original decisions, and a decrease in those at the **Confidential** level. ISOO believes that the FY 1990 breakdown in original decisions by classification level accurately reflects other indicators of the classified product, such as ISOO's reviews of classified documents. This breakdown reveals that classifying agencies generate comparatively few **Top Secret** original decisions. A slight majority of original decisions are classified **Secret**, with most of the remainder at the **Confidential** level.

As part of the original classification process, the classifier must determine a time frame for the protection of the information. This is commonly cited as the "duration" of classification. E.O. 12356 provides classifiers with two means of designating declassification instructions for national security information. First, the information may be marked for declassification upon a specific date or event. For example, a classifier may determine that the information's sensitivity will lapse upon the completion of a particular project. That event would be noted on the face of the document, and when the project had been completed, the information would automatically be declassified. Only if a specific date or event cannot be determined at the time of classification does

### DURATION OF CLASSIFICATION FY 1990



Comparatively few Top Secret original decisions

the classifier mark the document with the notation "Originating Agency's Determination Required" ("OADR"). "OADR" indicates that the information must be reviewed by the originating agency before any declassification action may be taken. For FY 1990, the percentage of reported original classification decisions assigned a specific date or event for declassification is only 6%. This continues to fall short of ISOO's approximation of the proportion of classification decisions that are susceptible to automatic declassification instructions at the time of original classification (10-18%). Clearly, this is an area in which improvement is necessary for the classification system to perform credibly. The current interagency review of the classification system includes the examination of possible methods to remedy this problem.

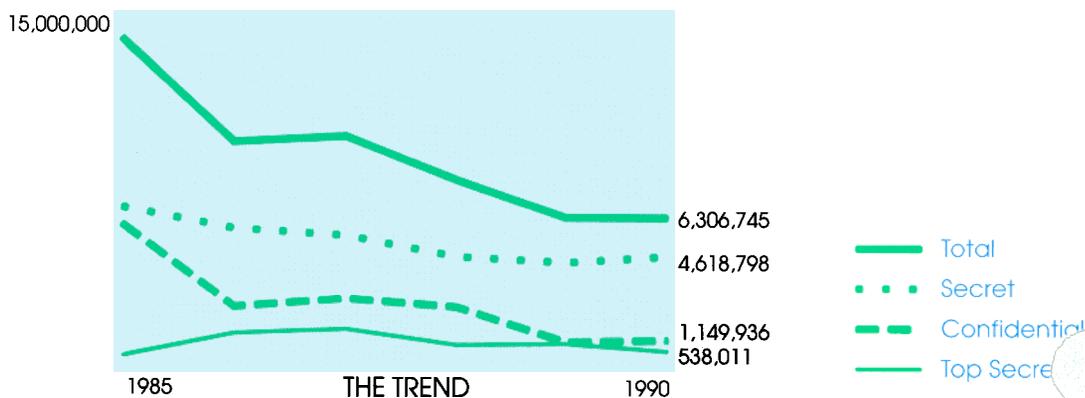
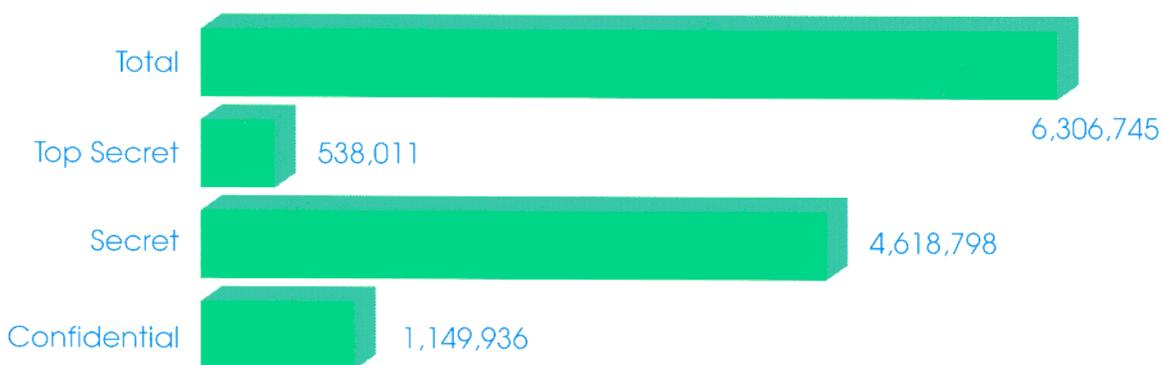


Better effort needed to set a date or event for declassification

### Derivative Classification

Derivative classification is the act of incorporating, paraphrasing, restating or generating in new form classified source information. Information may be derivatively classified in two ways: (a) through the use of a source document, usually correspondence or publications generated by an original classification authority; or (b) through the use of a classification guide. A classification guide is a set of instructions issued by an original classification authority. It pertains to a particular subject and describes the elements of information about that subject that must be classified and specifies the level and duration of classification. Only executive branch or Government contractor employees with the appropriate security

### DERIVATIVE ACTIVITY FY 1990

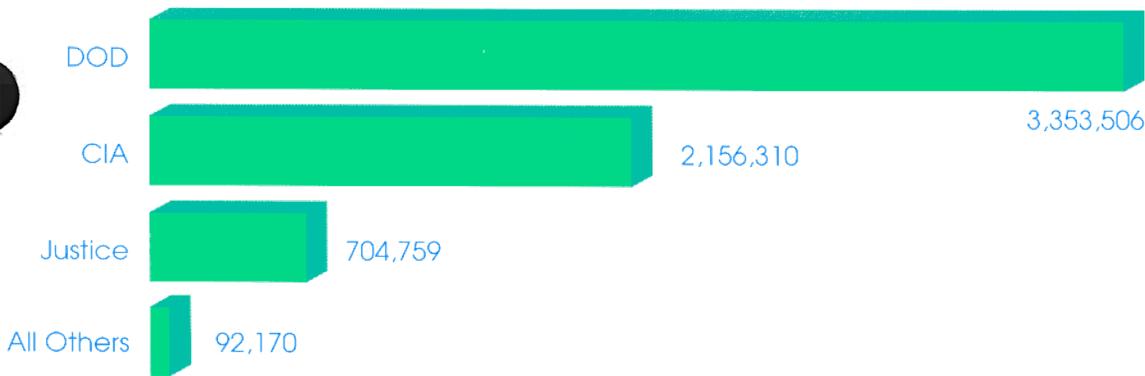


clearance who are required by their work to restate classified source information may classify derivatively.

For FY 1990, agencies reported 6,306,745 derivative classification actions. This number represents a minuscule 0.1% increase from that reported in FY 1989. Of the three agencies that account for almost 99% of derivative classification actions, DOD reported a 6% increase to 3.4 million; CIA, a 6% decrease to 2.2 million; and Justice/FBI, a 4% decrease to 0.7 million. Of considerable interest, the likely impact of Operation Desert Shield and Operation Desert Storm upon classification levels for FY 1991 can be gleaned somewhat from these derivative classification figures for FY 1990. Increases in Air Force's derivative classification activity more than account for the entirety of the DOD increase. Many Air Force units sampled at least part of their annual activity in the months of August and September 1990. Most other DOD components had completed their sampling periods before the onset of Operation Desert Shield.

The agencies with significantly more modest classification programs reported 5% more derivative decisions in FY 1990 than in FY 1989. However, a number of agencies did report fewer decisions. These include EPA, FCC, FEMA, GSA, HHS, ITC, Labor, NARA, NASA, NRC, NSC, OSTP, Peace Corps, PFIAB, Treasury, USDA and USTR.

### DERIVATIVE ACTIVITY BY AGENCY FY 1990



As in the past, the breakdown of derivative classification actions by classification level differs somewhat markedly from the breakdown of original decisions: **Secret** and **Top Secret** decisions comprise significantly higher percentages of the total. Why do **Top Secret** decisions comprise only 3% of original classification actions but 9% of derivative classification actions? This largely results from the fact that several agencies produce a large quantity of **Top Secret** derivative documents from classification guidance. Generally, this **Top Secret** information is highly localized, so that the percentage of **Top Secret** actions within almost all collections of classified information is much smaller.

Minuscule increase in number of derivative decisions

Similarly, why do **Secret** decisions comprise 52% of original decisions but a whopping 73% of derivative decisions? Significantly contributing to the higher proportion of **Secret** derivative decisions is the fact that State treats all of its classification decisions as original. Therefore, State classification decisions have relatively little impact upon the total number of derivative decisions. State classifies a significantly higher percentage of its information at the **Confidential** level (almost 80%) than any of the other major classifying agencies. As a result, the number of original **Confidential** decisions approaches the number of original **Secret** decisions, but the number of derivative **Confidential** decisions is only one-fourth the number of **Secret** derivative decisions.

### DERIVATIVE CLASSIFICATION LEVELS FY 1990

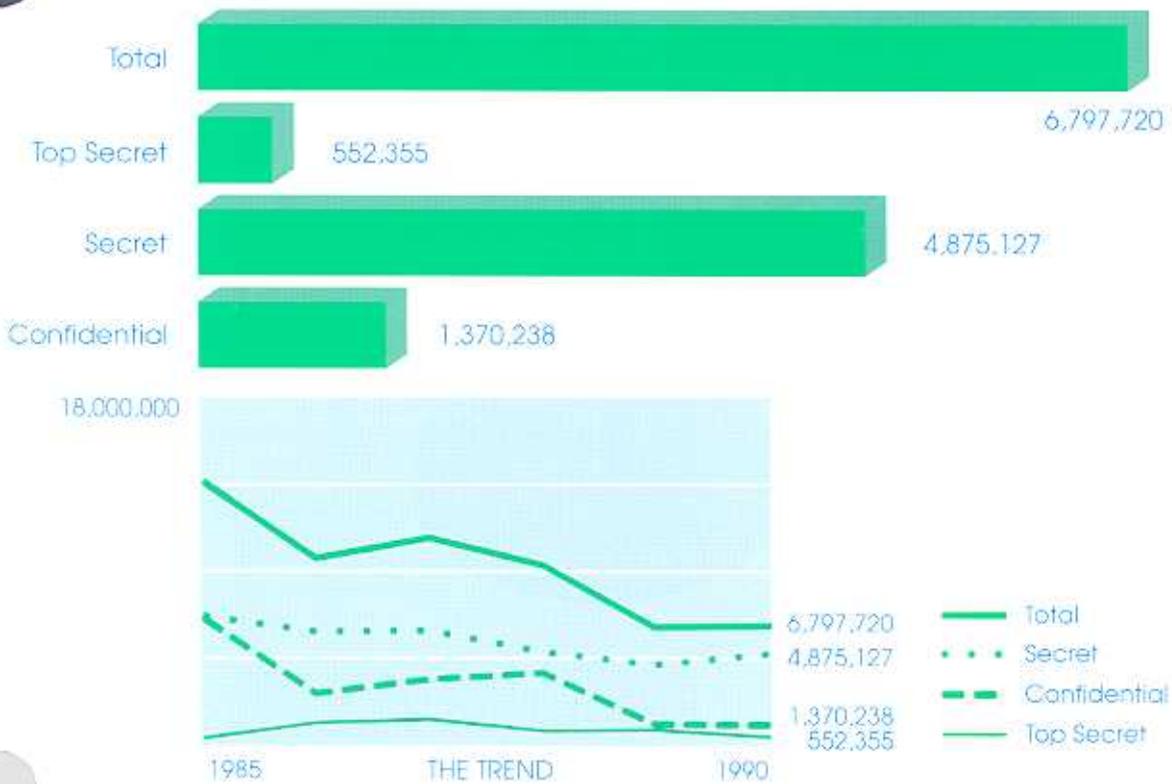


### Combined Classification

By adding original and derivative classification decisions, ISOO arrives at what it calls combined classification activity. In its FY 1989 Report, ISOO made this statement: "Perhaps more than anything else, reported classification activity for FY 1989 will provide an interesting baseline for the future." In making that statement, ISOO did not realize its prescience, at least for the subsequent year. For in FY 1990, agencies reported combined classification activity of 6,797,720 actions, an increase of less than two-hundredths of one percent from the number reported in FY 1989. The absence of change in the level of combined classification results from the slight decrease in the number of original classification actions and the minuscule increase in the number of derivative actions. Because derivative actions outnumber original actions by a ratio of almost 13:1, they have a much greater effect on combined classification activity.

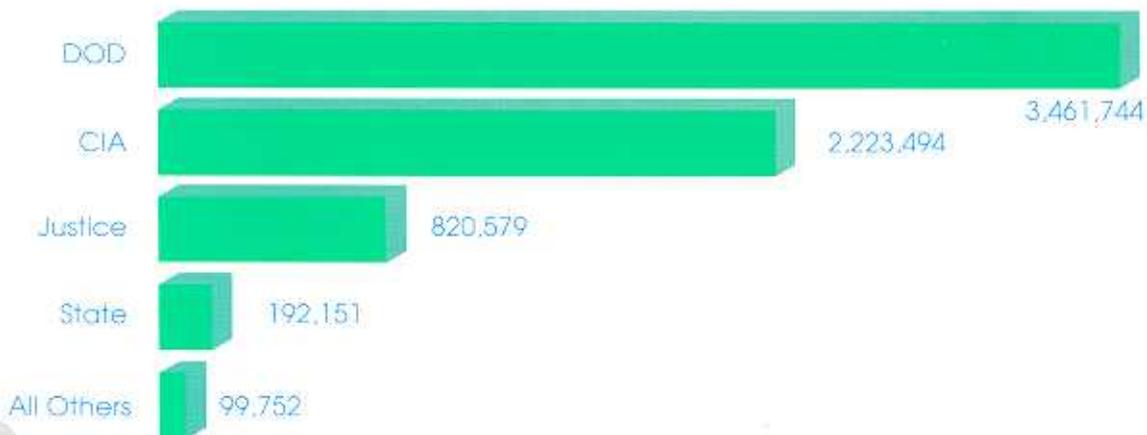
Also similar to the reported figures for last year is the relative proportion of classification activity among the agencies. DOD accounts for slightly more than one of every two classification actions reported for FY 1990, CIA for one of every three, Justice/FBI for almost one of every eight, and State for one of every 36. The remaining agencies account for slightly more than 1% of the combined classification activity. These agencies run the gamut, however, in the degree of their involvement with classified information. They range from very large departments that possess very little classified information and generate almost none, to very small entities that exist almost exclusively in a classified environment.

## COMBINED ACTIVITY FY 1990



When ISOO foresaw classification activity in FY 1989 as a baseline for the future, it did so for two reasons: first, the stabilization of sampling systems in use at DOD; and second, the future consequences within the national security arena of the extraordinary events taking place in Eastern Europe. It did not foresee major military operations in the near future.

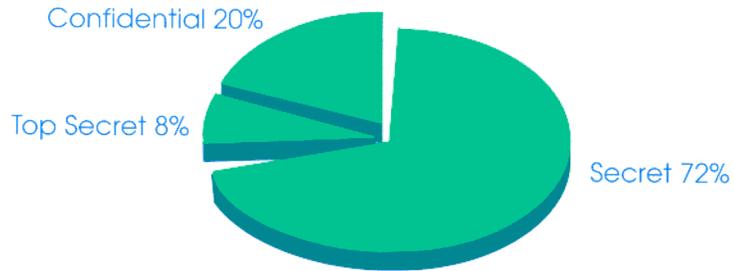
## COMBINED ACTIVITY BY AGENCY FY 1990



**Combined classification totals unchanged from last year**

In the press of day to day business, those of us who have responsibilities related to the security classification system may sometimes lose sight of the reasons that such a system exists. Events like Operation Desert Shield and Operation Desert Storm very quickly restore our focus. The security classification system exists to help ensure their success, and to counter other threats to our national security interests. How the system is utilized in Operation Desert Shield and Operation Desert Storm will clearly impact on classification activity to be reported next year.

### COMBINED CLASSIFICATION LEVELS FY 1990



FY 1991 Report will show impact of Operations Desert Shield and Storm

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# Declassification

## *Systematic Review*

Started in 1972, “systematic review for declassification” is the program under which classified, permanently valuable (archival) records are reviewed for purposes of declassification after the records reach a specific age. Under E.O. 12356, NARA is the only agency required to conduct a systematic review of its classified holdings. NARA ordinarily reviews its classified holdings as they become 30 years old, except for certain intelligence or cryptologic file series, which are to be reviewed as they become 50 years old. While other agencies are not required to conduct a systematic review program, ISOO encourages them to do so. With the approval of the originating agency, agencies, including NARA, may conduct a systematic review of records that are less than 30 years old.

ISOO is pleased to report that during FY 1990, the product of the systematic review program showed its first significant increase since FY 1986. The number of pages reviewed almost reached the 16.4 million level achieved in FY 1986. During FY 1990, agencies reviewed 16.3 million pages, up 5 million (+ 45 %) from FY 1989. Of the pages reviewed, 75 % were declassified, a significant increase from the 63 % rate reported in FY 1989. As a result of the greater number of pages reviewed and the higher declassification rate, over 12.2 million pages were declassified under the systematic review program in FY 1990. This represents a one year increase in excess of 5 million pages.

Although the efforts of several agencies contributed to the increase, NARA accounts for much of the program’s substantial improvement. In FY 1990, NARA reviewed over 7 million pages, more than a 3 million page increase (+ 81 %) from FY 1989. For the past two years, NARA has reported a very high rate of declassification. The change is the result of a gradual increase in personnel resources within NARA’s Records Declassification Division. Notwithstanding the fact that these increases have been relatively small, they have clearly had a positive impact on NARA’s systematic review product. ISOO is encouraged by NARA’s effort to commit additional resources to its systematic review program and hopes that it signals a trend.

Because NARA’s unique role impacts so significantly on the success of the systematic declassification review program, ISOO maintains a special interest in those matters that affect it. While the additional personnel resources are effective in increasing NARA’s systematic review activity, ISOO encourages NARA to continue to explore new uses of available technology that may significantly improve the Government’s systematic declassification review program. The combination of sufficient personnel resources and technology will bring NARA closer to accomplishing a goal of reviewing at least 10 million

Significant  
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and  
declassified

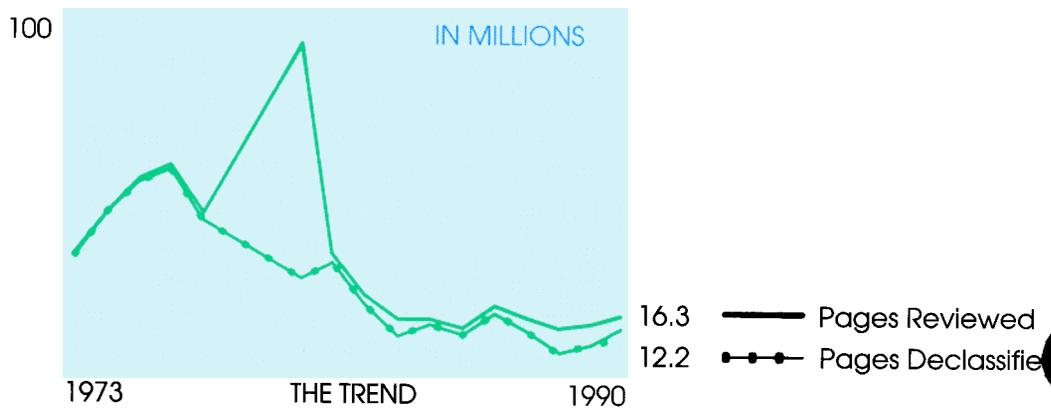
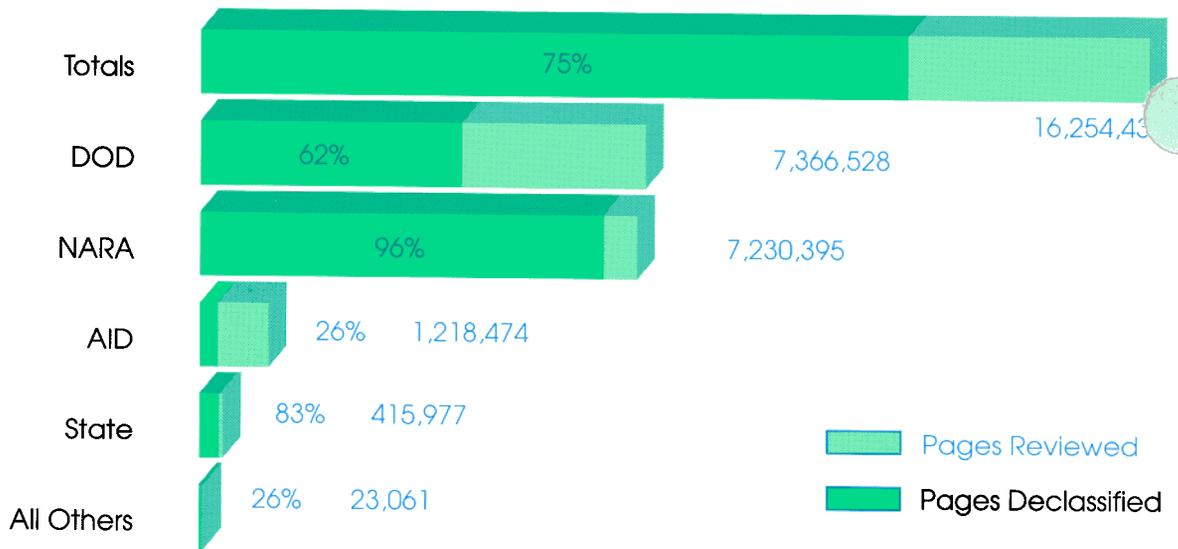
pages annually in order to ensure a viable systematic declassification program. ISOO will continue to work with NARA in its efforts to maintain sufficient personnel resources and acquire new technology to fulfill its systematic review responsibilities.

Voluntary systematic review activity remains critical to the program's success. For FY 1990, DOD again accounted for the highest volume of pages reviewed. DOD reviewed even more pages than NARA (7.4 million, + 35%) in FY 1990, and its declassification rate significantly increased from 48% in FY 1989, to 62% in FY 1990. While several DOD components contributed to DOD's outstanding performance, the three large military services account for most of DOD's systematic review activity for the past two years. Particularly noteworthy is Air Force's contribution. During FY 1990, Air Force reviewed 6.1 million pages, a three-fold increase from FY 1989. Of the pages reviewed, Air Force declassified almost 4 million pages. The focal point of Air Force's systematic review program is a special project on Southeast Asia documentation. In FY 1991, Air Force plans to continue this project.

In addition to Air Force's outstanding performance, the efforts of both Army and Navy contributed substantially to DOD's program in FY 1990. For a number of years, DOD's performance under the systematic review declassification program has been both

Air Force declassifies almost 4 million pages

### SYSTEMATIC REVIEW ACTIONS BY AGENCY FY 1990



commendable and necessary to the vitality of the systematic review program. ISOO applauds DOD's contribution and urges its continuation and expansion.

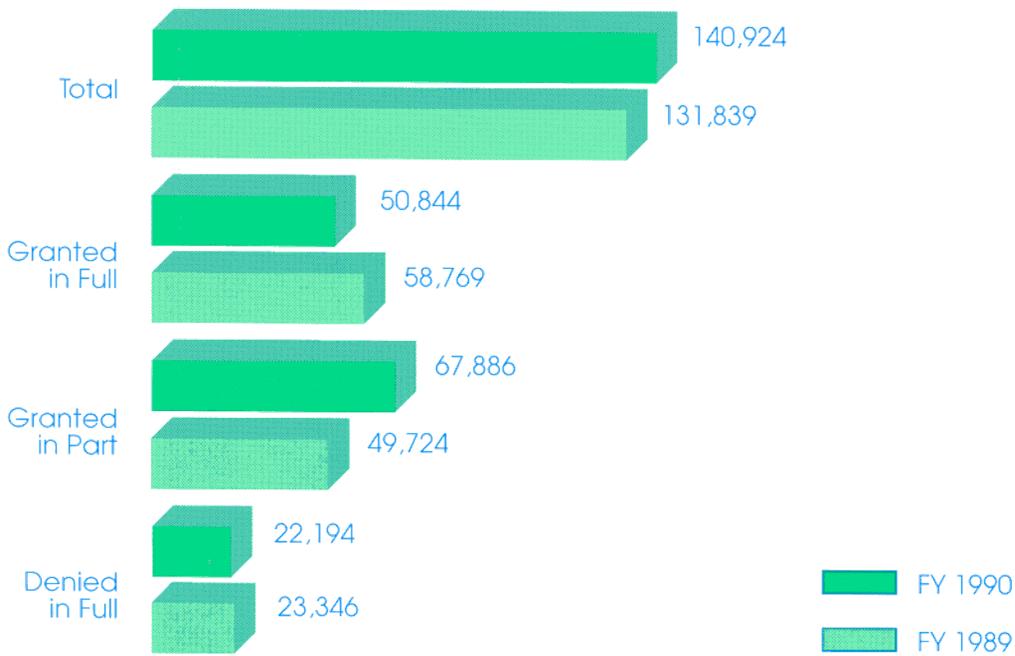
Although NARA's and DOD's systematic review programs are the most active, other agencies contribute to the systematic review product, especially AID and State. ISOO encourages their efforts to maintain systematic review programs, and, if possible, to commit additional resources to them for FY 1991 and the future.

### Mandatory Review

Under E.O. 12356, the mandatory review process allows agencies or citizens to require an agency to review specified national security information for purposes of seeking its declassification. These requests must be in writing and must describe the information with sufficient detail to permit the agency to retrieve it with a reasonable amount of effort. Mandatory review remains popular with some researchers as a less contentious alternative to Freedom of Information Act (FOIA) requests. It is also used to seek the declassification of presidential papers or records, which are not subject to the FOIA.

The 5,217 cases processed under mandatory review during FY 1990 comprised 20,715 documents totaling 140,924 pages. The number of pages processed represents a 7% increase from the prior year. The percentage of pages declassified in whole or in part (84%) is up slightly from the FY 1989 figure.

### MANDATORY REVIEW PAGES PROCESSED FY 1989-1990

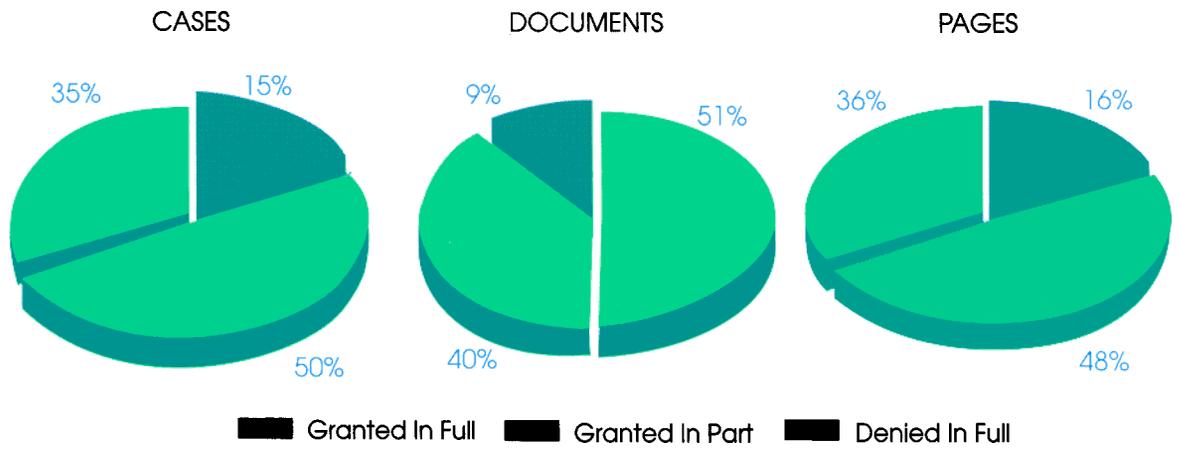


Additional resources necessary to sustain declassification activity

E.O. 12356 also provides that agencies or members of the public may appeal mandatory review denials to designated officials of the denying agencies. During FY 1990, agencies processed 281 appeals that comprised 3,716 documents totaling 20,228 pages, almost double the number of pages processed in FY 1989. Of these, 98% of the pages were declassified in whole or in part. This impressive rate suggests that researchers can anticipate even greater returns in declassified information if they pursue an appeal.



### MANDATORY REVIEW ACTION TAKEN FY 1990



84% of pages declassified in whole or in part

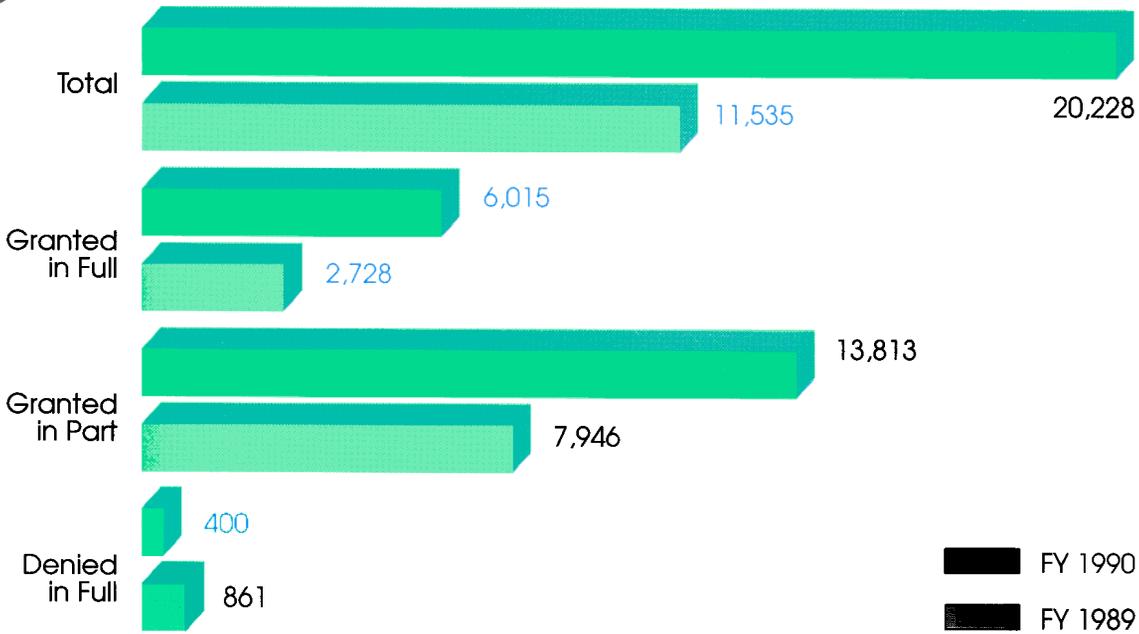
### MANDATORY REVIEW ACTIONS BY AGENCY FY 1990



Agency	Total Cases Acted On	% Granted in Full	% Granted in Part	% Denied in Full
DOD	1,946	17	61	22
State	831	45	45	10
NSC	740	40	52	8
NARA	513	33	54	13
CIA	482	27	53	20
Justice	435	85	11	4
All Others	270	70	28	2
<b>Totals</b>	<b>5,217</b>	<b>35</b>	<b>50</b>	<b>15</b>

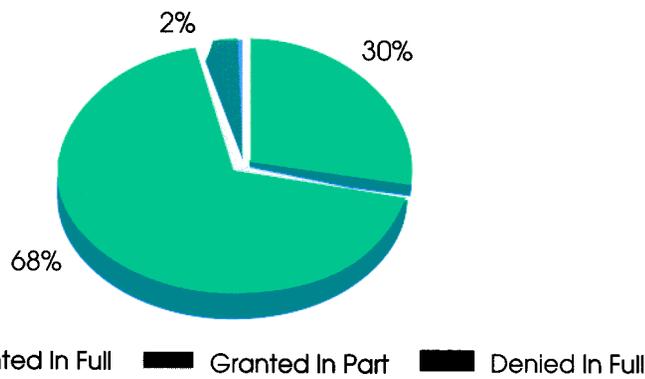


### MANDATORY REVIEW APPEALS: PAGES PROCESSED FY 1989-1990



### MANDATORY REVIEW APPEALS DISPOSITION FY 1990

Total of 20,228 Pages Processed



On appeal, 98% of pages declassified in whole or in part

# Safeguarding



Number of agency self-inspections unchanged

## Agency Self-Inspections

Executive Order 12356 requires that each executive branch agency that originates or handles classified information establish and maintain “an active oversight and security education program.” Agencies are required to report to ISOO the number of self-inspections that they undertake each year. They also report the number and types of infractions found during the year. Infractions are minor violations of the Order, the implementing ISOO Directive or agency regulations. Agency statistical reports do not include the more serious security violations that agencies must report to ISOO as they occur.

For FY 1990, agencies reported a slight increase in the number of self-inspections conducted in FY 1989. However, the similarity of the total numbers was not reflected in the agency by agency totals. Those agencies reporting significant increases in self-inspections for FY 1990 include CIA, HHS, Justice, NASA, State and Treasury. Decreases were reported by AID, DOT, FCC, FRS, GSA, NARA and NSC.

### AGENCY SELF INSPECTIONS FY 1990



In FY 1990, agencies detected a total of 22,656 infractions. Compared to FY 1989, this figure represents a 3% increase. Although this increase is small, ISOO praises the discovery of more infractions. In ISOO's view, this suggests the quality of the inspections continues to improve. The average number of infractions discovered per inspection remained almost the same for FY 1990, at 0.93. Although these figures are encouraging, they are not at a level that indicates that an effective self-inspection program is in place at all agencies. ISOO reiterates its contention that agencies would identify a far greater number of infractions if self-inspections are augmented in quantity and quality. If agencies have not already incorporated periodic samplings of their classified product into their self-inspection programs, ISOO strongly encourages them to do so.

For FY 1990, agencies reported an increase in three categories of infractions as a result of conducting classified document reviews as part of their self-inspection program: 694 (+ 40%) overclassification infractions; 126 (+ 100%) classification without authority infractions; and 20,300 (+ 3%) mismarking infractions. Those agencies reporting significant increases in these infractions include DOD, State and USIA (overclassification); ACDA, DOD and USIA (classification without authority); and AID, DOE, Justice, OVP and USIA (mismarking). ISOO commends these agencies for their efforts to conduct document reviews and incorporate them into their self-inspection programs.

Of the many benefits that can be derived from an effective self-inspection program, ISOO believes there are two that stand out. First, they enable the agency to measure its level of compliance with the Order's provisions; and second, they provide the basis for reviewing and revising the agency's security education and training program. With benefits such as these, agencies should strive to develop a self-inspection program that fully examines the requirements of information security.

## INFRACTIONS

Infraction	Total FY 1989	Total FY 1990
Unauthorized Access	456	576
Mismarking	10,303	10,598
Unauthorized Transmission	3,109	3,225
Improper Storage	6,508	6,503
Unauthorized Reproduction	131	86
Overclassification	496	694
Underclassification	208	202
Classification w/o Authority	63	126
Improper Destruction	271	220
Other	460	426
<b>Totals</b>	<b>22,005</b>	<b>22,656</b>

Self-inspections should include classified document reviews

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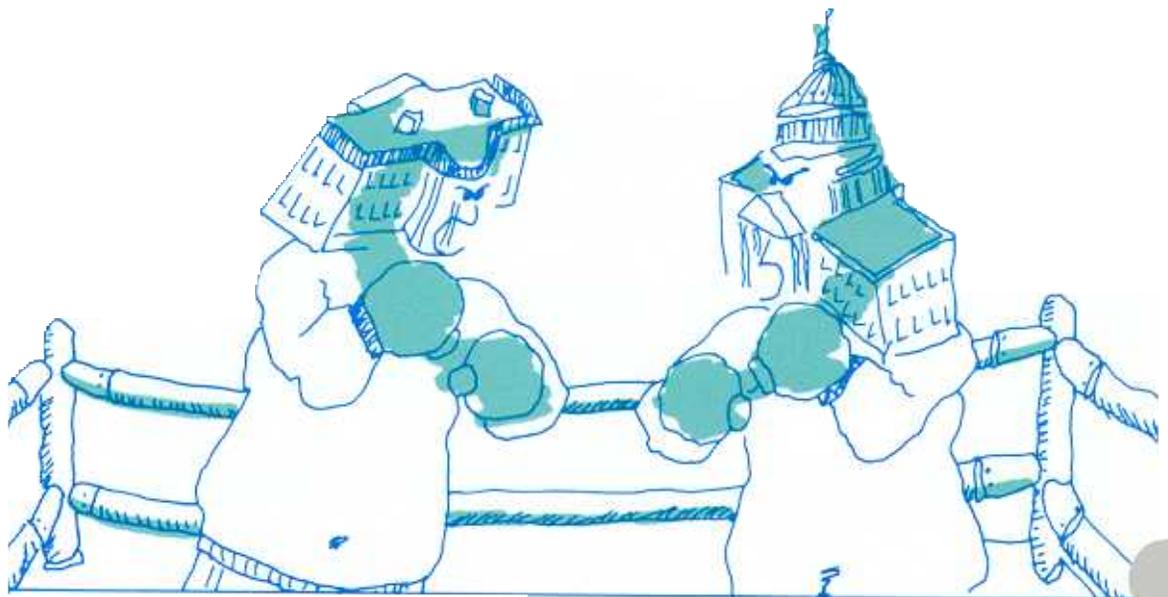
# *Classified Information Nondisclosure Agreement: The Final Chapter?*

## *Chapter 1. The Beginning*

On March 11, 1983, the President, responding to repeated unauthorized disclosures of classified information, issued National Security Decision Directive 84, "Safeguarding National Security Information" (NSDD 84). Paragraph 1(a) of NSDD 84 directed ISOO to develop and issue a standardized nondisclosure agreement to be signed as a condition of access by all persons cleared for access to classified information. To fulfill the requirement set forth in NSDD 84, ISOO issued the Standard Form 189, "Classified Information Nondisclosure Agreement," in September 1983; and the Standard Form 189-A, "Classified Information Nondisclosure Agreement (Industrial/Commercial/Non-Government)," in November 1986.

## *Chapter 2. The Controversy*

The controversy concerning the nondisclosure agreements began in the Spring of 1987. Several Members of Congress responded to complaints from a few executive branch employees by sending letters and initiating inquiries to the White House and agencies expressing their concerns over the SF 189. Media accounts critical of the SF 189 program followed these inquiries. The primary issues of concern were the constitutionality and the



legality of the SF 189 and the meaning of the term “classifiable” as used in the SF 189. As a result of repeated inaccurate reporting of the meaning of certain language in the SF 189 and the SF 189-A, ISOO published amendments to the implementing rule for the two forms in an effort to clarify these provisions. Despite ISOO’s actions, litigation and legislation followed.

### *Chapter 3—The Litigation and Legislation*

In late 1987 and early 1988, lawsuits were brought in the United States District Court for the District of Columbia by three Federal employee unions, the National Federation of Federal Employees (NFFE), the American Federation of Government Employees (AFGE), and the American Foreign Service Association (AFSA), challenging the constitutionality and legality of the SF 189. Seven Members of Congress joined the AFSA suit stating that ISOO and the CIA had also violated a statute passed by Congress in December 1987. This rider to the Omnibus Continuing Resolution purported to limit the implementation and enforcement of the SF 189 and SF 189-A. Subsequently, the three lawsuits were joined. In May 1988, the District Court ruled that the statute passed by Congress limiting the implementation and enforcement of the SF 189 was unconstitutional. Plaintiffs appealed this ruling directly to the United States Supreme Court. In July 1988, the District Court further ruled that the SF 189 was constitutional and legal, except that the term “classifiable” must be limited as defined by ISOO in its implementing rule for the SF 189. Plaintiffs NFFE and AFGE appealed this ruling to the Court of Appeals for the District of Columbia Circuit.

In September 1988, ISOO issued the SF 312 as a replacement for the SF 189 and SF 189-A. The SF 312 did not contain the word “classifiable,” but described the classified information included in that term. On April 18, 1989, the United States Supreme Court remanded the case brought by the AFSA and the seven Members of Congress back to the United States District Court for the District of Columbia. The Supreme Court recognized that the issuance



of the SF 312 narrowed the conflict considerably. It instructed the District Court to attempt to resolve any remaining issues without reaching the constitutional question concerning the relationship between the executive branch and the Congress. The Court of Appeals then remanded the NFFE and AFGE lawsuits.

While the litigation moved forward, legislation identical to the prior rider was also attached to the Appropriations Acts for FY 1989 and FY 1990. Plaintiff AFSA amended its complaint in December 1989 and sought an injunction to prevent ISOO from continuing to implement and enforce the SF 312. The seven Members of Congress withdrew as plaintiffs. In January 1990, the Department of Justice filed a Motion to Dismiss the amended complaint. In March 1990, the District Court ruled in favor of the Government's motion.

#### Chapter 4 The Resolution

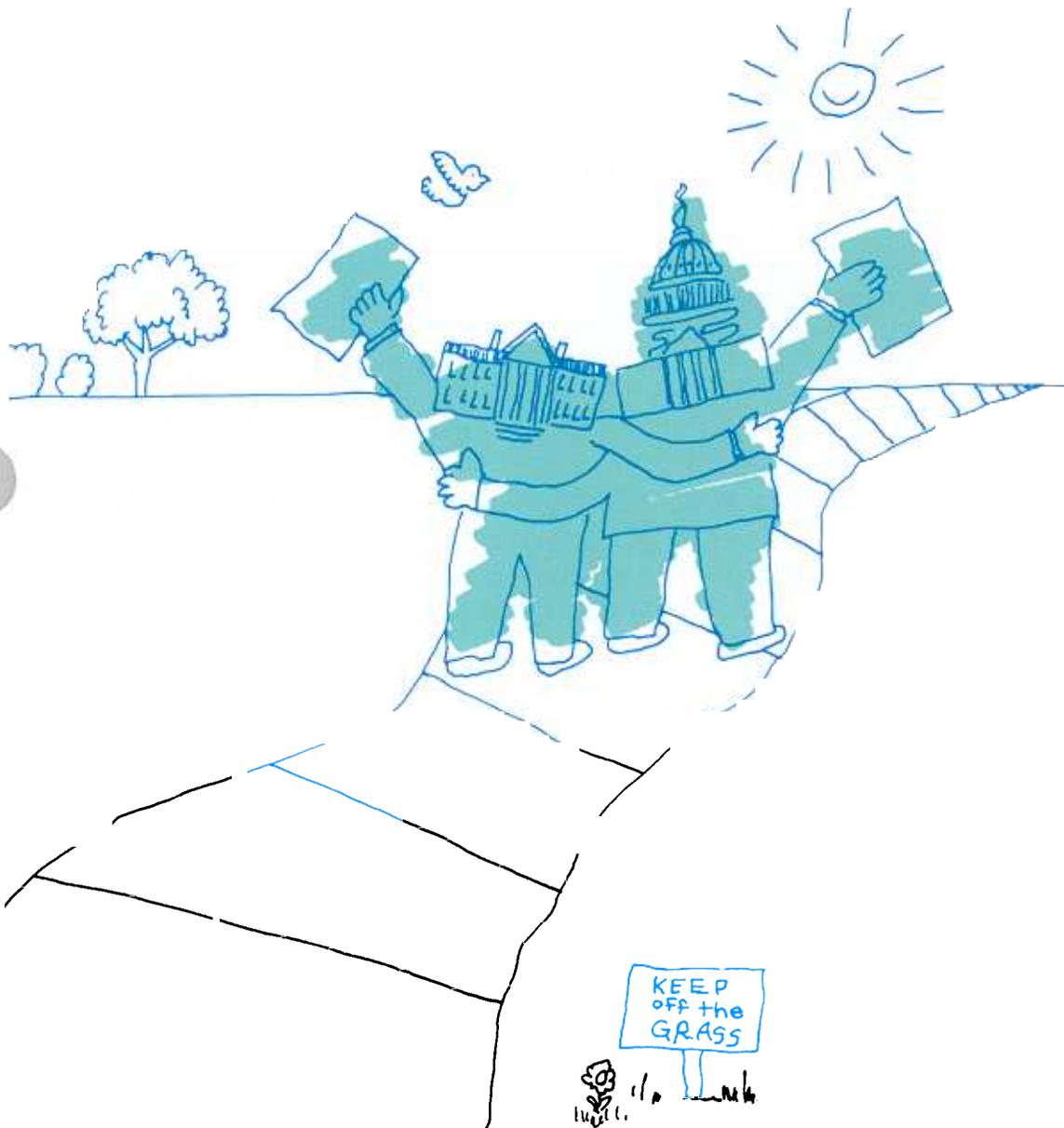
Following continuing discussions between the interested Committees of Congress and the executive branch, Congress attached a different rider to the Treasury, Postal Service and General Government Appropriations Act for Fiscal Year 1991. This law did not include the same language of its predecessors. The President noted that the new legislation did not raise the "profound constitutional concerns" that previous legislation regarding the nondisclosure agreements had raised, provided that it "is not construed in a manner that interferes with [the President's] constitutional authority to protect national security information."

On January 23, 1991, ISOO issued a revised SF 312, which included a new paragraph using the language cited in the new statute. The incorporated language referenced Executive Order 12356 and a number of existing statutes. Because the additional language referenced no new law, and the Government had always interpreted and enforced the nondisclosure agreements to be fully consistent with existing law, the addition of the new language to the



SF 312 resulted in no substantive change in the manner that the Government interprets and enforces these agreements. Rather, this language simply restated that the rights and obligations created by the nondisclosure agreement are to be read consistently with the cited Executive Order and statutes. Further, executed copies of the SF 312, SF 189, and SF 189-A remain valid.

Currently ISOO is not aware of any existing or pending litigation regarding the SF 312. ISOO hopes that the final chapter of the classified information nondisclosure agreement controversy has been written.



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# Security Education Aids



Security education plays a critical role in the effectiveness of an agency's or company's information security program. Briefings familiarize employees who have been granted access to classified information with the principles and requirements of the classification system. Briefings also impress upon employees their duty to act in accordance with established procedures in safeguarding national security information.

A variety of media are needed to implement an effective security education program. These media include videos, handbooks, posters and instructional aids. To assist agencies in implementing their security education programs, ISOO currently has available four educational aids.

## *Marking Booklet*

This handy-dandy little booklet is a general guide on how to mark classified documents, as required by Executive Order 12356 and ISOO Directive No. 1. Authorized original and derivative classifiers as well as administrative personnel who may prepare the final product can rely on this booklet whenever there is a question about the marking of a classified document.

## *SF 312 Briefing Booklet*

This booklet continues to be a popular item with agency and industry security managers. Persons assigned to brief employees about the SF 312 find this booklet an absolute necessity and have copies available to give or lend to affected employees. This will be particularly important with the recent changes to the SF 312. The booklet will soon be updated to include a copy of the revised SF 312, the complete text of all the latest laws and regulations referenced in the form including Executive Order 12356, and answers that respond to almost all the questions, including a couple of new ones, that employees are likely to raise about the SF 312.

## *ISOO Videos*

Either a night at your local drive-in theatre or an afternoon in front of your agency's or company's VCR and television can be entertaining, particularly if it's one of ISOO's videos being played on the screen!





The **Information Security Briefing** series on Executive Order 12356 is an “oldie but goodie” and provides a colorful and informative approach to the classification system. It is divided into three modules: (1) An overview of the information security system established under the Order; (2) a detailed treatment of proper marking practices and procedures; and (3) highlights of the basic safeguarding requirements.

It’s still up-to-date and “Oscar material” a must for any security education library.

The **SF 312** video is ISOO’s most popular. It is 13 minutes long and uses a unique and informative approach to answering most of the questions that employees raise about the purposes of a nondisclosure agreement and their obligations under it. This video provides an excellent base for an employee briefing on the SF 312.

Both videos are unclassified and are available in two formats, VHS and ¾ inch. You may also reproduce and distribute these videos without permission.

For more information about any of these educational aids, contact ISOO at FTS 634-6150 or Commercial (202) 634-6150.

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## *Agency Acronyms or Abbreviations*

<b>ACDA</b>	: Arms Control and Disarmament Agency
<b>AID</b>	: Agency for International Development
<b>Air Force</b>	: Department of the Air Force
<b>Army</b>	: Department of the Army
<b>BIB</b>	: Board for International Broadcasting
<b>CEA</b>	: Council of Economic Advisers
<b>CIA</b>	: Central Intelligence Agency
<b>Commerce</b>	: Department of Commerce
<b>DARPA</b>	: Defense Advanced Research Projects Agency
<b>DCA</b>	: Defense Communications Agency
<b>DCAA</b>	: Defense Contract Audit Agency
<b>DIA</b>	: Defense Intelligence Agency
<b>DIS</b>	: Defense Investigative Service
<b>DLA</b>	: Defense Logistics Agency
<b>DMA</b>	: Defense Mapping Agency
<b>DNA</b>	: Defense Nuclear Agency
<b>DOD</b>	: Department of Defense
<b>DOE</b>	: Department of Energy
<b>DOT</b>	: Department of Transportation
<b>ED</b>	: Department of Education
<b>EPA</b>	: Environmental Protection Agency
<b>EXIMBANK</b>	: Export-Import Bank
<b>FBI</b>	: Federal Bureau of Investigation
<b>FCA</b>	: Farm Credit Administration
<b>FCC</b>	: Federal Communications Commission
<b>FEMA</b>	: Federal Emergency Management Agency
<b>FMC</b>	: Federal Maritime Commission
<b>FRS</b>	: Federal Reserve System
<b>GSA</b>	: General Services Administration
<b>HHS</b>	: Department of Health and Human Services
<b>HUD</b>	: Department of Housing and Urban Development
<b>ICC</b>	: Interstate Commerce Commission
<b>Interior</b>	: Department of the Interior
<b>ISOO</b>	: Information Security Oversight Office
<b>ITC</b>	: International Trade Commission
<b>Justice</b>	: Department of Justice
<b>Labor</b>	: Department of Labor

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## Agency Acronyms or Abbreviations

MMC	: Marine Mammal Commission
MSPB	: Merit Systems Protection Board
NARA	: National Archives and Records Administration
NASA	: National Aeronautics and Space Administration
Navy	: Department of the Navy
NRC	: Nuclear Regulatory Commission
NSA	: National Security Agency
NSC	: National Security Council
NSF	: National Science Foundation
OA, EOP	: Office of Administration, Executive Office of the President
OIG, DOD	: Office of the Inspector General, Department of Defense
OJCS	: Organization of the Joint Chiefs of Staff
OMB	: Office of Management and Budget
ONDCP	: Office of National Drug Control Policy
OPIC	: Overseas Private Investment Corporation
OPM	: Office of Personnel Management
OSD	: Office of the Secretary of Defense
OSIA	: On-Site Inspection Agency
OSTP	: Office of Science and Technology Policy
OTS	: Office of Thrift Supervision
OVP	: Office of the Vice President
PC	: Peace Corps
PFIAB	: President's Foreign Intelligence Advisory Board
PIOB	: President's Intelligence Oversight Board
SBA	: Small Business Administration
SDIO	: Strategic Defense Initiative Organization
SEC	: Securities and Exchange Commission
SSS	: Selective Service System
State	: Department of State
Treasury	: Department of the Treasury
TVA	: Tennessee Valley Authority
USDA	: Department of Agriculture
USIA	: United States Information Agency
USPS	: United States Postal Service
USTR	: Office of the United States Trade Representative
VA	: Veterans Administration



*In Memoriam*

Robert W. Wells, who retired as Deputy Director of ISOO in January 1989, passed away in September 1990. Through his service at ISOO since its creation, and through his prior service as a career Army officer and as Executive Director of the Interagency Classification Review Committee, Bob was always at the forefront of efforts to enhance our national security. Even in retirement, he was available to provide the wise counsel of experience to those who implement information security policy. Bob's passing leaves a void in the areas of information security and classification management.