

**Summary of Comments Received from the Public  
for the Review of Executive Order 12958, as Amended,  
“Classified National Security Information.”**

## **1. Declassification Policy**

### **Automatic Declassification**

- At this point in time, it can be safely said that automatic declassification is neither automatic nor does it result in the declassification of the significant volume of permanent, historically valuable records which constitute the universe of “exempted” records.
- It is time to build upon the automatic declassification concept and develop something more streamlined, effective, and suitable for the information age which has been upon us now for at least a couple of generations.
- Automatic declassification is a commitment to the American people that the permanent records of their government will not be classified forever or will only be declassified if they meet some threshold of historical significance. It is, admittedly, currently an aspiration rather than a reality, but it is a goal we should not abandon or dilute.
- The new Executive Order should establish a new standard for the declassification review and release of historical records older than 25 years. There should be a presumption that records more than 25 years old can be disclosed unless there is a serious and demonstrable harm from disclosure that is not outweighed by the public interest.
- There should be a drop dead date for declassification, without exception, perhaps at 40 years. This will increase productivity of declassification and reduce the resource burden it imposes.
- Confidential and Secret records should be automatically declassified at 25 or 40 years; Top Secret records should be automatically declassified at 50, 60 or 72 years.
- The older the data, the less there should be a need for review. There should be a drop dead date (40, 50, 75, or 100 years).
- Forty years is far too long to conceal important insights into US foreign relations.
- Automatic declassification should be within an individual’s lifetime in order for change to be affected.
- The fact that “national security” is undefined as the basis for classification means that the “eye of the beholder” often controls the process. The principle of “instant declassification” is troubling when appointees make a determination that prior classification of a document or policy should be instantly declassified. Perhaps requiring a declassification review process even for the President’s declassification should be reviewed. A more thoughtful process will weigh the benefits and cost of disclosure so a more informed decision could be made.
- A new declassification framework must specifically prohibit the application of any “per se” rule to the classification or the continued classification of any collection or series of records (like the President’s Daily Briefs). Decisions to continue classification should be based on the substance of the information to be released and on the real damage to national security that could occur if disclosed. To endorse the use of the classification system to continue to protect any information that clearly can no longer cause damage to national security, undermines the very integrity of the classification system and thus places all properly classified information at needless increased risk.

- In the dynamic environment (where technology evolves quickly), the current 25 years duration of classification for most of our historically valuable records is too long and not long enough for a very small fraction of the rest.
- The default duration for classification must be brief (10 years or less). Agencies should be able to extend to perhaps 25 years (a generation), but must meet a higher standard than for initial classification (such as clear and demonstrable damage to national security if disclosed).
- We should not waste any more time reviewing for automatic declassification any documents whatsoever that have reached the ripe old age of 60.
- While occasionally embarrassing to a particular agency, documents over 25 years old rarely pose a threat to national security and should be made more readily available.
- Section 3.3(h) is taken literally by agency reviewers and should be removed. It is the single biggest impediment to automatic declassification.
- The system of automatic downgrading of classification on records at 10-year intervals, until they are released should be reinstated.
- Categories of information eligible for classification beyond 35 years should be reduced and must be able to identify a clear and compelling case that exceptionally grave damage would result to national security if the information was subject to automatic declassification.
- File Series Exemptions should have to be approved by the President and should be subject to periodic audit by ISOO to ensure they only contain that information approved by the President. The information should be subject to automatic declassification by a certain date (say 35 years) or a redacted version of the record must be declassified at that time.
- The declassification exemptions for “intelligence sources and methods” need to be significantly narrowed. The only human intelligence sources that should be eligible for continued classification are those that could be placed in physical jeopardy if disclosed. The only intelligence methods that should be exempt from declassification are those that would be compromised by exposure and whose compromise would cause damage to national security. (Such a definition would prevent the current practice of categorically withholding the President’s Daily Brief, irrespective of its contents.). A narrow, threat-based application of “sources and methods” protection would lead to a long-overdue relaxation of unnecessary controls on a voluminous quantity of historical records.

### **Declassification Process**

- The declassification process needs to be strong. The policies always seem to have the right wording, but the implementation of these policies need the most attention.
- We need to rethink the principle that only the classifying agency has the authority to declassify a document.
- One agency should be responsible for the declassification of all but the most sensitive documents.
- A more uniform, centralized declassification review and release process is needed. Current State Department officials have no special competence to judge the sensitivity of State documents 25 or 50 years old; the same holds true for CIA or DOD officials.
- The balancing test should be made a mandatory part of the declassification process rather than an exceptional procedure. The person conducting the review should be required to

affirmatively find that the expected harm to national security is not outweighed by the public value of the information.

- The extreme interpretation of the Atomic Energy Act exclusions needs to be addressed and at least a reasoned discussion initiated on whether during the height of the Cold War the United States maintained nuclear weapon storage in certain foreign countries still must in all cases be excluded from declassification indefinitely.
- The practice of re-reviewing and withdrawing documents after they have already been released should be stopped. If re-review is absolutely necessary, leave the documents on the shelves.
- Declassification review should be an equal release of records. All reviews (FOIA, privacy, etc.) should be done in one shot to save money.
- There should be equal accountability of declassifiers if they fail to declassify information which no longer meets the standards for continued classification.
- Declassifiers and classifiers should be required to be certified based upon the display of a specific level of knowledge and competence.
- Agencies should recruit declassifiers from all levels of retirees.
- Opinions of actual agency declassifiers ought to be solicited before the formation of a new executive order without retribution.
- More attention should be paid to processing the 400 million pages of backlog that have been declassified, but are not available to the public.
- If a record is declassified but it is never processed so that it is available to the public, does it make a difference?
- The public should not have to file a FOIA or Mandatory Declassification Review (MDR) for any classified records that have already been reviewed under the automatic/systematic declassification review program.
- The key to reform is positive, energetic backing from the agency officials involved, as was often the case at DOE while Hazel O'Leary was Secretary.
- The pre-publication review process needs to be amended to clarify the befuddling distinction between material which is authorized for release but not declassified.
- There needs to be a suspense date certain for action on a declassification request. It is not unusual for an (MDR) request to go unanswered for several years.
- Where a requester of an MDR has access to the classified document in question, there should be a provision for the release/redaction process to begin with the requester because that person is likely to be the author or a specialist on the issue.
- The application of the Privacy Act needs attention. Declassified documents can lose their value when names cited solely in a professional context of people, who are in fact public figures, are redacted.
- A publicly accessible database of declassified documents should be established to maximize the utility and the public benefits of the declassification process. Declassified documents should be routinely scanned into digital form and posted online. This was in President Clinton's Executive Order, but never implemented.
- The data elements that should be included in a database of declassified documents are: document descriptive metadata such as title, author, date of publication and administrative metadata such as controlling office, declassifier, and date of downgrade, public affairs review for CUI or public release determination.
- There should be a mechanism for alerting the Government, industry, and academic partners when data is declassified.

- Existing databases of previously declassified records, such as the CIA's CREST system, should also be made freely available online, instead of being wastefully sequestered in remote archives.

### **National Archives and Records Administration (NARA)**

- All agencies should turn over all their files to the National Archives for honest review and declassification.
- The records of FBI, Department of Energy, CIA, and the National Security Agency should have to be accessioned to the National Archives, which currently hold few if any of these records.
- Presidential libraries should make newly declassified records available in one repository by date, in addition to their current practice of re-filing the declassified records in individual boxes. This change would save resources at the libraries and make it far easier for historians and researchers to find new releases. The libraries might start developing effective electronic reading rooms for these records.
- If we are to have a strong process for governing classification and declassification of records we either need a stronger National Archives or to move the office responsible for this (ISOO) to someplace outside of NARA.
- The inability of NARA to house and process codeword programs means that significant U.S. history has been or will be lost. There should be a special system of instant identification of the Executive branch or military that classified the document so that over time we can determine the effectiveness and efficiency of classification.

### **Prioritization**

- The public's interest should be high priority, rather than historical significance.
- Historical significance and public interest are the most important criteria. While public opinion and historical advisory boards are important, in order to balance out the divergences of opinion and poorly administered processes to solicit opinion, some prioritization should be done based solely on the agency/office/type of record, so that effort is expended on records of greater significance and not on basic administrative material.
- Freedom of Information Act (FOIA) requests and news media requests can be a strong indicator of public interest in material and any prioritization scheme should build in consideration of these factors.
- An independent body, small in number and short in longevity, should be convened by the Archivist every five years for a period of 6 months to set standards and goals for prioritization.
- If prioritization of records for declassification is done, it should be done by archivists in the final phase of the declassification process, to identify records for scanning, electronic distribution, or other levels of processing and description for access.
- If a "drop dead" date is set, making most records declassified, it would make sense to devote the limited resources to particular topical areas and to give preference to them. But if a "drop dead" date cannot be agreed upon, then a more comprehensive approach to declassification would make more sense because many valuable records may not have been identified as a "priority" by any vocal constituency.
- More resources should be devoted to regularly scheduled releases of documents (after 20, 30, or 40 years), over individual FOIA requests. Responses to FOIA requests frequently

take too much time to assist historians. Automatic review should ensure the timely release of documents to all researchers.

- “Top down, oldest first” ought to be the guide for both review and processing. The highest-level records are of the greatest interest to the greatest number of researchers.
- Despite the persistence of the page-by-page review standard, there are steps that can be taken to ensure that the most important records are reviewed first, transferred to the National Archives in a timely manner (in the case of agency records), and once there receive top priority for processing. Important records should be defined as those of the Secretaries, Deputy Secretaries, Administrators, Deputy Administrators, Chiefs of Staff, Vice Chiefs of Staffs, etc. The public will have to wait longer to access the much more voluminous records of subordinate officials and offices.

### **Historical Review Board/Historians**

- Each agency should have its own historical review board, such as the State Department Historical Advisory Board, which should make its minutes public. These boards should help advocate for declassification of historically significant materials within the agency and help individual agencies prioritize their declassification decisions.
- There should be an expert panel to identify events which should be classified for longer than 25 years and allow the remainder to be automatically declassified.
- The position of Historian should be restored to all Federal agencies.
- Historians ought to be consulted in the formulation of the new executive order.

### **Funding Declassification**

- More money should be devoted to declassification.
- Heavier burdens should not be placed on the National Archives without commensurate funding to meet the new obligations as has been done in the past.
- A significant amount of funds should accompany any change to classification and declassification policy.
- Each agency that classifies information should be required to spend a fixed percentage of the amount spent on classification on declassification. Even a 5% allocation to declassification would lead to a tenfold increase in the amount of money in the pot for declassification. This could be the start up funding and operational funding for the much-needed declassification center, and could fund individual agency declassification efforts. By spreading the cost of these programs among the agencies that classify in proportion with their actual classification, there might be some incentive on those agencies to step up their internal efforts to reduce unnecessary classification of information. It also would lead to a more certain stream of funding than NARA alone can count on. Finally, it would give each agency a stake in the NDC that could lead to a more effective organization.

### **Declassification Guides**

- Public availability of agency declassification guides would make the process more transparent by demystifying the declassification process. It would also help requesters to calibrate their expectations about what will or will not be declassified. It would cast a welcome spotlight on the guides themselves, enabling users to identify erroneous or questionable declassification policy choices, and see to rectify them.
- Declassification guides should be made available internally within the government. Agencies must be allowed to declassify other agency information. Example: If DOD

initially classified a record based upon it containing CIA information, the CIA allows and depends upon DOD to properly classify the record in the first place. However, CIA does not allow DOD to declassify that same record. If CIA accepts this “risk” up front when the information is current, CIA should similarly be willing to accept the risk of delegation when the information is several decades old.

- The declassification process fails because the guidelines are inadequate and the declassification staff is not informed about what is classified and what is not. The declassification staff seems not to be informed about what is available in the public domain and what has been released into the archive holdings.

### **Addressing Declassification through Classification**

- Because declassification is a tedious and cumbersome process never given the priority it needs, a much better solution would be to ensure documents are properly classified, or unclassified, in the first place.
- Change could be accelerated by giving personnel incentives for producing material at the lowest classification levels possible. This is something that could be addressed by including a mandatory factor in performance appraisals of people who produce classified documents that reads something like this: “Ensures documents are unclassified, when possible, or classified at the level that allows the widest possible dissemination within the target audience.”
- Reduce the number of documents classified at the front end. Each agency should have to go through a review of classification standards like the Department of Energy did in 1995, with some sort of public input and commenting mechanism.
- Unless and until the classification standards are narrowed, the declassification process is limited to an exceedingly small proportion of the classified collection.

### **Information Security Oversight Office (ISOO)**

- ISOO’s declassification authority, as well as its declassification responsibility, needs to be greatly strengthened. The ISOO director must have independent, government-wide declassification authority. Instead of the ISOO Director weakly asking an originating agency to declassify wrongly classified information, ISOO must be able to declassify on its own. Without such authority, the overseer is effectively impotent. That is unacceptable.
- There are many problems with Section 3.1(c) of Executive Order 12958, as amended. First, if the ISOO Director determines that information is wrongly classified, declassification should not be discretionary (“may require”), but mandatory. Second, any appeal to the President of an ISOO declassification ruling should be permitted only by an agency head, in writing. Third, such an appeal should only serve to suspend declassification for 30 days. If the president does not overrule ISOO in that suspension period, the ISOO declassification action should be deemed presumptively valid and should take effect.
- ISOO must not only have the authority to declassify, it must also be assigned the affirmative responsibility to seek out and correct classification errors by using its declassification powers. If ISOO cannot serve as an active, energetic and interventionist oversight body, then some other mechanism should be created.

- Inspectors General should be instructed to alert ISOO to erroneous or questionable agency classification activities that they encounter so that ISOO make take appropriate declassification action.
- Routine audits done by ISOO and Inspectors General should be publicly disclosed.
- The ISOO should have more authority to judge the validity of reclassification decisions.

### **Interagency Security Classification Appeals Panel (ISCAP)**

- The CIA Veto should be eliminated from the ISCAP.
- The ISCAP’s mission should expand to include the review of agency declassification guides.
- The ISCAP should provide more information about its decisions to the public, including decisions that have been appealed to the President, and some sort of public explanation for its decisions or precedent to agency declassification programs so that the overall quality of MDR decisions improve.
- Strengthen the ISCAP to declassify documents from all agencies (including CIA, NSA, and Defense Dept. intelligence communities). Further there should be an expedited process by which any Congressional Committee can request declassification of any document and receive a decision within 30 days.
- Making ISCAP decisions precedent-setting would save time and resources for those dealing with issues of classification on a frequent basis.
- ISCAP should have to approve all classification guides before they are implemented.
- ISCAP should include members of the public with relevant experience.

### **Public Interest Declassification Board (PIDB)**

- The PIDB should be given authority to resolve disputes that arise in the interagency review process and direct the NDC to declassify and release records or postpone release for a specified period of time, with a final veto resting with the President.

### **Introductory Language to a New Executive Order**

- The Bush version language “Our interactions with foreign nations” should be replaced with the original Clinton version language, “our participation within the community of nations.”
- Add back these two sentences from the Clinton version: “In recent years, however, dramatic changes have altered, although not eliminated, the national security threats that we confront. These changes provide a greater opportunity to emphasize our commitment to open Government.”
- Recommended language: “The United States is committed to establishing an unprecedented level of openness in our government. In working to achieve a significantly more open U.S. Government, the following words from former Senator Daniel Patrick Moynihan serve to characterize our commitment to and reasons for seeking more openness in our Government:
  - “A case can be made that...secrecy is for losers. For people who don’t understand how important information really is. The Soviet Union realized this too late. Openness is now a singular, and singularly American advantage. We put in peril by poking along in the mode of an age now past. It is time to dismantle government secrecy, this most pervasive of Cold-War-era regulations.

It is time to begin building the supports for the era of openness that is already upon us.”

- Recommended language: The following words from former Foreign Service Officer and Ambassador George Kennan characterize our commitment to and reasons for seeking more openness in American foreign relations and diplomacy:
  - “A large part of a [U.S. diplomatic] mission’s work does not involve or require elaborate secrecy. Diplomacy, after all, is not a conspiracy. The best diplomacy is the one that involves the fewest, not the most, secrets – the one that can be most frankly and freely exposed to the host government... The diplomatic mission, above all, was not supposed to be, and had no need to become, a center of espionage. Excessive secrecy, duplicity and clandestine skullduggery are simply not our dish...Such operations conflict with our traditional standards and compromise our diplomacy in other areas...the success of our diplomacy will continue to depend on its inherent honesty and openness. Deprive us of that, and we are deprived of our strongest and most effective weapon.”

## **2. National Declassification Center**

### **Defining the Concept of a National Declassification Center (NDC)**

- The concept seems to be more of an administrative change in declassification policy than a substantive one. It does not get to the root of the current problems in classification and declassification. The underlying declassification policies should be sound and rational, otherwise consistency and uniformity in declassification will be unachievable.
- Improved consistency and uniformity in declassification achieved in an NDC should be based on sound and rational declassification policies. These policies should allow for the declassification of more information, not less.
- The structure of an NDC should include a public board that is empowered to overrule agency efforts to block declassification and release of records.
- An NDC should establish uniform guidelines for declassification activities at all federal agencies.
- An NDC should provide declassification services for the agencies, such as multiple equity reviews and reviews of special media and electronic records, at the expense of the agency.
- An NDC should offer declassification training for agency personnel at the expense of the agency.
- An NDC should facilitate reviews of multiple equity documents by housing a permanent version of the National Declassification Initiative (NDI), a center where personnel from other agencies with equities will conduct joint declassification reviews.
- An NDC should have a release orientation. Records should not have to go through multiple reviews to be cleared for public access.
- An NDC should establish a uniform appeal process.
- An NDC should have a public board, such as the board that served under the JFK Assassination Records Collection Act.
- An NDC should be given the necessary authoring and funding to ensure that its goals are met.
- An NDC must function in a new legal environment under which agencies are not permitted to control the declassification of their historical records.

- An NDC should include not only best practices recommendations for declassification processes, but also solution certification and testing.
- Experience shows that researchers who use classified records and file for FOIA and Mandatory Declassification Review should participate in writing a new executive order. Most of these researchers are historians and some of them are very knowledgeable about the various orders from previous presidents. We have learned the hard way that when historians/researchers are not involved, what is unwittingly included in order to help open records can result in their closure.

### **Declassification Guides and Classification Guides**

- Classification and declassification guides currently dictate too much information be withheld. Applying these mistaken standards more consistently and expeditiously in an NDC would not be progress.
- A National Declassification Center could function as a forum for reviewing and updating agency declassification guides. An NDC interagency executive committee could review and certify all declassification guides with the aim of reducing the scope of continued classification to the necessary minimum.

### **Electronic Records**

- An NDC should be designed for classified national security information in the electronic environment.
- One important area for an NDC to focus on could be the classification, safeguarding, and declassification of data residing in information systems.
- Electronic records should be transferred to the National Archives as soon as possible for preservation.
- An NDC should have an information technology futures group chartered to evaluate information systems and develop solutions as technologies evolve.
- The classification management community needs to get a handle on “electronic” records management; especially data residing within classified applications and networks. This should be a priority task for the NDC. With the number of classified systems growing and generating vast amounts of information, we are already behind the power curve. An integrated approach from policy to implementation to compliance, education and oversight is needed.
- An NDC should oversee development of a plan for handling classified records contained in special media or electronic form.

### **Declassification Process at an NDC**

- An NDC should have a business model that removes the requirement for any agency with equity in a record to have the opportunity to review that record.
- NDC reviewers should be cross-trained to ensure that all agency equities are respected.
- Declassifiers should receive the same training as original classification authorities to be certified as conversant in the Executive Order. They should be able to the section of the order that determined the original classification and why that is no longer applicable.
- NDC Personnel should be government personnel so that they can be held accountable for their declassification decisions.
- We should depend on other agencies to get it right on the back-end, when the information is 25 years old or older.

- An NDC should adopt a “once and done” process to declassification. A box should be reviewed for declassification once, including for RD/FRD.
- An NDC should include a prioritization scheme that would allow a line-by-line review of the most important historical records so they can be redacted.
- A drop dead date of no longer than 40 years would limit the buildup of declassification backlogs and would permit an NDC to focus its efforts on more recent and more challenging records collections.
- There should be bulk declassification of certain record series. The time has come to move beyond page-by-page review of classified records.
- There is a need for standardization across agencies in the tracking of records and review. This could be accomplished with universal identifiers.
- New procedures to systematically process and clear equity referrals in a practical manner must address the existence of separate record collections, such as the Navy Historical Center collection.
- For any national declassification program to be effective, more consistency and discipline needs to be enforced in the creation of future classified documents and programs. Declassification reviews need to become an integral standard, recurring and routine part of each organization’s records management process.

### **Requirements of Agencies**

- An NDC will only work unless all agencies participate fully and feel they have some ownership of the process.
- Agencies should be required to transfer their permanently valuable records to the National Archives in a timely manner.
- Agencies should be required to sufficiently staff an NDC with reviewers able to review their own records as well as their information in other agency records.
- The Administration could reduce the volume of classified records by eliminating blanket file series exemptions.

### **Additional Aspects of an NDC**

- An NDC could provide a portal for public access to frequently requested documents.
- All document indexes should be available in electronic format through public internet access.
- As soon as records are declassified, their indices should be made available to the public.
- Presidential papers should not be sequestered in an NDC because this would hinder archivists in presidential libraries from developing knowledge of the full collection.
- We may need to envision a new way to declassify presidential papers because records are currently not being processed in context. Rather, “spot” processing is driven by FOIA requests which consume the daily lives of the newer Libraries (from Reagan forward). Second, the incredible and exponentially growing volume of classified records at these new libraries makes the current process untenable in the future.
- An NDC may be more suitable to adjudicate MDR and FOIA appeals than agencies, which are too close to the declassification staff which processed the original requests.
- If an NDC were given declassification authority, it could streamline the currently cumbersome process of returning records housed by NARA to the respective agency when FOIA or MDR requests are made.

- An NDC should oversee the process of breaking up collections that span multiple decades so as to allow for the more immediate accessioning and release of older documents.
- Accountability is needed for those who will staff an NDC. An NDC staffed by government employees is much more preferable to one staffed by contractors.
- An NDC website should be created and maintained to serve as a portal for the essential communication of the declassification community. Agencies could post declassification decisions and actions, and disseminate pertinent information to the intelligence community.
- An NDC should compile a comprehensive annual report on the progress of declassification of historically significant records based on required annual reports from each agency.

### **3. Classification**

#### **Revising Classification Requirements**

- Section 3.1(b) of Executive Order 12958, as amended, should be amended to delete the current first sentence and alter the next sentence so that it reads: “Information may continue to be classified only if the need to protect such information outweighs the public interest in disclosure of the information.”
- Section 3.3(b) currently permits an extension of the classification time period beyond 25 years for information the “release of which could be expected to” result in one of various listed harmful results. This standard should be changed to require that the release of the information “is significantly likely to” lead to the listed harmful results.
- The traditional concept of “need-to-know” is one of the biggest impediments to information sharing and is the antithesis of agility in the information age. It must be purged from the Executive Order.
- The new Executive Order should empower the ISCAP or ISOO director to revoke classification in cases in which a “significant” doubt is harbored as to the validity of a classification decision.

#### **Classification Process**

- If the source document is declassified, any dependent information should likewise be declassified.
- Classification levels pertaining to the seriousness of the threat to national security should be made more precise.
- The scope of the terms intelligence sources, methods, and activities should be more clearly defined.
- The Order must be made explicit that notwithstanding the presumption of damage for the improper release of foreign government information, for it to be covered under the provisions of the U.S. classification system it must be subject to an original classification decision by an original classifier.
- The status of Formerly Restricted Data under the Order ought to be revisited.
- In the interest of information sharing, section 4.1(i), which prohibits an agency from further disseminating classified information to a third agency without first getting permission from the originating agency, should be changed to reflect that the default

position of the Order is that such information can be further disseminated unless specifically prohibited under very narrow exceptions.

- The highest-level records should be promptly redacted considering their importance and relatively small quantity.
- Limit the duration of derivative classifications. If these derivatively classified materials have to be reviewed by an original classifier within a reasonable amount of time (no longer than five years), improper classification of this information could be more quickly detected and remedied.
- ISOO should establish a common template for all classification and declassification guides.
- Pursuant to the National Industrial Security Program guidelines, the President should consider the effect that any changes in classification policy would have on the private sector and its dealings with classified information.
- Any proposed changes to the order must be evaluated with respect to the resources required to implement them.
- The wording and timelines in classification protocols should be reviewed.
- Agency heads should have the latitude to authorize experimental projects and initiatives that could make security policy more efficient or more transparent.

### **Reducing Overclassification**

- There should be an independent review of agency classification guides currently in use with the goal of reducing classification controls. These reviews should be made independent of original classifiers and eliminate obsolete classification categories.
- Once documents are declassified, they should not be eligible for reclassification except under extreme circumstances.
- There should be an initiative that would reward agency members for limiting the number of classifications made.
- Whenever possible, classifiers should use the lowest appropriate classification level and duration.
- Small monetary awards should be given to agency officials who identify improper classifications.
- Any effort to revise the Executive Order that fails to focus the classification standards and presumptions, that fails to improve incentives against overclassification, and that fails to improve oversight and training within the executive branch is a missed opportunity.
- As it currently stands, the system of classification rewards overclassification because the definitions as to what should and should not be classified are murky, making agency personnel more inclined to lean towards classification in times of doubt.
- To strictly limit the amount of information classified, only specifically named individuals should have the authority to classify information. At present, any employee can cite his/her agency's classification guide as justification for making a classification decision, even if the document being reviewed is not within the employee's immediate jurisdiction.

### **Advantageous Release of Information**

- Because local law enforcement officials are better able to provide for the public safety when they have access to information about potential threats, classification should be limited to allow for the sharing of information.

- We need to shift away from a focus on damage to national security and instead focusing on “advantage,” i.e. determining if there is more of an advantage to the nation in withholding or in disclosing specific information.
- Releasing documents can be helpful in making the public aware of threats to domestic security.
- When information is more available to researchers and policy makers, agency histories can enhance the decision making process of today’s leaders.

### **Oversight and Accountability of Classification**

- The Order should be revised to strengthen the role of the Director of the Information Security Oversight Office (ISOO) by replacing “have the authority to” with “regularly” in the first sentence of Section 5.2(b)(4), so that that provision would read “regularly conduct on-site reviews of each agency’s program established under this order.”
- Executive agencies should be held more accountable for administering classification systems. At present there is no oversight authority that can meaningfully compel agencies to abide by classification standards.
- Executive Order 12958, like similar orders before it, does an excellent job of denying information to the enemy but, in so doing, allows as few people as possible access to sensitive information. These orders are rooted in the historic need to hoard information, but the climate has changed. Today there is a need to disperse information. Security personnel need more guidance on disclosure, and classification decisions ought not to be entrusted completely to agencies. An independent body has to be able to review classification decisions and denials of disclosure.
- Under the guidance of the Information Security Oversight Office (ISOO), agency Inspectors General should receive the authority to audit classification and declassification decisions, and the results of these audits should be made public.
- Audits and retraining should be more frequent to prevent mistakes and encourage openness.
- The President should require agency heads to task agency Inspectors General to perform regular audits of agency compliance with executive order requirements on classification and declassification.
- The public interest should be considered when making classification decisions. Agency level reviews should be more frequent, and Congressional oversight needs strengthening.
- Original classifiers should be required to justify classification decisions by answering a series of questions which would illuminate his/her reasons for a classification determination.
- Personnel action in the form of remedial training, suspension of privileges, or revocation of authority should be taken against classifiers who make a significant number of erroneous classification decisions.
- If the length of time in which documents may remain classified were to be shortened, officials might take greater care in making classification decisions as that information could conceivably be released within their lifetime. Reduced classification timelines would also force agencies to realign resources and reprioritize classification decisions.
- The process of challenging the classification assigned to a document should be encouraged and streamlined.
- ISOO has been seen as an appendage of NARA and, therefore, not taken too seriously from the agencies.

- ISOO would be the best organization to maintain regulatory oversight over the process by which Classified Military Information (CMI) is shared with foreign governments pursuant to the provisions of NSDM 119.

## **4. Technology Challenges and Opportunities**

### **Update for the Digital Age**

- Paper records that could be manually classified or declassified are about to disappear. The world of information will be entirely virtual and this fact cannot be addressed in the short period assigned the review process. So the former Executive Order should be confined solely to paper records and an entirely new Executive Order should be designed for the virtual world.
- Every aspect of the work of declassification personnel, researchers, a National Declassification Center, etc, will be in the electronic realm. This difficult task can not be relegated to one office or one set of experts. It must be infused into the culture of the work of the NDC, and the Archives.
- Adequate funding should accompany major changes to the system. Significant resources will be needed to upgrade agencies technical capacities.
- Declassification personnel should embrace technology, the reviewing of electronic records, and all of the challenges posed by the electronic environment.
- The Government should leverage the Enterprise Content Management (ECM) environment, which could address many challenges, including management of the entire lifecycle of information.
- Electronic records management must be a priority, otherwise historically significant records will be lost.
- Every federal record should be given a unique record identifier so that records can be more easily tracked across systems.
- The Government Accountability Office should work with Inspectors General to undertake periodic reviews, to assess performance of a new system and identify bottlenecks in funding, training, reporting relationships, and "continuing education" of the crucial IT support personnel.
- The Electronic Records Archive (ERA) currently has significant development and scalability problems. For any transition to the digital age to succeed, the ERA must be better equipped to anticipate and accommodate changes in electronic formatting.
- Any major change to the means by which agency officials communicate about classification decisions needs to be accompanied by extensive and ongoing training for all involved.
- An authorized use standard should be implemented which would allow an agency or its employees to obtain mission-based or threat-based permission to discover, access, or share information. Such a trusted system can shift our government away from the "need to know" principle that limits our ability to connect the dots and can address the persistent problem of overclassification. An authorized use standard will help institute a new "responsibility to provide" principle and will ensure that users obtain what they need, but only what they need.

### **Tools for Collaboration**

- Declassification personnel should be able to network with each other, to ask questions, and to get clarification from each other securely on-line.
- Ideally, the Government should reach a point at which every classifying authority utilizes the same database and secure software.
- Technological tools need to be developed to electronically redact documents more easily and with greater confidence. Electronic redaction would allow agencies to then share documents with other officials more quickly and easily.

### **Transparency and Public Access**

- Any draft of the revised Executive Order ought to be submitted to the Federal Register or an online forum, such as the Declassification Policy Forum on the OSTP Blog, for public comment.
- Content should be the basis for evaluation of whether the electronic record is historically significant, not the format. File series should be organized based on the offices in which they originated, not the media through which their information is stored.
- A National Declassification Center and the National Archives should encourage agencies to transfer electronic records.
- Delaying the declassification of electronic records (and therefore public access) for an unspecified length of time because of format is unacceptable.
- Online systems should be created so that ordinary citizens can access pertinent information at no-fee public access sites such as community libraries.
- A clear and public process needs to be put into place regarding how previously available e-documents that are subjected to “re-review” will be protected and preserved.
- Technology should be utilized to convey Government information in formats that would appeal to those with visual learning modalities (interactive diagrams, etc).

### **System Configuration**

- A new naming convention for domains and a new set of transfer protocols could be created which could only be interpreted by the computers at those institutions (government agencies, universities, think tanks, etc.) with the authority to access the information.
- An “underground web” system could also serve as a backup method of information sharing among government agencies in the event of a denial-of-service attack.
- Systems could be built that could automatically electronically classify documents with little human intervention beyond the occasional QC assessment, thereby saving time and resources.
- A dual data storage system could be created in which some documents are made public whereas others remain accessible only to cleared personnel.
- The long term goal should be single centralized Federal document and records management network, and user interfaces should be developed for use by all agencies with the appropriate access and classification management controls and compartments, information sharing, workflow, and review and release features.