

## **Selected Recommendations on Classification & Declassification from Major Reviews of Secrecy**

### **I. Defense Department Committee on Classified Information “Coolidge Committee” (1956)**

Created by Secretary of Defense Charles Wilson to investigate how to prevent future leaks of classified information, the Defense Department Committee on Classified Information undertook a three-month review of DoD classification practices and policies.<sup>1</sup> The Coolidge Committee issued a report on November 8, 1956, containing 28 recommendations—ten covering overclassification, eleven covering different issues relating to unauthorized disclosures of information, and the remaining seven relating to Department policies vis-a-vis Congress, industry, and the press.<sup>2</sup>

#### **Recommendations Related to Classification**

- Make a determined attack on overclassification, spearheaded by the responsible heads within the Department of Defense, from the Secretary of Defense down. (Recommendation No.1)
- Extend the use of classification guides now existing in several technical fields to other areas, and supplement the regulations covering general classification by developing guidelines and listing typical examples for each category of classification. Supply guides to overcome the generality of classification criteria. (Recommendation No. 2a)
- Broaden Recommendation No. 1 by requiring that all superiors reject overclassified material received from subordinates. (Recommendation No. 2b)
- Cut down the number of individuals who are authorized to classify information as Top Secret and to receive copies of Top Secret papers. (Recommendation No. 2c)
- Make wholly clear that the classification system is not used to protect information not affecting the national security. (Recommendation No. 2e)
- Cease attempts to do the impossible and stop classifying information which cannot be held secret. (Recommendation No. 2f)
- Avoid changing scope of classified information to reflect temporary changes in emphasis in our foreign policy. (Recommendation No. 2h)
- Care should be exercised to see that the published reports of proceedings before Congressional Committees do not contain classified operational concepts or technical data concerning new weapons and installations. (Recommendation No. 7)

#### **Recommendations Related to Declassification**

- Improve procedures for releasing information as to the existence and general nature of differences of opinion between the several Services to permit authorized representatives to express Service views without disparaging their sister Services, and without, of course,

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<sup>1</sup> *Report of the Commission on Protecting and Reducing Government Secrecy*, 1997, Appendix G: Major Reviews of the U.S. Secrecy System

<sup>2</sup> *Report of the Commission on Protecting and Reducing Government Secrecy*, 1997, Appendix A: 8. A Culture of Secrecy

disclosing information which is classified for reasons other than differences in military concept between the Services. (Recommendation No. 2g)

- Establish within the Office of the Secretary of Defense an official who will be responsible for establishing and monitoring an active declassification program. (Recommendation No. 2i)
- When a request by the press for the release of information is denied on the ground that the information is classified, the press should be told why it is classified. The bald statement that it is classified often creates in their minds the feeling that the refusal is wholly arbitrary. Of course in some cases the full background is too sensitive to be disclosed. Nevertheless we think more can be done along these lines. Give reasons for classification whenever possible when requests for information are denied. (Recommendation No. 8c)<sup>3</sup>

## **II. Commission on Government Security “Wright Commission” (1957)**

The bipartisan Commission on Government Security, chaired by former American Bar Association President, Loyd Wright, was the first Congressionally-mandated review of the security system. The Commission held no public hearings, produced no press releases, and made no public statements during its eighteen-month study. In its June 23, 1957 report, the Commission stressed “the danger to national security that arises out of overclassification.”<sup>4</sup>

### **Recommendations Related to Declassification**

- The Commission recommends that the “Confidential” classification be abolished. The Commission is convinced that retention of this classification serves no useful purpose which could not be covered by the Top Secret classification. Since the recommendation is not retroactive, it eliminates the immediate task of declassifying material now classified Confidential.
- The Commission recommends restricting original classification authority to agencies already possessing it and limiting that authority to the agency heads.<sup>2</sup>
- The Commission recommends the creation of a Central Security Office to review the management of the security system and to make recommendations for change when necessary.<sup>3</sup>

### **Recommendations Related to Declassification**

No recommendations on declassification were derived or presented during the existence of Wright Commission of 1957.

<sup>3</sup> Coolidge, Charles A., *Report to the Secretary of Defense by the Committee on Classified Information*, November 8, 1956, pg. 10-26 [www.thememoryhole.org/foi/coolidge.htm](http://www.thememoryhole.org/foi/coolidge.htm)

<sup>4</sup> *Report of the Commission on Protecting and Reducing Government Secrecy*, 1997, Appendix G: Major Reviews of the U.S. Secrecy System

### **III. Special Government Information Subcommittee of the House Government Operations Committee “Moss Subcommittee” (1958)**

In 1953, Representative John E. Moss, a freshman Democrat on the House Post Office and Civil Service Committee, had raised the issue of public access to government information. Representative Moss had sought information from the Eisenhower administration’s Civil Service Commission to verify its claim that 2,800 Federal employees had been fired for “security reasons.” He wanted to know whether these “security” reasons were based on allegations of disloyalty or espionage or instead matters that could also be grounds for discharge—such as a misstatement, even unintentionally, on a job application. The Commission refused to release the information and Representative Moss found that he had no other means to compel its release. Two years later, he urged the creation—and subsequently was made Chairman—of the Special Government Information Subcommittee, tasked with monitoring Executive Branch secrecy.<sup>5</sup> During Moss’ time as Chairman, the Committee made specific recommendations to reduce the volume of classified information.

#### **Recommendations Related to Classification**

It recommended the following:

- Mandatory marking of each classified document with the future date or event after which it is to be reviewed or automatically downgraded or declassified.
- Disciplinary action against those who overclassify.

#### **Recommendations Related to Declassification**

- Establishment of a date by which the DoD would declassify classified material accumulating in agency files, with a “minimum of exceptions.”
- Narrow the use of “executive privilege” to deny the release of records.

### **IV. Department of Defense Science Board’s Task Force on Secrecy “Seitz Task Force” (1970)**

The Department of Defense Science Board’s Task Force on Secrecy was prompted by DoD concerns over the effectiveness of its security measures. The Task Force, chaired by Dr. Frederick Seitz, found that DoD’s classification system required “major surgery” and noted negative aspects of classification such as its cost, “uncertainty in the public mind on policy issues,” and impediments to the free flow of information. Chief among its conclusions was that “perhaps 90 percent” of all classification of technical and scientific information could be eliminated.<sup>6</sup>

<sup>5</sup> *Report of the Commission on Protecting and Reducing Government Secrecy*, 1997, Appendix A: 8. A Culture of Secrecy, retrieved 06/13/07 from <http://www.fas.org/sgp/library/moynihan/appa8.html>

<sup>6</sup> *Report of the Commission on Protecting and Reducing Government Secrecy*, 1997, Appendix G: Major Reviews of the U.S. Secrecy System

### **Recommendations Related to Classification**

- At the moment in which a document is classified, a time limit should be set for its automatic declassification. This time limit would be adapted to the specific topic involved. As a general guideline, one may set a period between one and five years for complete declassification. This time limit could be extended only if clear evidence is presented that changed circumstances make such an extension necessary.
- In overhauling our classification guides the advantages that might accrue from inhibiting the acquisition of the information by a competitor or potential enemy through classification should be balanced against the advantages of possibly speeding development in the U.S. through not classifying the information.
- As a general rule, research and early development should be unclassified.
- In general, we expect classification to be most justifiable when the development approaches the “blueprint” stages. This coincides with the phase when expenditures become substantial. Protection is most desirable when an item requiring a considerable lead time for development is being prepared for deployment.
- After deployment, classification may be reduced or canceled. At the stage, the information will have been disseminated to many people so tight classification may no longer be realistic. Secrecy will usually be most valuable in maintaining a technological lead during the period of development.
- The Task Forces believes that the “Confidential” category is not appropriate for R&D programs and that “special access” limitations are more likely than not to seriously impede difficult technical programs.

### **Recommendations Related to Declassification**

- All material now classified should be reviewed as soon as possible. The Task Force hoped this could be accomplished in as short a time as two years. The review could either declassify the document or set an appropriate date for its declassification.

### **V. Commission to Review DoD Security Policies and Practices** **“Stilwell Commission” (1985)**

Established by Secretary of Defense Caspar Weinberger to identify “systemic vulnerabilities,” the Commission to Review DoD Security Policies and Practices found that “little scrutiny” was given on decisions to classify. The Commission, chaired by General Richard Stilwell (Ret.), concluded that shortcomings in the classification management arena were “primarily a matter of inadequate implementation of existing policy, rather than a matter of deficient policy.”<sup>7</sup>

### **Recommendations Related to Classification**

- Require, rather than simply permit, challenges to classification believed to be improper. (Recommendation No. 21)

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<sup>7</sup> *Report of the Commission on Protecting and Reducing Government Secrecy*, 1997, Appendix G: Major Reviews of the U.S. Secrecy System

- Require DoD components to institute a uniform degree of accountability for SECRET documents to verify distribution and scheduling of documents.
- Direct DoD components and contractors to impose better controls over reproduction equipment used to copy classified information.
- Press for legislation similar to that obtained by the CIA in 1984 to exempt certain categories of highly sensitive classified information held by the DoD from processing under the FOIA.
- Urge the President of the Senate and the Speaker of the House of Representatives to adopt, for each House of Congress, rules to provide uniform minimum control over classified information provided by departments and agencies of the Executive Branch.
- Support and facilitate the efforts of NSA to provide low-cost, secure voice telephone equipment to components and to cleared defense contractors. (Recommendation No. 26)
- Provide greater funding for the research and development efforts of the National Computer Security Center to improve the security of automated information systems. (Recommendation No. 27)
- Direct the Office of the Joint Chiefs of Staff to assess the adequacy of the Armed Forces Courier Service (ARFCOS) facilities, vehicles, aircraft, and distribution elements to protect the highly sensitive information which it transports. (Recommendation No. 28)
- Require the Defense Investigative Service (DIS), the Military Traffic Management Command, or other appropriate DoD organizations to conduct periodic compliance checks of classified or sensitive shipments in transit. (Recommendation No. 29)

### **Recommendations Related to Declassification**

- Prohibit the retention of classified documents which are not "permanently valuable records of the government" more than five years from the date of origin, unless specifically authorized in accordance with record disposition schedules established by the component head. (Recommendation No. 30)
- Designate an annual classified information "clean-out" day, where a portion of the work performed in every office with classified information stored would be the destruction of unneeded classified holdings not otherwise required to be retained.<sup>8</sup> (Recommendation No. 31)

### **VI. Joint Security Commission (1994)**

Tasked by Secretary of Defense William Perry and Director of Central Intelligence R. James Woolsey with developing a new approach to security, the Joint Security Commission engaged in a nine-month review. Finding that the system had reached "unacceptable levels of inefficiency, inequity, and cost," the Commission's February 1994 report to the Secretary of Defense and the Director of Central Intelligence, made several recommendations about classification, overclassification, and declassification.<sup>9</sup>

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<sup>8</sup> Commission to review DoD Security Policy and Practices, *Keeping the Nation's Secrets: A Report to the Secretary of Defense*, June 29, 1985, retrieved 6/13/07 from <http://www.fas.org/sgp/library/stilwell.html>

<sup>9</sup> *Report of the Commission on Protecting and Reducing Government Secrecy*, 1997, Appendix G: Major Reviews of the U.S. Secrecy System

## Recommendations Related to Classification

- The Commission recommends the establishment of a one-level classification system with two degrees of protection. (Recommendation No. 1)
- The Commission recommends the establishment of a simplified controlled access system, in which all Sensitive Compartmented Information (SCI), special access program (SAP), and other controlled access categories of information are integrated into the new Secret Compartmented Access system. (Recommendation No. 2)
- The Commission recommends that compartmented access be considered for the categories of information and any other categories of equally sensitive information, and that all current and future Special Access Programs, war plans requiring limited control, Sensitive Compartmented Information, covert action control systems, and bigot lists be reviewed and validated against that list. (Recommendation No. 3)
- The Commission recommends that the Secretary of Defense and the Director of Central Intelligence direct that managers for each compartmented access system undertake a review to identify information within all compartments and subcompartments that requires continued special protection. This information should be consolidated in the fewest compartments possible. (Recommendation No. 4)
- The Commission recommends that the Secretary of Defense and the Director of Central Intelligence:
  - Establish uniform risk assessment criteria for the consideration, designation, review, management and decompartmentation of information requiring special protection.
  - Conduct independent risk assessment of the unacknowledged status of compartmented access programs, based upon all-source analysis of relevant intelligence and counterintelligence information.
  - Review similar compartmented access programs to ensure reciprocity and eliminate redundancy.
  - Institute a formal mechanism to review designation, coordination, and integration issues related to compartmented access programs to ensure that the DoD elements, the Intelligence Community, the Departments of State, Energy, Commerce, and others are advised of compartmented access programs issues affecting their interests. (Recommendation No. 5)
- The Commission recommends that:
  - A single, consolidated policy and set of security standards be established for Secret Compartmented Access information, including all current SAPs, SCI, covert action, and the various bigot list programs.
  - Standards contain some flexibility, but waivers down from compartmented access security measures be permitted only when there is no impact upon reciprocity. (Recommendation No. 6)
- The Commission recommends that:
  - All intelligence reporting within compartmented channels be severely restricted to the limited amount of information that would compromise sensitive sources and methods or collection strategies, or that has exceptional political sensitivity.
  - All other intelligence products, particularly when related to military operations, be released as general protected information. (Recommendation No. 7)
- The Commission recommends that the Secretary of Defense and the Director of Central Intelligence establish a separate entity to work with special access program managers and

combatant commanders to ensure that military commands are more fully aware of compartmented access information concerning current and projected technologies, weapons, techniques, operations and programs that are pertinent to their responsibilities. (Recommendation No. 8)

- The Commission recommends development of governmentwide guidance for sharing classified information with coalition partners and with the United Nations. (Recommendation No. 12)
- The Commission recommends:
  - Strong centralized oversight by the security executive committee as well as more effective oversight at the agency level.
  - A strengthened Information Security Oversight Office as a part of the security executive committee staff.
  - A requirement that each agency appoint a classification ombudsman, establish a hot line for employee classification questions and complaints, and institute a spot check system. (Recommendation No. 16)
- The Commission recommends the establishment of a national-level security policy committee to provide structure and coherence to US Government security policy, practices and procedures. The committee will:
  - Develop government security policy and standards.
  - Ensure long term and continuing implementation oversight.
  - Serve as an ombudsman to resolve disputes.
  - Monitor security resources expended and provide security program guidance.

As a first step, the Commission recommended that the Secretary of Defense and the Director of Central Intelligence immediately establish a committee to fulfill these functions for the Defense and Intelligence Communities. (Recommendation No. 76)

### **Recommendations Related to Declassification**

- The Commission recommends that, with the exception of “GOVIND” and REL TO,” dissemination markings and control be eliminated. (Recommendation No. 11)
- The Commission recommended that four principles drive the declassification system.
  - A classifier should attempt to identify a specific date or event when information can be declassified.
  - If no date or event is specified, there is a refutable presumption that all classified information would be declassified no later than 10 years from the date of creation.
  - The Executive order should specify categories of information, exempt from the 10 year declassification requirement, that can remain classified for 25 years. Agency heads should prepare guidelines to implement exemption of these categories. These guidelines will be approved by the security executive committee.<sup>10</sup>
  - The Executive order should also specify very narrow categories of information that will be exempt from the 25 year automatic declassification requirements. These categories should include information that would jeopardize a human intelligence source or compromise ongoing sensitive military capabilities. Heads

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<sup>10</sup> JSC\_015C For a narrow category of information the 10 year timeline for automatic declassification may be extended to 25 years. Sec. 1.6 (c) of EO 12958 issued 20 Apr 97 requires implementation of this principle. ISOO Directive No. 1 provides further specific guidance. Such extensions are exercised by the OCA.

of agencies should develop guidelines that will implement the exemption of these categories from automatic declassification. These guidelines would be approved by the security executive committee.<sup>11</sup> (Recommendation No. 15)

- The Commission recommends the creation of an ad hoc panel to create a common approach and budget framework for defining and tracking security costs in the DoD, the Intelligence Community, and industry. (Recommendation No. 71)

## **VII. Report of the Commission on Protecting and Reducing Government Secrecy** **“Moynihan Commission” (1997)**

The Commission was created under Title IX of P.L. 103-236 to conduct “an investigation into all matters in any way related to any legislation, executive order, regulation, practice, or procedure relating to classified information or granting security clearances” and to submit a final report containing recommendations covering these areas. The Commission’s investigation was the first authorized by statute to examine government secrecy in 40 years, and only the second since the Wright Commission in 1957. The Commission’s report was unanimous and contained recommendations for actions by the Executive branch and Legislative branch, with the object of protecting and reducing secrecy in an era when open sources made a plenitude of information available as never before.<sup>12</sup>

### **Recommendations Related to Classification**

- The Commission recommends that agencies take several steps to enhance the proficiency of classifiers and improve their accountability by requiring additional information on the rationale for classification, by improving classification guidance, and by strengthening training and evaluation programs. Elements of this approach should include:
  - Original classifiers shall provide a detailed justification for each original classification decision.
  - Derivative classifiers shall be required to identify themselves on the documents they classify.
  - Classification guides shall be better developed, more definitive and updated regularly, and industry shall participate in the preparation of guides affecting industrial programs.
  - Training shall be expanded to include derivative classifiers and shall conform to minimum Executive branch standards.
  - Proper classification of information shall be included as a critical element in the performance evaluation of *all* employees authorized to classify. (Recommendation No. 3)

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<sup>11</sup>JSC\_15D

Specify that a very narrow category of information will be exempt from the 25 year timeline for automatic declassification.

Sec 3.4 (b) of EO 129 issued 20 Apr 1995 requires implementation of this principle. ISOO Directive No. 1 provides further specific guidance. Such extensions are exercised by the agency head, and reported through the ISOO to the President (for approval/reversal) [www.loyola.edu/dept/politics/intel/jsc-ii-final-report.pdf](http://www.loyola.edu/dept/politics/intel/jsc-ii-final-report.pdf)

<sup>12</sup> *Report of the Commission on Protecting and Reducing Government Secrecy*, 1997, Letter to the President

- The Commission recommends that classification decisions, including the establishment of special access programs, no longer be based solely on damage to the national security. Additional factors, such as the cost of protection, vulnerability, threat, risk, value of the information, and public benefit from release, could also be considered when making classification decisions. (Recommendation No. 4)
- The Commission recommends that the use of sources and methods as a basis for the continuing classification of intelligence information be clarified through issuance of an Intelligence Community directive by the Director of Central Intelligence, explaining the appropriate scope of that protection. (Recommendation No. 7)

### **General Recommendations**

- The Commission recommends enactment of a statute establishing the principles on which Federal classification and declassification programs are to be based. (Recommendation No. 1)
- The Commission recommends that responsibility for classification and declassification policy development and oversight be assigned to a single Executive Branch body, designated by the President and independent of the agencies that classify. This entity should have sufficient resources and be empowered to carry out oversight of agency practices and to develop policy. Based on its oversight findings, this body would then make recommendations for policy and implementation of classification and declassification issues directly to the National Security Council. The Security Policy Board would have an opportunity to comment on these policy recommendations through the NSC process. (Recommendation No. 5)
- The Commission recommends the establishment of ombudsman offices in each agency that has original classification authority or engages in declassifying records: these offices would intervene in and resolve classification and declassification issues upon request, act as a conduit for public concerns about access to records, and, where appropriate, refer issues to the agency's Inspector General. (Recommendation No. 8)

### **Recommendations Related to Declassification**

- The Commission recommends the creation by statute of a central office—a National Declassification Center—at an existing Federal agency such as the National Archives and Records Administration to coordinate national declassification policy and activities. This Center would have the responsibility, authority, and funds sufficient to coordinate, oversee, and implement government declassification activities. The Center would monitor agency declassification programs and provide annual reports on their status to the Congress and the President. (Recommendation No. 6)
- The Commission recommends that agencies better structure their records management and systematic declassification programs to maximize access to records that are likely to be the subject of significant public interest.
  - Complying with the dates or events for declassification, including through the use of new technologies.
  - Consolidating and regularly updating declassification guidance that is easily accessible to those authorized to declassify within the agency.

- Prioritizing declassification according to entire record groups selected through active consultation with the public and outside scholars, and regularly informing the public of systematic review results.
- Requiring all offices with any declassification-related activities to demonstrate that they are operating in partnership with others in the agency involved in related activities. (Recommendation No. 8)<sup>13</sup>

### **VIII. Final Report of the Assassination Review Board** **“JFK Assassination Review Board” (1998)**

The major purpose of the Review Board was to re-examine for declassification and release the records that the agencies still regarded as too sensitive to open to the public. In addition, Congress established the Review Board to help restore government credibility. To achieve these lofty goals, Congress designed an entity that was unprecedented.

Three provisions of the Act were at the heart of the design. First, Congress established the Review Board as an independent agency. Second, the Board consisted of five citizens, trained in history, archives, and the law, who were not government employees but who had the ability to order agencies to declassify government documents the first time in history that an outside group has had such power. Third, once the Board made the decision that a document should be declassified, only the President could overrule its decision. Congress also gave the Board a staff whose work was critical to its success.

The Review Board presented recommendations that reflect the Board's experience and provided guidance for those who wished to capitalize on that experience to further reform the process of classification and declassification of federal documents. The Board recognized that the JFK Act represented but one approach to declassification, one whose activity was designed to review sensitive records concerning a controversial event.

The Review Board's independence was grounded in the concept that the Board was in fact an independent agency in the Executive branch with powers granted through its enabling legislation. This independence was consequently as political as it was legal, facilitating the Board's relations with the agencies.<sup>14</sup>

#### **Recommendations Related to Classification**

- The Review Board recommends the adoption of a federal classification policy that substantially:
  - Limits the number of those in government who can actually classify federal documents.
  - Restricts the number of categories by which documents might be classified.
  - Reduces the time period for which the document(s) might be classified.

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<sup>13</sup> *Report of the Commission on Protecting and Reducing Government Secrecy*, 1997, Appendix C: Summary of Recommendations, pg. C-1, C-2

<sup>14</sup> *Final Report of the Assassination Records Review Board, Executive Summary*, Assassination Records Review Board, 1998, retrieved from <http://www.fas.org/sgp/advisory/arrb98/part02.htm> on 6/14/07

- Encourages the use of substitute language to immediately open material which might otherwise be classified.
- Increases the resources available to the agencies and NARA for declassifying federal records. (Recommendation No. 10)<sup>15</sup>

### **Recommendations Related to Declassification**

- The Review Board recommends that future declassification boards be genuinely independent, both in the structure of the organization and in the qualifications of the appointments. (Recommendation No. 1)
- The Review Board recommends that any serious, sustained effort to declassify records requires congressional legislation with:
  - A presumption of openness.
  - Clear standards of access.
  - An enforceable review and appeals process.
  - A budget appropriate to the scope of the task. (Recommendation No. 2)
- The Review Board recommends that its "common law" of decision, formed in the context of a "presumption of disclosure" and the "clear and convincing evidence of harm" criteria, be utilized for similar information in future declassification efforts as a way to simplify and speed up releases. (Recommendation No. 3)
- The Review Board recommends that future declassification efforts avoid the major shortcomings of the JFK Act:
  - Unreasonable time limits.
  - Employee restrictions.
  - Application of the law after the Board terminates.
  - Problems inherent with rapid sunset provisions. (Recommendation No. 4)
- The Review Board recommends that the cumbersome, time-consuming, and expensive problem of referrals for "third party equities" (classified information of one agency appearing in a document of another) be streamlined by:
  - Requiring representatives of all agencies with interests in selected groups of records to meet for joint declassification sessions.
  - Devising uniform substitute language to deal with certain categories of recurring sensitive equities. (Recommendation No. 5)
- The Review Board recommends that a compliance program be used in future declassification efforts as an effective means of eliciting full cooperation in the search for records. (Recommendation No. 6)
- The Review Board recommends that the Review Board model be adopted and applied whenever there are extraordinary circumstances in which continuing controversy concerning government actions has been most acute and where an aggressive effort to release all "reasonably related" federal records would serve usefully to enhance historical understanding of the event. (Recommendation No. 8)

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<sup>15</sup> *Final Report of the Assassination Records Review Board, Summary of Recommendations*, Assassination Records Review Board, 1998, retrieved from <http://www.fas.org/sgp/advisory/arrb98/part12.htm> on 6/14/07