

Central Intelligence Agency
Washington, DC 20505

OCA95-1701
11 May 1995

The Honorable Arlen Specter
Chairman
Select Committee on Intelligence
United States Senate
Washington, DC 20510-6475

Re: Decennial Review of CIA Operational File Exemptions

Dear Mr.Chairman:

This is to notify you that CIA has completed its decennial review of operational file designations as required by the CIA Information Act of 1984, 50 U.S.C. section 432.

The CIA Information Act authorizes operational files from certain CIA components (the Directorate of Operations [DO], the Directorate of Science and Technology [DS&T], and the Directorate of Administration, Office of Security [now the Office of Personnel Security (OPS) and the Office of Security Operations]) to be designated by the Director of Central Intelligence (DCI) as exempt from the search and review requirements of the Freedom of Information Act (FOIA). The Act also requires that not less than once every 10 years, the DCI review the exemptions then in force to determine whether such exemptions could be removed from any category of exempted files or any portion of those files.

The Act specifically requires that the DCI's decennial review include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein. Federal courts, moreover, are authorized to review whether CIA has, in fact, performed the decennial review and, in doing so, considered these criteria.

CIA conducted the following four-step review process in full compliance with the Act:

- a. In order to consider the historical and public interest in CIA files designated under the Act, the Agency published a notice in the Federal Register on August 8, 1994, inviting members of the public to submit their written views. Fifteen letters were received. Respondents unanimously supported the belief that current exemption standards exempt record groups which, due to time and changing events, no longer endanger national security. They suggested that research scholars need comprehensive records to evaluate the role of intelligence-gathering and analysis in the conduct of foreign policy.

b. In order to better understand the historical and public interest in CIA files designated under the Act, the Agency invited public interest, historical, and media organizations to CIA Headquarters on August 29, 1994, to share their views with us. Nine representatives from seven of the 12 invited groups attended and explained their concerns. Their comments paralleled those in the written submissions and focused on the need to recognize that the passage of time reduces the sensitivity of documents and that the Agency should consider removing older records from the operational file exemption.

c. A substantive review of exempted files was conducted by the DO, SD&T, and OPS in consultation with the CIA History Staff to determine whether the files could be removed from the exempted category in whole or in part. DO, SD&T, OPS and History Staff representatives attended the August 29, 1994, meeting to hear first-hand the public and historical interest groups, and they were given copies of all written comments received in response to the Federal Register notice. These public and historical interests have been taken into account as part of the review process.

d. A decennial review group consisting of representatives from the Office of the Associate Deputy Director for Administration/ Information Services, the Offices of General Counsel and Congressional Affairs, the Public Affairs Staff, the three concerned Directorates, and the Chief, History Staff, was formed to review current operational file designations. In addition to a review of exempt categories in general and, more specifically, any recommended changes, the group conducted a random sample of DO and DS&T documents to:

1. ensure that the existing category and subcategory designations fell squarely within the boundaries of the Act;
2. satisfy itself that the records within the file categories were the appropriate ones to have been filed there; and
3. test the assumption that, were the records in the file categories to be subjected to an FOIA-style, line-by-line review, the redactions permitted by law would result in the release of nothing that would be significantly meaningful.

e. In addition, the History Staff conducted a spot check of older DO designated operational files.

As a result of this extensive review process, the Acting Director of Central Intelligence opened-- i.e., removed from designated status-- four file categories to FOIA search and review. One category, the Security Access Approval Files, is in OPS. Three categories are in the DO. The DO categories include administrative files of the now-defunct Office of Policy Coordination and files on the inactive National Committee for a Free Europe and Asia Foundation projects.

Three categories of DO files were added to the list of designated files. One category, dealing with a class of operational contacts, was not well defined at the time categories were originally designated. This category has since become distinct and operationally important, thus qualifying for exempt designation. A second category containing information on instrumentalities is the result of a reorganization of operational files that drew material from two previously exempted files into a single category. Finally, a third group of records relating to cover operations, which while covered in concept by previous designations, had not been specifically enumerated. Upon review during this process, it was determined that their operational character justified their specific inclusion.

The Acting Director also considered, but rejected, a recommendation by the History Staff that, except for files that reveal the identity of a confidential human intelligence source, no DO or DS&T files more than 40 years old be designated as exempt from FOIA search and review. Because the decennial review came at a time when the Administration was planning a major overhaul of the classification system and proposing the automatic declassification of most records 25 years old and older and review of information requiring classification beyond 25 years, the proposed Executive Order (which the President recently signed) was seen as making the History Staff recommendation both unnecessary and impractical. Nevertheless, the serious consideration given to the History Staff's recommendation demonstrates the significant extent to which CIA's review of these designated files took account of their historical value and of the potential for declassifying information from them.

An original of this letter is also being sent to Vice Chairman Kerrey and to the Chairman and Ranking Minority Member of the House Permanent Select Committee on Intelligence.

Sincerely,

Joanne O. Isham
Director of Congressional Affairs