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BY THE COMPTROLLER GENERAL

Report To The Congress

OF THE UNITED STATES

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Improved Executive Branch Oversight Needed For The Government's National Security Information Classification Program

Oversight of the Government's classification program has been ineffective because the National Security Council and the Interagency Classification Review Committee did not require agencies to comply with procedures that would have provided complete information on their classification activities.

Such information would have shown that some agencies were not attaining the objective of the 1972 executive order to classify less and to declassify it sooner. This report recommends actions needed to assure improved compliance with a new executive order that became effective in December 1978.



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Report

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COMPTROLLER GENERAL OF THE UNITED STATES
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To the President of the Senate and the
Speaker of the House of Representatives

This report concerns the Government's national security information classification program administered under authority of the 1972 Executive Order 11652 and its replacement, Executive Order 12065, which became effective on December 1, 1978. We are reviewing this program because it has been a matter of continuing concern to the Congress and the President. Because of the size of the program, this phase of our review was directed primarily to procedures established by the National Security Council to provide visibility on agency compliance with Executive Order 11652. An additional concern was whether the new order and implementing directives would improve controls and eliminate weaknesses noted. The report discusses the need for improved program oversight to fulfill the objectives of Executive Order 12065.

We are sending copies of this report to the Director, Office of Management and Budget; the Administrator of General Services; and the Secretary of Defense.


Comptroller General
of the United States



COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

IMPROVED EXECUTIVE BRANCH
OVERSIGHT NEEDED FOR THE
GOVERNMENT'S NATIONAL SECURITY
INFORMATION CLASSIFICATION
PROGRAM

D I G E S T

This report discusses the need for more information on and better control of the Government's classification program, particularly as to classifying less information and declassifying it sooner. The primary objective of both Executive Order 12065, effective December 1, 1978, and Executive Order 11652 of 1972 is to make information about Government activities available to the maximum extent possible and, at the same time, protect only that information essential to the national security.

Both orders also recognize the need for a central group to oversee compliance with the orders and implementing instructions and authorize the establishment of an oversight group. Under 11652, the oversight group was the Interagency Classification Review Committee which was comprised of representatives of the Departments of Defense, Energy, Justice, and State; Central Intelligence Agency; National Security Council; and a chairman designated by the President.

INTERAGENCY CLASSIFICATION
REVIEW COMMITTEE OVERSIGHT

The National Security Council issued instructions to assist agencies in implementing the objectives of the 1972 Executive Order and to assist the Interagency Classification Review Committee in monitoring implementation of the order. However, oversight of the program has been ineffective because the Council and the Committee did not enforce compliance with the instructions, and the

Committee staff did not make indepth reviews of the classification process. The Committee lacked independence and authority and sufficient staff, and it received poor cooperation by some agencies.

The Committee planned to use agency reports as the primary means of evaluating compliance with the order, but it was unable to make full use of them because several agencies which classify the most data did not report the required statistics on classification actions, the declassification status of those actions, or classification abuses. (See p. 6.)

The Committee's 1977 annual report shows 4.5 million classification actions, but the total number for any year is not really known. [GAO believes the total number is at least 70 million, but it could be over 100 million. The declassification status of the 4.5 million actions the Committee reported is not shown, but GAO found indications that most were exempt from the general declassification schedule, meaning that the information would not be automatically downgraded and declassified within the prescribed 10-year period.] (See pp. 6 and 13.)

After agency reports failed to provide enough information to fully evaluate agency compliance with the 1972 order, the Committee decided to use visits or onsite reviews by its staff as the primary means of monitoring agency compliance. However, only four individuals were available to make the reviews which were confined to the Washington, D.C., area, and generally consisted of 4-hour discussions with security officials of the agencies. (See p. 8.)

AGENCY COMPLIANCE

The Department of Defense, which classifies more information than any other agency, told

the Committee that compiling and reporting the actual number of classification actions and the assigned declassification status would be too costly. It used a sampling of messages from its worldwide switching network, which did not show the assigned declassification status and accounted for only a small part of its total classification actions. (See p. 10.)

The Central Intelligence Agency and the Department of Justice also understated the number of classification actions reported to the Committee. (See p. 12.)

One intent of Executive Order 11652 was to reduce the number of individuals authorized to classify information, assuming that such action would contribute to a reduction in the number of documents unnecessarily classified. The order required the President or the head of the agency to designate in writing those individuals authorized to classify information. The Committee required agencies to report the number of individuals so authorized.

The National Security Agency, which classifies tens of millions of items annually, reported only two authorized classifiers. Officials told GAO that agency employees used classification guides and that the guides were the classification authority. Other Defense components were using guides in a similar manner. There was no provision for the use of classification guides in Executive Order 11652 or its implementing instructions. (See p. 16.)

POTENTIAL PROBLEMS WITH EXECUTIVE ORDER 12065

Some provisions of Executive Order 12065 should improve the program; however, GAO believes that the order does not provide solutions to the oversight and monitoring problems that it found in connection with the implementation of Executive Order 11652.

The new order makes the Administrator of General Services responsible for implementing and monitoring the program and directs him to delegate that responsibility to an Information Security Oversight Office. GAO is concerned that placement of that office outside the Executive Office of the President into an agency below cabinet level could weaken its ability to carry out its assigned functions. Also, a proposed staffing plan for the office will not provide sufficient staff to allow for indepth, onsite reviews at major installations that classify national security information. (See p. 25.)

One provision of the order permits the use of classification guides as original classification authority. Under this provision, individuals using the guides would be applying classification markings on a derivative basis. GAO believes that this provision seriously weakens control over the classification process because it allows thousands of individuals who are not designated as classifiers to be involved in the process without being personally accountable for their actions. However, GAO is not making a recommendation on such use of the guides until it completes a review of the implementation of this part of the order. (See p. 30.)

RECOMMENDATIONS

The Administrator of General Services, in consultation with the National Security Council, should:

- Require the Information Security Oversight Office to report to the Administrator and National Security Council when an agency fails to comply with significant provisions of Executive Order 12065 or its implementing instructions and corrective action has not been taken.

...the national security information program

--Provide the Oversight Office with sufficient staff to develop and carry out a strong program of indepth, onsite reviews at major installations that classify national security information.

The Administrator, in consultation with the National Security Council, should also direct the Information Security Oversight Office to:

--Require agencies, except those specifically exempted by the National Security Council, to submit statistical reports on their classification actions, actions exempted from declassification within the prescribed 6-year period, classification abuses and unauthorized disclosures of classified information, authorized classifiers, and annual physical inventories of top secret material.

--Fully disclose the amount and significance of statistical information not included in its annual reports and the reasons for the omission.

--Revise its instructions to require that personnel who apply derivative classification markings be identified on the documents.

AGENCY COMMENTS

In commenting on the report, the Interagency Classification Review Committee, while in agreement with some of the findings, cited some additional factors related to the reported deficiencies. The Committee was also confident that the new Oversight Office would continue the work of trying to obtain the most accurate statistics possible and anticipated that its program of onsite reviews would grow as its staff increases. (See pp. 27, 29, 32, and app. I.)

The Department of Defense advised GAO that it was not in agreement with a number of observations and conclusions as presented in the report. GAO made some changes based on its discussions with Defense officials. However, its conclusions remain unchanged. (See p. 32 and app. II.)

C o n t e n t s

	<u>Page</u>
DIGEST	i
CHAPTER	
1 INTRODUCTION	1
Congressional interest in classification procedures	3
Scope of review	4
Organization of report	5
2 PROGRAM MONITORING BY THE INTERAGENCY CLASSIFICATION REVIEW COMMITTEE	6
Statistical reporting system	6
Staff visits to agencies	8
Seminars	9
3 AGENCIES WERE NOT COMPLYING WITH NATIONAL SECURITY COUNCIL DIRECTIVE	10
Statistical reports	10
Classification actions	10
Declassification categories assigned to classification actions	13
Classification abuses	14
Authorized classifiers	16
Data index system	18
Defense opposition to data index system	19
Annual physical inventory of top secret material	22
4 WILL EXECUTIVE ORDER 12065 CORRECT DEFICIENCIES NOTED IN THE IMPLEMENTATION OF EXECUTIVE ORDER 11652?	25
Responsibility for program implementation and monitoring	25
Recommendations	27
ICRC comments and our evaluation	27
Agency activity reports	27
Recommendations	28
ICRC comments and our evaluation	29
Classification guides to be used as classification authority	30
Recommendation	32

	<u>Page</u>
ICRC comments and our evaluation	32
Defense comments and our evaluation	32

APPENDIX

I	Letter dated November 21, 1978, from the Acting Chairman of the Interagency Classification Review Committee to GAO	34
II	Letter dated November 24, 1978, from the Deputy Assistant Secretary of Defense, Comptroller (Administration) to GAO	38

ABBREVIATIONS

GAO	General Accounting Office
ICRC	Interagency Classification Review Committee

CHAPTER 1

INTRODUCTION

On March 8, 1972, the President issued Executive Order 11652 which became effective June 1, 1972. Major objectives of the order were to

- make information on Government affairs more readily available to the public, except for information bearing directly on the effectiveness of national defense and the conduct of foreign relations (collectively referred to as national security);
- identify and ensure that such information is protected only to the extent and for such period as is necessary;
- prescribe the procedures for classifying, downgrading, declassifying, and safeguarding such information; and
- establish a monitoring system to ensure the effectiveness of the procedures.

The order provided that official information requiring protection against unauthorized disclosure, in the interest of national security, be classified as top secret, secret, or confidential, depending upon its degree of significance. The order designated those agencies and officials authorized to use each of the classification categories and the conditions under which such authority could be exercised or delegated in writing to other officials of the agencies.

The order established a general declassification schedule for the automatic downgrading and declassifying of information over a 6- to 10-year period, based on the level of classification of the information. It also recognized that certain information might warrant some degree of protection for periods exceeding those provided in the general declassification schedule and allowed an official with top secret classification authority to exempt such information if it fell within one of the following four categories

- furnished by a foreign government or international organization with the understanding that it would be kept in confidence;

--specifically covered by statute, pertained to cryptology, or disclosed intelligence sources or methods;

--disclosed a system, plan, installation, project, or specific foreign relations matter the continued protection of which was essential to the national security; or

--disclosed information which would place a person in immediate jeopardy.

The order provided that "the use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements." In each case where the exemption authority was used, an official with top secret classification authority was to specify in writing, a date or event for automatic declassification. If the official was unable to give this data, the exempted information would be automatically declassified after 30 years.

The order directed the National Security Council to monitor implementation of the program, with the assistance of an Interagency Classification Review Committee (ICRC) composed of representatives of the Departments of Defense, Justice, and State; the Atomic Energy Commission (now part of the Department of Energy); the Central Intelligence Agency; the National Security Council; and a chairman designated by the President. The order directed ICRC to oversee agency actions to ensure compliance with the order and the implementing directives issued by the President through the National Security Council. The order also required agencies to furnish any information needed by ICRC to carry out its functions.

On May 17, 1972, the National Security Council issued a directive to implement the order. The directive established administrative requirements for handling all classified material. It required each agency originating classified material to establish a data index system for top secret, secret, and confidential information in selected categories approved by ICRC as having sufficient historical or other value appropriate for preservation. Such a system was supposed to contain a complete description of each document indexed, including the identity of the classifier,

department or agency of origin, addressees, date of classification, subject or area, classification and declassification categories, exemption information if applicable, and the date or event for declassification.

The directive required agencies to take a physical inventory of all top secret material, at least annually. Repositories storing large volumes of classified material were permitted to develop inventory lists or other finding aids in lieu of the annual inventory. Agencies were also required to make systematic reviews of classified material of historical or other value for the purpose of making it available to the public to the extent permitted by law and the declassification category to which it was assigned. The directive stated that agencies should insure that adequate personnel and funding were provided for the purpose of carrying out the order and implementing directives.

The directive required ICRC to hold regular meetings, no less than once a month, and to take such actions as were deemed necessary to insure uniform compliance with the order and directive. ICRC was directed to seek to develop means to prevent overclassification and insure prompt declassification of classified information.

In June 1977 the President ordered a review of the Government's security classification policy in order to increase openness in Government, because of his belief that the Government classifies too much information for too long a period of time.

In September 1977 a draft of a proposed new order, prepared by the President's review committee, was released for comment. After receipt of comments from committees and members of the Congress, Federal agencies, and the public, Executive Order 12065 was issued on June 28, 1978. The effective date of the new order was December 1, 1978.

CONGRESSIONAL INTEREST IN CLASSIFICATION PROCEDURES

In September 1977 the Subcommittee on Government Information and Individual Rights, House Committee on Government Operations, completed a study of performance under the 1972 order and suggested ways in which the system could be improved.

During hearings in December 1977 held by the Subcommittee on Priorities and Economy in Government, Joint Economic Committee, the Chairman asked the Comptroller General to consider undertaking a comprehensive review of the classification and declassification process by the Department of Defense and other agencies. Because the process had been a matter of continuing concern to the Congress and the President, the Comptroller General agreed to undertake this review.

The Subcommittee on Intergovernmental Relations, Senate Governmental Affairs Committee, and the Subcommittee on Government Information and Individual Rights, House Committee on Government Operations, have written the Comptroller General to express an interest in our review of the program under Executive Order 11652 and to solicit our views on the new order.

SCOPE OF REVIEW

This report covers the first phase of our review of national security classification policies, procedures, and practices. Because of the size of the program, the first phase was directed primarily to evaluating ICRC's monitoring of the program and agency and ICRC compliance with certain provisions of the executive order and implementing directives that were intended to provide visibility on the effectiveness of the program. We did not evaluate the merits of all the requirements of Executive Order 11652 or the implementing directives and instructions.

We reviewed Executive Orders 11652 and 12065, the implementing directives and instructions issued by the National Security Council and ICRC, and ICRC's annual reports for calendar years 1973 through 1977. We held discussions with ICRC staff and reviewed minutes of the ICRC monthly meetings, statistical reports submitted by the agencies, reports of inspections by the ICRC staff, and correspondence with the agencies.

We also discussed implementation of the program with representatives of the National Security Council, Central Intelligence Agency, and Departments of Defense, Energy, Justice, and State. Because the Department of Defense generates the majority of classified information, we also met with representatives of the following components

- Office of the Assistant Secretary of Defense
(Comptroller),
- Office of the Joint Chiefs of Staff,
- Department of the Air Force,
- Department of the Army,
- Department of the Navy,
- Defense Intelligence Agency, and
- National Security Agency.

Future plans call for reviews of classification practices at agency operating levels.

We provided copies of the draft report to ICRC and the agencies mentioned in the report, but because of our commitment to the congressional committees to issue the report as promptly as possible, we did not request formal comments. However, we did agree to discuss specific points in the report with agency representatives. We held discussions with representatives of the agencies mentioned above, and as warranted, their views have been incorporated in the report. ICRC's formal comments are included as appendix I and have been incorporated in chapter 4. The Department of Defense did not submit detailed comments; however, it did formally advise us of its overall view of the report. (See app. II.)

ORGANIZATION OF REPORT

Chapter 2 discusses our findings on ICRC's monitoring of the program, while chapter 3 covers the lack of agency compliance with the implementing instructions issued by the National Security Council. Chapter 4 contains our analysis of certain provisions of the new order that are related to the deficiencies that we noted in the implementation of Executive Order 11652 and our conclusions and recommendations.

CHAPTER 2

PROGRAM MONITORING BY THE

INTERAGENCY CLASSIFICATION REVIEW COMMITTEE

To oversee agency actions and ensure compliance with the executive order and implementing directive, ICRC (1) established procedures for agencies to submit statistical reports on program-related activities, (2) established a schedule for visiting agencies, and (3) held seminars for representatives of participating agencies. These three methods are discussed below.

STATISTICAL REPORTING SYSTEM

At the start of the program, ICRC believed that the reporting system would be its primary means of evaluating agency compliance with the order. This evaluation was to be accomplished by comparing classification activity reported by the agency for the initial reporting period with the activity reported for subsequent periods. Such a comparison would have enabled ICRC to evaluate agency progress in reducing the number of individuals with classification authority, reducing the amount of information classified and its level of classification and declassifying information sooner. Unfortunately, agencies which generated the most classified material did not fully comply with the reporting requirements. (Reporting deficiencies are discussed in detail in chapter 3.) Consequently, ICRC did not have a firm basis with which to evaluate those agencies' compliance with the order or the overall effectiveness of the program.

ICRC's annual report for 1977 shows that agencies reported almost 4.5 million classification actions. The following tabulation, taken from that report, shows the classification actions for 23 agencies, including the 5 that classified the most information.

<u>Agency</u>	<u>No. of classification actions in 1977</u>	<u>Percent</u>
Department of Defense	3,618,600	80.6
Central Intelligence Agency	587,400	13.1
Department of State	136,000	3.0
Department of Energy	129,500	2.9
Department of Justice	8,700	.2
Other agencies (18)	<u>7,100</u>	<u>.2</u>
Total	<u>4,487,300</u>	<u>100.0</u>

Based on information obtained during our review, the actual total number of classification actions for any year is not known, but it could range from 70 to 100 million or higher. The ICRC staff was aware of this discrepancy in statistics--attributable primarily to the Department of Defense and Central Intelligence Agency--and included footnotes in its annual report for 1977, as in prior reports, to indicate limitations in the statistics reported by the two agencies. However, the footnotes do not indicate the significant understatement of the number of classification actions that are reported. We believe that this type of reporting could be misleading to the Congress and the public.

The report also contains an exhibit that shows that 80 percent of the reported classification actions were placed in the general declassification schedule, 19 percent were exempt, and 1 percent were in the advance declassification category. The report explains that declassification statistics of the Departments of Defense and Energy and the Central Intelligence Agency were excluded because Defense does not report declassification data, most of Energy's information can only be declassified in accordance with the Atomic Energy Act of 1954, and the nature and sensitivity of information generated by the Central Intelligence Agency dictates extended protection for most documents.

Even though the report contains qualifications concerning the three agencies, we believe that the exhibit could give a misleading picture of the use of the general declassification schedule because the excluded three agencies accounted for about 97 percent of the classification actions reported and the overwhelming majority were exempted from the general declassification schedule. (This subject is discussed in more detail on page 13.)

We believe that had all agencies complied with the ICRC requirements for reporting data on classification activity and the declassification status, ICRC would have had greater program visibility and would have been in a better position to evaluate agency compliance with the objectives and requirements of the executive order. ICRC's unwillingness or inability to enforce those reporting requirements indicates the need for strong monitoring of compliance with the new executive order. Because of the failure of the reporting system, which was to have been ICRC's primary means of evaluating agency compliance, ICRC started placing greater emphasis on staff visits to agencies.

STAFF VISITS TO AGENCIES

According to the 1976 annual report, ICRC considered onsite reviews or visits by its staff as the primary means of monitoring agency information security programs; however, these reviews were not fully effective in monitoring agency compliance mainly because of insufficient staff.

As the staff increased, the number of visits also increased. Until 1975 the ICRC staff included two individuals--an executive director and a secretary. Two program analysts were added to the staff in the latter part of 1975 and two more were added in 1976. At the end of 1977 the staff consisted of the executive director, four program analysts, and three support members. The staff made 19 visits to agencies in 1975, 48 in 1976, and 96 in 1977. The staff's objective was to make at least two formal and two informal visits annually to each agency or major component, which given the small staff was a formidable undertaking (e.g., the Department of Defense has 14 major components and one senior program analyst had responsibility for all matters related to Defense and the Central Intelligence Agency). These two agencies generated the largest amounts of classified information and the responsible analyst, like the other program analysts, had other duties in addition to the agency visits.

Because the ICRC staff was small and the number of agencies and major components to be visited was large, the visits generally consisted of about a 4-hour discussion with top security officials of agencies in the Washington, D.C., area. Discussions included agency management of the security program, activity reports submitted to ICRC, classification and declassification progress and problems, education and training, and other program-related matters. A

formal report was written after each visit and a copy was furnished to the agency. When the staff visited an agency which had a representative on ICRC, it gave copies of the report to ICRC members for review and approval before it was released by the Chairman. The Chairman released reports on visits to other agencies without advance review by ICRC members.

We believe that staff visits and independent reviews at the agencies are necessary and beneficial and are a step in the right direction; however, the size of the staff making these visits needs to be greatly expanded and the discussion-type visits should be replaced by indepth reviews of the program at the operating level. In our opinion, detail reviews and comprehensive reporting by an independent group would provide greater assurance that national security information is not overclassified and is promptly declassified.

SEMINARS

To assist agency officials responsible for implementing the program, ICRC sponsored several seminars and symposiums. The first ICRC symposium was held in April 1974 and the most recent was in August 1978. Topics discussed included the classification and declassification of information, training and orientation, and the new executive order. We attended the August session, as well as an earlier one in March. The speakers were well-received and participation by the audience was good.

We believe that these meetings should be continued because they provide an excellent opportunity for agency representatives to discuss mutual problems and exchange ideas on matters beneficial to the program.

CHAPTER 3

AGENCIES WERE NOT COMPLYING WITH NATIONAL SECURITY COUNCIL DIRECTIVE

Some agencies did not comply with provisions of the National Security Council directive that required (1) submission of statistical reports to ICRC, (2) development of a data index system, and (3) an annual physical inventory of top secret material. As a result, neither ICRC nor the agencies were able to evaluate the program on either a Government-wide or agencywide basis.

STATISTICAL REPORTS

Agency reporting of classification activities was incomplete and unreliable as a means of evaluating agencies' compliance with the order. There was a substantial understatement of reported activity concerning (1) classification actions, (2) declassification categories assigned to classification actions, (3) classification abuses, and (4) authorized classifiers. These reporting deficiencies are discussed below.

Classification actions

The Departments of Defense and Justice and the Central Intelligence Agency did not report the actual number of classification actions to ICRC.

Beginning with calendar year 1973, agencies were required to submit quarterly activity reports on a standard form prescribed by ICRC, showing the number of classification actions, the level of classification, and the assigned declassification categories. Agencies were permitted to use sampling techniques, approved by ICRC, where large volumes of classified data were involved. Defense studied the use of sampling on two separate systems because of its large volume of classified data.

The first study, in May 1973, involved a 1-month survey of 2 Air Force, 2 Army, and 71 Navy facilities to identify the number and type of classified documents generated and the declassification category used. The reported cost of this survey was \$11,800.

The second study involved a sampling of messages processed worldwide through Defense's Switch Network Automatic Profile System. In an August 1974 memorandum to ICRC, Defense admitted that officials were not satisfied with the message sampling system because it did not provide the declassification status of the messages, but that other attempts to determine a scientific sampling system were unsuccessful in developing any method that would provide data of any reasonable accuracy because of the diversity of missions of comparable command level organizations. Consequently, Defense adopted the message sampling system because it believed that the system would provide the most useful and accurate gauge for measuring both trends and progress.

ICRC was also told that during a forthcoming sampling period accurate records of downgrading, declassification, and exemption actions would be maintained by the originating groups and, using proven multiplication factors, Defense expected to be able to provide ICRC with data on all classified messages processed. However, the data submitted to ICRC does not show the declassification category of the messages processed nor does it consider the millions of other classification actions, other than messages.

Notwithstanding Defense's decision to use the message sampling system, we found that four Defense components were submitting activity reports to the Office of the Assistant Secretary of Defense (Comptroller), showing the number and type of classification actions and the declassification categories used. The largest of the four components was the Department of the Army. Its report for the 6-month period ended December 31, 1977, which includes data from a majority of its commands, shows about 226,000 classification actions with about 74 percent exempt from the general declassification schedule. The activity report of one Army command for the previous 6-month period contains the statement "statistics not available," with the following explanation:

"This Command does not collect or maintain any statistical data to measure progress in implementing the Information Security Program, believing that, by not doing so, we achieve a significant cost avoidance."

The above statement is subject to varying interpretations. For instance, the command is saving money by not collecting and reporting statistics that are not used by Defense in its overall report to ICRC. However, on the other hand, neither the executive order nor the National Security Council directive refer to cost avoidance as a reason or justification for noncompliance with the reporting requirements. As noted on page 3 of this report, the directive stated that agencies should insure that adequate personnel and funding were provided to carry out the order and implementing directives. It would seem reasonable to assume that those Army commands that collect statistical data do so to measure their own progress in implementing the program.

For calendar year 1977, Defense reported a total of 3.6 million classified messages. That amount was substantially less than the actual number of classification actions generated. The National Security Agency is, by far, the Defense component that generates the largest volume of classified data. Although the exact number is not known, Agency officials acknowledge that the volume could range from 50 to 100 million classification actions a year.

The Central Intelligence Agency, in its reports to ICRC, also significantly understated the number of its classification actions. The ICRC annual report for 1973 shows that the Agency reported 2.2 million actions for the 9-month period ended December 31, 1973. For calendar years 1975, 1976, and 1977, the Agency reported actions totaling 520,000, 574,000 and 587,000, respectively. In response to a 1976 questionnaire from the Subcommittee on Intergovernmental Relations of the Senate Governmental Affairs Committee, the Agency stated that "a large amount of uncounted classified correspondence consisting of administrative and payroll records, interoffice memos, etc., bring the total to the neighborhood of 5,000,000 items." That amount was substantially higher than the 500,000 to 600,000 items reported to ICRC; however, we did not determine what part of that larger amount may not have met the ICRC criteria for reporting classification actions.

The Department of Justice reported classification actions totaling about 15,000, 15,000 and 9,000 for calendar years 1975 through 1977, respectively. These amounts did not include all classified documents generated by Justice. The Federal Bureau of Investigation accounts

for most of Justice's classification actions. According to a March 1977 ICRC staff visit report, Bureau field offices generated about 30,000 classified documents in 1976. The number of actions generated by Bureau headquarters was not shown, but the report indicated that it might be significant. The report noted that the Bureau incorporated about 14,000 documents into the Department's data index system in 1976 and that these were from field offices only. Classified documents prepared at Bureau headquarters were not incorporated into the system because Justice did not have enough data processing personnel. It was estimated that inclusion of the headquarters data would increase the Bureau's input to the system by 200 to 300 percent.

Bureau officials told us that classification actions reported to ICRC only included documents disseminated to other agencies. Thus, those documents not disseminated were not counted nor did the count include the classified documents initiated by agents or field offices that support information in a finished Bureau document.

Declassification categories assigned to classification actions

Although the apparent intent of the order was that most information would fall in the general declassification category and that the use of the exemption category, consistent with national security requirements, would be the exception, it appears that most information has been exempted. The table below shows, by percentages, the declassification categories used in calendar year 1977 by four of the five major agencies, as reported to ICRC.

	<u>Advance declassi- fication</u>	<u>General declassi- fication schedule</u>	<u>Exempt</u>
	----- (percent) -----		
Central Intelligence Agency	2	1	97
Department of Energy	-	1	a/99
Department of Justice	-	6	94
Department of State	1	85	14

a/ Most of the classified information can only be declassified in accordance with the Atomic Energy Act of 1954.

The Department of Defense, the agency classifying the most information, did not show declassification categories in its reports. As noted on page 11, Defense's message sampling system did not provide the assigned declassification status of the messages. Our review of reports submitted by most Army commands for the second half of calendar year 1977 showed that 74 percent of the classification actions reported were exempt from the general declassification schedule.

National Security Agency officials told us that they had no statistics on the declassification categories used, but that most of their classified data was exempt because it pertained to cryptology and intelligence sources and methods.

The Defense Intelligence Agency also had no statistics, but officials believed that their percentage of exempted data was significantly higher than that of other Defense components.

Defense officials told us that they were aware and concerned about the extensive use of the exemption category and had been trying to reduce such use. Officials of Defense components told us that the exemption category was used because (1) weapons systems required a long development period, (2) sources and methods needed to be protected, and (3) it saved time by eliminating the need to review and declassify data.

Classification abuses

Executive Order 11652 provided that (1) anyone who unnecessarily classified or overclassified information should be notified that such action violated the order and (2) repeated abuse of the classification process could be grounds for administrative reprimand. The order further provided that any abuse should be reported to the head of the agency concerned so that corrective actions could be taken. Pursuant to the National Security Council directive, agencies were required to submit quarterly reports of abuses to ICRC.

Although the order only specified the actions required when an item was unnecessarily classified, overclassified, or there was a repeated abuse, ICRC required agencies to also report other types of infractions, including

- classification without authority,
- unnecessary exemption (from general declassification schedule),
- exemption without authority,
- failure to apply downgrading/declassification assignments,
- failure to show classification authority,
- failure to apply internal classification markings, and
- incorrect computation of general declassification schedule dates.

While most agencies and agency components complied with the ICRC abuse reporting requirements, the Central Intelligence Agency and Defense's National Security Agency, two of the largest classifiers of data, did not. The Central Intelligence Agency report for the 6-month period ended December 31, 1977, stated, "nothing to report." It seems unlikely that the Intelligence Agency did not identify any abuses that should have been reported to ICRC, considering the fact that it did report almost 600,000 classification actions in 1977.

Reports from the National Security Agency contain the following statement to explain why statistics were not reported.

"No practical means is available to monitor all classification actions by NSA/CSS [Central Security Service]. Volume considerations preclude our policing every such action. To monitor all classification actions would require a force of 400-500 qualified personnel. We do hold, however, the drafter responsible for classification of his paper, and he normally has his work reviewed at least once before it is released."

In our opinion, the above statement does not justify the Agency's failure to collect and report statistics on classification abuses. We seriously doubt that any of the larger agencies or components "police" every classification action, yet most agencies report statistics derived from inspections and reviews. The fact that every classified paper normally is reviewed at least once before release would appear to provide ample opportunity for reviewers to note and record classification abuses. Therefore, in our opinion, a monitoring force would not be needed to provide responsive abuse reporting.

We did not determine whether agency heads were notified of classification abuses. However, we will consider this point in future reviews.

Authorized classifiers

Because the Department of Defense considers a classification guide, issued by a properly authorized classifier, to be an original classification decision, it does not require personnel using such guides to be authorized classifiers. Consequently, the thousands of Defense personnel who use guides to apply classification markings were not considered classifiers and were not included in the statistics on the number of authorized classifiers reported by Defense to ICRC.

Under Executive Order 11652, the President designated those agencies and officials authorized to classify information as top secret, secret, and confidential and authorized them to delegate their classification authority in writing to other officials of the agencies. According to a statement made by the President at the time the order was issued in 1972, one intent of the order was to reduce the number of authorized classifiers on the proposition that such action would contribute to a reduction in the number of documents unnecessarily classified.

The National Security Council directive required each agency to maintain listings of those individuals with top secret, secret, and confidential classification authority. In cases where the listings by names of such individuals might disclose sensitive intelligence information, the agencies were permitted to establish some other means of ready identification.

To measure agency progress in reducing the number of authorized classifiers, ICRC required agencies to report the number of individuals in each category. Although the ICRC staff continually pressured agencies to reduce the number of authorized classifiers--and with much success--it told us that the effect of such efforts in reducing the number of documents unnecessarily classified was unknown. The number of reported classifiers was reduced from 59,300 in 1972 to 13,300 at December 31, 1977. The following table is based on data furnished by agencies to ICRC for 1977.

Number of authorized classifiers

	<u>Top secret</u>	<u>Secret</u>	<u>Confi- dential</u>	<u>Total</u>
Department of Defense	442	1,781	1,565	3,788
Department of Energy	21	3,781	1,036	4,838
Department of Justice	214	185	-	399
Department of State	200	662	640	1,502
Central Intelligence Agency	440	1,298	21	1,759
Other agencies	<u>81</u>	<u>540</u>	<u>395</u>	<u>1,016</u>
Total	<u>1,398</u>	<u>8,247</u>	<u>3,657</u>	<u>13,302</u>

We examined reports submitted by components to Defense headquarters and noted that the National Security Agency reported only two authorized classifiers. Considering the large volume of data classified by the Security Agency and comparing the number of classifiers it reported to the 1,759 authorized classifiers reported by the Central Intelligence Agency, it was questionable that two classifiers could handle the tens of millions of classified items processed annually. When we questioned Security Agency officials about this situation, they told us that employees used classification guides to classify material and that the guides were the classification authority.

We also found that other Defense components, such as the Air Force, Army, and Navy used classification guides, formal directives and instructions, and letters as original classification authority.

We discussed this situation with Defense and ICRC officials who told us that the use of guides as classification authority was proper, given their particular circumstances. Although there was no provision for the use of classification guides in Executive Order 11652 or its implementing instructions, Defense officials maintained that authority for using guides was contained in section IB of the National Security Council Directive. That section provided as follows:

"B. Observance of Classification. Whenever information or material classified by an official designated under A above is incorporated in another document or other material by any person other than the classifier, the previously assigned security classification category shall be reflected thereon together with the identity of the classifier."

We believe that section IB referred to derivative classification; that is, when information already classified is reproduced, extracted, or summarized. In other words, the classification status of such information is derived from the classification category already assigned.

Officials of the Department of Energy said that they did not use classification guides in this manner. That may explain why Energy, which reported only 130,000 classification actions in 1977, reported more authorized classifiers than Defense. Defense's view that approval of a classification guide constituted an original classification decision resulted in its reporting substantially fewer authorized classifiers than if it had used Energy's approach.

Executive Order 12065 permits the use of classification guides as original classification authority. This subject is discussed in more detail in chapter 4.

DATA INDEX SYSTEM

The Department of Defense did not establish a data index system because of its belief that the system would not be cost effective. Other agencies established either a manual or automated system. The National Security Council directive required agencies to establish data index systems.

According to ICRC's first annual report, the underlying purpose of the data index system was to pursue the objective of the executive order to establish a credible and sound security classification system. Record accessibility was considered to be the primary asset of the data index system. The report also states that the system would

- assist most agencies in managing their classified documents and in monitoring implementation of the order,
- facilitate inspection as to the proper marking of documents,
- assist in making periodic declassification reviews,
- aid in evaluating the need for classification authority,

--insure better protection of classified material,
and

--facilitate public access to classified records as
they become declassified.

ICRC required agencies to submit two reports annually that were products of the system. The first report, the annual review list, covered documents placed in the system during the previous calendar year that were over 10 years old, 1/ were exempt from the general declassification schedule, and specified an event for declassification. The stated purpose of this report was to ensure that classified data not scheduled for automatic declassification was reviewed annually and systematically so that it could be declassified as soon as there was no longer a need for continued classification.

The second report, the annual declassification list, covered documents declassified during the previous calendar year. Copies of the annual declassification list were provided to the Central Research Room of the National Archives for public use.

Defense opposition to data index system

A September 1972 ICRC status report on the development of data index systems at the five major agencies contained the following information concerning Defense.

"5. Defense. A study group within Defense prepared a proposal for the development of a data index system covering all Top Secret documents originated within OSD [Office of the Secretary of Defense], headquarters of three services in D.C., JCS [Joint Chiefs of Staff], and headquarters of the Defense agencies. Excluded were electrically transmitted messages, compartmented intelligence, Restricted and Formerly Restricted data [data covered by the Atomic Energy Act of 1954], and cryptologic information. The cost was estimated at \$300,000 to \$500,000 per year. No additional equipment was required. It is my understanding that the Comptroller's office has rejected this proposal."

1/Pertains to documents classified before the establishment of a data index system.

While the records did not provide a complete history of events between 1972 and 1974, in a January 1974 memorandum to ICRC, Defense stated that it had serious reservations concerning the feasibility of adopting the data index system because it did not believe the system was a cost-effective proposition in view of Defense's high volume of classified information. The following excerpt is taken from that memorandum.

"This conclusion is based on the results of two separate surveys which were conducted during the past 18 months and with which the Committee staff is familiar. To be specific, if the system were designed to include a significant percentage of classified documents within DOD [Department of Defense], the data automation annual costs would fall in the \$20 million to \$50 million range. On the other hand, if DXS [data index system] were confined to a highly selective area of classified material, as required in the NSC Directive, the system would be too limited to meet the established management and statistical objectives. In either case, the benefits expected to be derived from DXS would not appear to warrant the excessive costs involved."

We requested a copy of the study to review the basis for the \$20 to \$50 million estimated cost. Defense officials told us that they could not locate a copy of the study.

In April 1974 Defense started testing, on a selective basis, the system on three existing automated document control systems in--the Office of the Joint Chiefs of Staff, the Defense Logistics Agency (formerly the Defense Supply Agency) and the Defense Communications Agency. The purpose of the test was to determine if the three systems could meet the requirements of the data index system without modification. The memorandum of instruction from the Assistant Secretary of Defense (Comptroller) to all Defense components stated that if the initial phase of implementation proved practical and economic, the system would be extended throughout Defense headquarters in the National Capitol region. In the meantime, all components, other than the three mentioned above, were requested to validate their individual approaches in implementing the index system and the attendant funding that would be needed to ensure compliance with ICRC requirements.

In February 1975, Defense furnished ICRC a status report on its information security program for inclusion in ICRC's annual report for 1974. With regards to the data index system, Defense stated that based on the tests on the three existing document control systems, the data index system was of limited value and usefulness and that the limited benefits derived did not warrant the extensive expenditure of funds and time required to establish and maintain the system.

On September 23, 1976, Defense formally requested that the National Security Council exempt it from the provision of the Council's May 1972 directive which required the establishment of a data index system and that an amendment of that directive be approved and published for that purpose. Apparently, the Council did not respond formally to the request, but a Defense memorandum dated October 12, 1976, stated that Defense had been informally advised that the Council intended to abandon the entire data index system concept. On October 7, 1976, the Council issued, at the direction of the President, an amendment to its 1972 directive. This amendment changed the frequency of agency reporting of classification activity from a quarterly to a semiannual basis. The amendment restated the following agency requirement which was in the original directive.

"(2) provide progress reports on information accumulated in the data index system established under Part VII hereof and such other reports as said Chairman may find necessary for the Interagency Classification Review Committee to carry out its responsibilities."

Although our review only included agency compliance with Executive Order 11652 and its implementing instructions in establishing the data index systems and not an indepth evaluation of the merits of such systems, we believe that the reasons for requiring them--program visibility, internal control, and facilitation of public access to formerly classified documents--are as important now as they were in 1972 and 1973. Since Defense could not provide us with the study to support its conclusion that establishment of a data index system would cost between \$20 and \$50 million, we cannot comment on the propriety of the estimate or other factors involved in the study. However, from the information made available to us, as noted in the quoted material on page 20, Defense did not

estimate the cost of developing a system based on ICRC's requirements. Its estimate appears to be based on the establishment of a much larger system that would have included all classified material and not just material of historical value. (See p. 2.)

ICRC's 1973 instructions to the agencies on how to set up data index systems outlined some of the selected categories of information that were to be included in the system. All classified information exempted from the general declassification schedule is one category that had to be indexed. That part of the instruction appears to be consistent with the executive order which states that "the use of the exemption authority shall be kept to the absolute minimum." The instruction recognized the need to identify data that would not be declassified in accordance with the established periods in the general declassification schedule. Thus, by not implementing a data index system, attention was not drawn to the fact that Defense exempted the majority of its classified data.

ANNUAL PHYSICAL INVENTORY OF TOP SECRET MATERIAL

Although the National Security Council directive required each agency to take a physical inventory of all top secret material at least annually, neither ICRC nor the Departments of Defense and Justice instituted actions to assure that such inventories were taken. Officials of the Departments of Energy and State and the Central Intelligence Agency, however, told us that they had procedures for verifying that the physical inventories were being taken and that they maintained centralized records to account for all top secret material.

ICRC did not require agencies to report on the status of the requirement or the number of documents counted, even though such information, in our opinion, would have been useful in monitoring compliance with the requirement and in evaluating changes and trends in the number of top secret documents maintained by agencies.

We reviewed the ICRC check list for items to be covered during staff visits to agencies. Verification that agencies had taken physical inventories of their top secret material was not included on the list or in any of the reports on staff visits that we reviewed, with one exception. At the

Department of Energy, a March 1977 staff visit report noted that physical inventories were taken two times a year and that the last one conducted in October 1976 showed no discrepancies.

The Department of Defense Information Security Program Regulation requires that the inventory be made "at least once annually and more frequently when circumstances warrant." Information security officials in the Office of the Assistant Secretary of Defense (Comptroller) told us that they did not monitor all activities of components because of limited staff and the decentralized organization of the agency. Consequently, they could not say whether the physical inventories were being taken. Similarly, the headquarters offices of some Defense components had no knowledge of when, or if, the inventories were taken by lower command levels. This requirement for physical inventories of top secret material did not originate with Executive Order 11652; a Defense official told us that it was required by Defense before the 1972 executive order.

Because the Office of the Joint Chiefs of Staff is not decentralized like other Defense components, we requested the inventory statistics of that office both before and after the 1972 executive order. We were told that the Office had been exempted from the inventory requirement by the Secretary of Defense in 1969 based on (1) the secure physical environment (restricted area) within the Office, (2) the requirement that all personnel be cleared for top secret access, (3) the semiannual sighting reports required for particularly sensitive war planning documents, (4) the automatic sighting and accounting done at the time of records retirement or destruction, (5) the thorough procedures used in out-processing departing personnel, and (6) the large number of top secret documents. We were also told that even though the Office was exempted, some inventories had been taken. We were given statistics for three top secret inventories which were taken in January 1966, February 1973, and November 1974 "in which sampling techniques were used." The November 1974 inventory showed over 215,000 such documents.

We believe that the Office should not have been exempted from the inventory requirement because Executive Order 11652 was issued 3 years after the exemption was granted; the implementing directive for the executive order was issued at the direction of the President; and the only exception was for repositories storing large volumes of classified material. (See p. 3.)

Implementing instructions, dated October 2, 1978, for Executive Order 12065 also require agencies to take a physical inventory of top secret material at least annually. However, agency heads may authorize that the annual inventory of information in repositories, libraries, or activities, which store large volumes of such information, be limited to documents to which access has been afforded within the past 12 months. For storage systems involving large volumes of information, the Director of the newly established Information Security Oversight Office may waive the requirement for the annual inventory if security measures for the storage systems are adequate to prevent access by unauthorized persons. The instruction, however, does not specify what amount constitutes a large volume. The inventory requirement is discussed in chapter 4.

CHAPTER 4

WILL EXECUTIVE ORDER 12065 CORRECT DEFICIENCIES

NOTED IN THE IMPLEMENTATION OF EXECUTIVE ORDER 11652?

While Executive Order 12065, issued June 28, 1978, and effective December 1, 1978, contains some provisions which should improve the national security information program, in our opinion, neither the order nor the implementing instructions will correct the deficiencies previously identified in this report. To successfully overcome the problems, (1) program implementation and monitoring will have to be strengthened and responsibility assigned accordingly and (2) agencies will have to be required to submit statistical reports that provide meaningful management information and visibility on the classification program. A strong central enforcement authority, internal controls, and an appropriate oversight mechanism are needed to provide a sufficient basis to evaluate the program and assure that it is being implemented as intended.

RESPONSIBILITY FOR PROGRAM IMPLEMENTATION AND MONITORING

Executive Order 12065 makes the Administrator of General Services responsible for implementing and monitoring the program and directs him to delegate that responsibility to an Information Security Oversight Office. The Director of that Office is to be appointed by the Administrator, subject to approval by the President. The Administrator is also authorized to appoint a staff for the Office.

The order states that the Director shall (1) oversee agency actions to ensure compliance with the order and implementing directives, (2) develop, in consultation with the agencies, subject to the approval of the National Security Council, implementing directives, (3) review all agency implementing regulations and guidelines for systematic declassification review, (4) have authority to make onsite reviews and to require reports, information, and cooperation from each agency, and (5) report annually to the President, through the Administrator and National Security Council, on implementation of the order.

We believe the new order does not provide solutions to the oversight and monitoring problems discussed in this

report and we question whether improvements in monitoring agency compliance will result without a much stronger oversight role by the Oversight Office.

We are concerned that placement of the Oversight Office outside the Executive Office of the President and into an agency below cabinet level could weaken the ability of that office to carry out its assigned functions. Experience under Executive Order 11652 has shown that even when the oversight group is placed in the Executive Office, a strong independent group, with equally strong backing from the National Security Council, is needed to function properly. The fact that ICRC, pursuant to the order, included representatives of the Departments of Defense, Energy, Justice, and State and the Central Intelligence Agency--the major agencies classifying data--may have had some bearing on the lack of compliance by some agencies and the lack of enforcement by ICRC.

The new order establishes an Interagency Information Security Committee which is chaired by the Director of the Information Security Oversight Office with representation similar to that of the ICRC. The function of the new committee will be to advise the Director on implementing the order. This new arrangement does not appear to be an improvement over the prior one.

Although the order requires the Director of the Oversight Office to report annually to the President, through the Administrator and National Security Council, on implementing the order, we believe that a system should be established for promptly informing the Administrator and the Council whenever the Oversight Office determines that an agency has not been complying with significant provisions of the order or its implementing instructions. Whenever the Oversight Office is unable to obtain agency compliance, we believe that it should issue a special report to the Administrator and the Council. This would provide a means of promptly highlighting serious instances of noncompliance and bring to bear the high-level support necessary to resolve such problems.

We were told that the proposed staffing plan for the new Oversight Office includes an increase of seven staff members (the existing ICRC staff has only eight staff members). However, none of the additional positions were for program analysts who would augment the existing staff which visits and reviews the five agencies that classify

the most information. In our view, without sufficient staff, it is doubtful that there will be any improvement in the coverage or the benefits that could be derived from such reviews.

Recommendations

We recommend that the Administrator of General Services, in consultation with the National Security Council:

- Require the Information Security Oversight Office to report to the Administrator and National Security Council when an agency fails to comply with significant provisions of Executive Order 12065 or its implementing instructions and corrective actions have not been taken.
- Provide the Oversight Office with sufficient staff to develop and carry out a strong program for indepth, onsite reviews at major installations that classify national security information.

ICRC comments and our evaluation

On November 21, 1978, the ICRC Acting Chairman commented on some of our findings and recommendations. (See app. I.) The comments did not address our first recommendation concerning the issuance of a special report to the President and National Security Council whenever an agency fails to comply with significant provisions of the executive order and implementing instructions.

With respect to our second recommendation, ICRC anticipated that the Oversight Office's program of making onsite reviews at the operating level would grow as its staff increases.

AGENCY ACTIVITY REPORTS

The new executive order states that the Director of the Information Security Oversight Office will have authority to require reports and information from the agencies. However, implementing instructions issued on October 2, 1978, make no mention of reports that agencies should submit. ICRC told us that specific reporting requirements would not be established until after a Director of the Oversight Office is appointed and he decides on the type of reporting to be required.

In order for the Oversight Office to effectively monitor the program, agency reports must contain accurate and complete data of the type previously required under Executive Order 11652 and its implementing instructions. We believe that agencies should also be required to report the results of their annual physical inventories of top secret material.

Executive Order 12065 provides that at the time of the original classification of information, each original classification authority shall set a date or event for automatic declassification no more than 6 years from the date it is classified. However, agency heads and officials with top secret classification authority may classify information for more than 6 years, provided they set a date or event for declassification or date for review not more than 20 years from the date it is classified (or 30 years for foreign government information). According to the order, "This [exemption] authority shall be used sparingly."

Because Executive Order 11652 contained a similar requirement that the exemption authority be used sparingly, which it appears was not followed by Defense, we believe it is essential that agencies be required to report the frequency with which the exemption authority is used, as well as statistics on the information classified. This information will enable the Oversight Office to determine if agencies are making progress in classifying less information and in declassifying it sooner.

Although the annual reports of the Interagency Classification Review Committee have, for the most part, been informative, we believe that the reporting of (1) classification actions, (2) the assignment of categories for declassification, and (3) the number of authorized classifiers could be misleading because the reports have not fully disclosed the magnitude or significance of the unreported classification actions, the fact that most of the actions were exempted from the general declassification schedule, or that the reported number of individuals authorized to classify information was dependent on an agency's interpretation of the executive order.

Recommendations

We recommend that the Administrator of General Services, in consultation with the National Security Council, direct the Information Security Oversight Office to:

- Require agencies, except those specifically exempted by the National Security Council, to submit statistical reports on their classification actions, actions exempted from declassification within the prescribed 6-year period, classification abuses and unauthorized disclosures of classified information, authorized classifiers, and annual physical inventories of top secret material.
- Fully disclose the amount and significance of statistical information not included in its annual reports and the reasons for the omission.

ICRC comments and our evaluation

ICRC told us that our evaluation of its statistical reporting procedures failed to consider the fact that ICRC had no precedents to follow when the reporting requirements were devised in 1973, and that it realized that the cost of collecting statistics had to be kept within reasonable limits. Consequently, some agencies were authorized to use sampling methods.

Notwithstanding the lack of precedents, the reporting requirements established in 1973 could provide the types of information needed for effective oversight. We were not concerned with the requirements as such, we were concerned with compliance. On page 10 we mentioned that sampling techniques were permitted when approved by ICRC.

ICRC also told us that for economy reasons, some agencies were authorized to exclude from their classification totals any actions that would shortly lose their sensitivity and any information that would eventually become part of other finished documents. According to ICRC, the requirement to report classification actions exempted from the general declassification schedule was waived for the Central Intelligence Agency because the majority of the information classified was already excluded by Federal statute and it would have been a waste of time and money to have the Agency make a count at the time of original classification.

In our review of the minutes of ICRC meetings, agency correspondence, and ICRC inspection reports, we did not find any indication that some agencies had been officially authorized to exclude those classification actions with

short term sensitivity and those which would eventually become part of other, finished documents. Furthermore, neither Executive Order 11652, the National Security Council implementing directive, nor the ICRC reporting instruction provided for special treatment of those types of classification actions.

Since the reporting of classification activity is one way of measuring agencies' progress in classifying less information and declassifying it sooner, we believe that requirements for agencies' activity reports should be applied consistently. As noted on page 13, most of the classified information of the Department of Energy, pursuant to the Atomic Energy Act of 1954, is exempt from the general declassification schedule. We recognize that Energy's classification activity is substantially less than that of the Central Intelligence Agency and thus presents less of a problem for reporting purposes. However, the authorized use of appropriate sampling techniques to arrive at reasonably reliable statistics for all classification activity would seem to be a viable solution for the Central Intelligence Agency.

ICRC further told us that it has always been aware of the incompleteness of the statistics in its annual progress reports and had said as much in each report. ICRC was confident that the new Oversight Office would carry on the work of trying to obtain the most accurate statistics possible.

CLASSIFICATION GUIDES TO BE USED AS CLASSIFICATION AUTHORITY

Under Executive Order 12065 classification guides can be used as original classification authority, thereby making it possible for thousands of agency personnel to classify documents. We believe that such use of classification guides seriously weakens control over the classification of national security information.

Executive Order 12065, like its predecessor 11652, specifies the agencies and top agency officials authorized to originally classify information and the circumstances when that authority may be delegated in writing to subordinate officials. The new order provides that delegations of original classification authority shall be held to an absolute minimum and prohibits the redelegation of such authority.

Unlike 11652, 12065 contains a special section on the use of derivative classification. Section 2 of the order provides that original classification authority shall not be delegated to those individuals who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide. However, the guide must be approved personally in writing by an agency head or an official with top secret classification authority.

There is a seeming paradox in the order. Original classification authority cannot be redelegated, yet the use of classification guides, in effect, delegates authority to all individuals with proper security clearances to apply classification markings to information not previously classified by an authorized classifier. As noted on page 16, Defense has been using classification guides, as well as formal directives and instructions and letters, as original classification authority.

We discussed this section of the order with officials of the Department of Energy and the Central Intelligence Agency, who told us that even though the order does not require it, they plan to designate the individuals authorized to use the guides to apply classification markings on a derivative basis. We believe that their desire to maintain accountability is commendable.

We also believe that classification guides can be useful in providing uniform criteria that assures some degree of consistency in classifying information that is similar in nature; however, they do not eliminate the need for judgment on the part of the individuals using them as the basis to apply classification markings to specific information not previously marked.

Defense had about 2,400 classification guides. Use of these guides in the manner authorized by the new order, as well as the use of other types of guidance not specified in the order, not only increases the number of individuals who may classify information, it eliminates the personal accountability that should be a part of the classification process. The implementing instructions of the new Oversight Office provide that only the identity of the classification guide and the office originating the derivatively classified document need be shown on the face of the document.

We plan to evaluate the use of guides during our continuing review of classification practices. We will determine if there is a need for the Oversight Office to require all agencies to maintain some degree of control over the individuals authorized to use the guides, similar to that planned by Energy and the Central Intelligence Agency.

Recommendation

We recommend that the Administrator of General Services, in consultation with the National Security Council, direct the Information Security Oversight Office to revise its instructions to require that personnel who apply derivative classification markings be identified on the documents.

ICRC comments and our evaluation

The ICRC's comments did not address our findings and conclusions concerning the use of classification guides. They did, however, point out that our report does not discuss ICRC's efforts and accomplishments in the declassification program. We agree with ICRC that these efforts have been noteworthy. (See app. I.)

On the other hand, the declassification program, for the most part, involves information classified before issuance of Executive Order 11652 in 1972--much of it goes back as far as World War II and the Korean War. We were concerned with the information classified since 1972 and whether most of it was assigned to the general declassification schedule (declassification within 6 to 10 years) as intended by the executive order. As noted in this report, most of the data classified since 1972 has been exempted from the general declassification schedule.

Defense comments and our evaluation

As noted in Defense's letter of November 24, 1978 (see app. II), Defense believed that our report did not present an accurate perspective of the administration of Executive Order 11652 and that a number of our observations and conclusions were not fully sensitive to both the real objectives of the order and the substantial efforts by Defense to realize those objectives.

We do not agree with Defense's appraisal of our evaluation of its compliance with Executive Order 11652.

We are especially concerned with what Defense considered the real objectives to be. We believe that the order, the implementing instructions issued by the National Security Council and ICRC, and ICRC's annual reports clearly stated the program's objectives and these are so stated in the report. Furthermore, our evaluation of agency compliance was based upon the requirements established by the Council and ICRC.

As a result of two meetings with Defense officials, some of their comments, where warranted, were incorporated in the report.

INTERAGENCY CLASSIFICATION REVIEW COMMITTEE

WASHINGTON, D.C. 20408

NOV 21 1978

Mr. R. W. Gutmann
Director, Logistics and Communications Division
U.S. General Accounting Office
Washington, DC 20548

Dear Mr. Gutmann:

On behalf of the Interagency Classification Review Committee and the ICRC staff, I offer the following comments on the pertinent sections of the draft report, "Improved Oversight Needed to Evaluate the Classification of National Security Information," prepared last month by the staff of the U.S. General Accounting Office.

Symposiums and Seminars on the Management of National Security Information
We are pleased that the GAO report mentions with approval our sponsorship of symposiums and seminars in the management of national security information (pp. 13 and 14). Because agency programs in security education vary greatly from one another in the number of persons receiving training and in the manner of instruction, we have tried to provide some central direction by holding sessions for all agency personnel concerned with national security information. The symposium which we gave in August 1978 on Executive Order 12065 attracted over 500 persons involved with the classification and declassification of Federal records. Bimonthly seminars conducted by ICRC staff members and attended by mid-level agency officials have dealt with the establishment of criteria for original classification decisions, the application of derivative classification markings, and the preparation of guidelines for systematic classification review.

The GAO report recommends that the successor to the ICRC staff, the Information Security Oversight Office (ISOO), continue to sponsor symposiums and seminars, because such meetings provide opportunities for agency representatives to discuss mutual problems and to exchange ideas useful to the entire national security information program. We agree entirely with the recommendation. In fact, the ICRC staff has already held an orientation session for the employees of agencies whose classified materials will be affected by the new Executive Order. In addition to organizing a series of quarterly training sessions for Executive Branch personnel in the Washington, DC area, the staff is making plans for another symposium in 1979.

On-Site Reviews of Agency Information Security Programs

We are gratified that the GAO report recognizes the importance of the visits paid by ICRC staff members to agencies for the purpose of reviewing

agency security programs (pp. 11-13). As the report states, the number of such visits has increased from 19 in 1975 to 96 in 1977. Procedures developed by the ICRC staff provide for the staff member assigned to a particular agency to get a general idea of the agency's security program on the first visit and, in subsequent visits, to determine how the agency makes original classification decisions, responds to mandatory review requests, manages systematic declassification review, and carries out security training.

The GAO report recommends that the ISOO staff be of sufficient size so that it may conduct an effective inspection program (p. 42). The report also proposes that ISOO staff members hold fewer discussions with the top security officials of agencies than ICRC staff members presently do, and instead make more inspections at the operating level (p. 13). Although the scope of ICRC staff visits to agencies has been limited by the small size of the staff, ICRC staff members have nevertheless been able to talk with persons directly involved in classification and declassification work and to inspect some of the holdings of the major classifying agencies. We anticipate that as the ISOO staff grows, so too will its program of conducting on-site reviews of agency information security programs at the operating level.

Statistical Reporting Procedures

Most of the GAO report deals with alleged deficiencies in the semiannual and annual reporting of such statistics as the number of classification actions taken by each agency, the number of classification actions exempted from the General Declassification Schedule at the time of original classification, the number of classification abuses, and the number of authorized classifiers. According to the GAO report, some agencies have not fully complied with the requirements in their semiannual reports to the ICRC. In consequence, figures compiled by the ICRC from agency statistics and published in the ICRC's annual progress report have been misleading (pp. 8-11). The GAO report proposes that ISOO require each agency to observe all reporting regulations unless the agency is specifically exempted by the National Security Council (p. 44). The GAO report further recommends that ISOO make clear in its annual progress report what statistical information has been excluded, why the information has been left out, and what effect the omission has upon the reported figures (p. 44).

This evaluation of ICRC's statistical reporting procedures is of concern to us, because it fails to take into consideration the fact that we had no precedents to follow when we devised the reporting requirements in 1973. When we asked the agencies to submit these particular statistics, we thought that they would provide the best measure of whether the national security information program established under Executive Order 11652 was accomplishing its purpose or not. At the same time, we realized that the cost of collecting the statistics had to be kept within reasonable limits. Thus, we allowed some agencies to obtain their figures on classification

actions by using sampling methods after they had persuaded us that the cost of making an actual count of classification actions would be prohibitive. Also for reasons of economy, we authorized agencies to exclude from their classification totals any actions that would shortly lose their sensitivity and any information that would eventually become part of other, finished, documents. Because so much of the information classified by the Central Intelligence Agency was already excluded from the General Declassification Schedule by Federal statute, we waived for that agency the requirement to report the exact number of classification actions exempted from the GDS at the time of original classification. To have asked the CIA to make such a count would, in our judgment, have been a waste of time and money.

We have always been aware of the incompleteness of the statistics given in the ICRC annual progress reports, and we have said as much in each report. Our most recent report, that for 1977, contains an assessment of the reporting problems which we have encountered while functioning under Executive Order 11652. We are confident that when ISOO comes into existence on December 1, 1978, it will carry on the work of the ICRC in trying to obtain the most accurate statistics possible on the national security information program.

Declassification Program

Finally, we want to point out that although we have devoted as much time and effort to the Government's declassification program as to its classification program, that aspect of our work is nowhere discussed in the GAO report. A substantial amount of classified material over 30 years old has been systematically reviewed for declassification under the general oversight of the ICRC. Since 1972, for example, the staff of the National Archives and Records Service has reviewed, declassified, and made available to the public over 1/4 billion pages of classified documents. Of 40 million pages of classified records reviewed last year by NARS personnel, 95% was declassified.

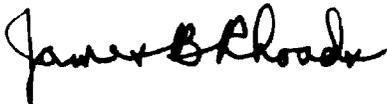
In addition to overseeing the systematic declassification review program, the ICRC has exercised general supervision over the mandatory review system, by which a member of the public or an agency may have national security information over 10 years old reviewed for declassification. The ICRC staff has compiled and circulated statistics on the number and percentage of documents declassified or exempted from declassification as the result of mandatory review. As the highest appellate authority in mandatory review actions, the ICRC has made determinations on a number of appeals from denials of declassification by agency appellate committees.

The new Executive Order lowers the age at which classified Federal records must be subjected to systematic review from 30 to 20 years, and it allows the mandatory review of nearly every Federal record regardless of its age.

Under these new conditions, we expect that ISOO's work in supervising the declassification program will be even more extensive than that of the ICRC.

Thank you for giving us this opportunity to express our views on the GAO report. If you would like more information from us on the matter, Robert W. Wells, Executive Director of the ICRC, is available to discuss the report in further detail with Mr. Boker of your office.

Sincerely,



JAMES B. RHOADS
Acting Chairman

GAO note: Page references in this appendix refer to the draft report and do not necessarily agree with the page numbers in the final report.



COMPTROLLER
(Administration)

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

24 NOV 1978

Mr. R. W. Gutmann
Director, Logistics and Communications
Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Gutmann:

This is in reply to your October 31, 1978 letter to Secretary Brown concerning your draft report to the Congress on "Improved Oversight Needed to Evaluate the Classification of National Security Information" (Code 541158).

After reviewing it with some care, we are of the view that the report does not present in accurate perspective a realistic picture of the administration of Executive Order 11652 since 1972. Moreover, the report interprets some data in the light of unstated premises with the result that a number of observations and conclusions are not fully sensitive to both the real objectives of the Order and the substantial efforts by this Department to realize those objectives.

The Department's views concerning the draft report have been presented informally to Mr. Robert M. Gilroy, Mr. Irving T. Boker and other members of the GAO staff who met with Mr. Arthur F. Van Cook, the Department's Director for Information Security on November 9 and again on November 21 for that purpose. We believe we identified to your staff the need for revision of the draft report with respect to certain particulars and, in keeping with the preference stated in your letter of October 31, we are not submitting formal comments on the draft report.

Sincerely,

D. O. Cooke
Deputy Assistant Secretary of Defense

(941158)

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