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SECRECY & GOVERNMENT BULLETIN

To Challenge Excessive Government Secrecy and
To Promote Public Oversight and Free Exchange
In Science, Technology, Defense, and Intelligence

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Classification Reform Hearings Held

The Information Security Oversight Office held hearings on June 9 and 10 to receive public proposals for changes to the national security classification system. The significance of the hearings is difficult to assess, since the public witnesses did most of the talking.

The witnesses represented an intriguing mix of constituencies, including the stalwart voices of the American Civil Liberties Union, the National Security Archive, the National Coordinating Committee for the Promotion of History, and FAS, as well as the National Classification Management Society, Greenpeace, an organization of POW/MIA families, the Society of Professional Journalists, and Operation Right to Know (motto: "End UFO Secrecy Now!").

Some of the most compelling testimony came from Robert D. Steele, a former Marine Corps intelligence officer and currently president of Open Source Solutions, Inc., in Falls Church, VA. Steele is a uniquely valuable voice for intelligence reform. At a time when most proposals for intelligence reorganization boil down to "the same, only more so (or less so)," Steele has articulated an original alternative vision for post-Cold War intelligence, one that is based predominantly on open source collection and broad dissemination.

The "cement overcoat" of overclassification, Steele argued at the hearing, has severely curtailed the value and utility of our intelligence programs. "Excessive classification has created an ossified intelligence community which is now in gridlock, unable to cope with fleeting and rapidly changing threats and opportunities," he said. Some other tidbits from Steele's statement:

- "In my experience, at least 50% of what the intelligence community does is unclassified-- unclassified sources, unclassified methods, unclassified products. Unfortunately, because of the total discretion allowed to the community, all that is unclassified is buried, literally, inside of tightly controlled documents bearing the classification of the most sensitive piece of information."
- "I believe that specific limits should be set on the duration of classification. This is the 'age of information' and the laws of cybernetics rather than the laws of physics are now paramount. The 'half-life' of information, even classified information, gets shorter every year."
- "I have never, in eighteen years of experience, encountered a representative of the Information Security Oversight Office, or heard of a spot check of any documents associated with any office I have ever been associated with.... In my experience, the Information Security Oversight Office has been a 'zero,' irrelevant and ineffective."
- "Any Executive Order promulgated in the future should begin with the premise that information, including intelligence, is most useful when widely disseminated, and

that information must be considered unclassified until a solid case for its classification can be established. That is not the practice today."

A copy of Steele's testimony may be obtained from our office.

ISOO to be Terminated?

In a bolt from the blue, the House Appropriations Committee moved to eliminate all funding next year for the Information Security Oversight Office (ISOO), the entity that is responsible for oversight of the classification system, and which is in charge of the new Presidential-mandated classification reform process. At this writing, the full House was poised to approve the measure, which is written into the Treasury appropriations bill.

The ISOO termination action was not prompted by any concern about the decadence of the classification system. Rather, it stems from a parochial dispute over who will set security standards for government locks, containers, and vaults used to store classified information.

Some members of Congress-- motivated solely by their concern for national security, needless to say-- had insisted that the government should require the use of certain sophisticated, expensive locks. The report on last year's appropriations bill noted that "the conferees are concerned about any attempt to weaken security standards for containers, vaults, or locks." The General Services Administration (GSA), ISOO's bureaucratic parent, was specifically directed not to "undermine existing ... standards for physical security."

But last February 24, ISOO issued a seemingly sensible draft proposal on security storage requirements that the Appropriations Committee viewed as contrary to their earlier instruction.

Consequently, the Committee determined, ISOO should be annihilated. "The Committee has grave concerns about the apparent lack of management oversight on the part of GSA with regard to ISOO" and therefore "has included language which prohibits the expenditure of funds" for ISOO.

The Committee staff acknowledges that this is "radical surgery," intended to "get ISOO's attention." But if it doesn't exist, ISOO's attention won't be worth much.

No thought has been given in the House to the implications for the classification system, whether favorable or otherwise, of ISOO termination. There seems to be an expectation that the Senate will override the action.

The referenced documents are available from our office.

N.R.Oh!

"What should be done with the National Reconnaissance Office (NRO), its programs and, hence,

its industrial base?" This question was recently addressed with extraordinary candor by Robert J. Kohler, the Vice President and General Manager of TRW Avionics and Surveillance Group, a principal NRO contractor.

The NRO is the intelligence agency responsible for procurement and operation of spy satellites and other overhead reconnaissance activity. Its very existence was an official secret until last September. Today, the NRO "is in fair disarray," Kohler writes in the May issue of *Colloquy*, a publication of the Security Affairs Support Association.

Kohler argues for a continuing central role for satellite reconnaissance, for clarification of intelligence policy goals, and for programmatic stability. But, writing from the contractor's viewpoint, he finds that "NRO decisions are made with little thought to the people, capabilities, and technologies that support this element of the intelligence community."

"Today, the 'word' of the NRO is no longer honored in industry.... The trust that existed for so long between the NRO and the contractor community that supported it is broken."

In tribute to the secret past of the NRO, Kohler claims NRO credit for the development of deployable space structures, the first use of gallium arsenide chips, and the survival of the U.S. technology base in large optics.

But in the post-Cold War era, "A new vision for the NRO has not emerged."

It might be added that the birthing of any such new vision has been hindered by the secrecy that still envelopes the NRO. There has been no official forum for informed public debate about the programmatic future of satellite reconnaissance. If there were a coherent case to be made for stable (not to mention increased) funding for reconnaissance activities, few members of the public would be permitted to endorse, to criticize, or even to know about it.

A copy of the Kohler article is available from our office.

Special Access vs. Due Process

According to Defense Department regulations, an employee must be afforded "due process" when his or her security clearance is revoked or denied. In other words, the employee must be notified of the action and the reasons for it, be given an opportunity to respond, and be advised of appeal procedures.

But like many other standards of law, democratic principle, and common sense, this regulation is routinely violated when it comes to highly classified special access programs (SAPs). This disregard of due process is explored in a recent General Accounting Office report (GAO/NSIAD-93-162).

The GAO cites a proposed revision of procedures for special access clearances that would be modeled after CIA policies for intelligence clearances. Under those more generous CIA guidelines, an employee is fully entitled to request the reasons for denial or revocation of a clearance. There is, however, no requirement for the Agency to provide the reasons.

The GAO passingly reports a number of interesting SAP facts: At the end of fiscal year 1992, the total number of special access program clearances was believed to be between 200,000 and 250,000, probably corresponding to hundreds of individual programs. The Defense Department says that 10 to 20 percent of the total number of SAPs are unacknowledged programs. Compartmented intelligence programs are not included.

Single copies of GAO reports may be requested by calling (202)512-6000.

GAO on Classification Reform

Another new General Accounting Office report (GAO/NSIAD-93-127) addresses "whether government

agencies are properly classifying and declassifying national security information," and determines that the answer is no.

The GAO offers some familiar recommendations for reform of *future* classification activity:

- classifiers should use automatic declassification as a standard procedure rather than as the exception to the rule;
- the use of open-ended declassification designators such as "Originating Agency's Determination Required" should be eliminated;
- agencies should be required to automatically declassify information without review no later than some maximum period of time after origination.

The GAO is such an indispensable organization and usually does such fine work that one might have expected more than a virtual restatement of Nixonesque classification principles from its year-long investigation of the classification system. Instead, the report is larded with trivial truths-- "The major reason that the U.S. government maintains a large volume of classified information is that declassification is unnecessarily delayed"-- and pages of discussion of third-order deviations like improper application of portion marking guidelines. This time around, the GAO couldn't see the forest burning for the trees.

Except for a passing quotation from President Clinton's new review directive, the GAO scarcely mentions the end of the Cold War, as if the radical changes in the national security environment had no bearing on what should be classified. There is no discussion of financial costs or of the profound political damage inflicted by excessive secrecy.

For more penetrating journalistic assessments recently, see "Canceling the Classifieds" by Tom Blanton, *Washington Post*, 6 June 1993, p. C2; and "Keeping Research Under Wraps," by Stephen Budiansky in *U.S. News & World Report*, 22 March 1993, pp. 48-50.

Accounting for Secrecy Costs

In an important innovation, several of the new House appropriations bills include report language requiring agencies to account for the costs of implementing secrecy procedures, and to plan for reducing secrecy-related expenses.

For example, the House Appropriations committee report on the Energy Appropriations bill for FY 1994 (H.Rep. 103-135) states:

"The Committee understands that the President has established a task force to conduct a review of Government classification rules and procedures. Any new classification policies and practices could result in savings in future budget requests, and the Department of Energy is directed to submit a report to the Committee by March 31, 1994, that provides an accounting of the total amount of funds spent on all classification-related activities for fiscal year 1993 and an estimate of expenditures for fiscal year 1994, and a plan to reduce expenditures for classifying information and keeping information classified, which shall include a specific expenditure-reduction goal for fiscal year 1995."

This is a simple but significant action, since the very lack of a credible cost accounting mechanism has helped to foster the current climate of arbitrary, unchecked secrecy. As the adherents of the Total Quality Management cult like to say, "If you can't measure it, you can't manage it."

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