No Rave Reviews for Carter Secrecy Plan

To the embarrassment of the White House, a controversy has erupted over the draft of an executive order to revise the government's system of classifying documents for reasons of national security. In a move that few other Presidents have made with executive orders, Carter directed several weeks ago that the draft be circulated for comment by people outside the Executive Branch. Although the Administration expected favorable reactions, reviews of the draft have been astonishingly negative.

Richardson Preyer (D-N.C.), chairman of the Subcommittee on Government Information and Individual Rights, bluntly called the draft order "weighted towards secrecy," adding that one part "would have a distinctly 'chilling effect' on potential 'whistle blowers.' " A critique of the order by a pool of national organizations that included Common Cause, the American Civil Liberties Union, and Morton Halperin's Project on National Security and Civil Liberties said that "in its overall effect, the draft is not appreciably different from its seriously flawed predecessor"—an order issued by President Nixon in 1972. "More distressingly," the statement continued, "a careful analysis indicates that the draft is even worse." In a letter to Carter, Senators Edmund Muskie (D-Maine) and Joseph Biden (D-Del.) even hinted that they may resort to legislative action if the current draft is ultimately imposed. Chiefly, their objections are directed at provisions that would enable federal agencies to exempt large blocks of information from the declassification process and to require federal employees to sign a uniform vow of secrecy.

Such criticism came as a surprise to the two men who share much of the responsibility for preparing the draft, Robert Wells, executive director of the Interagency Classification Review Committee, and Gary Barron, a member of the National Security Council staff. Several months ago they set up a network of committees and subcommittees—each with representatives from the major federal agencies that handle sensitive information—with the objective of reaching a consensus on critical issues that also would be acceptable to the public.

The committees were supposed to hash over two problems: first, how to get more information in the public domain without prompting any imprudent disclosures and, second, how to streamline the actual classifying and declassifying processes. The desirability of making more information available to the public was fairly plain, according to Wells. Although Nixon's order resulted in a dramatic reduction in the quantity of classified documents and in the number of persons authorized to classify information, the average number of documents classified each year remains at more than 4 million. Last year, 13,977 persons—spread over 28 executive agencies—had the authority to classify a document as "Top Secret," "Secret," or "Confidential." Not surprisingly, the Department of Defense was the most prolific classifier, followed by the Central Intelligence Agency (CIA), the State Department, and the Energy Research and Development Administration,* which has the responsibility for nuclear weapons and materials. Together these agencies accounted for all but 40,000—1 percent—of the documents classified last year.

With regard to the first goal—making more information public—the drafters incorporated some modest improvements. The current graduated declassification schedule, which is supposed to discharge "Top Secret" documents after 10 years, was scrapped in favor of a 6-year discharge date. The time lag for an automatic review of documents that are exempted from the schedule was shortened from 30 to 20 years, and a provision was added to require the marking of unclassified portions of restricted documents.

The new draft also specified, for the first time, categories of information that may *not* be classified. Included was "information resulting from independent or nongovernmental research and development unless it incorporates or reveals classified information" to which the researcher or developer had prior access, or unless the government owns the information exclusively. Furthermore, basic scientific research could not be classified unless it was "directly related to the national security" or to the production of nuclear weapons and materials. Arthur Van Cook, director of information security for the Department of Defense (DOD), said that basic research on missile aerodynamics may be an example of work "directly related to national security" under this provision. The provisions on basic research and unofficial information are both included in current DOD rules, he added.

These changes were favorably received. It was in the drafters' attempts to meet the second goal—streamlining the classification process—that they sparked a controversy. To ease the workload of classification reviewers, they wrote a provision that would enable the heads of agencies to exempt entire categories of information from the 6-year declassification limit. In the current system, documents are exempted from the limit after a one-by-one review. According to Wells, the proposal came from a drafting subcommittee whose chairman was William Allard, a general counsel for the CIA, which has been chafing under the current system because many of its classified documents refer repeatedly to the same intelligence sources and methods.

According to a House report, however, the CIA is not the only agency that consistently exempts documents from the declassification limit: nearly 60 percent of the documents classified last year were so exempted. Representative Preyer said the new draft would make it "possible, if not probable" that this percentage would increase.

Another provision that has been widely criticized would explicitly enable the heads of agencies to require the signing of a secrecy agreement "as a precondition of access to classified information." Several agencies require the agreements now—the CIA used one to censor portions of a book by a former agent, Victor Marchetti—but the draft language has been interpreted as a suggestion that a uniform secrecy agreement be adopted by other agencies. This, Preyer said, "seems particularly inappropriate in an Executive order whose objective is greater openness."

Even if the draft is revised so as to diminish these objections, the new system of classification is unlikely to be a boon to those interested in the hidden explanations of current events and government policy. Even the lowest classification limit, 6 years, places most of the information outside the reach of any but historical researchers.

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