

determines that information is classified in violation of E.O. 12356, the Director may require the activity that originally classified the information to declassify it. Any such decision by the Director may be appealed through the Director of Security Plans and Programs, ODUSD(P), to the National Security Council (NSC). The information shall remain classified pending a prompt decision on the appeal.

§ 159a.25 Systematic review.

(a) *Assistance to the Archivist of the United States.* The Secretary of Defense and the Secretaries of the Military Departments shall designate experienced personnel to assist the Archivist of the United States in the systematic review of classified information. Such personnel shall:

(1) Provide guidance and assistance to National Archives and Records Administration (NARA) employees in identifying and separating documents and specific categories of information within documents that are deemed to require continued classification; and

(2) Refer doubtful cases to the DoD Component having classification jurisdiction over the information or material for resolution.

(b) *Systematic Review Guidelines.* The Director of Security Plans and Programs, ODUSD(P), in coordination with DoD Components, shall review, evaluate, and recommend revisions of DoD Directive 5200.30⁹ at least every 5 years.

(c) *Systematic Review Procedures.* (1) Except as noted in this subsection, classified information transferred to the NARA that is permanently valuable will be reviewed systematically for declassification by the Archivist of the United States with the assistance of the DoD personnel designated for that purpose under paragraph (a) of this section as it becomes 30 years old. Information concerning intelligence (including special activities), sources, or methods created after 1945, and information concerning cryptology created after 1945, accessioned into the NARA will be reviewed systematically as it becomes 50 years old. Such information shall be downgraded or declassified

by the Archivist of the United States under E.O. 12356, the directives of the ISOO, and DoD Directive 5200.30.

(2) All DoD classified information that is permanently valuable and in the possession or control of DoD Components, including that held in Federal Records Centers or other storage areas, may be reviewed systematically for declassification by the DoD Component exercising control of such information. Systematic declassification review conducted by DoD Components and personnel designated under paragraph (a) of this section shall proceed as follows:

(i) Information over which the Department of Defense exercises exclusive or final original classification authority and that under DoD Directive 5200.30, the responsible reviewer determines is to be declassified, shall be marked accordingly.

(ii) Information over which the Department of Defense exercises exclusive or final original classification authority that, after review, is determined to warrant continued protection shall remain classified as long as required by national security considerations.

(3) Classified information over which the Department of Defense does not exercise exclusive or final original classification authority encountered during DoD systematic review may not be declassified unless specifically authorized by the agency having classification jurisdiction over it.

(d) *Systematic Review of Classified Cryptologic Information.* Notwithstanding any other provision of this part, systematic review and declassification of classified cryptologic information shall be conducted in accordance with special procedures developed in consultation with affected agencies by the Director, National Security Agency/Chief, Central Security Service, and approved by the Secretary of Defense under E.O. 12356 and DoD Directive 5200.30.

(e) *Systematic Review of Intelligence Information.* Systematic review for declassification of classified information pertaining to intelligence activities (including special activities), or intelligence sources or methods shall be in accordance with special procedures to

⁹See footnote 1 to § 159a.3.

be established by the Director of Central Intelligence after consultation with affected agencies.

§ 159a.26 Mandatory declassification review.

(a) *Information Covered.* Upon request by a U.S. citizen or permanent resident alien, a Federal agency, or a State or local government to declassify and release such information, any classified information (except as provided in paragraph (b) of this section) shall be subject to review by the originating or responsible DoD Component for declassification in accordance with this section.

(b) *Presidential Information.* Information originated by a President, the White House staff, committees, commissions, or boards appointed by the President, or others specifically providing advice and counsel to a President or acting on behalf of a President is exempt from the provisions of this section.

(c) *Cryptologic Information.* Requests for the declassification review of cryptologic information shall be processed in accordance with the provisions of DoD Directive 5200.30.

(d) *Submission of Requests for Mandatory Declassification Review.* Requests for mandatory review of DoD classified information shall be submitted as follows:

(1) Requests shall be in writing and reasonably describe the information sought with sufficient particularity to enable the Component to identify documents containing that information, and be reasonable in scope; for example, the request does not involve such a large number or variety of documents as to leave uncertain the identity of the particular information sought.

(2) Requests shall be submitted to the Office of the Assistant Secretary of Defense (Public Affairs) (ASD(PA)) (entry point for OSD records), the Military Department, or other Component most concerned with the subject matter that is designated under 32 CFR part 285 to receive requests for records under the Freedom of Information Act. These offices are identified in appropriate parts of title 32 of the Code of Federal Regulations for each DoD Component.

(e) *Requirements for Processing.* Unless otherwise directed by the ASD(PA), requests for mandatory review shall be processed as follows:

(1) The designated office shall acknowledge receipt of the request. When a request does not satisfy the conditions of paragraph (d)(1) of this section, the requester shall be notified that unless additional information is provided or the scope of the request narrowed, no further action will be undertaken.

(2) DoD Component action upon the initial request shall be completed within 60 days (45 working days). If no determination has been made within 60 days (45 working days) of receipt of the request, the requester shall be notified of his right to appeal and of the procedures for making such an appeal.

(3) The designated office shall determine whether, under the declassification provisions of this part, the requested information may be declassified, and, if so, make such information available to the requester, unless withholding is otherwise warranted under applicable law. If the information may not be released in whole or in part, the requester shall be given a brief statement as to the reasons for denial, notice of the right to appeal the determination within 60 days (45 working days) to a designated appellate authority (including name, title, and address of such authority), and the procedures for such an appeal.

(4) When a request is received for information classified by another DoD Component or an agency outside the Department of Defense, the designated office shall:

(i) Forward the request to such DoD Component or outside agency for review together with a copy of the document containing the information requested, when practicable and when appropriate, with its recommendation to withhold any of the information;

(ii) Notify the requester of the referral unless the DoD Component or outside agency to which the request is referred objects to such notice on grounds that its association with the information requires protection; and

(iii) Request, when appropriate, that the DoD Component or outside agency notify the referring office of its determination.