

under sections (e)(4)(G) and (f)(1) those portions of each and all systems of records which have been exempted from individual access under section (j) in those cases where the Coordinator determines after advice by the responsible components that confirmation of the existence of a record may jeopardize intelligence sources and methods. In such cases the Agency must neither confirm nor deny the existence of the record and will advise a requester that there is no record which is available pursuant to the Privacy Act of 1974.

(d) Pursuant to authority granted in section (j) of the Privacy Act, the Director of Central Intelligence has determined to exempt from access by individuals under section (d) of the Act those portions and only those portions of all systems of records maintained by the CIA that:

(1) Consist of, pertain to, or would otherwise reveal intelligence sources and methods;

(2) Consist of documents or information provided by any foreign government entity, international organization, or, any United States federal, state, or other public agency or authority; and

(3) Consist of information which would reveal the identification of persons who provide information to the CIA Inspector General.

(e) Pursuant to authority granted in section (j) of the Privacy Act, the Director of Central Intelligence has determined to exempt from judicial review under section (g) of the Act all determinations to deny access under section (d) of the Act and all decisions to deny notice under sections (e)(4)(G) and (f)(1) of the Act pursuant to determination made under paragraph (c) of this section when it has been determined by an appropriate official of the CIA that such access would disclose information which would:

(1) Consist of, pertain to, or otherwise reveal intelligence sources and methods;

(2) Consist of documents or information provided by any foreign government entity, international organization, or, any United States federal, state, or other public agency or authority; and

(3) Consist of information which would reveal the identification of persons who provide information to the CIA Inspector General.

#### § 1901.63 Specific exemptions.

Pursuant to authority granted in section (k) of the Privacy Act, the Director of Central Intelligence has determined to exempt from section (d) of the Privacy Act those portions and only those portions of all systems of records maintained by the CIA that would consist of, pertain to, or otherwise reveal information that is:

(a) Classified pursuant to Executive Order 12958 (or successor or prior Order) and thus subject to the provisions of 5 U.S.C. 552(b)(1) and 5 U.S.C. 552a(k)(1);

(b) Investigatory in nature and compiled for law enforcement purposes, other than material within the scope of section (j)(2) of the Act; provided however, that if an individual is denied any right, privilege, or benefit to which they are otherwise eligible, as a result of the maintenance of such material, then such material shall be provided to that individual except to the extent that the disclosure would reveal the identity of a source who furnished the information to the United States Government under an express promise of confidentiality, or, prior to the effective date of this section, under an implied promise of confidentiality;

(c) Maintained in connection with providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056;

(d) Required by statute to be maintained and used solely as statistical records;

(e) Investigatory in nature and compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the United States Government under an express promise of confidentiality, or, prior to the effective date of this section, under an implied promise of confidentiality;

(f) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(g) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the United States Government under an express promise of confidentiality, or, prior to the effective date of this section, under an implied promise of confidentiality.

## PART 1902—INFORMATION SECURITY REGULATIONS

### Subparts A-E [Reserved]

### Subpart F—Declassification and Downgrading

AUTHORITY: Sec. 5-402 of Executive Order 12065.

#### § 1902.13 Declassification and Downgrading Policy.

(a)—(b) [Reserved]

(c) The Executive Order provides that in some cases the need to protect properly classified information “may be outweighed by the public interest in disclosure of the information,” and that “when such questions arise” the competing interests in protection and disclosure are to be balanced. The Order further provides that the information is to be declassified in such cases if the balance is struck in favor of disclosure. The drafters of the Order recognized that such cases would be rare and that declassification decisions in such cases would remain the responsibility of the Executive Branch. For purposes of these provisions, a question as to whether the public interest favoring the continued protection of properly classified information is outweighed by a public interest in the disclosure of that information will be deemed to exist only in circumstances where, in the judgment of the agency, nondisclosure could reasonably be expected to:

- (1) Place a person's life in jeopardy.
  - (2) Adversely affect the public health and safety.
  - (3) Impede legitimate law enforcement functions.
  - (4) Impede the investigative or oversight functions of the Congress.
  - (5) Obstruct the fair administration of justice.
  - (6) Deprive the public of information indispensable to public decisions on issues of critical national importance (effective for declassification reviews conducted on or after 1 February 1980).
- (d) When a case arises that requires a balancing of interests under paragraph (c) above, the reviewing official shall refer the matter to an Agency official having Top Secret classification authority, who shall balance. If it appears that the public interest in disclosure of the information may outweigh any continuing need for its protection, the case shall be referred with a recommendation for decision to the appropriate Deputy Director or Head of Independent Office. If those officials believe disclosure may be warranted, they, in coordination with OGC, as appropriate, shall refer the matter and a recommendation to the DDCI. If the DDCI determines that the public interest in disclosure of the information outweighs any damage to national security that might reasonably be expected to result from disclosure, the information shall be declassified.

[45 FR 64175, Sept. 29, 1980]

## PART 1903—CONDUCT ON AGENCY INSTALLATIONS

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