

STATEMENT OF
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DIPLOMATIC DOCUMENTATION**

before the

**COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

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Mr. Chairman and Members of the Committee:

I thank you for the opportunity to speak to S. 1801, the "Public Interest Declassification Act of 2000," and to explain why I believe such legislation would be in the national and public interest. It is my firm conviction that this act and the Public Interest Declassification Board that it creates will improve our ability to protect important national security information. At the same time, it will promote public confidence in government by maintaining and expanding knowledge of the history of how national security policy was developed and implemented. Moreover, the legislation takes a significant step toward cutting the excessive costs of maintaining the security of classified information.

How does this bill accomplish all that? Is this nothing more than a piece of innocuous legislation that just follows the Hippocratic oath--"do no harm"? If it is merely like chicken

soup--might help, can't hurt--then why create another government board that may live long after everyone has forgotten why, or even that, it exists? Were that the case, I would oppose creation of the Board as a piece of smoke-and-mirrors that only distracts from effective reform of our government's declassification programs. But that is not the case. The Public Interest Declassification Board will inform and improve the healthy debate over what should and what should not be kept secret.

The Board would also help to limit the plethora of special searches, those "boutique" declassification efforts that devour resources that should go to systematic declassification review. Some of those special searches have been legitimate. Some have been trivial. Many have been repetitive and unrewarding, as illustrated in some of the exhibits before you. *All* have been exorbitantly expensive in both money and workhours. *All* were, or should have been, unnecessary. If effective, routine, comprehensive systematic declassification review were in place for all agencies, and if the public believed in the integrity and thoroughness of those review processes, then important documentation--such as what was uncovered by the Nazi Gold search--

would be routinely reviewed and declassified without an expensive "special search." The Board established by this legislation will be able to foster the development of effective, comprehensive systematic declassification review programs for historical documentation by gathering information on "best practices" and by reporting on progress made. At the same time, the Board would assess the effectiveness and reasonableness of an agency's declassification review program and recommend remedies for any shortcomings, thus building public confidence in the process.

But until that effective government-wide systematic declassification review exists, "special searches" will and should continue to be proposed, so long as there are legitimate and important reasons. But how can Congress and the White House best decide which "specials" will be legitimate and will release important new information, and which will not? How can the public--media, researchers, pressure groups, and individuals--be assured that their government is not hiding the truth for the wrong reasons? The answer is provided by this bill. The Public Interest Declassification Board could and should study any proposed "special search," evaluate the results of similar previous declassification efforts, examine the classified documentary record, and then report to the President and Congress. That would provide Congress and the Executive Branch with validation from an independent public board of the legitimacy of the request, and provide expert advice on establishing priorities for those "specials" that should be implemented.

I spent twenty-three years in the Naval Intelligence Reserve, and have been a member of the State Department Historical Advisory Committee for nine years--eight as chairman. I have come to appreciate the complexity of declassification issues, even for historical information that is twenty-five years old or older. Before going any further, let me emphasize two points: First, this legislation does not change the current approach to systematic declassification review, which is aimed at *historical* records that are twenty-five and thirty-years old--*not* current plans, operations, and intelligence activities. Second, declassification *review* is not the same as declassification. Nothing in this bill changes the current practice that puts declassification decisions in the hands of the agency that has ownership or "equity" in the information. There is nothing in this legislation that threatens or changes current information security procedures. Access to Special Compartmentalized Intelligence (SCI) is, quite appropriately, given special attention. Nor can the Public Interest Declassification Board declassify anything--it can only examine, assess, advise, and report.

Setting standards and guidelines for declassifying even historical information requires careful thought and extensive experience. No one wants to disclose anything that might seriously jeopardize our national security or the lives of those who work to protect this nation. But sensible, practical standards and guidelines can be and have been established. Since the early 1990s, systematic declassification review by the State Department has opened up 95% of its historical records. Using a "most important first" rather than "easiest first" approach, State Department reviewers have opened highly sensitive records of our diplomacy as well as intelligence records, all without a single reported breach of national security. As an aside, but to dispel rumors of security breaches caused by systematic declassification review, the head of the Department of Energy's information security program has stated that he has not uncovered any inadvertent disclosures of classified or RD/FRD information due to the systematic

declassification reviews conducted in accordance with the current Executive Order on Information Security (EO 12958).

Yet, with only one exception (the Air Force has apparently put in place a successful systematic review program), the State Department is the only major agency or department that has reviewed and declassified, where appropriate, its historical records, *and* made them available to the American public. During the now-ended Cold War, foreign and national security policy became the responsibility of many agencies and departments besides the State Department, yet those agencies have not implemented similarly successful declassification review programs. That means that Americans, and their representatives in Congress, do not have comprehensive access to the record of national security policy from twenty-five and more years ago--a time when Gerry Ford was president.

Of course perfection is the enemy of progress. *No declassification review system can be perfect.* To attempt to reach such perfection is neither possible nor desirable. The cost alone would be staggering. The effect on our democratic society even greater. Democracy is not a suicide pact. No one wants properly classified information to be inadvertently released, least of all significant information relating to nuclear weapons development, even when it is thirty year-old technology. But there is little risk of that happening when declassification review programs are applied with the rigor of that implemented by the State Department. At the same time, the confidence of a people in their government depends critically on their being part of the process and on the conviction that their government is held accountable for its actions. Confidence is built on trust, and that can come only with public knowledge about government policies--even if it takes 25 to 30 years for the information to become available.

This bill will not create instant public accountability for intelligence agencies, the Department of Defense, or even the State Department. Individuals will instinctively try to cover embarrassment, unethical conduct, and foolishness by classifying the information that exposes their conduct. But if we can move a step closer to opening the *historical* record to the scrutiny of the American public, we will have won a battle in what is an ongoing struggle. Accountability is a democratic issue, not just one for accountants. Such accountability does not have to come in ways that jeopardize legitimate (to be defined) current activities or living individuals, but

at some point the door must swing open far enough (also to be defined) or the very democracy that government officials and intelligence operatives are protecting is no longer a democracy. These are serious issues for the Republic that are worth an informed, responsible debate; something the Public Interest Declassification Board can facilitate.

Why have so few systematic declassification *review* programs of thirty-year old records been fully implemented? I have some opinions, some educated guesses based on forty years of research in the records and nearly a decade on the State Department Historical Advisory Committee. But "guesses," however educated, are not a sufficient basis for Congressional and/or Executive Branch action. The Public Interest Declassification Board that this legislation would create could, and should, study the issue and provide careful, well-researched answers and recommendations for remedies.

In closing, I do suggest three very brief amendments, all designed to improve the effectiveness and credibility of the Board (changes in italics):

First, the Board should be required to meet at least two or three times a year. That will ensure that its work cannot be impeded by a lack of support from the Executive Branch. [Sec. 3 (e): change first sentence to read: "The Board shall meet as needed to accomplish its mission, consistent with the availability of funds *but at least three times a year.*"]

Second, currently serving government officers and officials should be excluded from membership on the Board lest its ability to validate the completeness and honesty of special searches be compromised. The Board *must* have the public's confidence that it is independent if it is to confirm the comprehensiveness of declassification programs and legitimate "special searches." Agencies will have ample opportunity to express concerns since this legislation allows every agency with classified material to appoint an agency liaison to the Board. [Sec. 3 (c)(1): add final clause reading: ", *and who are not currently employees or officers of the United States.*"]

Third, the Board should be able to request additional details from the Department of Defense about systematic declassification review programs since each agency within that Department has its own initiatives and procedures, with the Air Force program being a good example. Gross statistics, for example the number of pages reviewed for declassification, can be very misleading since that does not necessarily reflect the quality and importance of the information so reviewed. Such statistics can be inflated by including reviews of large quantities of obviously unimportant files related to such things as administration. [Sec. 4 (a)(2): change final clause to read: ", *may present a consolidated report and briefing to the Board, although the Board may request details concerning specific DOD agencies and activities.*"]

The American Historical Association and the Society for Historians of American Foreign Relations have both gone on record as favoring systematic declassification review. I strongly endorse this legislation as a meaningful step in the further development of a rational, responsible, cost-effective, government-wide program for the declassification review of the mountain of historical documentation that threatens to bury us; a mountain of material containing so much that does not need to be secret that government officials and the public are prompted to treat it all too casually. That growing sense of contempt may be the greatest threat to the security of appropriately classified information. "If everything is classified, there are no secrets."