



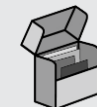
Welcome

National Archives and Records Administration (NARA)
offers today's forum through the
Information Security Oversight Office (ISOO) &
Know Your Records (KYR) Program

**Program begins at 1 p.m. EST
November 18, 2019**



About the National Archives



KNOW YOUR RECORDS
National Archives and Records Administration

The National Archives and Records Administration (NARA) is the nation's record keeper. Of all documents and materials created in the course of business conducted by the United States Federal government, only 1%-3% are so important for legal or historical reasons that they are kept by us forever.

Those valuable records are preserved and are available to you, whether you want to see if they contain clues about your family's history, need to prove a veteran's military service, or are researching an historical topic that interests you.



About ISOO & KYR



ISOO is responsible to the President for policy and oversight of the Government-wide security classification system and the National Industrial Security Program. ISOO receives policy and program guidance from the National Security Council (NSC).



KNOW YOUR RECORDS

The Know Your Records Program provides information on how to access and do research using U.S. Federal Government records held at NARA.

Learn more about our program at:

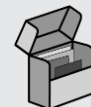
www.archives.gov/calendar/know-your-records

Interagency Security Classification Appeals Panel (ISCAP) Mandatory Declassification Review (MDR) Forum

The Interagency Security Classification Appeals Panel (ISCAP) hosts a Mandatory Declassification Review (MDR) Forum to update the requester community and U.S. Government declassification professionals on the ISCAP work over the past year and the outlook for the coming year. For more information on the ISCAP, including prior ISCAP declassification decisions and a log of the status of current appeals please visit: www.archives.gov/declassification/iscap.



Join the conversation!



KNOW YOUR RECORDS
National Archives and Records Administration

Participate during the live event.

Online Audience

Log into YouTube and type your questions and comments into the live chat.

On-site Audience

During the question and answer time, use microphones in the aisles.

After the live broadcast . . .



Video recording of the lecture
will remain online at

www.archives.gov/calendar/know-your-records

Feedback

We value your opinion.

Please take a minute to complete a short evaluation. Your comments help us maintain the quality of our services and plan future programs. Thank you!

Event Evaluation:

www.surveymonkey.com/r/KYREventEval

November 18, 2019

INTERAGENCY SECURITY CLASSIFICATION APPEALS PANEL (ISCAP) MANDATORY DECLASSIFICATION REVIEW (MDR) FORUM

The ISCAP Staff
iscap@nara.gov

Agenda

- I. Welcome: Mark A. Bradley, ISOO Director
- II. ISCAP Introduction: John Powers, ISOO Associate Director
 - Background on ISCAP
 - ISCAP challenges and opportunities
- III. ISCAP activities: Evan Coren, ISCAP Staff
 - Overview of ISCAP activity, 1996-2019
 - The ISCAP prioritization process
 - The ISCAP adjudication process
 - Communicating ISCAP decisions and appeal status on the ISCAP website
 - Declassification guides and other ISCAP activities
- IV. Information Security Oversight Office (ISOO) Annual Report & data call reform: John Powers, ISOO Associate Director
- V. Moderated Discussion

Staff Changes and Recognition

- **John Fitzpatrick**
 - ISCAP Executive Secretary (August 2011 – December 2015)
 - ISCAP Member from NSC (January 2016 – September 2019)
 - ISCAP Chair (May 2016 – September 2019)
- **Bill Carpenter**
 - ISCAP Staff (May 2007 – June 2019)
 - ISCAP Team Lead (May 2010 – June 2019)
- **AJ Lutz**
 - ISCAP Staff (May 2009 – June 2019)

What is the ISCAP?

- Created by President Clinton in Executive Order 12958, “Classified National Security Information,” in 1995
- ISCAP provides the public and users of the classification system with a forum for further review of classification decisions
- Four functions:
 1. Decide on appeals for classification challenges
 2. Approve exemptions to declassification at 25, 50, and 75 years
 3. Decide on mandatory declassification review (MDR) appeals
 4. Inform senior agency officials and the public of its decisions
- Bylaws published as 32 C.F.R. Part 2003
 - 32 C.F.R. Part 2003.15
- Information Security Oversight Office (ISOO) supports the ISCAP

Membership of the ISCAP

- **National Security Council:**
 - Ellen Knight, Acting Senior Director, Records, Access, and Information Security Management
- **Department of Defense:**
 - Garry P. Reid, Director for Defense Intelligence, Office of the Deputy Under Secretary of Defense (Intelligence and Security)
- **Department of Justice:**
 - Lionel Kennedy (Vice Chair), National Security Division
- **Department of State:**
 - Eric Stein, Director, Office of Information Programs and Services
- **National Archives and Records Administration**
 - William P. Fischer, Director, National Declassification Center
- **Office of the Director of National Intelligence**
 - Patricia Gaviria, Director, Information Management Division
- **Central Intelligence Agency (for discussions regarding CIA information only)**
 - Brian C. O'Neill, Director, Information Management Services

Information Security Oversight Office (Executive Secretary)

- Mark Bradley, Director

ISCAP Challenges and Opportunities

Challenges

- Shutdown
- Small staff
- Budget limitations
- Growing backlog
- Other agency constraints

Opportunities

- Competent and dedicated staff
- Adopting Technology
- Improving Agency level reviews through ISOO Oversight

FY 2019 ISCAP Activities

FY19 ISCAP Activities

- **Mandatory Declassification Review (MDR)**
 - E.O. 13526 Section 5.3(b)(3)
- **Publishing ISCAP decisions**
 - E.O. 13526 Section 5.3(b)(4)
- **Declassification Guides**
 - E.O. 13526 Section 5.3(b)(2)
- **Assistance to the State Department on the Foreign Relations of the United States (FRUS)**
 - 32 CFR 2001.37

MDR Appeals to the ISCAP

MDR requests may be appealed to the ISCAP after the agency has made an appeal decision *or if the requester did not receive a response after one year or a response to an appeal after 180 days*

- Agencies **must** continue to process MDR requests that have been appealed to the ISCAP due to the expiration of a response deadline (See ISOO Notice 2013-03)

FY 2019 Statistics

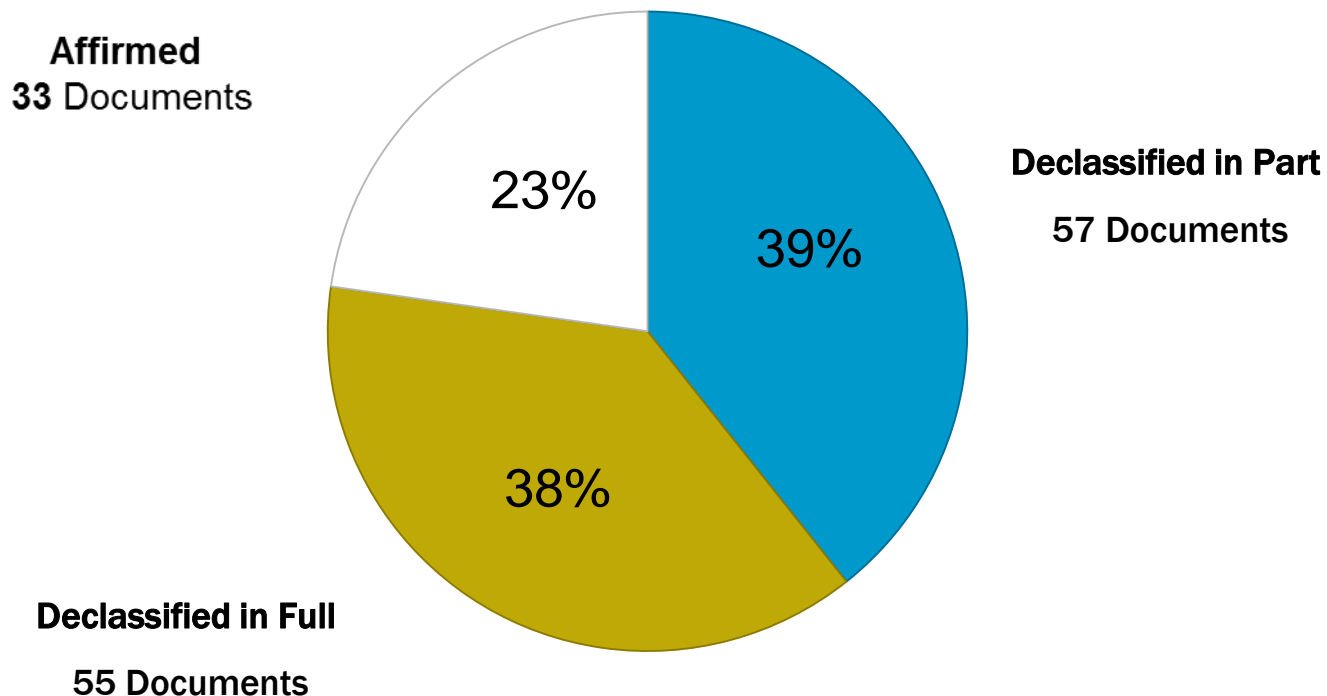
- Received in FY 2019: 60 appeals
- Decided in FY 2019: 24 MDR appeals
 - 88 documents
 - 465 pages
- Backlog of current ISCAP Appeals: 1286 appeals
 - Increase: end of FY 2018 was 1250 appeals

MDR Appeals Comparison

	FY 2010	FY 2018	FY 2019
Appeals Received	87	106	60
Appeals Decided	49	37	24
Documents Decided	212	145	88
Pages Decided	1998	1037	465
Appeals Backlog	221	1250	1286

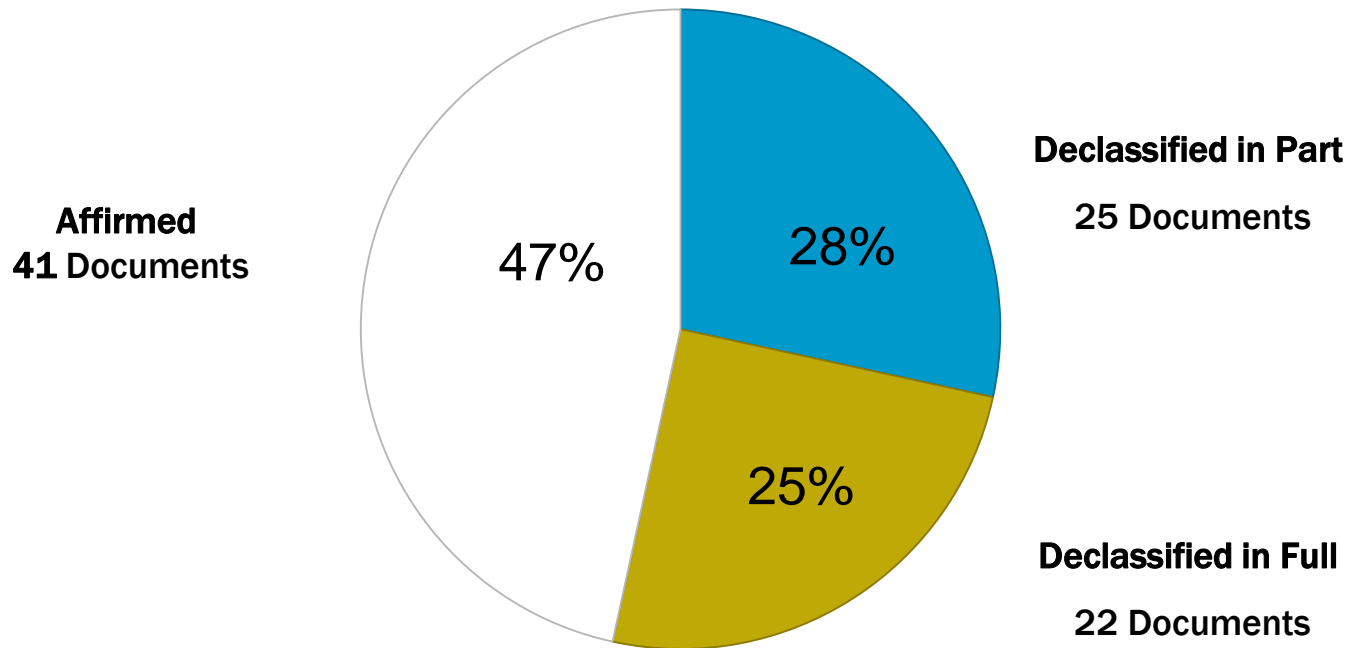
ISCAP MDR Decisions: FY 2018

FY 2018: 145 Documents, 37 MDR Appeals



ISCAP MDR Decisions: FY 2019

FY 2019: 88 Documents, 24 MDR Appeals

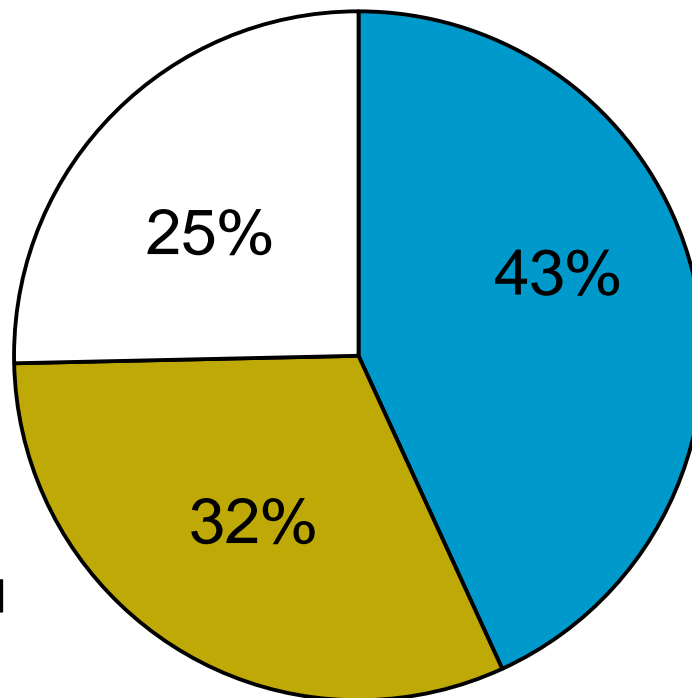


ISCAP MDR Decisions: 1996-2019

1996-2019: 3168 Documents

Affirmed
803 Documents

Declassified in Part
1367 Documents



Declassified in Full
998 Documents

ISCAP MDR Decisions: Top Three Recipients 2015 - 2019

- Michael Ravnitzky

- Total documents: 73 Total pages reviewed: 3197
- Documents released in full & part: 70
- Pages released in full & part: 3179

- Peter Pesavento

- Total documents: 244 Total pages reviewed: 1793
- Documents released in full & part: 227
- Pages released in full & part: 1656

- William Burr

- Total documents: 95 Total pages reviewed: 974
- Documents released in full & part: 66
- Pages released in full & part: 885

ISCAP Prioritization Process

- **Age of appeal:** The ISCAP is committed to resolving its oldest appeals.
- **Type of appellant:** An appeal from a first-time appellant may be prioritized over another appeal from a frequent appellant.
- **Declassification breakthroughs:** The ISCAP does weigh the relative importance of the content of the requests; an appeal containing an issue not addressed by the ISCAP before may be prioritized over one containing a topic frequently adjudicated.
- **Size and complexity of appeal: Self-prioritization by appellant:** Some appellants inform the ISCAP of their own priorities for their multiple requests; these wishes are taken into account by the ISCAP.
- **Type of appeal:** Classification challenge appeals to the ISCAP are comparatively rare and are prioritized for review when received.

ISCAP Appeal Adjudication Process

- Staff process and evaluate incoming appeals
- Staff request responsive materials from agencies
- Staff prioritize appeals and create briefing books
- Staff distribute briefing books to the Liaisons
- Liaisons discuss the appeals at meetings
 - Consult with specialists within agencies
 - Evaluate in light of related official releases
 - May invite subject matter experts from agencies to inform discussions
- Decisions on appeals, by Members, recorded by ISCAP Staff
- 60-day period between decision and release for agency head appeal to President
- Releases conducted by ISCAP staff and posted on website

Decisions:

- To inform agency declassification staff and the public
- Declassified documents only
- All content is accessible to members of the public with disabilities impacting vision, hearing, color perception, speech, manual dexterity, reach, strength and cognitive, language or learning disabilities, meeting the requirements of the Revised Section 508 Standards for Information and Communication Technology (ICT).

NARA and Declassification
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Appeals Log

ISCAP Releases

The Interagency Security Classification Appeals Panel (ISCAP, or "the Panel") provides the public and users of the classification system with a forum for further review of classification decisions.

Section 5.3(b)(4) of Executive Order 13526, "Classified National Security Information," (the Order) requires that the ISCAP "appropriately inform senior agency officials and the public of final Panel decisions on appeals under sections 1.8 and 3.5 of this order." This function is important for two reasons. First, the documents decided upon by the Panel for classification challenges and mandatory declassification review appeals may be of historical interest to the public, not just the appellants. Second, section 3.1(i) of the order states that, "When making decisions under sections 3.3, 3.4, and 3.5 of this order [these are the sections concerning automatic, systematic, and mandatory declassification], agencies shall consider the final decisions of the Panel." Distribution of electronic versions of declassified documents on a publicly available web site is the most efficient way for the ISCAP to fulfill this function.

This online collection includes documents decided upon by the ISCAP starting in Fiscal Year 2012. The documents include records from the Presidential Library system of the National Archives, the Central Intelligence Agency, National Security Agency, the Department of Defense, and other agencies. The quality of the images is dependent on the quality of the original records used to create the copies provided to the Panel.

In some appeals, the ISCAP affirms the classification decision of the responsible agency. For these appeals, the documents at issue will not be posted on this site, and only a notification of that affirmed decision will be posted.

*Please note the table headers are clickable, sort the table by the clicked column header.

Document Title or Subject [PDF]	Document Date (yyyy/mm/dd)	Creator	Document Location	Appeal Number	Appeal Release Date (yyyy/mm/dd)
The Soviet Invasion of Afghanistan: A Cryptologic History	1996	National Security Agency	National Security Agency	2009-055-doc01	2017/11/21
Msg. re: Soviet Space Program	1962/08	Central Intelligence Agency	Kennedy Presidential Library	2009-074	2018/07/10

<https://www.archives.gov/declassification/iscap/releases>

ISCAP Website

Appeals Log:

- All appeals active during the current Presidential administration
- Updated quarterly
- Status categories: Materials Requested; Materials Received; Appeal Under Review; Decision Reached; Administratively Closed

1	ISCAP No.	Date of Request	Requestor	Source (Library or Agency)	Status (updated 10/24/2019)
2	2002-0013	3/29/2002	Canning	Federal Bureau of Investigation	Materials Requested from Agency
3	2008-026	7/3/2008	Ravnitzky	Department of Justice	Materials Requested from Agency
4	2008-043* 2009-006	11/10/2008	Burr	Central Intelligence Agency	Decision Reached FY 2017
5	2009-050	3/9/2009	Ravnitzky	National Security Agency	Decision Reached FY 2018
6	2009-055	4/17/2009	Sherry	National Security Agency	Decision Reached FY 2017
7	2009-074	7/17/2009	Vick	Kennedy Presidential Library	Decision Reached FY 2018
8	2009-084	8/27/2009	Tuten	National Geospatial-Intelligence Agency	Administratively Closed FY 2018
9	2010-021	11/23/2009	Vick	Central Intelligence Agency	Materials Received from Agency
10	2010-056	3/10/2010	Burr	Department of the Navy	Decision Reached FY 2017
11	2010-087	9/30/2010	Burr	Department of the Navy	Decision Reached FY 2017
12	2011-003	10/5/2010	Pesavento	Central Intelligence Agency	Materials Received from Agency
13	2011-017	11/18/2010	Pesavento	Central Intelligence Agency	Decision Reached FY 2018
14	2011-018	11/18/2010	Pesavento	National Security Agency	Materials Received from Agency
15	2011-021	11/30/2010	Pesavento	Central Intelligence Agency	Decision Reached FY 2018
16	2011-023	12/6/2010	Pesavento	National Security Agency	Materials Received from Agency

ISCAP MDR Reform Efforts

- **Prioritization**
- **Improved use of technology**
- **Efforts to tighten appeals before the ISCAP**
 - Contacted requesters with appeals before the ISCAP to confirm if the requester was still interested in the ISCAP adjudicating their appeal
 - Results: No requester wished to withdraw their appeal
- **More Robust Declassification Guides**
 - ISOO Notice 2019-01

Declassification Guides

- 23 agencies submitted Declassification Guides (same agencies as previous review cycle)
- The Liaisons made a decision at the start of the Declassification Guide process that no guide would be approved until the ISCAP had an initial discussion of each guide
- ISCAP sought to tighten what was authorized to be exempted from declassification, tighten the referral process, and improve consistency throughout the guides
- All 23 Declassification Guides were approved by August 2019

ISCAP Declassification Guide Review Process

- Each guide was reviewed based on these criteria:
 - What is the damage to national security if the information element is released?
 - Is the information element specific?
 - Does it meet the standard for that specific exemption in E.O. 13526 Section 3.3 (b) and (h)?
 - Section 3.3 (h) has very high threshold
 - Whose equity is the information?
 - Including resolving inconsistencies between agencies on how agencies handle shared equities
 - Can the guide establish better clarity on referrals?

ISCAP's Standard Guidance

- **Every Declassification Guide starts with the same standard guidance:**
 - Use professional experience not to exempt items that would not damage national security
 - Conduct additional research to achieve informed declassification decisions
 - Take into account information officially released previously
 - Only exempt the specific information elements ISCAP has given you authority to exempt
 - Only refer to agencies information they have authority to exempt

Declassification Guides

- Developed standard language solutions that are in all guides including:
 - The declassification exemptions apply to automatic, systematic, and mandatory review, as well as for FOIA review

Declassification Guides

Declassification Guides: The Authority to Exempt

ISCAP Approved
Declassification Guide



Release Would
Damage National
Security



Information May Be
Exempted

Standard Referral Process

- **Must be done in accordance with Section 3.3(d)(3) of E.O. 13526**
- **Conditions that must be met:**
 - information must originate with another agency or their predecessor agencies (or affect the interests or activities of that agency/predecessor agencies with respect to classified information);
 - information must reasonably be expected to fall into an exemption category; and
 - agency must be eligible to receive referrals as identified in an ISOO Notice 2019-01, available on www.archives.gov/isoo/notices

Common Changes to Declassification Guides

- Reviewers should take into account information previously officially released by the U.S. Government, including:
 - Information declassified by ISCAP
 - U.S. Government publications;
 - U.S. Government websites;
 - Testimony before the Congress by U.S. Government officials;
 - Testimony in judicial proceedings by U.S. Government officials;
 - U.S. Government filings in judicial proceedings;
 - Prior authorized declassification actions that have been released to the public;
 - Statements by the President, the Vice President, or in official White House releases.

Compromised Information

- **Common approach to compromised information**
 - **Compromised information results from the unauthorized disclosure or release of classified information**
 - **Compromised information is not automatically declassified because of its unauthorized disclosure**
 - **Information released pursuant to an authorized official U.S. Government release is *not* compromised information**
 - **U.S. Government analysis of compromised information may also be classified depending on the information in the analysis**

Compromised Information

- To exempt compromised information that is older than 25 years old from declassification, the following conditions must be met:
 - ISCAP-approved exemption for the information element that was compromised;
 - The information must be within the date range approved for that information element;
 - The information must not fall into the categories in section 1.7 of E.O. 13526; and
 - The reviewer must be able to describe the damage to the national security caused by the disclosure.

Prohibitions and Limitations

Section 1.7 of E.O. 13526

In no case shall information be classified, continue to be maintained as classified, or fail to be declassified in order to:

- Conceal violations of law, inefficiency, or administrative error
- Prevent embarrassment to a person, organization, or agency
- Restrain competition
- Prevent or delay the release of information that does not require protection in the interest of the national security

Basic scientific research information not clearly related to the national security shall not be classified

Common Changes to Guides

■ X6/Serious Harm

– E.O. 13526 Section 3.3(b)(6):

“Specific information, the release of which should clearly and demonstrably be expected to reveal information, including foreign government information, that would cause serious harm to relations between the United States and a foreign government, or to ongoing diplomatic activities of the United States”

– A State Department-Defense Department Working Group working on X6 and X9 issues that resulted in:

- Significant narrowing of X6 (particularly 50X6) exemption authority for Office of the Secretary of Defense (OSD) and Department of Defense (DoD) agencies/Military Department (MilDeps)/components
- Many previously approved X6 and X9 information elements now will be referred to OSD and/or State

Common Changes to Guides

- X9
 - E.O. 13526 Section 3.3(b)(9):

“Specific information, the release of which should clearly and demonstrably be expected to violate a statute, treaty, or international agreement that does not permit the automatic or unilateral declassification of information at 25 years.”
 - This is not to be used to hide treaty violations
 - This is exempting specific information that a statute, treaty, or international agreement states are not to be automatically or unilaterally declassified at 25 years or later
 - Now standard language in all guides requires the citation of a specific section of statute, treaty, or international agreement that states the information is not permitted to be automatically or unilaterally declassified

New Declassification Guide Training

- **The National Declassification Center (NDC) held a training symposium in October 2019, where over 300 declassification professionals from across the Executive Branch received training on the new Declassification Guides**
 - ISCAP opened the symposium with training on the national policy that underpins the new Declassification Guides and cross-cutting changes to the declassification guides
 - ISCAP worked with the NDC to conduct oversight of agency declassification presentations before they were given
- **ISOO will in the coming year conduct oversight of the training materials agencies are using to train their staff to follow their newly approved Declassification Guides**

ISOO Notice 2019-01

The date of each agency's current Declassification Guide and the exemption categories that agency is authorized to use are listed on the most recent ISOO Notice titled "Agencies eligible to receive referrals from Automatic Declassification at 25, 50, and 75 years"

ISOO Notices:

<https://www.archives.gov/isoo/notices>

ISOO Oversight

- ISOO checking whether agencies are using the current approved version of their Declassification Guides
- ISOO conducts Declassification Assessments of agencies declassification programs reviewing a sample of their decisions
 - Now that the new Declassification Guides have been issued, ISOO will strictly make sure that information exempted meets both
 - Damage threshold
 - ISCAP-approved exemption in Declassification Guide
- Upcoming ISOO oversight of agency trainings of Declassification Guides

Assistance on the FRUS

- Assistance to the State Department on the Foreign Relations of the United States (FRUS)
 - Sequence of events:
 - Delays in the publication of *Foreign Relations of the United States, 1977-1980*, vol. IV, National Security Policy
 - Letter from National Security Advisor to ISCAP invoking 32 C.F.R. Part 2001.37
 - Result: ISCAP decision to declassify 60 documents in full or in part

Resources

- **ISCAP Decisions:**
 - <https://www.archives.gov/declassification/iscap/decisions.html>
- **MDR Contacts:**
 - <https://www.archives.gov/isoo/contact/mdr-contact.html>
- **MDR Training Video:**
 - <https://www.youtube.com/watch?v=0Clgn8ed-tw>
- **ISOO Notices:**
 - <https://www.archives.gov/isoo/notices>
- **Contact:**
 - Phone: 202-357-5250
 - Fax: 202-357-5908
 - Email: iscap@nara.gov

ISOO Updates

ISOO Activities

- **FY 2018 Annual Report**
 - **Iterates the challenges facing the classification system**
 - Not sustainable
 - Not keeping pace with how our Government works
 - Rapid deployment of technology and applications to support mission
 - Exponential growth of electronic data
 - Inhibiting Information-sharing
 - Not declassifying obsolete secrets
 - Inefficient and ineffective
 - Costs too much
 - Impact on national security and democracy
 - **Modernization is needed**
 - Technology investment
 - New policies and practices that support modernization
 - Sustained leadership and a “whole of Government” approach

ISOO Activities

- **Modernization Efforts by ISOO**
 - FY 2017 and 2018 Annual Reports
 - Policies and Practices
 - E.O. 13526 Changes
 - ISCAP changes
 - Recognition that data was not always accurate or useful
 - Need to re-think what data we collect
 - Conduct better oversight
 - Aid agencies in improving their programs
 - Inform the President, the Congress, the Executive branch and the public
 - Learn from stakeholders
 - Security professionals, practitioners, system designers, classifiers, declassifiers, and information managers
 - Civil Society, Public Interest and Constituent Groups

Discussion

How to participate during live event:

- Theater audience –
use the microphones in the aisles
- YouTube online audience –
log into YouTube to chat or ask questions