OPEN HEARING: DECLASSIFICATION POLICY AND PROSPECTS FOR REFORM

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OPEN HEARING: DECLASSIFICATION POLICY AND PROSPECTS FOR REFORM

WEDNESDAY, SEPTEMBER 9, 2020

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The Committee met, pursuant to notice, at 3:15 p.m. in Room G–50, Dirksen Senate Office Building, Hon. Marco Rubio (Acting Chairman of the Committee) presiding.

Present: Senators Rubio, Warner, Risch, Collins, Blunt, Cornyn, Sasse, Feinstein, Wyden, Heinrich, and King.

Chairman RUBIO. This hearing will come to order.

This afternoon, we're going to welcome Mr. Greg Koch from the Office of the Director of National Intelligence who, I advise our members, we're having trouble getting linked in, but hopefully we'll be able to resolve that here at some point. Everyone knows we have a third vote here that's pending as well.

Former Representative John Tierney from the Public Interest Declassification Board will discuss declassification policy. In particular, we'll be discussing striking a balance between protecting our Nation's classified material and ensuring historical documents can safely get their moment in the sun.

I'm prepared to defer my opening statement for the following reasons. Senator Moran has the chair hearing at 3:30 and in-between has to go vote. If it's okay with both of you, I'll just give my time to Senator Moran so he can open with some comments since he's joined us here today on this issue. And then, that way, he doesn't have to miss a vote and can chair his important hearing at 3:30 where hopefully your WebEx is working.

Vice Chairman WARNER. Mr. Chairman, can I reserve some special chit or favor from Jerry?

Chairman RUBIO. Absolutely. You should take him for everything he's got in that bag of chits.

So, Senator Moran, do you want to provide your comments so you have plenty of time to vote and not miss your hearing?

STATEMENT OF HON. JERRY MORAN, A U.S. SENATOR FROM KANSAS

Senator MORAN. Mr. Chairman, thank you very much. It's a real privilege to testify—to be in front of this Committee. I hold the Intel Committee in high regard and recognize its important role in securing the security of our citizens. And I appreciate the consideration that you and Senator Warner provided—and the timing.

(1)

Members of the Committee: Thank you very much for the opportunity to advocate for declassification reform and for having this open setting, Mr. Chairman. As you may be aware, I am a sponsor, alongside a member of this Committee, Senator Wyden, of Senate Bill 3733, the Declassification Reform Act.

Senator Wyden and I worked on this issue for a long time. It is surprising to me that the end result is so straightforward and relatively simple, but it is an attempt to begin the process of modernizing declassification by designating the director of National Intelligence as the executive agent responsible for promoting programs, processes, and systems related to declassification.

Though the bill itself rests within the jurisdiction of another committee, this Committee has previously considered this bill as an amendment offered by Senator Wyden to the Intelligence Authorization Act. I appreciate the discussion of this bill, which many of you have personally visited with me on the floor and throughout the Capitol complex.

The conversations in today's hearing underscore recognition that the process which guides our Nation's release of declassified information are antiquated and are unable to keep up with the overwhelming flood of digital data that is classified on a daily basis.

Congress has been told repeatedly over the years that the system is unsustainable. Last year, the Director of the Information Security Oversight Office wrote to the President that, "The current framework is unsustainable and desperately requires modernization."

In 2016, the Public Interest Declassification Board reported the classification system is, "No longer able to handle the current volume and forms of information, especially given the exponential growth of digital information."

Four years later, there's little evidence that the problem is on a path to being solved. The current system holds on to records that no longer require classification and its impacts to taxpayers is estimated to be $18 billion per year. And it denies public access to information that can be used to hold the Government accountable.

As the Public Interest Declassification Board notes, the overwhelmed system hurts us policymakers as well. Senator Wyden approached me in late 2018 and asked me to join him in an effort to craft legislation that would begin to address this problem.

While I indicated my great regard for members of this Committee, I am not one of them. And so, there might be a question as why is this an interest to me. And certainly, the ability to save taxpayer dollars is of interest to me. The ability to be more transparent to the American public is of interest to me. And the ability for us as policymakers to have the necessary information available to us is important to me.

Protecting those taxpayers to the tune of billions that is spent on classification and ensuring transparency from the Federal Government and the ability to do that without jeopardizing national security is a priority.

For well over a year, we've consulted with experts from the Public Interest Declassification Board, Information Security Oversight Office, the National Archives, other outside experts, the officials from our Nation's intelligence agencies as well as staff from this In-

telligence Committee. We know technical solutions, such as artificial intelligence and machine learning, exist to facilitate bringing our system into the 21st century. And we know individual agencies are taking steps with some of this technology to address the issue, but more coordinated effort that implements best practices is clearly required.

The final product, the Declassification Reform Act, adopts the key recommendation from the latest report issued in May by the Public Interest Declassification Board. Senator Wyden and I are not under the impression that naming an executive agent will resolve every problem associated with classifying and declassifying information, but we do believe appointing an official with sufficient authority to implement changes across the Federal Government is a really good first step.

From our consultations over the past year, we know that there is resistance, and suggested improvements to the Declassification Reform Act. And we also recognize there are other ideas that can facilitate reform. I'm pleased today's hearing will seek to flesh out our bill and other ideas to address the problem of this magnitude.

Whatever the direction that this Committee determines to move forward with reform, resources will be necessary to implement it. As a member of the Defense Appropriations Subcommittee, please consider me an ally in this endeavor. I've been pleased to join Senator Wyden in this effort and I'm equally eager to work with the members of this Committee in achieving declassification reform that is long overdue and yet protects American citizens and our national security.

Mr. Chairman, I thank you, again, for having this open hearing that allows me to testify. And I thank you and the Committee members for their time and the opportunity to be here today.

OPENING STATEMENT OF HON. MARCO RUBIO, A U.S. SENATOR FROM FLORIDA

Chairman RUBIO. Thank you, Senator Moran. And thank you for being here. I'm going to sort of condense my opening statement in the interest of time.

You know, the Congress established the Public Interest Declassification Board to advise the Executive Branch on the identification, the review, and the release of records. In May 2020, they released a report on reforming this process and it recommended sweeping changes to the way that we declassify records. And today, we're going to look to our witness, former Congressman Tierney, to explain those recommendations.

Let me just say broadly, the Intelligence Community agrees that reform is needed. The backlog of historical documents is large. The system for moving documents to review is completely outdated, and the standards, quite frankly, are sometimes inconsistent throughout the national security establishment.

I am concerned, however, that the recommendations don't align with the ODNI's current role, given that they have neither the authority nor the expertise to serve as the leader of the declassification enterprise for the entire government, which is one of the issues that we've discussed in terms of jurisdiction for this Committee. For example, they are not and they should not be in a posi-

tion at the ODNI to set the declassification rules for the Department of Defense's war plans or nuclear programs.

So, we look forward to talking to our witnesses about ODNI's view of the declassification process and business practices, including the prospects of achievable reform within the context of the limits of the ODNI's authority. Separately, I think the subject of this hearing allows us to emphasize a related point, and that's the difference between a process of responsible declassification of secrets that don't need to be secret and selfish, irresponsible leaks.

The reason we classify things is not because you try to keep things from people. It is because if it is revealed, you will reveal how you learned about those things, and the people or entities you're collecting on will realize that you have accesses to information and cut you off from more important information in the future. So, this is one of the main reasons why things are kept secret.

That is, of course, balanced with the default position, generally, of transparency from government. And it's necessary. We need transparency in order to have accountability that our system of government requires. So, it has to be balanced between these two equities, protecting the safety and security of the American people through our ability to learn valuable information about adversaries and potential adversaries, with the need of the American people for transparency on everything the Government does.

I would say that those who—and by that, I'm actually very proud of this Committee that by and large has been very responsible in my 10 years on this Committee with the information we come across. No matter where we fall on the issues, I think it's fair to say this Committee has never been, in my time on it, a source of these sorts of things.

But, there are those who do, outside of this Committee, casually dismiss the responsibility of holding classified information. Many of them have, frankly, either never sat through a briefing or been read into billion-dollar programs that if revealed, would leave our Nation blind and deaf to the threats that we faced. They've never met and heard about the brave men and women who risk their lives every single day to prevent the next terrorist attack or to steal the plans for a deadly new weapons system.

These are the secrets that Al-Qaeda, that China, that Iran, that Russia, and others seek—and they would use that information to do us harm. These secrets need to stay secret, but not forever. An agreed-upon declassification process that allows review of secret documents to be sure that those secrets can be given their day in the sun without harming people or programs or the American taxpayer. Done responsibly, that would build trust between the American people and their government. So, Mr. Koch and his colleagues make sure that that happens for the Intelligence Community.

But, some are not willing to play by the rules, unfortunately. People who have put their lives on the line to give us information deserve better. And to see their hard won secrets splashed across the pages of the New York Times or the Washington Post just because a bureaucrat or a politician wanted to score some cheap political point for their own benefit.

Our Nation deserves better than that. Our people deserve better than that. They pay taxes so their government can provide for a

common defense. And we spend those taxes on technological break-throughs, on brilliant mathematicians, and clever computer scientists who could make 10 times their salary by working somewhere else.

These people work for years to gain access to these secrets, the secrets that keep us safe from a terrorist attack, or from the next enormous hack from China or somewhere else, or to stop an oligarch's plans to try to influence and steal an election.

Then, they see that access evaporate when someone decides that they are above that higher mission and that scoring a political point is more important than protecting our country and honoring our taxpayers. And then, the trust is destroyed, those dollars dissolve as they never existed, our allies suddenly consider us a security risk, and it is no overstatement to say that people die.

From Edward Snowden to a politician who wants to be the first to break news, we the American people suffer for their selfish acts. And who benefits? Maybe the politicians snag a few headlines for a few hours on an interview on cable news, but the real winner ultimately is our adversaries.

All that said, I want to take a minute to thank the professionals on whose shoulders these declassification decisions rest. Our ODNI briefer, Mr. Koch, represents a very small group of people who, in the last three years, has been a vital partner for this Committee. We sought to reveal information the right way, after working with the Intelligence Community to ensure we were doing no harm.

All five volumes of the Russia report passed through his shop for declassification review. And we greatly appreciate his efforts, their efforts, to protect our secrets and yet ensure the American people were able to see our work.

I also want to thank Senator Sasse for his perspective, as an historian and an academic, and his leadership in ensuring that declassification is done properly, while again protecting our investment in our Intelligence Community.

Of course, the Vice Chairman, who has taken an interest in this, and Senator Moran who was here today. And on this Committee, especially Senator Wyden, who has been a leader, perhaps the leader, on trying to reform. Not "perhaps"—is the leader on trying to reform the declassification process. So, again, thank you, Senator Moran, for being here.

And let me just say, as a housekeeping item, we'll let everyone know when the votes are coming and so forth. This is our first experience with WebEx.

We are not, by nature, a very open-to-the-public kind of Committee. So, we are struggling with that as well. But, we'll do the best we can as we hope to work through some of these technical glitches in the interim. So, I do ask everybody for their patience. It has nothing to do with keeping something secret or declassified, we promise that, on this one.

So, thank you. To the Vice Chairman.

OPENING STATEMENT OF HON. MARK R. WARNER, A U.S. SENATOR FROM VIRGINIA

Vice Chairman WARNER. Well, thank you, Mr. Chairman. And let me thank my friend, Senator Moran, my friend, Senator Wyden, for

taking on this issue. I think it is extraordinarily timely. I do hope we're going to get to hear from Congressman Tierney and Mr. Koch. I've got a number of questions for him.

I know declassification is a bit more technical than some of the issues that we grapple with, but it is fitting that we should have an open session to discuss it.

I think we all would agree that today's declassification system is broken. It's outdated, slow, bulky, costly, and almost hopelessly inadequate for the digital age.

Agencies are using a fragmented, paper-based system that lacks the resources, uniformity, and technology to keep pace with the exploding volume of digital records. This leads to errors, puts classified information at risk, and erodes Americans' trust in the system.

A quarter of a century ago, a commission led by the late Senator Daniel Patrick Moynihan, a former Member of this Committee, found that while secrecy is important for security operations, policy discussions, and weapons systems, and also found that excessive secrecy has significant negative consequences when the public cannot be engaged in informed debate, which is extraordinarily timely now in terms of election security. When policymakers are not fully informed and government cannot be held accountable for its actions.

Furthermore, excessive classification saps resources needed from protecting those secrets that truly must be kept. I agree with the Chairman. Those secrets that are critical, they must be kept and honored in, I think, a greater way.

But, my fear is in today's digital age, if anything, the new solution seems much worse—the ease with which tens of millions of new documents are classified every year. So, I'm going to be anxious to hear from our witnesses on how the declassification system is functioning. And I'm sure we'll have questions.

And I want to, like the Chairman, recognize the very important work of Senator Wyden, who, without his constant persistence, I'm not sure we'd even be at this point.

I would like to now cede the balance of my time to Senator Wyden for some opening comments as well.

STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON

Senator WYDEN. Thank you. Thank you very much, Mr. Chairman. And I especially want to thank my co-sponsor, Senator Moran, who I know is getting out the door, and also Chairman Rubio. Open hearings are rare, and I very much appreciate him doing this.

Let me start by saying that when our country's safety is at stake, there is a very real need to classify documents essential to protecting American lives. What there is no need for is a dilapidated, out of control classification system that costs taxpayers more than $18 billion a year and—get this, colleagues—cannot even distinguish between what should and should not be kept secret.

The classification system is so outdated and dysfunctional that when it comes time to declassify a document, the agencies that have to sign off don't even have the ability to communicate about it securely online.

So, here's what happens, colleagues. Intelligence officials have to print out the documents. They put them in a bag and drive around from agency to agency. And if they get stuck in traffic, they better bring a bag lunch.

Now, watching these intelligence officials march around with their documents might make for a funny "Saturday Night Live" skit, but it is an absurd waste of taxpayer money and it's damaging to our national security and our democracy. Documents that should not be classified are just piling up in secret databases. The system is choking on itself and it's getting worse each year as a flood of new information gets classified digitally.

As the Chairman said, there is widespread consensus there is a serious problem here. There's a widespread consensus that modernizing the declassification system is the only solution. There are lots of good ideas for how to do it. The only thing missing is somebody to take responsibility and get it done.

So, that's what Senator Moran and I are doing: bipartisan legislation that would implement the privacy board's recommendations and direct the Director of National Intelligence to take the leadership role. They're already responsible for information management, information technology, and the protection of sources and methods. The DNI is already responsible for developing uniform policies within the Intelligence Community across the Government. Solutions to this longstanding problem are at hand.

One last point. And Chairman Rubio, I'd like just to make sure that I impart this to you because I think you raised the central concern that I've heard about, the Department of Defense. The reform Senator Moran and I are urging does not put the DNI in charge of deciding what DOD secrets are declassified. It's about modernizing systems for declassifying information that the Department of Defense and other agencies have already determined are no longer classified.

So, I'm sure we're going to have a good discussion. Mr. Chairman, again, thank you for your courtesy and the opportunity to be here.

Chairman RUBIO. Thank you. So, my understanding Mr. Koch is on.

STATEMENT OF GREGORY M. KOCH, ACTING DIRECTOR, IN-FORMATION MANAGEMENT OFFICE, OFFICE OF THE DIREC-TOR OF NATIONAL INTELLIGENCE

Mr. KOCH. Acting Chairman Rubio, Vice Chairman Warner, and Members of the Committee, it is an honor to appear before you on this panel to present the Intelligence Community's perspective on declassification reform.

I am grateful for the opportunity to discuss with you declassification, one of the most important, often overlooked, oversubscribed, and misunderstood areas of the information security program. Today, I hope to give you a better understanding of the current declassification landscape, share an IC perspective on proposed government-wide reform, and discuss the level of effort that real reform will require.

As the Committee is likely aware, the U.S. Government's declassification review processes are not ideal for the digital age and like-

ly require significant change in order to keep pace with the massive increase in digital information eligible for declassification. With limited resources and subject matter expertise dedicated solely to declassification review, a relatively small workforce faces a daunting task in processing requests from the massive repositories of records, which by some estimates exceeded the equivalent of four million cubic feet of paper in the IC alone.

Facing those kinds of numbers, Federal agencies undoubtedly need and support classification reform.

Modernization must occur to meet the demands of the digital age as well as support transparency to the public, while simultaneously safeguarding national security information.

IC recognizes the critical importance of public interest in our efforts to be transparent with the American people. As such, the ODNI, in consultation with IC elements, works diligently to support declassification and public release requests for national intelligence information, not only from the public but also from congressional committees and the President, including, but not limited to, a large volume of information related to Argentinian human rights abuses; information relating to use of our surveillance authorities; intelligence information related to Department of Justice Inspector General investigations; and the five volumes of this Committee's report on its Russian active measures investigations.

In addition, ODNI facilitated an IC review for release of national intelligence information on a wide range of topics, including materials on the 50th anniversary of the Tet Offensive. IC elements also continue to process thousands of Freedom of Information Act, Mandatory Declassification Review, and Privacy Act requests each year. The IC invests in and continues to prioritize these efforts because they are important to the public's understanding of the challenges facing our Nation.

While the ODNI continues to work across the IC to improve internal declassification processes and systems, larger investments in people and technology are required to see real change. In that vein, the IC appreciates the goals and objectives of the Declassification Reform Act. However, an initial review of the legislation surfaced multiple concerns.

First and foremost, any proposed reform must be consistent with the IC's obligation to protect sources and methods and our most sensitive classified information from unauthorized disclosure. Reform efforts must also address the individual departments and agencies, such as Departments of Defense and Energy, which also have significant classification and declassification equities.

Additionally, the required investment and wide sweeping whole-of-government change envisioned by the PIDB report and the legislation it informed requires more agency program analysis to understand and account for all equities.

The IC agrees modernization is imperative and looks forward to more discussion on capability, capacity, and the actual price tag of accomplishing the intended objectives of the proposed legislation.

A specific concern to the IC is the recommendation to make the DNI the government-wide executive agent for declassification, responsible for all policies and processes of the U.S. Government. ODNI believes that such an approach takes the ODNI well beyond

its intended role. The DNI is a delegated authority from the President to classify information as are other agencies in accordance with Executive Order 13526—Classified National Intelligence Information.

The DNI classification and declassification responsibilities and competencies apply to intelligence and intelligence-related information within the 17 agencies and components that make up the IC, not to information located throughout the entire Federal Government. As you know, the DNI's authority generally does not extend beyond the IC.

A government-wide EA role for declassification is not only resource intensive, it also supposes that one EA is responsible for classification and that all information is treated the same. That assumption is false and will likely lead to unintended consequences.

Many agencies have delegated original classification authorities specific to their holdings. The ODNI does not have the capacity or the expertise to govern declassification of information created, collected, classified, and held by the entire Federal Government. As such, charging the ODNI with this broader mandate would have negative consequences and distract from our core mission of protecting its intelligence sources, methods, and activities.

This expanded role for ODNI is also in conflict with, and contrary to, the ODNI's constitution as a smaller integration body, rather than a larger operational organization. The proposed legislation describes an enormous endeavor to reform declassification, and the likelihood of success cannot rest with one lead agency. Any government structure must address the equities of all of the owning government agencies who have individual experience and inherent authority over their classified information.

Consistent with the concerns outlined regarding the EA role, we also believe the DNI is not well suited to chair a committee overseeing government-wide declassification efforts. While the ODNI would welcome further discussion on the proposed creation of an Executive Committee on Declassification Programs and Technology, the ODNI recommends the Committee also engage with other federal agencies with longstanding declassification programs, such as DOD, DOE, and State, on proposals for declassification reform.

In the midst of discussion about declassification governance reforms, we must not lose sight of the way the declassification mission is changing fundamentally. As I mentioned previously, the overall volume of information requiring declassification review is growing exponentially as agencies produce more and more digital information.

With such a flood of information production, the IC agrees that investments in IT will be required to deal with the growing volumes of information collected and produced in the digital age, along with many years' worth of existing analog and digital holdings that may hold valuable historical insights.

There are opportunities to apply advanced technologies, such as artificial intelligence and machine learning, to augment declassification specialists. Incorporating new technology would reduce some labor-intensive steps, support consistency and referrals during the review process, and possibly identify sensitive sources and methods.

However, it is important to note that technology is not a panacea. Human expertise on information holdings and routinely validating that technology will always be necessary.

Finally, coordination of declassification efforts throughout the U.S. Government would require something that has been exceedingly difficult to do, even within the much smaller group of the IC: get all declassification stakeholders on the same IT system, network, and platform so that coordination can occur smoothly and securely.

Most agencies have their own individual IT systems. Bringing these networks together beyond the level of exchanging emails has proven to be a monumental task and requires significant resources to deliver the proper secure environment. An even greater level of effort will be needed to accomplish similar goals throughout the U.S. Government.

While the ODNI continues to work diligently to address timeliness and consistency in the review process, extending that process beyond the IC without first creating the infrastructure to support it simply wouldn't work.

The challenges to reform are immense, but ODNI agrees with the PIDB that the need for reform cannot be ignored. While we differ on the advisability, feasibility, and the obstacles to making the DNI the EA for declassification, we look forward to working with this Committee, the overall U.S. Government, and the PIDB on ways in which the IC can contribute to meaningful reforms.

Acting Chairman Rubio, Vice Chairman Warner, and Members of this Committee, thank you for your time and attention on a very important topic. I look forward to your questions.

Chairman RUBIO. Thank you.

Congressman TIERNEY.

STATEMENT OF CONGRESSMAN JOHN F. TIERNEY (FMR.) MEMBER OF THE PUBLIC INTEREST DECLASSIFICATION BOARD

Mr. TIERNEY. Thank you Acting Chairman Rubio and Vice Chairman Warner and also the Members of the Committee. I want to thank you for the invitation to testify on the important but mutually neglected issue of modernizing the Government's national security classification and declassification system. I'd also like to thank the Committee staff for their assistance on making it possible for me to appear before the Committee by video.

I'm speaking to you today as a member of the Public Interest Declassification Board, or the PIDB, and my remarks reflect the views of our members. Our staff previously provided a much more detailed prepared statement to the Committee staff.

Congress recognized the critical importance of declassification in our democracy and in our Nation's security when it created the PIDB in 2000. It recognized the role the PIDB can play and should play in improving the health of the national security classification and declassification system by making recommendations for reform.

We're gratified with Senators Moran and Wyden cosponsoring and introducing The Declassification Reform Act of 2020. This proposed legislation includes many of the recommendations for our re-

cent report to the President entitled, "A Vision for the Digital Age: Modernization of the United States Classification and Declassification System."

We're also grateful for the Congress passing and the President signing legislation last year, permanently authorizing the PIDB and looking forward to continuing our advocacy on the imperative to modernize today's antiquated classification and declassification systems.

We've written five reports to the President over the past 12 years. Each report documented challenges facing the Government and recommended new policies to address them. Modernization of the classification and declassification system is an imperative. It is a necessity for our national security and our democracy to operate effectively in the digital age.

Since issuing our first report in 2008, the Government has made little progress. It has not invested nor integrated information technology into classification and declassification processes. We purposefully designed our most recent report to serve as a roadmap for the Government to overcome collective individual agency inaction, to harness uncoordinated efforts by a few individual agencies, and to integrate them into a Government-wide solution.

We stress the critical importance of sustained leadership in driving change by having a senior-level executive agent oversee implementation of reforms. We felt that an integrated, federated-systems approach would ensure interoperability, allow for effective use of advanced technologies, and lead to solutions to declassifying large volumes of digital data.

Our recommendations align with the Administration's information technology modernization and artificial intelligence strategies, and its efforts to integrate IT across agencies to improve performance and reduce cost. They align with the DNI's 2019 national intelligence strategy to do things differently. And the National Solarium's recommendation to reform the United States Government's structure and operations for cyberspace.

There's a widespread agreement that the declassification system is at a breaking point. It simply cannot effectively handle the volume of digital data generated every day. It cannot handle the volume of records requiring declassification review. Declassification processes remain much the same from what they were when first developed in the Truman Administration in an era when secrets were created on paper and secured in safes. Without reform, it will be far worse in the future.

I will share one example. In 2012, we learned that one intelligence agency estimated it created approximately one petabyte of classified data every 18 months. This is the equivalent of approximately 1 trillion pieces of paper.

This agency estimated that using current manual declassification review processes, it would take 2 million employees one year to review this volume of information. This is just one agency eight years ago. The problem has undoubtedly grown exponentially since 2012.

Just as the declassification system was about to collapse, overclassification is getting worse and harming current government national security operations. Lieutenant General James Dickinson, the President's nominee to lead the United States Space Command,

testified before the Senate Armed Services Committee that over-classification was making it more difficult for us to support the warfighter.

In this example, over-classification not only effects operations ambitions, but it can lead to costly duplication of space systems, limit innovation, diminish private sector support, and reduced development of new technologies on projects that could aid U.S. space dominance.

Agencies must reevaluate the needs of their customers to maximize their support. For example, the National Geospatial-Intelligence Agency, the NGA, created a Consolidated Security Classification Guide it calls CoNGA. It is integrated into NGA work processes, uses advance technology to automate classification decisions, and ensures decisions align with mission and customer needs.

Policy modernization, interagency integration, and technology use are critical to the security of our Nation. Technology, such as artificial intelligence and machine learning, are revolutionizing operations. Specific tools and technology solutions exist at agencies now. They can and must be used to revolutionize the management of classified data.

Agency programs currently operate independently in a silo. They are duplicative and they only focus on identifying and reviewing their own equity information. Many lack the ability to communicate securely with each other, including the National Declassification Center. This leads to added cost and reduced efficiencies as agencies duplicate processes.

We recommend an executive agent to oversee declassification reform and integrate it into a federated system. First, the executive agent has the authority to oversee implementation of new policies and processes across the agencies, including developing precise declassification guidance and metadata standards that can be used across agencies.

The executive agent has authority to direct and organize research into advanced technology solutions, ensure its interoperability across the federated enterprise system, and coordinate technological acquisition.

We believe the ODNI is strategically empowered to take on the coordination role as executive agent. The ODNI has the experience. It overcame bureaucratic roadblocks and integrated the 17 organizations that comprise the Intelligence Community. The ODNI is a proven leader in developing, implementing, and managing technological solutions and acquisitions to support missions and operations across agencies.

Implemented development and deployment of the Intelligence Community information technology enterprise, ICITE, and it manages the joint Worldwide Intelligence Communications System.

The ODNI is a leader in overseeing and managing research in advanced information technology, artificial intelligence, and other machine-learning technologies. It can leverage expertise of the Intelligence Advanced Research Projects Agency, National Security Agency, Central Intelligence Agency, other Intelligence Community agencies, and In-Q-Tel and other private sector partners.

Lastly, the DNI has the stature to bring about change. The 2019 National Intelligence Strategy recognized the DNI's leadership role

in getting the Government to do things differently by increasing integration and coordination, bolstering innovation, and increasing transparency. We felt the ODNI was the clear choice to serve as the executive agent.

ODNI's leadership in establishing a common IT architecture can also provide opportunities to gain efficiencies, better support missions, and increase cost savings by expanding the common IT infrastructure, processes, and data strategy already in place to improve classification and declassification.

We're at a precipice. The declassification system can no longer keep pace with the volume of paper records created 25 years ago; and the exponential growth of digital data will cause it to collapse without radical change. The impact of a failure to reform the classification and declassification system will be felt widely in our democracy and in our national security.

We authorized five reports offering recommendations and possible solutions to this challenge. However, they have not yet led to a coordinated government effort to radically rethink what classification and declassification mean in a digital age, how it impacts our national security, and how it impacts our democracy. Our board remains hopeful that change is coming.

The President signed Senate Bill 1790 last year. It required the Department of Defense to report to the Congress on its plan to integrate advance technologies into declassification processes and what it is doing to reduce declassification backlogs.

There is also unanimity among all stakeholders this system will not work with digital age. I appreciate the ODNI representative's statement that the system is outdated, recognizing that there is a problem is a step forward.

We support Senator Moran's and Senator Wyden's recently proposed legislation to modernize declassification and we're grateful to this Committee for hosting a hearing on this issue. These are also important steps forward.

There are important steps that will lead to reform. The Government is already modernizing information technology policies and practices. It is reforming acquisition policies and practices for efficiency and reduced costs. It is integrating the use of advanced technology across agencies to address mission imperatives.

Adopting the recommendations in our vision report either within the executive branch or through legislation are the next steps. Appointing the DNI as the executive agent will bring needed experience and expertise. It will facilitate development of a federated systems approach across agencies. It will facilitate the integration of advance information technology into new classification and declassification processes.

Let me again express my appreciation to the Committee for addressing this esoteric, yet critically important topic. Modernizing the classification and declassification system is important for our 21st century national security and it is important for transparency and our democracy.

The time for action is now. The Government must move beyond saying, "it's too costly" or saying, "some other agency should be responsible." Instead, the roadmap in our report offers opportunities for reform. It offers possible solutions for the Government to en-

gage with stakeholders to truly address this challenge, to identify solutions, and to implement them.

Thank you, again, for your interest and your support. I look forward to answering your questions and continuing this discussion.

Chairman RUBIO. Thank you both for being here. The Vice Chairman went to vote. I'm going to go as soon as he comes back. Senator Feinstein is still getting ready.

So, Senator Blunt, you're next. Are you ready?

Senator BLUNT. Yes, I am, Chairman. Thanks for letting me go. I've got a couple of questions.

You know, clearly, as my former colleague, Congressman Tierney, mentioned in his remarks, Congress has asked the ODNI to come back with a plan on classification. We all believe that we over-classify now. I think that's more likely than not the default position. If you don't have a lot of time to think about the thing you're classifying and decide there may be something in there that possibly should be classified at a higher level, it goes there. And it goes there for a long time.

So, I don't know how much of that we need to establish here. We need to get back to where the classification is as open as possible and available in the future as quickly as possible.

I would say this is a question for Mr. Koch. You know the Pentagon leaders themselves have been pressing pretty aggressively for this. The secretary of the Air Force, Secretary Barrett, General Hyten, Vice Chair of the Joint Chiefs of Staff, have pointed out how hard it is to make the case publicly without access to information that is widely available now, particularly the overhead architecture information. So much of it is virtually available at the commercial level, if not absolutely available at the commercial level.

And to make the case for Space Command or to make the case—. Senator Moran and I both serve on the Defense Appropriating Committee. You know, his challenge is there are things that that Committee needs to know that truly aren't at the intel level but are at a level to where Members of Congress should have more access to them than they have now.

So, I guess the question, Mr. Koch, is what kinds of things would make it easier to explain the needs of Space Command and other defense needs if they were classified at a level beyond the likely current classification level?

Mr. KOCH. Thank you, Senator, for the question. Unfortunately, I don't think I can speak intelligently to what Space Command and Space Force is doing. That's a DOD equity. I can speak for the IC and what ODNI's doing.

But, if you're concerned about how agencies in the IC over-classify things, I share that concern with you. And you have to understand that we are collectively working on updating our security classification guides to be more tailored for very specific information.

So [Inaudible] are not [Inaudible] level when they—when there's a question. We're preparing better training for our workforce and I have utmost confidence that we will get to a point where over-classification will not be an issue going forward.

Senator BLUNT. Well, I hope so. And I guess, again, part of my question was that there is so much that's available at the commer-

cial level now and we wind up classifying government documents that are widely available at almost the level we have them in other ways. But, I think people are reluctant, if it's a classified document, to use it and often don't have the time to go somewhere else to find it.

So, a lot of people have, during the COVID period, really figured out that there's lots of unclassified material that they could access from home. Some agencies better prepared than others to work in that unclassified space.

But, given your declassification background, what have you done to assist the various IC agencies as to how they could use more unclassified documents during the time that they were working remotely? I think that also would be a question, Mr. Koch, for you.

Mr. KOCH. Senator, thank you. Thank you for the question. To be honest, I have not been personally involved with that.

As you know the IC works at the classified level for the vast majority of the time. So, not only during COVID, but pre-COVID it's incredibly difficult for any officer in the IC to work in an unclassified setting when they deal with classified material. So even if I had been involved with that——

Senator BLUNT. Are you telling you me you didn't have people working from home in an unclassified setting during the time that the headquarters was man down?

Mr. KOCH. No, we have had people working from home but we can't have them working on any kind of declassification initiatives or requests.

Senator BLUNT. I guess maybe I'm not making the case here right. But the case says that a lot of people have found a way to use declassified commercially available material that allowed them to do most of what they were doing with the classified material. And I guess your answer is you've given no advice in that.

John Tierney, on the move toward more declassification from your oversight, you're looking at that. What have you seen that you're most encouraged about and what have you seen that you're most concerned about as we try to get our hands around this whole issue of over classifying.

Mr. TIERNEY. Senator, what we've seen is a lack of ability to work across the agencies and find standards that can apply for anybody on that. And I think that goes back in the form of a lack of leadership. We're not asking that the ODNI actually go in there and tell people what they're going to classify and not classify. But we need somebody to make sure everybody is working on updating those and to the extent that it even can be uniform making sure that they are.

And I think what's probably most uncertain to us is that there's no activity going on in that realm. Everybody seems to just be saying well it's too expensive or it's too much for us to do. When in fact somebody has got to do it if it's going to be done at all and it is incredibly expensive to not have it done, as Senator Warner indicated and also Senator Wyden. Some $18-plus billion dollars a year are being spent and we're not really on top of the issues here.

So I think that we need the leadership and we need a set of standards that will take care of as much as can be done while still

leaving the individual agencies the ability to take care of their own equities.

Senator BLUNT. Thank you, Congressman. Chairman, I'm out of time. Thanks for the time.

Vice Chairman WARNER. Thank you, Senator. I think as Chairman Rubio indicated, we're going to do five-minute rounds. I'll go. I think Senator Cornyn's up next. Then I understand we're doing it this time by seniority. So you'll be right after Senator Cornyn. It's Warner, Cornyn, Feinstein next.

Senator CORNYN. Gentlemen, there's lot of detail here but if I could sort of pull us back to a 30,000-foot level or above. I'm not really exactly sure there's a common understanding about the problem we're trying to solve both through the classification system and the declassification system. I start from the premise that public information should be available unless there is a good reason not to make it available.

And I'm told that there are about four million people with security clearances in the United States and it seems to me that not only do we over-classify, but that it's so burdensome to come up with a method of declassification that it just simply—we need to sort of think over again what is the goal here?

We all understand being consumers of classified information—the importance of protecting things like sources and methods. But just like under the Freedom of Information Act, it's too easy for government officials to hide their mistakes to prevent public scrutiny and accountability for their actions on behalf of the taxpayer. And I wonder maybe I could start with you, Mr. Tierney.

I'd like to get a little bit of your perspective and feedback about how we should conceptualize the problem we're trying to solve here. And how do we reconcile that with another important law, which is the Freedom of Information Act and the presumption of openness, along with pretty clear criteria that are applied to keep it secret or keep it in the hands of the Government rather than to make it available.

Do you think that's a fair contrast to make and should we all be focused—should both systems be focused on the same goal?

Mr. TIERNEY. Well that's a tough question Senator. I appreciate your throwing it to my ballpark.

You know, I had some of the same frustrations when I was on the Intelligence Committee in the House and on the Oversight Committee with National Security—that you're never quite sure that people are applying the proper standards to anything that they're classifying. And sometimes you get the notion that they might be classifying something for reasons of avoiding embarrassment or just because they're not sure whether it should be or not on that.

I don't have the magic bullet on that and I don't think that our PIDB necessarily does either, except to say that it is something that has to be done across agencies and that it needs some leadership. Somebody has to take charge of saying this is a problem and we're going to get a working group together, which is one reason we have the executive committee working with the executive agent in our recommendations to deal with just this sort of a problem.

There's identifying what is the glitch that is over-classifying things and what to do while setting standards that will allow people to apply them readily so that we don't get into that situation and make the clearness there. I think it'll be a decision that the communities make working together and that the Congress then will have to assess and make sure that they think that they're appropriate, as with the Executive, on that.

We don't have the magic bullet on how to tell right now—how to classify one item and not classify another within the equities of each individual agency. But nobody seems to be doing it yet and nobody seems to be really pushing down on the pedal to make sure that they do. And that's where the lack of leadership comes in on that. Why I think it's so essential that somebody lead the project.

Senator CORNYN. Well thank you for your answer. I wonder, do you as a former Member of Congress, do you see this as a legislative branch responsibility for identifying what information's classified or not? Or exclusively an executive branch decision?

Mr. TIERNEY. I think that the Congress has an oversight role to play on that. I think that initially, particularly within the Intelligence Community, it is an Executive situation and that they have to be responsible for it. But I think that the Congress has an oversight view to make sure that it isn't overly broad and that it serves the underlying purpose of making sure there's transparency and that the public does get as a default mechanism those things which should not absolutely be classified.

So while, again, the Executive can certainly take a lot of leeway on that and be very active in making sure that this moves forward, I don't think that Congress can abdicate its responsibility of oversight to make sure that it's being done properly and that classification does not continue to be over-broad in its application.

Senator CORNYN. And again, Mr. Tierney, have you seen a construct or a reform in this area with regard to the classification system that you think is useful or something we ought to—? Or that gets it right? Or is it just simply an absence of proposals that would help us get our arms around that?

Mr. TIERNEY. With respect to the classification versus items that shouldn't be classified, I don't think that I've seen a construct on that. I'd check with the other board members to see if they have or not. But I do think that there's a construct of having leadership in an agency that makes sure people are moving toward that goal and meeting benchmarks.

And then working together to make sure there's as much standard application as possible. And that's the ODNI itself and the work that it did amongst the 17 agencies in the Intelligence Community. And some of that, of course, reaches outside the Intelligence Community where people have access to some of that information and they need to know.

So, in that sense, there is a good example of how you can provide the leadership and it can work across agencies and even outside of the Intelligence Community is in the ODNI, the actual construct of classification versus don't classify something—I've not seen that prototype yet.

Senator CORNYN. Well thank you very much. Mr. Chairman. I'll yield back.

Vice Chairman WARNER. Thank you. And there are five minutes left on the vote if you've not voted on the last one.

Mr. Tierney, let me start with you and let me get both you and Mr. Koch on this one. This Committee has wrestled for two or three years on what I think is an analogous problem. And that is security clearance reform.

We worked closely with the Administration. Took the backlog on clearances down from over 700,000 to about 200,000. Still waiting for an EO called the Trusted Workforce 2.0. But I guess I'm interested in both the witnesses.

One is that there are the lessons learned from security clearance reform—and you may not be as familiar. But I'd like to have your comment there. And then what does a declassification system look like in a digital era? Since we obviously, I think, all agree that we're still kind of paper based. Either one of the witnesses. I guess I'll start with Mr. Tierney.

Mr. TIERNEY. Okay. Well on the declassification in the digital age it looks like, again, the need for there to be technologies that are identified and methods of machine learning. The architecture we put together to even to work on that. And again, that's going to take somebody with experience in doing that. The ODNI fits that bill in terms of this idea. And I think it's going to be very important.

And could you remind me the first part of your question Senator?

Vice Chairman WARNER. The first part of my question was—and you may not be as familiar with this part—but we worked quite closely with the Administration on a security clearance reform process. It's taken us three years but it seems like there were at least some similarities in terms of type of problem. And I don't know if you have observed any of that.

Mr. TIERNEY. No, I haven't. I'm not familiar with it Senator, although I will note that I had a security clearance serving on the Intelligence Committee in the House. But when I went to work on this board they started the process and that was what three years ago? And I'm proud to say that last week they finished it. So if there's reform, it certainly has——

Vice Chairman WARNER. So much for that reform playing out in your case.

Mr. TIERNEY. [Inaudible]

Vice Chairman WARNER. Mr. Koch, do you have any questions— either analogy—to security clearance reform and what are the metrics in a digital age?

Mr. KOCH. Sure Senator. So first let me say I'm not an expert at all in security classification reform. But the processes for security clearance investigation and access to classified information are fairly uniform. But when you're talking about the classification declassification system they're not. Because OCAs are delegated to departments and agencies from the President. And each agency develops their own security classification guides.

So federating that is not the same as dealing with security EA processes and issues. On the digital front, I know that there are multiple working groups at the national level interagency level that are already dealing with these issues and have been over the past few years. And we are continuing to do that.

Hopefully, after COVID finishes, we can get back to doing that business. But I will point out that the director of the ISOO already has the authorities that the PIDB suggests the DNI take over for declassification.

Specifically, the ISOO is directed by the President to establish standards for classification/declassification marking principles. And they should be the ones in our view that should continue doing those things in this area and not just shift those responsibilities to another agency.

Vice Chairman WARNER. But when we're talking about a digital era, though, isn't there almost an immediate bias toward over-classification when you've got so much voluminous digital product at this point? Is there any kind of guidepost you'd give us on how you could stop that—that proclivity? You've got so much data at this point, it's just easier to declassify and sort—or easier to classify—then even try to sort through.

Mr. KOCH. Well, Senator, that's a hard question to answer. There's just so much out there. When you have humans making their own decisions on whether something should be classified or not, they're basing their decision on their own experience as well as following specific security classification guidance on what should and should not be classified.

However, I do agree that we should get automation in this area, which would definitely cut down the over-classification issues that we have seen over the years. I know that there are some efforts underway throughout the IC to come up with some kind of program that can help automate as you're typing something that is immediately recognize as classified or not and therefore can mark a document for you so you don't have to do it yourself.

I don't think that we're there yet, but we've definitely made some progress in that area.

Vice Chairman WARNER. I do think AI will be an important tool. When Senator Rubio was making his opening comments he singled out—in addition to Senator Wyden—he singled out one of our newer Members as the philosopher-scholar. So maybe Senator Sasse has got the answers. He's up next.

Senator SASSE. It's unfortunate that you begin with an insult, but thank you Vice Chairman for chairing today.

Senator Wyden, thank you for your work on this, and Senator Moran for your earlier statement. To the folks on the PIDB, thanks for your work in an area that's really important. It obviously sounds like a niche topic but I think it's incredibly important.

I want to associate myself with comments from Members on both sides of the aisle today about the risks of over-classification, because it fosters public distrust. For all 15 of us who serve on this Committee, I really appreciate the work of all the hard working men and women who often labor in the shadows. And even their families don't always get to know what they're going through and all the suffering and sacrifices that they do.

We obviously value the classified product that we get on a regular basis. But I would push back a tiny little bit, Mr. Koch, against your last answer when you said people are making decisions about classification based on their individual histories and assessments. I think in addition they make decisions based on the

structural incentives in the system where, if you over-classify something, there's no way you get in trouble. If you under-classify something, you can get in trouble.

So the easy move—this is not to say that the people doing this work are lazy. It's that they're risk averse because all humans are. The easy move is to over-classify when you can't decide what to do. And so one of the things that I think, Mr. Tierney, your group has done so much important work on is just providing some simple ways for us to get our hands around it, and for the broader public to understand what problem we're dealing with.

And so one piece of your report talks about how we spend about $18 billion a year on these classification/declassification systems that aren't really working because we have millions of pages of documents even from the Reagan administration. And I say as a historian, not just as a regular consumer of intelligence—as a historian, I think it's really important for the public and for scholars to be able to get access to all of this information.

And instead of even wrestling around the hard dividing-line about what should or shouldn't still be declassified, I think Mr. Tierney what your report showed was that millions of pages of documents from the Reagan administration that should have already been declassified have not been simply because they require manual review. I think the bias for these older documents should be toward an inertia of motion path toward declassification.

And if a manual review is required, then these documents don't get declassified. The incentives in the system are rewarded to having over-classified. Historians and other scholars can't get access to them. There's not enough scrutiny and that fosters public distrust.

So Mr. Tierney, first of all thank you again for all of your hard work in this space. But as you arrived at the recommendation to make the ODNI—the DNI—the executive agent for declassification, could you walk us through a little bit of the process of how you landed there? What other alternatives you considered and how you decided that the DNI is the best or the least bad agent to be responsible here? That was directed at Congressman Tierney.

Mr. TIERNEY. Thank you very much Senator.

Senator SASSE. Thank you.

Mr. TIERNEY. Look, a prioritization on declassification is very important. I'm glad you brought that up. And the last report we made, we recommended that the National Declassification Center and the agencies of public discuss which to be reviewed so that others essentially would have an insight into what records the public or other agencies want to see. And by the fall those records that has no interest in seeing or very little interest in seeing. And that prioritization would allow for a coordinated government-wide approach to declassifying information based on the records most sought and the most historical significance to the public.

So those things are certainly important; and for the bond digital records in particular, the advanced technology would be able to assist in that declassification effort. It is costly, what's going on now. Some $18.5 billion are already being spent on an annual basis on that and it is more than a little crazy on that. There are 46 million pages in 2017 that were declassified. And each page costs about $2.23 per page.

So we went through a process of recognizing just what the expense was to the citizens and taxpayers and the need for our prioritization. And we kept coming back to the notion that there needed to be somebody driving the train. There had to be some leadership here. Because everybody recognizes the problem. Everybody will admit right away that it needs to have some technology involved in it. Different infrastructure architecturally. It needs to have action taken cooperatively amongst agents as we see interoperability.

All of those things people agree to but nobody seems to want to take the challenge on. We did at first look at the ISOO group and decided whether or not that would be a group that would be appropriate to take it. But unfortunately, ISOO is only 18 people. And it has a huge responsibility to do many other things that the executive orders have put on it. And I just can tell you some of them.

It supports several executive orders including Executive Order 13526, to classify national security information; 18–12829, the National Industrial Security Program; 3549, to classify National Security Information Program with State, local, tribal, and private—and so on and so on. You get to see the issue on that.

With only 18 people and its budget of $360 million this year, is $40 million decreased over the past 5 years. So we really couldn't, by a process of elimination, couldn't find an agency that would have the power and the respect in the community and that came from the ODNI's office.

They do command the respect and the authority that's going to be needed for somebody to be able to say to the other agencies: you need to address this problem. You need to focus on it and get an answer. You need to work with us on identifying technologies. You need to work with us on getting answers about the machine learning. And then those agents—you need somebody who's had experience doing it. We didn't have any other organization that we were able to come across that had the kind of experience that the ODNI had.

And even with the NGA—the Geospatial Agency—the work that they've done in CoNGA, solved some of the problems that were mentioned by you, Senators, earlier on that. But mostly looking back on that, a process of elimination of other agencies not having any experience, not having the authority perceived by other people to do that. And those things were very important and driven to us to say that this is what we need. We need somebody that—move on.

Senator SASSE. Congressman, I'll cut in here just to say thank you because we're at time, and I know that I need to give the microphone back to the Chairman. But Mr. Chairman, I would note for the record that I'm going to followup with a letter as well, asking about how the pilot project is going with the applied research lab at the University of Texas at Austin, which is trying to figure out how to use artificial intelligence and machine learning to expedite the declassification process. But I'll do that by letter. Thank you.

Chairman RUBIO. Excellent. Senator Wyden.

Senator WYDEN. Thank you very much, Mr. Chairman. For colleagues that have just joined us, I want to mention one issue that

the Chairman raised that I also did some research on during the break. The reforms Senator Moran and I are urging do not put the DNI in charge of deciding what DOD secrets are declassified. The same principle is true of Department of Energy secrets, State Department secrets; those agencies are going to decide what they're going to declassify.

What our bill's about is modernizing the systems for declassifying information that these agencies would use and have already determined are no longer classified. So that's an important issue, and I think we're going to have a dialogue on this. So Senator Moran and I very much want to work to develop a bipartisan coalition in this Committee to modernize the bureaucracy and we've proposed an approach that we think makes some sense.

So I'd like to start by having Mr. Tierney—because he's got a chance to respond to Mr. Koch. I think it would be good to have Mr. Tierney paint for the Committee a picture of the declassification process five, 10 years from now—if this Committee can't get that bipartisan coalition for reform. What would be withheld from the American people simply because we didn't get a bipartisan coalition to modernize the bureaucracy?

Congressman?

Mr. TIERNEY. Well, Senator, it certainly won't be a pretty picture. I can tell you that. We don't know right now how many classified documents agencies create. And we can't tell exactly how big the problem is. But we do know that the figure continues to grow exponentially. I cited one example in my remarks. We also know the Government will be unable to declassify any large volume of digital data that—. The abilities just aren't there.

Here's an example of a body of records that has or will have significant historical interest. The National Archives receive all the Presidential records at the conclusion of each Administration. It's an accession between one and two terabytes, I'm sorry, of data in the 12-year span of the Ronald Reagan and George H.W. Bush administrations.

The volume increased to four terabytes in the Clinton administration, mostly emails and structured data. And the archives received 80 terabytes from the George W. Bush administration. Eight years later the National Archives accessioned an astonishing 250 terabytes of data from the Obama administration including a complex array of structured and unstructured data.

So you just see how exponentially it grows in that one single category. And you take that and you blow it out amongst all the different agencies and aspects on that you get a picture of how ugly it's going to be years down the road when you don't have machine learning—you don't have the technology involved, you don't have some sort of coordinated effort.

Senator WYDEN. Now on the question of essentially how you handle this, how important—and this was very important to Senator Moran and I—is that declassification reform not be stove piped in different parts of the U.S. Government.

Mr. TIERNEY. Well it's very important on that. How to encapsulate that is difficult. I mean, you have so many different agencies classifying. You have so many different aspects of ways now that it's almost impossible for people to do it. I mean there's one exam-

ple of—it was mentioned earlier—that when somebody may declassify a document that is also involved with the equities of another agency. If you're doing it manually then you have to get it from one point to another.

If there's no ability to get it technologically one point to another, it has to be physically brought from one place to another or somebody has to come in and visit and review the document in a secure setting to do it.

So it just gets completely out of control. And I think it just moves on from there.

Senator WYDEN. One last question if I might, Mr. Tierney.

So, Mr. Koch basically—and this is a common refrain—said well let's look somewhere else to do this important job of really cleaning up declassification. And he seems to think that ISOO and NDC—the National Center—are able to play the role to really bring about declassification reform. We were concerned that these offices don't really have the kind of bureaucratic heft—the kind of bureaucratic muscle—to actually get federal agencies to integrate and modernize their declassification systems. What's your take on that?

Mr. TIERNEY. My take is exactly that, Senator. You're right. They can do it either way. You can say why did the DNI—should serve as executive agency or I can come in and say why—you know—the Information Security Oversight Office is not as suited to serve. But if it comes right down to it, one is the authority issue as you point out.

I've heard all wonderful things the people at ISOO do and I want to thank them for all the work they do. They don't carry the kind of authority and weight that the ODNI does when it says something should be done or people should work together and get it done by a certain time in a certain way.

And it's not equipped in that manner to serve. Also, as I mentioned, it has a quite heavy workload for 18 staff people and a budget that is shrinking instead of growing. The things that it can't do, it doesn't have the technical expertise that the ODNI has. It doesn't have access to the advanced technology that is already in place at the Intelligence Community agencies.

Unlike the ODNI, it doesn't have the experience of developing or deploying or managing large multi-agency secure cloud based enterprise systems like the ICITE system I mentioned that is run by the ODNI.

Unlike ODNI, it does not have the experience managing a secure communications network like JWICS. In fact, the National Archives only has two JWICS terminals for the entire agency.

Unlike ODNI, it does not have the experience of focus on protecting sources and methods, something the ODNI has highlighted to us in 2018.

And one reason I would think ODNI would want to be taking on this leadership role so it does have a good say in protecting sources and methods and be able to do that.

And unlike the DNI, the director of ISOO does not have the same stature and ability to corral those agencies that I mentioned on their policies. And it probably would be in conflict with their main oversight mission to boot.

So we've had discussions with Archives, leaders, historians, researchers, civil societies, organizations, records managers, or other agencies. We found that the National Archives is not the appropriate organization to serve as executive agent or to lead the reform of classification and declassification.

And we have tried to have discussions on this with the folks at the ODNI's office and we've not been successful to date. But we're open to more discussions with them on that. Because all the things I mentioned ISOO doesn't have, the ODNI does have. And I'm not aware of another agency that has it to the extent that the ODNI does.

Senator WYDEN. Thank you. I'm well over my time. And Mr. Chairman and Vice Chairman Warner, thank you both very much for scheduling this hearing and giving Senator Moran and I this opportunity.

Chairman RUBIO. Important topic. I'm glad we were able to get to it in an open setting.

Senator Heinrich.

Senator HEINRICH. Thank you, Chairman.

Representative Tierney, welcome. And I want to thank not only you, but your fellow Public Interest Declassification Board members for your most recent report on modernizing and reforming our declassification system. I really worry very much about the stakes of inaction in this field. And as you mentioned, a lack of reform means that we'll continue to spend an outrageous amount of money—$18 billion or more per year on a Fifties-era paper-based declassification system.

So Representative Tierney, while many say that modernization is too costly, I think there is clearly a risk of not making these kinds of investments now in a modernized system that'll bring cost savings down the road. What investments do you think are needed to modernize declassification? And do you think that there is the potential for actual cost savings in the future based on a more streamlined technology dependent modernized system?

Mr. TIERNEY. Well thank you, Senator. Nice to see you again as well. I do believe that and we—the Board—do believe that there'll be significant savings on this. The estimate of $18-and-a half-billion may actually underestimate the cost to the American public at the present time. We need to evaluate those costs and we obviously can't afford to continue on the way that we're going.

We need to, I would say, get an information technology architecture that is going to be somewhat costly. You need to have a lot more machine learning and the research and ability to do on that. There are some pilot programs out there, as Senator Sasse mentioned, that we can learn from.

And those are going to be costly. But they're one-time costs with a minimal sort of maintenance cost going forward, versus this continually growing cost and the cost of not getting the information out for use by this—, whether it's the Space Command or other government agencies or access to the public for their need to know and to Congress for its need to know.

So with the cost both in dollars and ability to access this information, it's huge. And while the outlay on these technologies and machine learning aspects of everything may be significant initially,

I think over time there will be a big cost saver on that and we'll get the information to people when they need it both inside government and out.

Senator HEINRICH. Congressman Tierney, one of the things that I find ironic is that this is a committee that really understands the utility of using machine learning, using artificial intelligence, so that the same set of eyes doesn't have to go over the same product over and over and over all day long. Because humans don't do well in that environment. And so weeding that down to a few documents that need to be looked at is something that I think, almost in our entirety, we understand the power of that to change how we evaluate intelligence product.

How can we scale up those pilots that you mentioned in AI and machine learning and begin to take the same, I guess, zeal for utilizing those tools in declassification that you already see in terms of analysis of other intelligence product?

Mr. TIERNEY. Well, we have the ability and experiences that we have to date. And it sounds a little bit like a broken record. Most of those are within the Intelligence Community in fact. So we have to acknowledge those and learn from them and build upon them. But then we have to do it in a coordinated fashion so that we're not duplicating everything we do. We're not doing the research twice; we're not giving the same technology twice. And that we're making sure that when we do get it that it's applicable and usable by everybody across the way.

So that again takes leadership—and to be the right person—to be able to say that this is what we're going to do. At the end, this is the decision. Everybody's going to move, march in that direction.

So we suggested the executive agent. We suggested the executive committee for that. And I think those are the important factors to take into consideration and to get those types of things done in a way that makes sure you're not duplicating cost and energy.

Senator HEINRICH. The new Commander of Space Command recently testified that over-classification is making it more difficult for Space Command to support the warfighter.

Congressman Tierney, can you talk a little bit about how over-classification affects operations and missions, not just the public's right to know, but also very real day-to-day, risk-laden scenarios?

Mr. TIERNEY. I can, Senator. I'm looking for some notes that I have on that, because it was not just Lieutenant General Dickinson that talked about that. It was also General Hyten, who's the predecessor on that, and talked about the fact that they were just duplicating things when they shouldn't and didn't need to be doing that. It has a serious effect on it, and I think those were the two best examples that we had. And let's see if I can find that.

Well, General Hyten was talking about just the over-classification of information within the Defense Department. In his own— and I quote him—what he said was it was unbelievably ridiculous. The officials, he said, like so many others who are worried by classification's effect on operations, has an effect there; has an effect on costs; has an effect on innovation and the ability to partner with industry in the private sector. So all those things were impacted.

So he worries about the over-classification limits, the public's insight of the Government operation and programs and especially the

costly ones like the defense program. So all of those things had to come in. Not just the dollar costs, but the costs and operations, innovation, and the ability to partner with private industries—impact our ability to carry on as a government in all fields.

Chairman RUBIO. Thank you. Senator King, are you on? Is he still with us? Senator King?

Senator KING. Okay. I come at this unburdened by a great deal of knowledge. But one question, Mr. Tierney, is are we swamped by declassification because we are trying to declassify everything? Or what about a system that just said, we're just going to work on the declassification of things that people ask for? It seems to me that cuts the universe of declassification down considerably. Or are we swamped even in terms of what people are asking for? Do you see where I'm going here?

Mr. TIERNEY. I do see what you're saying and I agree. There are certain statutes and executive orders that require that things be declassified on timetables, and that can always be adjusted when somebody takes a look at it. But I think you're right on the money when you talk about prioritization.

It's one of the things we've said, that there has to be a system put in place that, prioritizing what we need in the government agencies in order to avoid all those costs that I talked about—the inability to work in the private sector, the innovation and all of that. And also when the public, be it historians, Congress, or the public at a large, can take those issues of what people want and put them at the top of the list. Then work it down to those things least claimed for and then the ones that aren't being sought at all.

Senator KING. Well, and another idea along that same line is to just say, everything is going to be declassified after five years or 10 years or whatever, and that's the fallback. And then the burden is on the agencies to reclassify if they feel it's justified. In other words, it would be an automatic declassification. And again, the burden would be on those who did the classification in the first place to say, yes, we've got to keep this classified. Or we'll just let it go along with these other million pages.

Mr. TIERNEY. Well, I'll leave it to my friend at ODNI to respond with what I think will be the obvious intelligence reactions to that, in terms of, at present at least, the lack of manpower and technology to actually make the kind of review that it would require to see whether or not they should continue with the declassification status they're at, or be reduced or be released on that.

I know that we just went through the Kennedy pages, for instance. It was 50 years after the incident on that. There was a great deal of discussion with the FBI and the CIA as to what would release sources and procedures and things of that nature on that, and that was after that many years. So that was a great way to do it. That would presume that everybody had the ability to do it and protect what really needed to be protected.

Senator KING. Well, let me in my limited time—Mr. Koch, you, not surprisingly, said, "Not me. I don't want to be asked." But if not the DNI, then who? My experience in management is you need somebody who's responsible. My management principle is one throat to choke.

And one of the problems with this whole issue is it's scattered throughout the Government and there's nobody that can be held accountable for backlogs and delays. So if you don't think it should be the DNI, who do you think it ought to be?

Mr. KOCH. Well, thank you, Senator, for the question.

So as I mentioned previously, the President has already authorized both the ISOO and the NDC to coordinate across the executive branch on all declassification activities. The NDC, for example, has been given authority from the President to streamline declassification processes, as well as to prioritize what should and should not be reviewed by agencies.

I think that they should continue that process. And for your awareness, we have been working in multiple national level and interagency groups over the past few years to specifically address that prioritization issue. So we can get down to exactly what the American people really want to know, as opposed to reviewing in some ways meaningless information that no one cares about and our agency is spending so much time reviewing in the first place.

Senator KING. Thank you very much. Thank you, Mr. Chairman. Again, I want to express my appreciation to Senator Wyden and Senator Moran for leading on this issue, and thank you to you and the Vice Chair for holding this hearing. I think it's an important issue.

Chairman RUBIO. Senator King, you look comfortable. There's some people here saying that you have a brandy and a cigar that we can't see that's not in sight of camera.

Senator KING. I'm somewhere in the bowels of the Capitol, but in an undisclosed location.

Chairman RUBIO. I didn't see any smoke. I defended you, just wanted you to know.

Senator KING. Thank you.

Chairman RUBIO. Thank you.

Is there anybody else online, or am I the last one? Okay, so then I think a lot of the topics have been covered. I did want to get to a couple things.

Congressman, if I could first just briefly ask you to explain the methodology of the report, because I didn't personally review it, but our staff looked at it again last night. It's not outlined in the document.

I'm just curious, you know, who did you interview? What's the data we gathered, and then how was that all incorporated in the recommendations? It looked like a lot of work, so I'm just curious.

Mr. TIERNEY. It was a tremendous amount of work, and a lot of it, of course, was done with the help of our staff, which has been tremendous on that. I would be happy to have us respond to you with a longer list of who exactly we spoke to and when, to try to give you a real good idea of what the methodology [Inaudible].

Chairman RUBIO. What I'm getting at with the question is—you'll understand in a moment—is we're trying to sort of understand what the reforms would cost. And I'll tell you why I'm asking that, not because we shouldn't do it. But I think from what you've heard here today, I think there's broad-based support for the idea that the system we have in place now is Byzantine and confederated and broken and it needs to be modernized. And it needs to

be brought in the 21st century and fully utilize all of the technology that's now available to us.

It seems to me that there seems to be not much controversy around the idea that there needs to be an executive agent, someone who has ball control on this in terms of overseeing strategy, implementing the plan, driving the investments. Where I think sort of the debate on the topic is who's going to be that agent who sort of runs it. And it would appear that in order to design and implement and drive the investment, you would need a pretty substantial investment above what we are doing now, at least at the design phase, because there's a lot of new pieces to move in.

And so I guess the question I'd have for Mr. Koch is given, obviously, the resources you have now are not—I think the answer to this question is going to be an easy yes—the resources you have available now to you would not be enough to drive this. It would require additional resources if, in fact, you are tasked with this or your office was tasked with this [Inaudible] given the personnel you have now?

Mr. KOCH. Senator, yes. I would absolutely say yes, that's correct.

Chairman RUBIO. Because, Congressman, the estimate of $18.39 billion for 2017, was that the cost for the current system, and does it include the cost of evaluating the documents for public release? Or do you know if that number just reflected maintaining the current classified system?

Mr. TIERNEY. That is the current maintenance of the system, the $18.5 billion on that. It does not take into account what would be needed to give the ODNI in order to be able to do the types of things that we've requested that they've done.

Just to broadly address some of your issue on it, we had discussion with National Archives leaders. A lot of them you'll see when we give you the information. Historians, researchers, civil society organizations, the record managers at other agencies. And obviously, we've met with the ODNI office and others in the Intelligence Community, but we offered to meet with them more once we hear their resistance on that; and we still remain willing to do that.

And we were able to make the comparison why ISOO and the National Declassification Center weren't the appropriate ones for lack of experience, for lack of resources, for lack of authority, and all of those things which the ODNI had. But we'd be more than happy to go into that in more detail with them, should we be able to effect a meeting with them.

Chairman RUBIO. Okay, yes. No, and again, it's not because it wouldn't be money or an investment worth spending. Just to be clear, this is not a plug-and-play where we could just use—. I mean no matter who gets this assignment, they're going to need resources, especially at the front end, to sort of implement it. Hopefully, at that point like anything else, there's front-end investments and the maintenance on the back end.

And just in terms of the notion that—and I guess, Mr. Koch, I want to accurately represent what the ODNI's position is on this recommendation. It's not that you're against a reform or even against a notion of an executive agent. It is a level of discomfort

in particular with designing a system that other agencies you don't have authorities over would have to abide by. Even if you're not making the specific decisions, you're designing a system they would have to live by.

Is that an accurate assessment of some of the angst or, I guess, some of the resistance to this recommendation of the ODNI being the executive agent?

Mr. KOCH. Yes, Senator, that's correct.

But I think part of the point is just simply transferring the authorities that already exist with both ISOO and NDC to another agency just doesn't make sense. I mean, if the issue is resources and money at both ISOO and NDC, why can't those agencies be given the same type of resources that it's being proposed for the DNI?

I don't think that we're actually suggesting that an EA is needed, but we are agreeing that significant reform is necessary in this area, and we have been working toward that in multiple working groups across the executive branch.

Chairman RUBIO. All right, yes, go ahead, Congressman.

Mr. TIERNEY. Thank you.

I think we covered that in fairly good ground, and I'll be happy to do it again. But there are so many things that the ODNI has that ISOO and the National Declassification Center don't have, in terms of experience in developing and deploying and managing multiagency cloud-based enterprise systems, securing a communications network like JWICS, protecting sources and methods. And the ISOO doesn't have that stature that the ODNI has. It doesn't have the ability to corral agencies.

It also has an oversight mission that it would be in direct conflict with this. So it's not authorized by the President to do this, nor is the National Declassification Center with those types of authorities. So some executive agent will have to be given it, and we just think it should be the one with the experience and the authority and the capabilities that have been exercised and shown to be so effective in other settings with those outside the Intelligence Community, and some of them worldwide.

Chairman RUBIO. Yes, I think what it boils down to at this point is—I think there's widespread agreement that it needs to be reformed, and someone needs to be in charge of the reforms. And really, the question we have to work through is who is that right entity to be responsible for designing it, implementing it, and then maintaining it on an ongoing basis. And then from us here, in an internal perspective, there's obviously some jurisdictional grounds, because if it touches on State Department or DOD, then this Committee's probably not going to be the sole place that will have oversight over it.

But look, it's a topic that I think, as you've seen, I think there's strong bipartisan widespread support for pursuing. And this report certainly, and the bill that's been filed, certainly gives us a baseline upon which to work. And I hope we fleshed out a little bit through this public hearing today some of the remaining outstanding topics about where our options are.

I want to thank both of you for being patient with us and contributing today to this hearing. It's one we have been trying to get

on the books for a couple months, and I'm glad we were able to do. And again, I thank you both for being willing to come online and be with us as a part of this today.

There may be some followup questions that members might send in writing. We would ask that if we have some of those, if you would just help get us answered. Some people may not have been able to come over today. But again, I want to thank both of you for being a part of this and everyone who came.

And with that, our hearing is adjourned.

Thank you.

[Whereupon, at 4:50 p.m., the hearing was adjourned.]

Supplemental Material

PUBLIC INTEREST
DECLASSIFICATION BOARD

Senate Select Committee on Intelligence
Hearing on Proposed Declassification Reform
Wednesday, September 9, 2020
Location: Senate Dirksen Room G-50 and via WEBEX
3:00 PM - 4:30 PM

Congressman John F. Tierney Remarks
Member of the Public Interest Declassification Board

Good afternoon Acting Chairman Rubio, Vice Chairman Warner, and members of the Committee. Thank you for the invitation to testify on the important but usually neglected issue of modernizing the Government's national security classification and declassification system. I would also like to thank the Committee staff for their assistance making it possible for me to appear before the Committee by video. I am speaking to you today as a member of the Public Interest Declassification Board, the "PIDB," and my remarks reflect the views of our members. Our staff previously provided a more detailed prepared statement to the Committee staff.

Congress recognized the critical importance of declassification in our democracy and in our nation's security when it created the PIDB in 2000. It recognized the role the PIDB can and should play in improving the health of our national security classification and declassification system by making recommendations for reform.

We are gratified for Senators Moran and Wyden cosponsoring and introducing "The Declassification Reform Act of 2020." This proposed legislation includes many recommendations from our recent report to the President, *A Vision for the Digital Age: Modernization of the U.S. Classification and Declassification System.*

We are also grateful for the Congress passing and the President signing legislation last year permanently authorizing the PIDB and look forward to continuing our advocacy on the imperative to modernize today's antiquated classification and declassification system.

We have written five reports to the President over the past 12 years. Each report documented challenges facing the government and recommended new policies to address them. Modernization of the classification and declassification system is an imperative. It is a necessity for our national security and our democracy to operate effectively in the digital age.

Since issuing our first report in 2008, the government has made little progress. It has not invested nor integrated information technology into classification and declassification processes. We purposefully designed our most recent report to serve as a road map for the government to overcome collective and individual agency inaction, to harness uncoordinated efforts by a few individual agencies, and integrate them into a government-wide solution.

We stressed the critical importance of sustained leadership in driving change by having a senior-level Executive Agent oversee implementation of reforms. We felt an integrated federated systems approach would ensure interoperability, allow for effective use of advanced technologies, and lead to solutions for declassifying large volumes of digital data.

Our recommendations align with the administration's Information Technology modernization and Artificial Intelligence strategies, and its efforts to integrate IT across agencies to improve performance and reduce costs. They align with the DNI's 2019 National Intelligence Strategy "to do things differently," and the National Solarium's recommendation to "reform the U.S. Government's structure and operations for cyberspace."

There is widespread agreement that the declassification system is at a breaking point. It simply cannot effectively handle the volume of digital data

generated each day. It cannot handle the volume of records requiring declassification review. Declassification processes remain much the same from when they were first developed in the Truman administration in an era when secrets were created on paper and secured in safes. Without reform, it will be far worse in the future.

I will share one example. In 2012, we learned that one intelligence agency estimated it created approximately 1 petabyte of classified data every 18 months. That is equivalent to approximately 1 trillion pieces of paper. This agency estimated that, using current manual declassification review processes, it would take two million employees one year to review this volume of information. That was *one agency 8 years ago*. The problem has undoubtedly grown exponentially since 2012.

Just as the declassification system is about to collapse, over-classification is getting worse and harming current government national security operations. Recently, LTG James Dickinson, the President's nominee to lead the U.S. Space Command, testified before the Senate Armed Services Committee that over-classification was "making it more difficult for us to support the warfighter." In this example, over-classification not only affects operations and missions. But it can lead to costly duplication of space systems, limit innovation, diminish private sector support and reduce development of new technologies on projects that could aid U.S. space dominance.

Agencies must re-evaluate the needs of their customers to maximize their support. For example, the National Geospatial-Intelligence Agency (NGA) created a Consolidated Security Classification Guide, called "CoNGA." It is integrated into NGA work processes, uses advanced technology to automate classification decisions, and ensures decisions align with mission and customer needs.

Policy modernization, interagency integration, and technology use are critical to the security of our nation. Technologies such as artificial intelligence and Machine Learning are revolutionizing operations. Specific tools and

technology solutions exist at agencies now. They can and must be used to revolutionize the management of classified data.

Agency programs currently operate independently in a silo. They are duplicative and only focus on identifying and reviewing their equity information. Many lack the ability to communicate securely with each other, including the National Declassification Center. This leads to added costs and reduced efficiency as agencies duplicate processes.

We recommend an Executive Agent to oversee declassification reform and integrate it into a federated system. First, the EA has the authority to oversee implementation of new policies and processes across agencies, including developing precise declassification guidance and metadata standards that can be used across agencies. The EA has authority to direct and organize research into advanced technology solutions, ensure its interoperability across the federated enterprise system, and coordinate technology acquisition.

We believe the ODNI is strategically empowered to take on the coordination role as Executive Agent. ODNI has the experience. It overcame bureaucratic roadblocks and integrated the 17 organizations that comprise the IC.

ODNI is a proven leader in developing, implementing, and managing technological solutions and acquisitions to support missions and operations across agencies. It led the development and deployment of the Intelligence Community Information Technology Enterprise (ICITE) and manages the Joint Worldwide Intelligence Communications System.

ODNI is a leader in overseeing and managing research in advanced information technology, artificial intelligence, and other machine-learning technologies. It can leverage expertise of the Intelligence Advanced Research Projects Agency, National Security Agency, Central Intelligence Agency, other IC agencies, and In-Q-Tel and other private sector partners.

Lastly, the DNI has the stature to bring about change. The 2019 National Intelligence Strategy recognized the DNI's leadership role in getting the government "to do things differently" by "increasing integration and coordination," "bolstering innovation," and "increasing transparency."

We felt the ODNI was the clear choice to serve as the Executive Agent. ODNI's leadership in establishing a common IT architecture can also provide opportunities to gain efficiencies, better support missions, and increase cost savings by expanding the common IT infrastructure, processes, and data strategy already in place to improve classification and declassification.

We are at the precipice. The declassification system can no longer keep pace with the volume of paper records created 25 years ago and the exponential growth of digital data will cause it to collapse without radical change. The impact of a failure to reform the declassification and classification system will be felt widely - on our democracy and on our national security.

We have authored five reports offering recommendations and possible solutions to this challenge. However, they have yet not led to a coordinated government effort to radically rethink what classification and declassification mean in the digital age, how it impacts our national security and how it impacts our democracy.

Our Board remains hopeful that change is coming.

The President signed Senate Bill 1790 last year. It required the Department of Defense to report to the Congress on its plan to integrate advanced technologies into declassification processes and what it is doing to reduce declassification backlogs.

There is also unanimity among all stakeholders that this system will not work in the digital age. I appreciate the ODNI representative's statement that the system is outdated. Recognizing that there is a problem is a step forward.

We support Senator Moran's and Senator Wyden's recently proposed legislation to modernize declassification. And we are grateful for this committee to host a hearing on this issue. They are also important step forward.

These are important steps that will lead to reform. The government is already modernizing information technology policies and practices. It is reforming acquisition policies and practices for efficiency and reduced costs. It is integrating the use of advanced technology across agencies to address mission imperatives.

Adopting the recommendations in our *Vision* report – either within the Executive branch or through legislation – are the next steps. Appointing the DNI as the Executive Agent will bring needed experience and expertise. It will facilitate development of a federated systems approach across agencies. It will facilitate the integration of advanced information technology into new classification and declassification processes.

Let me express my appreciation to the Committee for addressing this esoteric yet critically important topic. Modernizing the classification and declassification system is important for our 21st century national security and it is important for transparency and our democracy.

The time for action is now. The government must move beyond saying, "it is too costly" or saying, "some other agency should be responsible." Instead, the roadmap in our report offers opportunities for reform. It offers possible solutions the government to engage with stakeholders to truly address this challenge, identify solutions, and implement them.

Thank you for your interest and your support. I look forward to answering your questions and continuing this discussion.

Public Interest Declassification Board
Responses to Questions from
Acting Chairman Marco Rubio and Vice Chairman Mark Warner
of the Senate Select Committee on Intelligence

[Senate Questions in bold]

Methodology used in the Public Interest Declassification Board's June 2020 report to the President, titled *A Vision for the Digital Age: Modernization of the U.S. National Security Classification and Declassification System.*

1. Please explain the methodology that supported this report as it is not specifically outlined in the document.

The Public Interest Declassification Board's (PIDB) report, *A Vision for the Digital Age: Modernization of the U.S. National Security Classification and Declassification System*, had its origins in an 18-months long interagency declassification working group. The PIDB staff invited experts from agencies to participate in this group along with members of the PIDB. It included information security, access, and declassification professionals, declassification program managers, archivists, and records managers from agencies. There were representatives from the Department of Defense and its components, Intelligence Community (IC) agencies, and civilian agencies, including the Departments of Energy, Justice, and State, the National Archives and Records Administration (NARA), the Information Security Oversight Office (ISOO), the National Security Council (NSC), and the Federal Bureau of Investigation (FBI).

The PIDB gained extensive knowledge about the declassification programs at agencies, including volume and variety of records, work processes and policies, resources, and technology investments and use. The working group focused on the current "as is" declassification system and a "to be" system. The discussion of the "as is" system focused on how agencies currently review their records, consisting mostly of paper, or electronic records converted to paper for review. The discussion of the "to be" system focused on how agencies envisioned reviewing born-digital data for public access.

The working group conducted a detailed survey to gather information about agency declassification management activities in the digital age. The survey included questions concerning staff and contractor levels, scope of assignments (some agencies had dedicated staff to perform 25-year automatic declassification review while others included collateral duty to process Freedom of Information Act (FOIA) and Mandatory Declassification Review (MDR) requests and perform pre-publication review requests), review policies and processes, and technology availability and use. The survey also sought to learn more about the variety and volume of classified digital data agencies currently create. After completion, the survey was the focus of extended discussion in the working group as participants refined the "as is" current

model, and then looked forward to future needs for declassification review in a "to be" model that includes large volumes and varieties of digital data.

As part of their research, the PIDB also visited agencies and met with classification and declassification experts to learn firsthand how their programs operate. Onsite visits included detailed briefings from project managers, original classification authorities, derivative classifiers, declassifiers, and subject matter experts. The PIDB members were particularly impressed with modernization efforts at the National Geospatial Intelligence Agency (NGA) where they saw how NGA developed, implemented, and now use its Consolidated Classification Guide (CoNGA).

2. Whom did the PIDB interview to gather information and relevant data for the report?

The PIDB met with a wide variety of stakeholders within the Executive and legislative branches, including the Executive Office of the President and the NSC staff, researchers and historians, representatives from industry and the private sector, academic think tanks, and members of civil society groups. As noted above, it invited and then led an interagency working group focused on declassification processes. The PIDB staff participated in Industry and Government-sponsored technology events and conveyed to the PIDB findings that they could apply to conceptualizing the modernization of the classification and declassification system.

The PIDB also learned how agencies are modernizing their Information Technology (IT) systems and operations and how the administration is developing and implementing IT modernization policies across agencies. They studied the President's Management Agenda (PMA) and its objectives to modernize IT and focus on data, transparency, and accountability. The PIDB staff attended countless events with Government leaders and representatives from the IT industry discussing the PMA and its implementation, IT modernization at agencies and across the Executive branch; Machine-Learning, Artificial Intelligence, and the application of other advanced technologies; Enterprise systems management; E-Discovery, Cloud technologies and design; and other events related to managing data. Many of these events included Chief Data Officers, Chief Information Officers, Chief Technology Officers, Enterprise Systems Engineers, Chief Information Security Officers, and other senior officials from Executive branch agencies, including from the IC and the Department of Defense and its components.

The PIDB met with senior leaders at the Departments of Defense and State, NARA, and with senior leaders at IC agencies. These engagements began in 2016 and continued into the Fall of 2018 before the Government shutdown occurred. The PIDB met several times with senior leaders and program managers at the Office of the Director of National Intelligence (ODNI) and also participated in a briefing with members of the IC Deputies Committee where they offered a preview of their recommendations.

The PIDB met with practitioners and information security professionals, original and derivative classifiers, declassifiers, archivists, records managers, and information management experts across Government, including several IC agencies. As time progressed and they refined their research into preliminary proposals, the PIDB requested new meetings with many stakeholders

and senior leaders to learn their reactions and listen to their comments. For instance, the Members met with the Principal Deputy Director of National Intelligence (PDDNI) twice, once in 2016 and again in 2018. At the onset and in between, they met with the Director of Information Management at ODNI and invited her to participate in the working group. In the Fall of 2018, they were invited to present their proposed recommendations to the IC Deputies Executive Committee. Composed of Deputies from the sixteen IC agencies, the PIDB received feedback and answered questions. At the end of the presentation, the PDDNI who chaired the meeting tasked the Deputies with providing the PDDNI with their formal responses in December. The PDDNI indicated that that she would compile their responses and provide them to the PIDB by mid-December. Unfortunately, the PDDNI's formal combined response arrived in January 2019 during the Government shutdown and after the legislation authorizing the PIDB had lapsed.

Once the PIDB was reauthorized, the members reviewed the PDDNI's combined response. The 16 IC agency Deputies were unanimous and agreed that the current classification and declassification system was outdated and no longer operates effectively or efficiently with large volumes of digital data. However, within the combined response, agencies did not offer solutions for recommendations they disagreed with. Their responses were pro forma and focused solely on the lack of resources, including added costs. There were no specifics on what resources were lacking nor were there explanations of additional costs. Agencies were unwilling to cede any authority outside of their own agency as it related to declassification yet were unable to address questions on how their agency would review large volumes of digital data for declassification.

The ODNI in particular was opposed to serving as the Executive Agent, despite its success in developing and managing the Intelligence Community Information Technology Enterprise and leading other Government-wide information security policies. Although it serves as the security executive agent for adjudicating security clearance, suitability and credentialing across the Executive branch, it nevertheless indicated it only had authority over the IC on matters of classification and declassification. The PIDB recognizes that this response was aligned with the "as is" current model, but the recommendations were to develop an entirely new framework with new authorities and roles to lead modernization and reform.

The PIDB held public meetings and Executive sessions as they gathered information on how to modernize the classification and declassification system. They also engaged with stakeholders through their blog, *Transforming Classification*. They held a public meeting to discuss their White Paper, "The Importance of Technology in Classification and Declassification," soliciting comments and feedback at that meeting and on their blog. Blog posts solicited comments on administration efforts to modernize IT and data policies across government, develop AI and Machine Learning capabilities, and other IT efforts that relate to classification and declassification modernization.

3. What were the processes used to gather and analyze the data?

In addition to meetings with senior leaders from across the Executive Branch and stakeholders over a period of almost three years, the PIDB organized and participated in the interagency declassification working group highlighted earlier in this questionnaire. Over a period of 18-months, this group gathered information on agency classification and declassification programs as detailed earlier in this questionnaire.

The PIDB also convened an interagency Declassification Technology Working Group (DTWG) to complement the work of the declassification working group. The DTWG engaged the CIO community from across the Executive Branch agencies to discuss the current landscape at agencies regarding technology investments for automation, advanced search-and-retrieval, data standards progress on preserving historically significant digital records created between 1990-2015, risk management practices, information management strategies to provide access to records, and connectivity, integration and communication capabilities.

Although the PIDB received extensive briefings on a Central Intelligence Agency (CIA)-sponsored Machine Learning pilot project led by the Applied Research Laboratories (APL) at the University of Texas at Austin between 2011 and 2015, this project continued to be of interest to the PIDB. In 2016, as part of a Congressionally Directed Action in section 321 of the FY 2015 Intelligence Authorization Act, they also participated in a briefing sponsored jointly by CIA and ODNI that featured project managers from ARL discussing "Decision Support Technology for Records Declassification Review and Release." The PIDB also received briefings on projects related to content understanding and Machine Learning at the Intelligence Advanced Research Projects Activity and at the National Security Agency.

4. How were the recommendations developed? PIDB Recommendation of DNI as Declassification Executive Agent

As noted earlier, the recommendations in *A Vision for the Digital Age: Modernization of the U.S. National Security Classification and Declassification System* came out of extensive engagements with Executive branch agencies and stakeholders. The PIDB gathered information from its participation in two interagency declassification working groups, including one focused on technology. It gathered information on how agencies are using advanced technologies for mission purposes and had the PIDB staff attend and participate in industry and Government-sponsored information technology events where they learned about how the Executive branch and how agencies are using advanced IT to improve the efficiency and effectiveness in accomplishing their missions.

As the PIDB's research and discussions progressed, it was apparent that there was a great disconnect between agencies efforts on IT modernization to support missions and the lack of investment and resources to aid support functions like classification and declassification. Onsite meetings with program managers and senior leaders as well as the discussion and responses from the IC Deputies Committee meeting confirmed this assessment. The PIDB also heard from

agencies that the lack of data standards across agencies hindered information sharing and served to maintain silos.

The PIDB felt strongly that modernizing the practices and policies of the 80-year old classification and declassification system required leadership with authority to direct reform. Through conversations and discussions with stakeholders, learning about agency classification and declassification programs, and gaining insight into agency IT modernization efforts, the PIDB felt that the IC and the Director of National Intelligence (DNI) in particular was strategically empowered to take on this role. First, the PIDB felt that the Executive Agent had to be a Cabinet officer. The DNI serves as an influential member of the President's Cabinet and can use the President's direction to drive reform.

Second, the PIDB felt that the DNI had proven experience in driving reform. Not only did the ODNI overcome bureaucratic hurdles to integrate the sixteen agencies that now comprise the Intelligence Community, it also reformed work processes and policies across the IC. The DNI also developed, implemented, deployed the Intelligence Community Information Technology Enterprise (ICITE) and developed a new information strategy and policy across the IC. As it developed this federated information technology enterprise, it also led development of metadata standards across the IC to facilitate search and discovery across IC agencies.

The DNI has proven experience in developing and managing system architectures like the Joint Worldwide Intelligence Communication System (JWICS). The DNI established policies, requirements and standards for all agencies using JWICS to adhere to, including agencies outside the IC.

The DNI has the greatest knowledge and interest in protecting sensitive "sources and methods" used across the IC and also those shared outside the IC through JWICS and other classified means. This PIDB felt this cross-agency knowledge should aid in development of a federated system designed to better recognize these sensitive sources and methods - especially those that were shared and are found within the records of other agencies, including non-IC agencies. Agencies were largely in agreement that intelligence sources and methods are among our nation's most important secrets and they most often need to remain secret for 50 years or longer. They were also in agreement that the DNI, already overseeing data and metadata standardization, was in the best position to ensure adequate and appropriate safeguarding of classified IC equity information, especially sources and methods.

As the PIDB met with IC agencies, they recognized the IC's greatest concern was the ability of other agencies to recognize embedded "sources and methods" equities. As the PIDB discussed how to address this concern, they felt it made the most sense to have the DNI oversee and manage this sensitive issue. Executive Order 13526, "Classified National Security Information" already explicitly provides this authority to the DNI in section 3.1(c), section 3.5(f), section 3/7(f), section 5.1(c) and section 6.2(b). For example, section 5.1(c) states:
> "The Director of National Intelligence, after consultation with the heads of affected agencies and the Director of the Information Security Oversight Office, may issue directives to implement this order with respect to the protection of

intelligence sources, methods, and activities. Such directives shall be consistent with this order and directives issued under paragraph."

Section 6.2(b) states:

"The Director of National Intelligence may, with respect to the Intelligence Community and after consultation with the heads of affected departments and agencies, issue such policy directives and guidelines as the Director of National Intelligence deems necessary to implement this order with respect to the classification and declassification of all intelligence and intelligence-related information…"

The PIDB's recommendation aligns closely with authority the DNI already possesses. It has not used this existing authority to reform the way this information is safeguarded and reviewed for declassification. Finally, the DNI also serves as the IC Member of the Interagency Security Classification Appeals Panel and has authority to make declassification determinations of IC information as provided for in section 5.3(a)(1).

The DNI is a proven leader in overseeing and managing advanced information technology research, including Machine Learning, Artificial Intelligence, and content understanding. The PIDB was impressed by projects at IARPA that it believed could be useful in modernizing the classification and declassification system. The PIDB felt the DNI was ideally placed and could use its leadership role in coordinating research among IC agencies, industry and other partners like In-Q-Tel. To complement this coordinating role, the DNI has necessary and proven experience in the acquisition of large-scale IT projects and programs, overseeing implementation, and managing their operations once complete.

The 2019 IC National Intelligence Strategy pointedly focused on the DNI's leadership role in reforming processes and policies "to do things differently." It stressed the DNI's overall role in increasing integration and coordination, aiding innovation, and increasing transparency. The PIDB, in evaluating its earlier recommendations after its reconstitution in 202, confirmed its recommendation to have the DNI serve as the Executive Agent. It felt that "doing things differently" was required to modernize the classification and declassification system, especially since the DNI already serves in an Executive Agent role in related areas and performs many of the operations and activities recommended by the PIDB.

While the PIDB received the ODNI's objections, it nevertheless recommended that the DNI serve as the Executive Agent to drive reform and modernization of the classification and declassification system. The PIDB felt that the ODNI had far greater experience and had the authority to led reform and modernization efforts.

The 2020 PIDB report recommended an executive agent (EA) for declassification and that that EA be the Director of National Intelligence.

5. Why did the Board not also recommend an EA for classification?

The PIDB's Vision for the Executive Agent would address modernization of both classification and declassification as integrated processes across the Government. They envision that the DNI would develop metadata standards that would facilitate classification precision across Government, including information that is shared with agencies outside the IC. These agencies must already meet ODNI requirements for secure communications and requirements for safeguarding IC information. Having the DNI serve as Executive Agent is an extension of what this office already performs in managing JWICS, Security and Suitability Credentialing and directives regarding IC information. The DNI is also developing data standards for use within the IC that can be extended, initially as a pilot, to include those agencies outside the IC that receive and use IC information. This will ensure proper safeguarding and can then be used for declassification review at the appropriate time. One of the challenges the PIDB learned from its engagements with stakeholders was he inability of Government to know what information it has declassified – especially information that multiple agencies either received or created. A second challenge they learned from IC agencies was their concern that agencies outside the IC who have previously received their information may not always recognize sensitive IC information and inadvertently do not refer it to the appropriate IC agency for review, or simply declassify it.

Modernization of the classification and declassification system will lead to more accurate and precise classification and declassification decisions. Reforming front-end classification policies and processes will support information sharing and security for current agency operations, but also reduce the volume and facilitate the automation of data requiring declassification in the future.

A federated system-of-systems approach will support the entire lifecycle of a record from the point of classification, protecting the use of sensitive information from its inception, through archiving, declassification review, and ultimate release to the public.

6. What does the PIDB assess will be the annual costs of a declassification executive agent?

The PIDB does not have a cost estimate for its recommendation to have the DNI serve as the Executive Agent. However, the PIDB believe investments are both a national security necessity as well as a necessity for democratic discourse. They also believe that costs will not be prohibitive, especially since the ODNI already manages ICITE and already oversees JWICS. Additionally, many of the technologies the PIDB believes would aid improved classification and declassification are already in use for mission purposes and could be modified to support classification and declassification.

The PIDB attempted to learn about the costs associated with declassification from its interagency working group. It was clear from these discussions that agency declassification programs are

both underfunded and lack necessary resources needed to review born-digital data. Specifically, the PIDB highlighted the lack of technology that could be used to improve decision-making and aid declassification efficiency and effectiveness. Although several agencies indicated they used technology as part of their programs, all stated technology use was limited to workflow and case management. None used technology to review records or assist in the review of records. Additionally, not all programs had access to secure communications technology or sufficient secure communications technology, including the National Declassification Center. This conclusion supported conclusions by the ODNI Inspector General who highlighted the lack of technology and secure communications methods in its 2018 audit of IC Freedom of Information Act programs.

The PIDB also believe that the adoption of technologies to aid classification and declassification will improve effectiveness and efficiency, including reducing unnecessary costs over time. For instance, when integrated with robust metadata standards, the use of technology could reduce over-classification. Technology could also automate some classification and declassification decisions.

The current declassification system is almost entirely manual, relying on staff to review each record – and often having multiple staff members review the same record. The PIDB learned that one agency has at least five staff members and contractors reviewing each of their records for automatic declassification. The workflow chart in the PIDB's 2014 Report to the President, *Setting Priorities: An Essential Step in Transforming Declassification* detailed the complex process and the human resources involved in reviewing records for declassification. The PIDB believes that several of these processes could be improved – resulting in reduced costs and far fewer errors – through automation and use of advanced technologies like Artificial Intelligence, Machine Learning, or other content understanding technologies.

Automation will improve declassification and it will also scale to allow review of large volumes of digital data. None of the agencies are prepared or are preparing to address the coming deluge of electronic data needing a declassification review in the very near future. Automating some declassification decisions will also reduce secure storage costs. These records will no longer be required to be stored securely in secure vaults that are more costly to maintain. With the DNI serving as Executive Agent, declassification programs will also benefit from coordinated research and development, and acquisition, as well as benefitting from shared services where costs, applications, and IT services.

Executive Order 13526 requires agencies to annually report estimated costs regarding their programs to the Information Security Oversight Office (ISOO). ISOO then reports these cost estimates and its analysis in its Annual Report to the President. In 2018, ISOO issued a memorandum to agencies waiving certain reporting requirements, including cost estimates. It determined that agencies were using their own definitions and accounting methods to provide ISOO with their cost estimates. In its 2018 Annual Report to the President, ISOO wrote that, after analyzing the data received from agencies, it determined that the submissions differed substantially. It highlighted the challenges of agencies using different methods to calculate their costs, resulting in inconsistencies. Additionally, the Office of Management and Budget (OMB) does not require a line-item accounting of these costs nor are there standards to define each cost

item in agency programs. As a result, ISOO announced it was undertaking a multi-year project to modernize the oversight data and statistics it collects, including cost estimate methodologies and reporting processes across all agencies.

In its 2017 Report to the President, ISOO indicated that declassification costs across agencies totaled $102 million, a 5% decrease from Fiscal Year 2016. This amount includes cost estimates from IC agencies. While the PIDB believes even this figure is wholly inadequate, they also note that this figure is and has been essentially stagnant for the past seventeen years. In 2003, ISOO reported an estimate of $54 million for declassification programs. However, this cost estimate figure does not include IC agencies. Their cost estimates were classified and provided separately until Fiscal Year 2013. In Fiscal Year 2013, IC declassification costs were included in the total cost estimates for declassification programs across the Executive branch. In Fiscal Year 2013, the declassification cost estimate was $99.77 million.

7. What would be pros and cons of creating an independent agency to perform the EA function?

The PIDB recommended that the Executive Agent serve as a member of the President's Cabinet. They feel it is essential for the Executive Agent to receive direction from the President and have the President's authority to drive reform. Additionally, they believe that the DNI has both the gravitas and the experience to lead classification and declassification modernization.

The PIDB does not believe a new stand-alone agency could lead modernization and reform. It would not only lack stature, but it would also not have the experience, resources, nor the authority that the DNI possesses.

8. Please describe the PIDB's interactions with the DNI, especially with regard to discussing the recommendation that the DNI serve as the EA. Costs of Reform The scope of effort to reform the declassification effort is substantial.

As noted earlier in this questionnaire, the PIDB met with ODNI senior-level officials, program managers, subject matter experts, technologists, information security professionals, classifiers and declassifiers, and information management experts over the course of almost three years. They invited ODNI to participate in its interagency working groups on declassification and on technology. After initial discussions with ODNI and discussions in the interagency working groups, the PIDB refined what it had learned into preliminary proposals. Next, the PIDB requested new meetings with many stakeholders and senior leaders to learn their reactions and listen to their comments, including ODNI. For instance, the Members met with the PDDNI twice, once in 2016 as it began its research, and again in 2018 to discuss its proposed recommendations. At the onset and in between, they met with the Director of Information Management at ODNI and invited her to participate in the working group.

Their research was informed by the ODNI Inspector General's 2018 assessment of IC FOIA programs, itself the subject of two IC Deputies Committee meetings. This assessment aligned

with many of the PIDB's proposed recommendations. They also were informed by both ODNI leadership participation in IT modernization, data strategy, and advanced technology events sponsored by non-profit organizations, IT media organizations (like FedScoop and 1105 Media Group), and Executive branch agencies. Lastly, their recommendations were also informed by ODNI and IC Reports and other published policy and strategy records. These included:

- the 2019 National Intelligence Strategy;
- the 2019 Strategic Plan to Advance Cloud Computing in the Intelligence Community
- the Intelligence Advanced Research Projects Activity's 2019 Better Extraction from Text Towards Enhanced Retrieval Program overview;
- the ICITE Data Strategy for 2017-2021;
- the 2017 ODNI Fundamental Classification Guidance Review;
- the 2017 Principles of Classification Management in the Intelligence Community
- the 2017 Improving the Intelligence Community's Declassification Process and the Community's Support for the National Declassification Center;
- the 2016 Principles in Intelligence Transparency Implementation Plan;
- the ICITE Strategy for 2016-2020, and
- multiple IT, Information Sharing, and Civil Liberties, Privacy and Transparency-related Intelligence Community Directives.

In the Fall of 2018, the PIDB was invited to present its proposed recommendations to the IC Deputies Executive Committee. Composed of Deputies from the sixteen IC agencies, the PIDB received feedback and answered questions. At the end of the presentation, the PDDNI who chaired the meeting tasked the Deputies with providing the PDDNI with their formal responses in December. The PDDNI indicated that that she would compile their responses and provide them to the PIDB by mid-December. Unfortunately, the PDDNI's formal combined response arrived in January 2019 during the Government shutdown and after the legislation authorizing the PIDB had lapsed.

After the PIDB was reauthorized, the PIDB evaluated the combined response in early 2020. There were attempts to reengage with the senior leadership of ODNI in the Spring. However, staff turnover, reassignments, a reorganization, and leadership changes prevented the PIDB from formally reengaging with ODNI leadership. While the PIDB was unable to meet with ODNI senior leadership, they focused on how the various IC reports on technology modernization and integration supported the PIDB's initial recommendation to have the DNI serve as the Executive Agent. They decided, after careful consideration and deliberation, to retain the recommendations presented at the November 2018 IC Deputies Committee meeting. To be sure, they updated the report and decided to edit and change non-substantive parts, in part based on the feedback from the combined IC Deputies Committee's response.

9. What does the PIDB assess to be the costs, in rough terms, to modernize the declassification system to implement your report's recommended reforms?

As noted in question 6, agencies are responsible for reporting the annual estimated costs of their information security programs to ISOO. The PIDB highlighted that agency declassification costs have remained stagnant for almost two decades, and agencies collectively only spend

approximately $100 million yearly. The PIDB listened as agency program managers described both their resource challenges and how they use their resources. No funds are spent on technology to aid declassification review. Instead, agencies are using basic software and technology to simply manage review processes.

While the Executive branch's actual declassification program costs are small, there are other hidden uncounted costs for agencies, including the cost of needlessly safeguarding records that are overclassified or remain classified for too long. Due to over-classification and siloed agency practices, there are also duplicative programs with duplicate procurement and acquisition costs. These costs can add tens of millions to hundreds of millions to agency budgets. There are added costs for security clearances and there are added costs for securely storing large volumes of digital data. There are added costs when decisions made by agency leaders, managers and the military are not as informed as they could be.

Although actual funding for declassification programs across the Executive branch is a negligent amount, even some of this spending is duplicative. For instance, several agencies purchased and use the same case management software. Under a shared services model in a federated enterprise system – like ICITE – these duplicative costs would end. The PIDB also learned that some agencies can have five staff and/or contractors review the same record, performing multiple Quality Assurance/Quality Review (QA/QC) functions. The NDC likewise relies on a significant number of staff to participate in its QA/QC and workflow processes.

Artificial Intelligence, Machine Learning, Content Understanding and other advanced technologies could be used to support automating some or all of QA/QC processes, or aid in identifying particularly sensitive records or in differentiating and segregating low-level or no longer sensitive records from ones that require a closer (human) review. Interestingly, as noted earlier in this questionnaire, the Applied Research Laboratory at the University of Texas at Austin conducted a pilot project using advanced technology to decipher classified digital data from a legacy electronic system from the Reagan administration. In this instance, the content understanding technology performed superior and made fewer errors than multiple staff with expertise in reviewing information from this era. The technology did a better job in identifying still sensitive information, including information that remains highly classified.

The IC IG indicated in its assessment of IC FOIA programs that other declassification and review spending is not used efficiently nor effectively. For instance, it highlighted the fact that not all IC agency FOIA programs have secure communications methods. As a result, those staff that do not have secure communications must often hand-carry or mail classified records for other agencies to review. It also highlighted that not all IC FOIA offices have Top Secret systems nor do staff possess the necessary clearances, so processing is both lengthy and inefficient. Reviewing Top Secret historical records and using JWICS and Top Secret systems requires travel, coordination, and additional time. The NDC also lacks adequate JWICS communications. It refers records requested under FOIA or Mandatory Declassification Review to agencies by burning CDs and hand-carrying them. Once received, those agencies must first perform all necessary security protocols before using the CDs.

As Executive Agent, the DNI can drive reform and coordinate research, acquisitions, technology deployment, and expenditures so that they are effective and efficient.

Costs of Classification The Information Security Oversight Office's 2017 annual report estimated that the current classification system cost the government $18.4 billion. It has not subsequently included a total cost in its annual reports.

10.What do you believe was the accuracy and utility of this estimate?

Please refer to the responses above and earlier in this questionnaire. The PIDB notes that ISOO's annual report uses the word 'estimate' when addressing costs, as the Executive Order requires cost estimates. There are challenges with identifying costs across agencies for a few reasons, as ISOO's last two Annual Reports indicated. First, there is no line item in agency budgets, or in OMB budget guidance, for declassification and classification costs. A budgetary line-item would allow for more precise accounting. Second, there are rarely common definitions across agencies for how to account for costs. Each uses its own method and definition. ISOO indicated that it is working with agencies, industry, and stakeholders to modernize its data call, including attempting to standardize terminology and definitions where they can.

11.What are the associated categories and costs of each category that are aggregated in the estimate?

Until 2018, ISOO used the Standard Form 716 for agencies to use in estimating costs. This form was divided into nine subcategories: Personnel Security, Physical Security, Classification Management, Declassification, Protection and Maintenance of Classified Systems, Operations Security and Technical Surveillance Countermeasures, Professional Education, Training and Awareness, Security Oversight, Management, and Programing, and unique Items. Agencies used this form in 2017 and ISOO determined that the overall cost of Executive branch information security programs was $18.4 billion and, of that figure, only $102 million was spent on declassification. As noted earlier in this questionnaire, ISOO waived use of this form in FY 2019 and 2020 as it works with stakeholders on a multi-year project to modernize data submissions.

12.Does the $18.4 billion estimate only include the cost associated with evaluating documents for public release, or does that number reflect the cost of maintaining current classified systems?

ISOO's Annual Report for fiscal year 2017 indicates that $18.4 billion is the estimated costs for all Executive branch information security programs, including classification, declassification, and safeguarding. While the overall information security program costs have doubled over the past decade, from $8.6 billion in FY 2007 to $18.4 billion in FY 2017, declassification costs have remained wholly stagnant. In FY 2017, the entire Executive branch only spent $100 million on declassification - .005% of the overall Executive branch information security estimated costs.

13.Do you believe there is a more accurate way to report total annual costs?

 As previously outlined above in our responses, the lack of an OMB line item that articulates how agencies should calculate costs, and the alignment of that line item with the form that ISOO uses to collect cost data from agencies reporting it to ISOO has contributed to differing standards, methods, and understandings of how these costs should be accounted for. The PIDB supports a new methodology for determining cost estimates associated with security classification and believes the ODNI, OMB, ISOO, and the interagency should work collaboratively to determine those costs.

Measuring Volume of Material for Declassification ISOO's annual reports until 2017 included data on number of pages declassified by declassification category pursuant to Executive Order 13526.

14. Is counting the number of pages the best way of assessing how much is being declassified in a digital era? Extent of Confederated Classification System The classification system envisioned under Executive Order 13526 is heavily confederated, leaving great discretion to the agencies to develop their own classification guides, train their employees, and declassify materials.

Traditionally, the Executive branch has measured the volume of classified records in pages. This is also true for measuring the yearly results of agency declassification programs, including automatic declassification, Mandatory Declassification Review (MDR), systematic declassification review, and discretionary declassification review. To date, this practice of measuring declassification has worked fairly well, although ISOO identified differences in how agencies account for the number of MDR requests they receive and process. There is also more significant volumes of historical non-textual classified information, such as audio, video, and film. Along with older classified media (like microfilm), this media is broken down into "page-equivalents" for the purpose of declassification.

The PIDB believes that Executive Order 13526 is wholly outdated and requires replacement with a new order focused solely on managing digital data. It is the reason behind all of their Reports to the President, from the issuance of their first report in 2008 to their most recent report issued earlier this year in June. Although there has been some progress in reforming classification and declassification policies, none have focused on the impact of technology – how the Government creates, uses, shares, stores, and safeguards classified information. Since the current Executive order was signed in 2008, IC agencies developed and now use ICITE, CIA and other agencies contracted to store their classified data in secure Clouds, and soldiers on the battlefield have hand-held devices where they can quickly transmit and receive classified data. There are far more methods for agencies to create, use and disseminate classified data. Agencies have also developed joint classification guides to more seamlessly create and share information.

Managing the classification and declassification systems through an integrated enterprise approach, classified data will be able to be quantified in a common methodology.

15.What aspects do you believe should remain confederated?
and
16.What aspects do you believe should be centralized?

The PIDB recommended a federated system, led by an Executive Agent, and guided by an Executive Committee composed of senior leaders from agencies and departments with interest in this area. It should include, at a minimum, senior level representatives from the Departments of Defense, Energy, Justice, and State, and NARA. The current classification and declassification system is outdated and from a different era. It does not operate efficiently or effectively in the digital age. As Government modernizes its operations to make best use of technology and support new national security missions, it is hamstrung by an obsolete classification and declassification system.

The benefits of a federated system are many. They include sharing technologies and applications; coordinating research and development and acquisitions; developing metadata standards that both eases sharing, allows for precise and uniform classification across agencies and aids declassification; reducing duplicative spending; increasing interagency coordination and cooperation; increasing the efficiency and effectiveness of classification and declassification decisions across the Executive branch, especially in instances where records from different agencies classify the same information and where records contain classified information from multiple agencies; and increasing Government transparency.

Executive Order 13526 established the National Declassification Center "to streamline declassification processes, facilitate quality-assurance measures, and implement standardized training regarding the declassification of records determined to have permanent historical value." The NDC has proven largely successful, including eliminating a 400-million page backlog of records that were awaiting declassification review. However, its successes remain limited due to the lack of technology to communicate with agencies securely. Its processes are also focused solely on paper and require multiple reviews by staff from agencies and the NDC to review each page. It does not use any advanced technology to automate any part of these reviews.

To be successful in reviewing born digital records, the NDC will require modernization – with new policies and processes and the use of advanced technologies. It will need new technologies to assist in identifying digital data for declassification or exemption from declassification. Modernizing the NDC is only possible by modernizing the entire classification and declassification system. The PIDB believes that it is best accomplished through a federated system led by an Executive Agent.

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(U) QUESTIONS FOR THE RECORD
(U) SENATE SELECT COMMITTEE ON INTELLIGENCE
(U) OPEN HEARING ON DECLASSIFICATION
(U) 09 SEPTEMBER 2020

(U) Questions from Acting Chairman Rubio and Vice Chairman Warner

(U) VOLUME OF DECLASSIFIED MATERIALS

1. (U) **What percentage of the Intelligence Community's records eligible for Automatic Declassification pursuant to Executive Order 13526 do you estimate is being declassified?**

   (U) The amount of intelligence information eligible for declassification that is actually declassified varies widely across the Intelligence Community (IC). IC elements that are part of larger departments and agencies (D/As) often defer to their parent organizations to handle declassification. Some IC elements are too young to have information eligible for declassification. Agencies with more established programs are declassifying between 10% and 70% of the material. Many agencies find it difficult to keep up with the amount of information eligible for declassification.
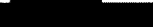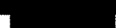
2. (U) **What is the primary reason those eligible for automatic declassification are not being automatically declassified?**

   (U) Many IC records contain classified national security information (CNSI) recognized by subject matter experts, the Interagency Security Classification Appeals Panel (ISCAP), and E.O. 13526, *Classified National Security Information*, as requiring protection beyond 25, 50, and even 75 years. Due to the high likelihood of such information being present, D/As must do a thorough review of all classified records that have permanent historical value to prevent inadvertent release of information still requiring protection per an ISCAP-approved declassification guide. Given the volume of data requiring review, this can take a significant amount of time. Additionally, increasing numbers of records include information drawn from multiple D/As, which must be reviewed by each relevant D/A.

(U) COST

3. (U) **How much does the IC currently spend per year on its declassification programs? Please provide information by agency, if the agencies capture it.**

   (U████) As noted earlier, some IC elements are younger than 25 years old, so they do not have declassification programs in place, and either do not spend anything on those programs or have agreements with other agencies to handle legacy information. Other IC elements are parts of larger departments, so their parent organizations review their information for declassification, and the parent organizations cover costs out of their budgets.

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(U) IC agencies reported the following declassification costs:

- (U███████) Central Intelligence Agency (CIA): ███████████.
- (U) Defense Intelligence Agency (DIA): ████████████.
- (U) Federal Bureau of Investigation (FBI): █████████████.
- ████████████ National Security Agency (NSA): ███████████.
- (U) National Reconnaissance Office (NRO): ███████████.
- (U███████) National Geospatial-Intelligence Agency (NGA): ████████████.
- (U███████) Office of the Director of National Intelligence (ODNI): ███████████████.

(U) **PROGRESS ON REFORM**

4. (U) **What progress has the IC made in standardizing declassification guidance in IC element classification guides?**

   (U) D/As that have declassification guides wrote them based on E.O. 13526 and National Archives & Records Administration (NARA)/Information Security Oversight Office (ISOO) guidance. The guides were then approved by ISCAP, which worked to make the guides more consistent with each other. Once approved, D/As incorporate the guidance into declassification instructions in their security classification guides. Those D/As with suborganizations share the guidance downward. While more work can be done on integration, the steps taken so far are important in establishing a more consistent foundation from which to work.

5. (U) **What progress has the IC made in automating declassification?**

   (U███████) "Automating declassification" is a phrase with many interpretations. In its most basic sense, the IC uses secure email and networking capabilities to communicate within and between IC elements to complete appropriate consultations on classified materials. Another capability is digitizing a paper record for electronic review and marking by human analysts, as FBI currently does. The ███████ created tools to aid with searches in documents and streamline and standardize review and release practices. Those tools have increased review consistency, speed, accuracy, and accelerated mission support by reducing or eliminating multiple manual processes. ███ anticipates that further development of these capabilities will enable greater public access to its records and expedite response to mandatory declassification requests.

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(U) In a wider sense, the phrase can also refer to the use of artificial intelligence to complete initial reviews of information to determine whether it can be declassified. Various efforts are exploring these possibilities. One example is DIA's research into the University of Maryland's ARLIS initiatives, which offer technical promise for achieving meaningful progress. However, no automated declassification actions have been initiated under this project. Additionally, there remain concerns about standards for such technology, which would need to come from NARA/ISOO—the entity that oversees classification throughout the executive branch—and about funding for such projects.

(U) **OVERCLASSIFICATION AND COMPARTMENTATION RE: SPACE ASSETS**

6. (U) **How is the ODNI addressing the problems of overclassification and compartmentation that are impeding collaboration between the Department of Defense and the Intelligence Community regarding space activities, as suggested in the op-ed on July 13, 2020, in *Defense News* by Robert Work and Dennis Blair?**

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(U) More generally, under E.O. 13526, the ultimate source of classification and compartmentation determinations are original classification authorities (OCAs), typically some of the most senior officials in each organization. These individuals are trained each year on their responsibilities as OCAs. Lists of designated officials and the status of their training are submitted to NARA/ISOO every year as part of each agency's required reporting on its classification management program. Accordingly, if overly restrictive decisions are being made by these officials, it is up to them and NARA/ISOO, as the overseer of classification management across the executive branch, to explore solutions for making better decisions.

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(U) **DECLASSIFICATION AT 25 YEARS**

7. (U) **What percentage of the IC records are exempted from declassification at the 25 year interval?**

(U) The percentage of IC records exempted from declassification at 25 years varies greatly depending on the particular IC element's mission. Some IC elements have approval to exempt nearly all of their records from declassification at 25 years. Other IC elements work to declassify all their records at the 25-year mark. The range of percentages is 5% to 100%.

(U) **TECHNOLOGIES TO HELP DECLASSIFICATION**

8. (U) **What technologies has the IC experimented with to automate and improve declassification?**

(U████) Those agencies that can afford to explore automation technologies are experimenting with various capabilities. One solution is an ████████████
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████████████████ Another is automated search aids that facilitate and expedite the public's access to permanent records accessioned to NARA. A third capability is software that can perform keyword searches related to specific terms or topics in individual records during mandatory declassification reviews. This can substantially reduce the time spent reading and reviewing records for redactions, improve quality control reviews, and expedite responses to mandatory declassification requests. Lastly, some research has been done on ████████████
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These technologies remain in the experimental phase.

9. (U) **What are the IC plans for deploying such technologies?**

(U) The FBI hopes to incorporate machine learning technologies in its declassification process within the next 2 to 4 years. IC agencies are exploring various technologies related to records and search capabilities as noted above, but do not have timelines for deploying the technologies at this time. Smaller IC elements within larger D/As do not have the resources to do the same but would likely take advantage of technologies deployed by their parent organizations.

10. (U) **What agencies are piloting such technologies or have already deployed them? What are some of their lessons learned?**

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████████████████ is currently piloting two capabilities—automated search aids to facilitate automatic declassification reviews in compliance with NARA requirements and keyword searches related to its equities in mandatory declassification reviews. These efforts are new enough that there are not yet any lessons learned.

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(U) DISCRETIONARY DECLASSIFICATION REVIEWS

11. (U) **What criteria do you use to decide what materials to initiate such declassification reviews for?**

(U) Common criteria for discretionary declassification reviews include high public interest (often measured through the number of Freedom of Information Act requests received on a topic), records disposition schedules, historical significance, the potential yield of releasable documents, and input from agency historians, sometimes in relation to significant events in an agency's history.

12. (U) **Are all discretionary declassification reviews approved by the IC Transparency Council?**

(U) The IC Transparency Council does not approve discretionary declassification reviews. Discretionary declassification reviews are typically approved by agencies in furtherance of authorized agency activities.

13. (U) **How do you ensure that declassification reviews are not initiated for political reasons, similar to the prohibitions in Executive Order 13526 for using classification to conceal violations of law, hide embarrassing material, etc.?**

(U) Automatic declassification reviews are initiated solely on the basis of the age of the record. Mandatory declassification reviews are initiated based on requests received from the public, as outlined in law and regulation; historical value or interest; or requests from the White House or Congress. In many agencies, the review of information to be declassified is performed by both junior and senior officers, as well as subject matter experts, to ensure proper handling and protection of sensitive and classified national security information, as appropriate. Lastly, the OCAs who make the declassification decisions are trained annually on their responsibilities, including the prohibitions and limitations in E.O. 13526 § 1.7.

14. (U) **How do you take into consideration discretionary declassifications that might have a political effect that occur close to an election?**

(U) Agencies follow guidance laid out in E.O. 13526, 32 C.F.R. parts 2001 and 2003, and (for DoD entities) DoD Manual 5200.01. In line with the text of these regulations, the factors considered when making declassification decisions include historical interest, public interest, and Government transparency; politics is not part of the process. Additionally, most

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reviews are complex and take considerable and variable time to complete, making it difficult for a requester to time releases to any particular date or event.

(U) **IMPACT OF DECLASSIFICATION ON SOURCES AND METHODS**

15. (U) **Can an IC element prevent an agency from declassifying information if it believes the declassification will have a deleterious impact on sources and methods?**

(U) The authority for declassification is set forth in Part 3 of E.O. 13526. With limited exceptions, declassification decisions are made by the agency official who authorized the original classification, their successor, or a supervisory official. Consistent with Section 3.1(c) of E.O. 13526, the DNI may, with respect to the Intelligence Community, declassify information or intelligence relating to intelligence sources, methods, or activities. However, to do so, the DNI must first consult with the heads of the originating IC element. In addition, the Attorney General, may declassify, downgrade, or direct declassification of intelligence as set forth in the President's Memorandum on Agency Cooperation with Attorney General's Review of Intelligence Activities Relating to the 2016 Presidential Campaigns, issued May 23, 2019.

(U) Questions from Senator Wyden

(U) **ARGENTINA DECLASSIFICATION PROJECT**

1. (U) **How much of the documentation declassified and released by the Argentina Declassification Project would still be classified or withheld from the public but for the presidential tasking?**

(U) Absent the presidential tasking, some documentation released through the Argentina Declassification Project (ADP) would have been declassified and released. However, much of the information (hundreds of documents totaling thousands of pages) would have remained classified because the information did not meet the criteria for discretionary release and the personnel involved in reviewing the materials would have worked on other declassification actions, as priorities dictated.

2. (U) **What other important historical records more than 25 years old remain classified due to the lack of a presidential tasking? Please identify topics related to U.S. foreign and defense policy, covert action, domestic operations with political and legal implications and other important historical subjects. What capabilities does the U.S. Government have to achieve a similar level of declassification of those topics absent the resources made available for the Argentina Declassification Project?**

(U) Information related to multiple topics of historical interest remain classified, including some records related to ██████████████ major military operations between the end of the Vietnam War and 1995 (the current 25-year automatic declassification date). Declassification personnel in IC elements and, when applicable, their parent organizations are working hard to review and declassify information in these areas and others, including at the Department of State where historians continue to review historical U.S. foreign relations topics for inclusion into the State Department's Foreign Relations of the United States series.

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However, there is a limited pool of people with appropriate expertise. Surging resources to an action such as the ADP meant that resources were pulled from other declassification priorities. As a result, focusing resources on one, high-priority effort such as the ADP resulted in delays to reviewing and releasing information on other topics of interest.

3. (U) **The Argentina Declassification Project was extremely labor intensive. What were the lessons learned from the Project in terms of the potential application of new technology and systems to make similar projects in the future more efficient and cost effective? To what extent would the application of new technology and systems have resulted in the declassification of Argentina documents as a matter of course, absent the presidential tasking?**

(U■■■■■■) The main technical matter that would have relieved some of the labor burden involved in the ADP is a stronger cross-agency coordination capability that enabled agencies to collaborate on documents within a single space. The use of Inteldocs was noted as helpful, but ultimately cumbersome, as declassification is not the task it was designed for. Also, both

■■ FBI also recommended the incorporation of machine learning tools to automate the identification of key terms and content.

4. (U) **What lessons learned did the DNI take from the Argentina Declassification Project in terms of coordinating among departments and agencies inside and outside the Intelligence Community? How was the DNI's coordination role necessary to achieve the Project's goals across the U.S. Government? What obstacles were there to coordination among departments and agencies and how were they overcome?**

(U■■■■■■) Coordination of nearly 400 experts from 16 executive branch D/As that ultimately declassified and released over 7,000 records totaling almost 50,000 pages resulting in the largest government-to-government declassification and release of records in U.S. history was indeed challenging. However, the results set a new standard for the use of declassification as a tool for foreign affairs and international diplomacy, providing a uniquely valuable contribution to the causes of human rights and justice. One of the challenges with this complex and voluminous collection was the assurance that each D/A accurately identified and subsequently coordinated equities with the applicable agency. The use of Inteldocs, which ODNI oversaw, for the digital coordination of records by the majority of participating D/As was instrumental in the project's successful completion, though as noted earlier, it also presented its own set of difficulties and therefore delays. With the National Security Council's (NSC's) effective oversight, D/As were given a specific set of guidelines to follow to identify responsive records and to review them with a view towards transparency. The ADP's efficiency resulted from a combination of firm White House support (over two administrations), effective NSC leadership, sustained agency cooperation, a compelling diplomatic and human rights rationale for the effort, and popular support from nongovernmental organizations in Argentina and the United States.

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(U) DECLASSIFICATION TECHNOLOGIES

5. (U) **Please describe the ODNI's experience in information technology and integration policy through the IC IT Enterprise (IC ITE) and its application to declassification.**

    (U) Intelligence Community Directive (ICD) 121 Section D(1) directs IC elements to first use an IC enterprise approach before adopting IC element-centric services. The ODNI and the IC now have a strong history of identifying Services of Common Concern (SoCC) for enterprise IT services that integrate well into the IC Information Environment. ICD 121 Section F(4) confirms that individual IC elements retain their original classification and declassification authorities and the related processes. IC elements are responsible for determining requirements and services for declassification. To date, no IC elements have offered or requested that a SoCC for declassification tools or services be established.

(U) DECLASSIFICATION BY ORIGINAL CLASSIFICATION AUTHORITY

6. (U) **Can another agency prevent declassification of information after the Original Classification Authority has authorized its declassification?**

    (U) No, but questions may arise regarding which OCA has jurisdiction over the information, or multiple OCAs may be involved.

7. (U) **If yes, under what circumstances and how would that issue be resolved?**

    (U) As noted above, it is possible for multiple OCAs to be involved or for the relevant OCA to be unclear. This often happens because information from multiple agencies is used in a single record. In these cases, coordination within multiple agencies is performed to ensure that all agencies with equities in the information are consulted.

(U) COSTS OF CLASSIFICATION

8. (U) **Does the ODNI have a means to determine these costs? If so, please describe the scope and methodology. What is the current cost?**

    (U) No. As the organization with oversight of declassification activities across the IC, NARA/ISOO receives reports on these costs each year. The ODNI does not receive these reports and does not have a way of determining these costs within the IC other than directly asking each IC element. Accordingly, we will defer to NARA/ISOO to provide those costs.

9. (U) **Does the ODNI have an estimate of the additional costs of classification and declassification resulting from the obsolete and ineffective declassification system described in reports of the ISOO and PIDB?**

    (U) We do not have a specific estimate but note that the cost is likely equivalent to the costs of continuing to store and protect classified information until it can be reviewed. One IC agency estimated its costs in this area at a little over $300,000 each year.

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(U) **D**OCUMENTS WITH **C**LASSIFICATION FROM **M**ULTIPLE **A**GENCIES

10. (U) **What policies and technologies have been put in place to allow documents that concern the equities of multiple departments and agencies to be subject to a declassification process using electronic communications and document sharing?**

(U) No specific policy governs the review of information for declassification among multiple agencies. Regardless, interagency coordination on records and information containing the equities of multiple D/As is typically accomplished over secure email or Intelink tools such as Inteldocs. However, some smaller IC elements, such as those under larger D/As, have limited access to these tools, which may result in the use of paper copies rather than electronic copies.

(U) **I**NTEGRITY OF **C**LASSIFICATION **D**ECISIONS

11. (U) **What incentives and disincentives have been put in place to ensure that the prohibitions and limitations on classification in Section 1.7 of Executive Order 13526 are adhered to? What policies have been enacted to ensure that there is accountability for failure to adhere to those prohibitions and limitations?**

(U) Original and derivative classifiers throughout the IC take required training on their classification responsibilities every one to two years, depending on agency policy. Most agencies include information on sanctions for violations of E.O. 13526 in their training for both original and derivative classifiers. Depending on how the agency has set up its training, some personnel will find themselves locked out of their systems and unable to complete their work if they do not complete the training on time. Training statistics, along with other classification matters, are included in each agency's self-inspection program. Reports on self-inspection findings and actions to resolve those findings are submitted to NARA/ISOO every year and form the basis for NARA/ISOO's Annual Report to the President.

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