

Declaration of Scott A. Koch
Information and Privacy Coordinator
Central Intelligence Agency

Exhibit A

Secrecy Agreement

1. I, FRANZ W. DENNING (print full name), hereby agree to accept as a prior condition of my being employed by, or otherwise retained to perform services for, the Central Intelligence Agency, or for staff elements of the Office of the Director of Central Intelligence (hereinafter collectively referred to as the "Central Intelligence Agency"), the obligations contained in this agreement.

2. I understand that in the course of my employment or other service with the Central Intelligence Agency I may be given access to information which is classified in accordance with the standards set forth in Executive Order 12065 as amended or superseded, or other applicable Executive Order, and other information which, if disclosed in an unauthorized manner, would jeopardize foreign intelligence activities of the United States Government. I accept that by being granted access to such information I will be placed in a position of special confidence and trust and become obligated to protect the information from unauthorized disclosure.

3. In consideration for being employed or otherwise retained to provide services to the Central Intelligence Agency, I hereby agree that I will never disclose in any form or any manner any of the following categories of information or materials, to any person not authorized by the Central Intelligence Agency to receive them:

a. information which is classified pursuant to Executive Order and which I have obtained during the course of my employment or other service with the Central Intelligence Agency;

b. information, or materials which reveal information, classifiable pursuant to Executive Order and obtained by me in the course of my employment or other service with the Central Intelligence Agency but which, because of operational circumstance or oversight, is not formally marked as classified in accordance with such Executive Order and which I know or have reason to know has not been publicly acknowledged by the Agency;

c. information obtained by me in the course of my employment or other service with the Central Intelligence Agency that identifies any person or organization that presently has or formerly has had a relationship with a United States foreign intelligence organization, which relationship the United States Government has taken affirmative measures to conceal.

4. I understand that the burden will be upon me to learn whether information or materials within my control are considered by the Central Intelligence Agency to fit the descriptions set forth in paragraph 3, and whom the Agency has authorized to receive it.

5. As a further condition of the special confidence and trust reposed in me by the Central Intelligence Agency, I hereby agree to submit for review by the Central Intelligence Agency all information or materials including works of fiction which contain any mention of intelligence data or activities, or contain data which may be based upon information classified pursuant to Executive Order, which I contemplate disclosing publicly or which I have actually prepared for public disclosure, either during my employment or other service with the Central Intelligence Agency or at any time thereafter, prior to discussing it with or showing it to anyone who is not authorized to have access to it. I further agree that I will not take any steps toward public disclosure until I have received written permission to do so from the Central Intelligence Agency.

6. I understand that the purpose of the review described in paragraph 5 is to give the Central Intelligence Agency an opportunity to determine whether the information or materials which I contemplate disclosing publicly contain any information which I have agreed not to disclose. I further understand that the Agency will act upon the materials I submit and make a response to me within a reasonable time.

7. I understand that all information or materials which I may acquire in the course of my employment or other service with the Central Intelligence Agency which fit the descriptions set out in paragraph 3 of this agreement are and will remain the property of the United States Government. I agree to surrender all materials reflecting such information which may have come into my possession or for which I am responsible because of my employment or other service with the Central Intelligence Agency, upon demand by an appropriate official of the Central Intelligence Agency, or upon the conclusion of my employment or other service with the Central Intelligence Agency.

8. I agree to notify the Central Intelligence Agency immediately in the event that I am called upon by judicial or congressional authorities to testify about, or provide, information which I have agreed herein not to disclose.

9. I understand that nothing contained in this agreement prohibits me from reporting intelligence activities which I consider to be unlawful or improper directly to the Intelligence Oversight Board established by the President or to any successor body which the President may establish. I recognize that there are also established procedures for bringing such matters to the attention of the Agency's Inspector General or to the Director of Central Intelligence. I further understand that any information which I may report to the Intelligence Oversight Board continues to be subject to this agreement for all other purposes and that such reporting does not constitute public disclosure or declassification of that information.

10. I understand that any breach of this agreement by me may result in the Central Intelligence Agency taking administrative action against me, which can include temporary loss of pay or termination of my employment or other service with the Central Intelligence Agency. I also understand that if I violate the terms of this agreement, the United States Government may institute a civil proceeding to seek compensatory damages or other appropriate relief. Further, I understand that the disclosure of information which I have agreed herein not to disclose can, in some circumstances, constitute a criminal offense.

11. I understand that the United States Government may, prior to any unauthorized disclosure which is threatened by me, choose to apply to any appropriate court for an order enforcing this agreement. Nothing in this agreement constitutes a waiver on the part of the United States to institute a civil or criminal proceeding for any breach of this agreement by me. Nothing in this agreement constitutes a waiver on my part of any possible defenses I may have in connection with either civil or criminal proceedings which may be brought against me.

12. In addition to any other remedy to which the United States Government may become entitled, I hereby assign to the United States Government all rights, title, and interest in any and all royalties, remunerations, and emoluments that have resulted or will result or may result from any divulgence, publication or revelation of information by me which is carried out in breach of paragraph 5 of this agreement or which involves information prohibited from disclosure by the terms of this agreement.


13. I understand and accept that, unless I am provided a written release from this agreement or any portion of it by the Director of Central Intelligence or the Director's representative, all the conditions and obligations accepted by me in this agreement apply both during my employment or other service with the Central Intelligence Agency, and at all times thereafter.

14. I understand that the purpose of this agreement is to implement the responsibilities of the Director of Central Intelligence, particularly the responsibility to protect intelligence sources and methods, as specified in the National Security Act of 1947, as amended.

15. In any civil action which may be brought by the United States Government for breach of this agreement, I understand and agree that the law of the Commonwealth of Virginia shall govern the interpretation of this agreement.

16. Each of the numbered paragraphs and lettered subparagraphs of this agreement is severable. If a court should find any of the paragraphs or subparagraphs of this agreement to be unenforceable, I understand that all remaining provisions will continue in full force.

17. I make this agreement in good faith, and with no purpose of evasion.


Signature
Oct 22, 1980
Date

The execution of this agreement was witnessed by the undersigned, who accepted it on behalf of the Central Intelligence Agency as a prior condition of the employment or other service of the person whose signature appears above.

WITNESS AND ACCEPTANCE:



Signature



Printed Name

Date

Declaration of Scott A. Koch
Information and Privacy Coordinator
Central Intelligence Agency

Exhibit B

1995 Regulation

2. AGENCY REVIEW OF MATERIAL INTENDED FOR NONOFFICIAL PUBLICATION

SYNOPSIS. This regulation sets forth policy and procedures that govern the submission and review of material intended for nonofficial publication by current and former Agency employees and others obligated to protect from unauthorized disclosure certain information they obtain as a result of their affiliation with CIA. It also reflects the responsibilities for prepublication review of the Publications Review Board ("PRB" or "Board") and other Agency components.

- a. **AUTHORITY.** The National Security Act of 1947, as amended; the CIA Act of 1949, as amended; and Executive Order 12333 require the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure. Executive Order 12356 requires protection of classified information from unauthorized disclosure. Employees and others who have been authorized access to information the public disclosure of which could harm the national security incur special obligations to protect such information. These obligations have been embodied in secrecy agreements.
- b. **GENERAL**
- (1) Based on the above obligations and responsibilities, this regulation requires all current and former Agency employees, and others obligated by contract, to submit for prior review by CIA all materials (defined in paragraph f(1) and (2) below) intended for nonofficial publication.* This regulation also establishes standards for review.
 - (2) It is the Agency's policy to adopt and implement all lawful measures to protect from unauthorized disclosure information which, if disclosed, could damage the national security, and to ensure that individuals given access to such information understand and comply with their obligation not to disclose it. Prior review by the Agency of material intended for nonofficial publication is a key component of efforts to prevent unauthorized disclosures. The purpose of prepublication review is twofold: to assist individuals in meeting their obligations and to ensure that information damaging to the national security is not disclosed inadvertently. Prior restraint of publication imposed by the Agency in implementing this policy has been judicially upheld where the Agency acts without undue delay, as a general rule meaning within 30 days of receipt of the material to be reviewed.
 - (3) In conducting prepublication review, the Agency's policy is to:
 - (a) Identify information for deletion or revision only to the extent necessary to protect information the disclosure of which could harm national security;
 - (b) Respond in a timely manner to specific inquiries from individuals as to whether particular material must be submitted for review or about any other aspect of the review process or the Agency's substantive determination; and
 - (c) Provide for administrative appeal of the initial determinations.

Revised: 14 March 1995 (0036)

c. AUTHOR RESPONSIBILITIES


- (1) Current and former Agency employees are obligated to submit material intended for nonofficial publication for prepublication review. Agency contractors and others who sign secrecy agreements with the Agency must also submit such material for prepublication review in accordance with their secrecy agreements.
- (2) Submission to the Agency must be made prior to disclosing such information to anyone who is not authorized by the Agency to have access to it. The responsibility rests with the author to learn from the Agency whether the material intended for publication fits the description set forth in this paragraph. Prepublication review obligations cannot be avoided by causing another person, such as a ghostwriter, spouse, friend, or associate, to prepare the material. Revelation of information damaging to the national security to any person not authorized to receive it is prohibited.
- (3) Current employees must also submit material that could reasonably be expected to impair the performance of their duties, interfere with the authorized functions of the Agency, or have an impact on the foreign relations or security of the United States.




- (5) Authors of material submitted to the Agency are expected to cooperate with and assist the review process. When an author claims that information intended for nonofficial publication is unclassified because it has already appeared in public, the author may be called upon to identify any open sources for information that, in the Agency's judgment, originates from classified sources. Failure or refusal to identify such public sources or otherwise to cooperate may result in refusal of authorization to publish the information in question. The author also may be requested to cite the source in a footnote.



PUBLIC AFFAIRS
d. PROCEDURES FOR SUBMITTING MATERIAL FOR REVIEW

- (1) Current employees must submit material intended for nonofficial publication through their supervisory chain of command to their Deputy Director or Head of Independent Office. However, current employees may elect first to make submissions directly to the Chair of the PRB only for determination of the necessity for any Agency review. (Note: Employees are also required to notify the Office of Personnel Security and the Public Affairs Staff of the proposed publication by submitting  Outside Activity Approval Request.)
- (2) Upon receipt of material from a current employee as described in paragraph c(3), any supervisory official in the author's chain of command may submit the material to the Board for decision under paragraph i(1), below. Alternatively, a Deputy Director or Head of Independent Office (or designee) may:
 - (a) Determine that public release of the material is authorized based on paragraphs i(1) or (2), below, or
 - (b) Approve publication of the material with deletions and/or changes, or disapprove publication, based on paragraphs i(1) or (2), below.

The Board acts as the Agency's office of record for all component-approved material. Thus, the author should ensure that the Board receives a copy of the approval memorandum signed by his or her Deputy Director or Head of Independent Office and a copy of the manuscript.

- (3) Deputy Directors and Heads of Independent Offices shall submit material intended for nonofficial publication to the Board (see paragraph (8) for address). The Chair will notify them of the Board's findings and act as primary spokesperson for the Agency in all communications concerning prepublication review.
 - (4) Former employees and others not currently affiliated with the Agency must submit material intended for nonofficial publication to the Board (see paragraph (8) for address). The Chair will notify them of the Board's findings and act as primary spokesperson for the Agency in all communications concerning prepublication review.
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- (6) Authors who are directed to delete material in accordance with this regulation are required to submit their revisions to the Agency for final review.

- (7) Persons preparing material for nonofficial publication are invited at any stage to discuss their plans with the Chair, PRB, the PRB legal adviser, or an authorized representative specifically designated for this purpose. The views of the Agency may be given only by one of these individuals. Anyone acting in reliance on views expressed by any person other than such authorized Agency representative must assume responsibility for the consequences of that action.

e. AGENCY ORGANIZATION AND RESPONSIBILITIES

- (1) The Board consists of a Chair designated by the Director of Information Technology and senior representatives from the Directorate of Operations, the Directorate of Administration, the Directorate of Science and Technology, the Directorate of Intelligence, the Office of the Associate Deputy Director for Administration/Information Services, the Office of Personnel Security, and the cover unit. The Board members are nominated by the appropriate Deputy Director or Operating Official for the concurrence of the Director of Information Technology. The Office of General Counsel provides a legal adviser. The Board will meet as required at the call of the Chair to ensure that the provisions of this regulation are met.
- (2) The Chair will ensure that appropriate reviewers are assigned to review submitted material. If the reviewers unanimously decide that it is unobjectionable under the standards and criteria listed above, the Chair will notify the author through the appropriate channels. If any reviewer objects to publication, the matter will be resolved upon consultation with the Chair or at a Board meeting.
- (3) The Chair is authorized unilaterally to represent the Board when disclosure of submitted material so clearly would not harm national security that additional review is unnecessary or when time constraints or other unusual circumstances make it impractical or impossible to convene or consult the Board. The Chair may also determine that the subject of the material is so narrow or technical that only certain Board members need be consulted.
- (4) The Agency will make every effort to complete the initial review of submitted material and respond to authors within 30 days of receipt by the PRB or other reviewing official.

f. MATERIALS TO BE SUBMITTED FOR PREPUBLICATION REVIEW

- (1) Material which must be submitted for prepublication review consists of all writings and scripts or outlines of oral presentations intended for nonofficial publication, including works of fiction, which contain any mention of the CIA, intelligence data or

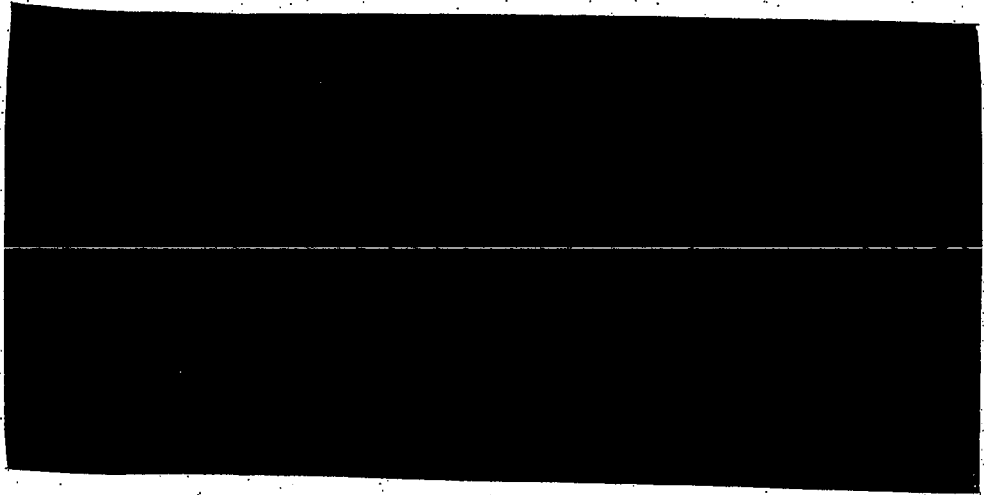
intelligence activities, or material on any subject about which the author has had access to classified information in the course of his or her employment or other CIA affiliation.

- (2) The prepublication review obligation is not limited to any particular category of materials or methods of presentation or publication. It applies to both oral and written materials. With respect to written materials, it applies not only to books but to all other forms of written materials or prepared statements intended for public dissemination, such as (but not limited to) newspaper columns, magazine articles, letters to the editor, book reviews, pamphlets, scholarly papers, and nonofficial testimony prepared in advance of presentation, whether it is before a Federal or state investigative commission, a Congressional body, a judicial forum (unless the witness is a defendant in a criminal case in the United States), or any other similar proceeding. (Current employees who must make court appearances and respond to subpoenas should contact the Office of General Counsel.) Because works of fiction are often based upon and/or can be used to convey factual information, fictional accounts of the Agency or of intelligence activities are also covered. Material created or disseminated through electronic or other media also is subject to this regulation.

g. MATERIALS NOT SUBJECT TO REVIEW

- (1) The prepublication review requirement does not apply to material that is totally unrelated to intelligence or employment matters, such as cooking, gardening, or purely domestic political matters.
- (2) Material that consists solely of personal views, opinions, or judgments on matters of public concern and does not contain or purport to contain any mention of the CIA, intelligence activities or data, or information on any topic about which the author had access to classified information, is not subject to the prepublication review requirement. For example, a person with prepublication review obligations is free without prior review to submit testimony to Congress to make public speeches or publish articles on such topics as proposed legislation as long as the material prepared for public use is not classified, does not state or imply facts about intelligence activities or substantive intelligence information, or, in the case of current employees or contractors, impair the performance of their duties or the authorized functions of the Agency or adversely affect foreign relations or national security.
- (3) In some circumstances the expression of what purports to be an opinion may in fact convey information subject to prior review. For example, a former intelligence analyst's opinion that the United States can or cannot verify compliance with strategic arms limitation agreements is an implied statement of fact about Agency activities and substantive intelligence information and would be subject to prior review. This does not mean that such a statement would necessarily require deletion, but merely that the subject matter requires review by the Agency before publication. However, discussion limited to the desirability of a proposed arms limitation agreement based solely on analysis of its provisions, without any discussion of intelligence information or activities, would not require prior review.

- (4) Descriptions of Agency activities will require prior review. A person subject to the prepublication review obligation who writes or speaks about areas of national policy as an observer outside the government, without relying or purporting to rely on classified information, intelligence information, or other similar information does not have to submit such materials for prior review. While some "gray areas" may exist, persons preparing material intended for nonofficial publication are expected to err on the side of prepublication review.



i. STANDARDS OF REVIEW

- (1) The Agency may deny permission for nonofficial publication of any information obtained during the course of employment or other service with the CIA that has not been placed in the public domain by the U.S. Government and if disclosure reasonably could be expected to harm the national security interests of the United States.
- (2) Permission to publish will not be denied solely because the statement may be embarrassing to or critical of the Agency.
- (3) Where information contained in material intended for nonofficial publication is available to the author from classified sources and also independently from open sources, the author may be permitted to republish the information if he or she can cite an adequate open source publication and if republication of the information by that author at the time of review will not cause additional damage to the national security through authoritative confirmation of previous publications. The Board will exercise due care and discretion in making these determinations on a case-by-case basis and include as factors in its decision the following: the sensitivity of the information from classified sources, the number and currency of these previous publications, the level of detail previously exposed, the source of the previous disclosures (whether authoritative and acknowledged or an anonymous "leak"), the new author's access to classified sources, and the authority and credibility his or her Agency experience brings to a confirmatory statement. The Board may give permission to publish contingent on the author's citation of open sources in a footnote.

- (4) For current employees and contractors, the Agency may also deny permission to publish statements or expressions of opinion that could reasonably be expected to impair the author's performance of duties, interfere with the authorized functions of the CIA, or have an adverse impact on the foreign relations or security of the United States.
- (5) Approval for publication does not represent Agency endorsement or verification of, or agreement with, the subject matter. Therefore, consistent with cover status, authors are encouraged (current employees are required, unless waived by supervisors) to publish the following disclaimer: "This material has been reviewed by the CIA. That review neither constitutes CIA authentication of information nor implies CIA endorsement of the author's views." An employee's supervisors may also amend the wording of this disclaimer, when appropriate, provided the Chair, PRB, is notified of the variance.

j. BREACH

- (1) Prepublication review allows the Agency to determine whether material contemplated for nonofficial publication contains information which, if disclosed, could harm national security, and gives the Agency an opportunity to prevent the public disclosure of such information. Prior review means that written materials are submitted to the Agency before being circulated to publishers, editors, literary agents, coauthors, reviewers, or the public at each stage of their development. This prior review requirement is intended to prevent comparison of different versions of such material, which would reveal what items had been deleted by the Agency. For this reason, review of the material after it has been submitted to publishers, reviewers, or other outside parties does not satisfy an author's prepublication review obligation. The Agency reserves the right to review any such material in order to take necessary protective action to mitigate damage caused by disclosure. Such review and action does not preclude the U.S. Government and the Agency from exercising the legal rights otherwise available.



k. APPEAL

- (1) Authors who wish to appeal decisions should address such appeals in writing to the Executive Director of the Agency, accompanied by the material intended for nonofficial publication and any supporting materials the author wishes the Executive Director to consider. On behalf of the Executive Director, the Chair, PRB will forward the appeal and relevant documentation through the senior Operating Officials of the affected component to each Deputy Director or Head of Independent Office

whose representative on the Board objected to information in the material at issue. The Deputy Director or Head of Independent Office will affirm or recommend revision of the Board's decision affecting his or her equities and will forward that recommendation to the General Counsel. The General Counsel will review the recommendations for legal sufficiency and will make a recommendation to the Executive Director for a final Agency decision. Every effort will be made to complete the appeal process within 30 days.

- (2) This regulation is intended to provide direction and guidance for those persons who have prepublication review obligations and those who review material submitted for nonofficial publication. Nothing contained in this regulation or in any procedures promulgated to implement this regulation is intended to confer, and does not confer, any substantive or procedural right or privilege on any person or organization.

*"Publication" in this context means communicating information to one or more persons. "Nonofficial publication" is a work prepared by the author as a private individual, not as a government employee or contractor acting in an official capacity.