RESEARCH ON CONTEMPORARY CHINA: USE OF SELECTED GOVERNMENT SOURCES†

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ABSTRACT

This paper discusses the use of the United States government source materials in doing research on modern China. Two sources of government information, namely, the freedom of information channel and Presidential libraries are explored by this paper. Their unique but complementary characteristics, different track of development, and overview of their use and accessibility are presented with first hand information.

In 1987, the federal government spent approximately $20 billion to carry out 60,000 research projects and programs of various kinds in over 1,000 government or government-connected facilities.† While most of the research results are now in public domain or are readily available to any one on request or at minimal costs, very few citizens except those who are most alert and familiar with the access procedures have yet come to use this important source of information.

It is true that the preponderance of government sponsored research are in the scientific and technical disciplines, the quantity and quality of social science reports are not insignificant, in my view, and some are indeed very germane to scholars engaged in research in history, sociology, economics and political science, including those dealing with various aspects of contemporary Chinese society and politics. It is important to point out at the outset that beyond the standard books and professional journals

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and interviews, which most scholars heavily rely on in their China research, lies an important source of information on China and other topics hidden in government offices and archives which should not be overlooked.

Today's panel on "Source Materials and Research on Contemporary China" is all encompassing. Some constriction is necessary to make the discussion more meaningful. I will therefore confine myself to the use of government source materials in doing research on modern China, both the mainland and Taiwan. Within this still very broad configuration, I will need to further restrict myself to two sources of government information, namely, the Freedom of Information channel and Presidential Libraries. Each has its unique but complementary characteristics, each follows a different track of development.

**FREEDOM OF INFORMATION ACT**

Let me first discuss the Freedom of Information Act (FOIA) as amended by Public Law 93-502 in 1974. FOIA is the government commitment to open processes of federal agencies, both in foreign and domestic policy. It obliges the federal government to make unrestricted information available to the public. It opens the door to American citizens and foreign scholars alike to request access to information held in government files and archives. Under FOIA, materials must be released to the requester unless the requested information falls under one or more categories of exemption. The exemptions, which will be discussed later in this paper, are methods with which the government can withhold certain information from public disclosure.

The trial of Iran-Contra scandal defendants, delayed for months, dramatically illustrates the problems of declassification of highly sensitive documents. The pivotal question is whether this or that document can be released in whole or in part in the interest of open government, and whether it should be denied
entirely or partially in the interest of protecting foreign relations or national security interests of the United States. To say the least, it is a systemic dilemma which cannot easily resolved by impulse or a stroke of a pen; it requires judicious examination and balanced judgment, keeping in mind the legislative intent to have an open government through a free flow of information and the need by the Executive Branch to protect U.S. security interests.

Not all government documents are, however, of such current sensitivity as those of the Iran-Contra scandal, inasmuch as the trial is still pending and the case is far from ending. In most cases, with the passage of time, political and economic analyses and information given in confidence in earlier periods can indeed be released in the spirit of open government.

Upon receipt of a request, the government is required by law to respond, usually within ten days, unless the government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request. This interim reply will acknowledge the receipt of the request, make initial determination whether the request is within the scope of a certain agency to provide, explain the processing procedures, and fees.

Fees for such services are limited to reasonable standard charges for document search and duplication. In many cases, documents may be furnished without charge or at a reduced charge where the government agency determines that waiver or reduction of the fee is in the public interest, benefiting the general public. In making this determination the government may evaluate the purpose of the request and the qualifications of the requester to determine whether the release of the requested information would indeed be in the public interest or benefiting the public. It is generally believed that established scholars, journalists and other public interest organizations would meet this basic criterion. The waiver is based primarily on benefiting the public, not for commercial or personal gain.

The FOIA requires the requester to reasonably describe what
is wanted to enable a professional agency employee who is familiar with the subject area to locate the record with a reasonable amount of effort. Such a description should include, if possible, the date, subject matter, country concerned, office or person originating or receiving the record, if known. In other words, the request should be made as specific as possible and within a certain time frame.2

Once the search and indexing of documents are completed by the agency concerned, the review process begins. This is usually done by a specialist with sufficient knowledge and background on the subject matter. He or she is required to release as much information to the requester as possible consistent with the need to withhold information for national security or other reasons. The government specialist then examines the document to see whether it can be released in part or in whole, and whether it falls in part or in whole within one or more of the following exemptions under Section 552 of the Freedom of Information Act:

(b) (1) National security information determined to be currently and properly classified under Executive Order 12356 and authorized by that Order to remain protected in the interest of national security or foreign relations.

(b) (2) Personnel rules and practices of the agency involved.

(b) (3) Special statutes specifically exempted from disclosure, to wit, the Immigration and Nationality Act, the Foreign Service Act of 1980, the Central Intelligence Act of 1949, the Arms Export Control Act, and others.

(b) (4) Privileged commercial or financial information.

(b) (5) Formulation of policy process, attorney work product exempt from disclosure under the deliberative process or similar privilege.

(b) (6) Personal privacy as release would constitute an unwarranted invasion of personal privacy.

(b) (7) Law enforcement records of information compiled for law enforcement purposes, the production of which (a) would
reasonably be expected to interfere with enforcement proceedings, (b) would deprive a person of a right to a fair trial or an impartial adjudication, (c) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (d) could disclose the identity of a confidential source and information furnished by a confidential source, (e) would disclose techniques and procedures or guidelines for law enforcement investigations or prosecutions, and (f) could reasonably be expected to endanger the life or physical safety of an individual.

(b) (8) Bank records prepared for regulatory agencies.
(b) (9) Geological and geophysical information and data such as oil and gas information.

With respect to materials withheld, the requester has the right to appeal to the originating agency for reconsideration within 60 days. In this instance, the government agency is required to give it a genuine, second look in the reexamination of documents, bearing in mind the arguments for release made by the requester and the government’s reasons for continued withholding. If the appeal should fail, the requester may still challenge the decision of the government by going to a Federal District Court.

EXECUTIVE ORDER 12356

A corollary to the FOIA, or perhaps another avenue of access to government information, is Executive Order 12356 signed by the President in April 1982, superceding previous rules and regulations covering classification and declassification of documents. In principle, the EO not only improves the government’s classification and declassification system but also enhances protection for security information without permitting excessive classification of government information. It works on the premise that in a democracy citizens have the right to know what their government is doing, while at the same time recognizing the government, too, has the right to protect sensitive information when its disclosure
could harm the national interest. The Order expressly prohibits use of classification to hide errors, violations of law, inefficiency, embarrassment, etc. The Order simplifies declassification procedures, requiring the government to examine periodically historically valuable records to make them available to researchers and historians. The Order also maintains a mandatory review system that permits citizens to request a review of classified documents to determine if the documents may be publicly released.

In the history of U.S. relations with contemporary Asia, for example, numerous government reports have been issued on China, whereas only a few on smaller countries. The Foreign Relations of the United States (FRUS), issued by the Department of State since 1870's, have focused specifically on China numerous times. The most recent one was 1955–57, in two volumes, which came out several years ago. The first volume was on the Taiwan Straits crisis and the second on Ambassadorial Talks at Geneva and Warsaw, with a microfiche supplement recording major transactions and transmissions. The 1957-59 series on China, completed sometime ago and pending clearance, should be coming out shortly.

The documents and correspondences on the China volumes were selected to give a concise, coherent picture of U.S. relations with China and China developments during a particular period—not necessarily comprehensive or complete—because if all documents were made available one would find it a more confusing picture rather than comprehensible one.

For State Department documents of 30 or more years in age, the scholar would have to go to the National Archive, now known as the National Archive and Records Administration (NARA) in Washington. Under the arrangement, documents approaching 30 years old are transferred in blocks to NARA for permanent retention. NARA has the authority to declassify and release documents upon request by following the guidelines prepared by the Department of State. When questions or doubts otherwise arise whether to release or not to release, NARA will
refer such documents back to the originating agency for review and clearance.

PRESIDENTIAL LIBRARIES

Requests for and review of materials housed in Presidential Libraries (PL) generally come under the provisions of EO 12356, not FOIA, because Presidential Library materials are considered personal papers of the President and are governed by the terms of the agreement transferring the Presidential papers to the library. For example, President Eisenhower in offering his papers to the Presidential Library in Kansas said:

"The papers of a President have been regarded as the personal property of the President. Believing that they should be permanently and generally available for study, I desire that my papers should be made so available and believe that this can best be done through a Presidential archival depository . . . However, since the President is the recipient of information in confidence from others, and since the inviolability of such a confidence is essential to the functioning of the office of the Presidency, it will be necessary to withhold from public scrutiny certain papers and classes of papers for varying periods of time. This includes papers that are security-classified pursuant to law or Executive Order, until such classification shall be removed, papers the use of which may be prejudicial to the maintenance of good relations with other countries, and papers containing statements made by or to me in confidence . . . These papers placed under seal shall be examined from time to time by NARA officials for possible release to individuals engaged in serious research. All competent private persons interested in using my papers for serious scholarly research shall be granted equal access to those that are not withheld . . . ."

At present, Presidential Libraries open to research are those of Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Ford
and Carter, with Nixon papers expected to be made partially available. The researchers can examine the document lists but not the classified documents in the Libraries unless and until they have been reviewed for declassification by State, NSC or another agency concerned. Most foreign policy-type documents are reviewed by State under the provisions of EO 12356.

Following the review of documents forwarded by PL archivists, the government agency sends a letter to the requester with materials for full or partial release. Unlike FOIA cases where the requester can appeal and go to federal court on an adverse decision, Presidential Library cases are not subject to judicial review though can be appealed administratively. Also unlike FOIA materials which can be released to both American citizens and foreigners alike, Presidential Library materials can be released only to American citizens and permanent residents, unless the requested information falls under one or more specific exemptions such as foreign relations, national defense, etc.

Exemptions under Section 1.3 of EO 12356:

(a) (1) Military Plans, weapons, or operations.
(2) The vulnerabilities or capabilities of systems, installations, projects, or plans relating to the national security.
(3) Foreign government information.
(4) Intelligence activities or intelligence sources or methods.
(5) Foreign relations or foreign activities of the United States.
(6) Scientific, technological, or economic matters relating to the national security.
(7) U.S. Government programs for safeguarding nuclear materials or facilities.
(8) Cryptology.
(9) A confidential source.
(10) Other categories of information that are related to the national security and that require protection
against unauthorized disclosure as determined by
the President or his agency heads.

To date, most mandatory review requests come from other
Presidential Libraries such as Eisenhower, Kennedy and John-
son. Requests from other libraries are less frequent because their
collections are still at various stages of development. For example,
the Nixon Library is yet to be built but some of the Nixon papers
housed at the National Archive may be made available to a scholar
on request. The Nixon years, 1969–1973, were critical for the
study of contemporary US-China relations after two decades of
mutual isolation — 20 years with its share of turmoil and tension
and at times acrimonious confrontations in US-China relations.
Once the Nixon Library is completed and the documents indexed
and made available, it will certainly be an important source not
only for unraveling the mysteries and misperceptions that aggra-
vated the images of each's country and government at the time
but also for understanding the maneuvers leading to Nixon's
historic visit to the PRC in February 1972 and ultimately to the
restoration of diplomatic relations in January 1979.

Scholars will find, in my opinion, source materials housed in
Presidential Libraries, government offices and archives an im-
portant source for research in their field of specialty — not to
mention many other periodic reports such as "U.S. Military
Intelligence Reports: China 1911–1941," "The Special Studies
1976." and others in microfiche. At a minimum, one should at
least look at and examine The Declassified Documents Catalog
issued every other month by The Carrollton Press prior to 1980
and by Research Publications, Inc. after 1980. The catalog offers
an overview of what previously classified documents have been
declassified and released in whole or in part. The cumulative
index issued at the end of the year provides summary information
on documents declassified and released each year by the federal
government. These documents can now be read in microfiche.
These sources, already paid for by tax payers, are available in all
major libraries in the country, and you have the right to access to them simply by asking.

REFERENCES