

Lifting the Cuban Missile Crisis Veil

State Dept. Resists Data Release, but Change May Be in Store

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American University professor Philip Brenner has tried for three years in federal court to get classified documents from the State Department about the Cuban missile crisis. Last month, he even submitted affidavits from the authors of the papers—nine former high-ranking Kennedy administration officials—urging their release.

But unlike many citizens who take on the federal government, Brenner may find that time is on his side.

The reason: legislation passed by the Senate the last session that would require automatic declassification of State Department documents 30 years after the events they chronicle. For researchers dealing with the crisis that brought the United States and the Soviet Union to the brink of nuclear war, the countdown would stop at October 1992.

The proposed law would allow State Department documents to be

kept secret after 30 years only if they fit one of three strict exemptions: if their publication would compromise "weapons technology important to the national defense," reveal the names of informants still alive who would be harmed or "demonstrably impede" current diplomatic relations.

Congress adjourned before the House took up the measure, but Senate supporters are confident of passage in the next session. It is sponsored by the Democratic and Republican leaders of the Foreign Relations and Intelligence committees in the Senate.

Brenner and fellow researcher Scott Armstrong have filed a Freedom of Information lawsuit to get access to 4,000 documents they say are being withheld by the State Department.

Armstrong, former director of the National Security Archive and now a professor at American University, said the department has released 18,000 pages of documents about the missile crisis, which is the subject of continuing

research among scholars of the Cold War era.

The lawsuit is pending before U.S. District Judge Norma Holloway Johnson. The State Department declined to comment on the suit. "It's our policy not to comment on matters under litigation," spokesman Dave Denney said.

Last month, Stuart Newberger the attorney representing Brenner and Armstrong, filed affidavits from such former Kennedy administration officials as Theodore Sorensen former special counsel to the president, and George Ball, former undersecretary of state.

Those officials said that they can not think of anything in the documents they wrote 28 years ago that might be considered a secret today. Justice Department attorneys have asked Johnson for 60 days to respond to the affidavits.

But the Freedom of Information Act gives judges broad leeway to defer to government arguments about national security considerations, and Newberger, a former assistant U.S. attorney, said they usually do. Once judges hear the word "national security," he said, "they kind of freeze up."

From the standpoint of researchers and historians, the proposed legislation would eliminate much of that governmental shield by eliminating the broad "national security" exemption and specifying that any potential harm would have to be to "living persons." Most important, it would require that documents in question undergo review by a panel of historians, not government officials.

If the historians disagree with the State Department over how to declassify documents, the dispute goes to the House Foreign Affairs Committee.

Brenner said Cuban government officials recently agreed in talks with him and Armstrong to declassify most of their documents on the crisis. Soviet officials have agreed to do the same.

Since those tension-filled days in 1962, "we [have] discovered that the Soviet Union is no longer the enemy," Brenner said. "But things didn't open up."

Staff writer Al Kamen contributed to this report.