NATIONAL RECONNAISSANCE OFFICE
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FEB 28 2017

MEMORANDUM FOR DIRECTOR, INFORMATION MANAGEMENT DIVISION/OFFICE OF
POLICY AND STRATEGY/OFFICE OF THE DIRECTOR OF
NATIONAL INTELLIGENCE

SUBJECT: National Reconnaissance Office's Response to Addendum to the
Fiscal Year 2017 Fundamental Classification Guidance Review

REFERENCE: Director of National Intelligence Memorandum, Addendum to
the FY 2017 Fundamental Classification Guidance Review,
ES 2016-0158, 23 Mar 16

The National Reconnaissance Office (NRO) appreciates the
opportunity to participate in the feasibility studies outlined in the
Reference.   The NRO's responses to the questions regarding reducing
the number of Original Classification Authorities, increasing
discretionary declassification decisions, creating an Intelligence
Community-wide classification guide, and eliminating CONFIDENTIAL from
agency guides, are contained in the attached response.

Please contact me at [ ] if you have   (b)(3)
any questions.

Martha K. Courtney
Director, Office of Security
and Counterintelligence

Attachment:
National Reconnaissance Office's
Response to Addendum to the Fiscal
Year 2017 Fundamental
Classification Guidance
Review

National Reconnaissance Office's Response to Addendum to the Fiscal
Year 2017 Fundamental Classification Guidance Review

1. <u>Reducing the Number of Original Classification Authorities</u>
<u>(OCA)</u>: Please comment on the feasibility of reducing the number of
OCAs in your agency to the minimum number required and any negative
impacts this might have on mission capabilities. The Office of the
Director of National Intelligence (ODNI) undertook a similar
initiative last year and reduced those with OCA from 24 to 10 by
implementing a "use it or lose it" criterion. This did not negatively
impact operations and actually saved time that had previously been
spent ensuring the completion of annual training.

The National Reconnaissance Office (NRO) believes that,
using the "use it or lose it" criterion cited by the Office of the
Director of National Intelligence, the current designation of 13
Original Classification Authorities (OCA) at the NRO is appropriate
and fully consistent with the diversity of NRO programs and
activities. As an acquisition organization, the NRO maintains more
than 50 classification guides, with new program information being
generated throughout each year. OCA delegation at NRO is limited to
Directorate-level positions, although not every Directorate has an
OCA. Any further reduction in the number of OCAs would impact mission
by increasing the amount of time it would take to approve
classification determinations of new program and activity information,
which in turn would impede the timely update and review of NRO
classification guidance.

2. <u>Increasing discretionary declassification decisions</u>: Please
comment on what would be required to implement a proactive
discretionary declassification program distinct from the systematic,
automatic, and mandatory declassification review programs outlined in
32 CFR Part 2001, §2001.35. Would this require additional resources
or could it be accomplished, for example, by better aligning existing
resources, and revising policies and procedures?

a. The NRO takes very seriously its commitment to greater
openness and transparency, and makes every effort, in all of its
information review and release programs, to release as much
information as we can while still protecting our sensitive sources and
methods from harm. While the goal of increasing discretionary
declassification decisions is a noble one, we believe that such an
effort requires a program separate and distinct from the existing
systematic, automatic, mandatory, and other release programs; that
establishing a new program is counterproductive given our current
resource constraints; and that such an endeavor is unnecessary given
our current declassification efforts. We believe that by applying the
direction provided in 32 CFR Part 2001, §2001.35, the NRO would find
itself tasked with independently measuring public interest in its
currently classified programs in order to meet the spirit of the
guidance, for which the NRO is not currently resourced.

b.   With the exception of information pertaining to the NRO's currently operational classified reconnaissance systems and programs, the NRO, as a matter of course, already examines all classified material that comes up for review for declassification regardless of its age, or under what circumstances it has been requested.   If we determine that we cannot articulate harm in release, we consider it for declassification and release.   Therefore, while we do not look proactively for new items to declassify, we do take a forward-leaning approach to performing declassification reviews by going beyond the "can we protect this?" question to asking "do we really need to protect this?"

c.   The above being said, we believe that we can take some additional measures within our current business processes to potentially increase proactive declassification and/or release:

1.   As part of our normal records management activities, require a review of the prevailing security classification guidance at the time a program is terminated and require development of a declassification plan.   Depending on the sensitivity of the program, declassification review could potentially occur prior to the records reaching the 25-year mark.

2.   As part of our Freedom of Information Act and mandatory declassification review processes, anticipate, and try to stay ahead of, recurring requests.   Each year NRO receives requests for common items such as Director's Notes and Inspector General Reports published during that year.   At the time of publication NRO could proactively treat and post redacted versions on its public web site.

d.   Additionally, the NRO is taking steps to improve the ability of NRO staff to classify and mark information correctly at the time of origination.   The NRO will continue to emphasize the importance of faithfully interpreting original classification guidance and the concept of writing for maximum utility through its derivative classifier training and Security Self-Inspection Program.   We believe these measures, over time, will help eliminate over-classification and make much more material available for public release.

e.   Furthermore, a key aspect to such an endeavor is judicious interpretation of the term "public interest" as used in 32 CFR, Part 2001, §2001.35.   The CFR does not provide a threshold to assist organizations in determining at what point "public interest in disclosure outweighs the need for continuing classification."   In addition to the creation of a program dedicated to discretionary declassification, the NRO would require clarification and further guidance to assist us in gauging when the public interest outweighs the need to protect our currently classified programs.

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3. <u>Creating an IC-Wide Classification Guide</u>: Please comment on the benefits and drawbacks of implementing an IC-wide guide in the non-operational and more common areas of the IC. If adopted, how might this benefit the IC enterprise?

The NRO sees both benefits and drawbacks to implementing an Intelligence Community (IC)-wide classification guide. Benefits include standardization of classification guidance at a high level for non-operational information and areas common to the IC, thereby reducing the likelihood of inconsistent classification of the same information by different organizations, and providing a foundation for IC elements to create more detailed program guides. One significant drawback would be arriving at the appropriate scope: broad enough that it applies across the entire IC, yet not so broad that the guidance is not useful, and limited to only those high-level issues common to all in the IC. Each IC element has its own mission, and while there may be overlap, each element must have enough latitude and flexibility to implement classification guidance (whether federated or programmatic) in a manner that best fits their needs.

4. <u>Eliminating CONFIDENTIAL from Agency Guides</u>: Please comment on whether the CONFIDENTIAL classification level can be eliminated from your agencies' guides and the negative impacts this might have on mission success. This action could promote transparency by:

a. simplifying agency classification practices;

b. focusing personnel more directly on only marking items that would cause significant and demonstrable harm to national security if improperly released;

c. reflecting the fact that few, if any, personnel security clearances, or facility or network accreditations, are issued at the CONFIDENTIAL level; and

d. aligning our marking levels to those of the United Kingdom, whose classification system successfully eliminated CONFIDENTIAL without impact in April 2014 (ISOO Notice 2014-03). Evaluating this proposal will involve taking a hard look at your CONFIDENTIAL OCA decisions with a view toward either lowering them to UNCLASSIFIED [or CUI (CONTROLLED UNCLASSIFIED INFORMATION) or raising them to SECRET.

There is very little NRO-originated information that is CONFIDENTIAL. The NRO derivatively classifies CONFIDENTAL information based on guidance from other organizations, but the NRO does not anticipate any negative impact on its mission should the CONFIDENTIAL classification level be eliminated.

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