



UNITED STATES DEPARTMENT OF JUSTICE

Fundamental Classification Guidance Review

July 2012

1. Description of Agency's Fundamental Classification Guidance Review:

In accordance with section 1.9 of Executive Order 13526, "Classified National Security Information," (the Order) and 32 C.F.R. Part 2001.16, all agencies with original classification authority are required to complete a comprehensive review of their classification guidance, particularly classification guides, to ensure the guidance reflects current circumstances and to identify classified information that no longer requires protection and can be declassified. This report summarizes the results of the Department of Justice's (DOJ) fundamental classification guidance review.

The Department Security Officer (DSO) directed the conduct of this review on behalf of the Senior Agency Official. The review process began in March 2011 when a memorandum was sent by the DSO to the Security Programs Managers (SPMs) of all DOJ Offices, Boards, Divisions and Bureaus (components) with original classification Authority (OCA). The memorandum served as notification of the review requirement and requested the appointment of a component point of contact to work with the Justice Management Division, Security and Emergency Planning Staff (JMD/SEPS) in planning for and conducting the reviews.

JMD/SEPS convened a Fundamental Classification Guidance Review Working Group in June 2011. Working group membership included representatives from the Office of the Inspector General (OIG), Antitrust Division, Bureau of Alcohol, Tobacco, Firearms and Explosives, Criminal Division (CRM), Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), Federal Bureau of Prisons, National Drug Intelligence Center, National Security Division (NSD), and the United States Marshals Service (USMS). Working group members were tasked with conducting a comprehensive review of their current component classification guidance. Reviews were required to include, at a minimum, the following regarding content and use of guidance:

- Determine if the guidance reflects current operational and technical circumstances;
- Determine if the guidance meets the standards for classification under section 1.4 of the Order, and using section 1.2 of the Order, an assessment of likely damage supporting the assigned level of classification and consider whether information should retain its current level of classification or if it should be downgraded or declassified;
- Determine if the dissemination and availability of the guidance is appropriate, timely, and effective;
- Ensure that classification decisions reflect the intent of the guidance as to what is classified, the appropriate level, the duration, and associated markings and consider whether the duration of classification is appropriate and, for information currently exempted from automatic declassification, whether the exemption should still apply;
- Consider whether recent original classification decisions have been incorporated in appropriate security classification guides.

Working group members were encouraged to include the participation of component subject matter experts, classification and declassification experts in order to obtain the broadest possible range of perspectives, and when appropriate, to obtain input from external subject experts and external users of DOJ classification guidance and decisions.

2. Review Summary:

Section 2.2 of the Order requires agencies with OCA to prepare classification guides to facilitate the proper and uniform derivative classification of information. Though the DOJ is largely a consumer of classified information, with the exception of the FBI, there was an identified lack of classification guidance covering categories of information that are commonly classified in the CRM, NSD, and other components that have the potential to classify particular categories of information in multiple documents. One major goal of the Fundamental Classification Guidance Review Working Group was the development of a DOJ National Security Information Classification Guide to facilitate consistent and appropriate classification decisions. Program specific guides will be developed as annexes to the guide when a requirement is identified by an appropriate OCA.

The following security classification guides were reviewed and updated:

- FBI National Security Information Security Classification Guide
- FBI Foreign Government Information Classification Guide
- FBI Vulnerability Assessment Security Classification Guide
- FBI Security Division Continuity of Operations Security Classification Guide
- FBI Information Assurance Section Guide

The following security classification guides were created:

- CRM Narcotics and Dangerous Drug Section Security Classification Guide
- DEA National Security Information Classification Guide
- DOJ National Security Information Security Classification Guide (superseded and consolidated information from the DOJ Security Procedures, Systems, or Incidents Security Classification Guide # 1-2)
- FBI Technical Surveillance Countermeasures Security Classification Guide
- USMS Operations and Capabilities Security Classification Guide

The following automatic declassification guides were created, reviewed, and/or updated and submitted to the Interagency Security Classification Appeals Panel (ISCAP) on December 19, 2011:

- DOJ Automatic Declassification Guide (this guide consolidated previous ISCAP approved declassification guides for the Office of Information Policy and the National Security Division)
- FBI Automatic Declassification Guide

The Office of the Inspector General identified 2 obsolete classification guides that are retained for reference purposes only. These guides are not authorized for use and any relevant information was incorporated into the DOJ National Security Information Security Classification Guide.

This is an accurate list of all current and approved security classification and declassification guides in use by the DOJ.

No projects, programs, or categories were eliminated, revised, consolidated, or condensed during this review. There were no documents, topics, or categories that were downgraded in classification level. The number of cases in which the duration of classification was modified or the number of cases in which exemptions from declassification were removed was not tracked by DOJ during this review.

Based on the lack of classification guidance prior to the review, DOJ is unable to determine at this time how much information that was classified is no longer classified as a result. DOJ does expect a sharp decline in the number of future original classification decisions and more informed derivative classification actions based on the implementation and use of the newly developed comprehensive guidance.

3. Conclusion:

DOJ classification and declassification guides conform to current operational circumstances, meet the standards for classification under section 1.4 of the Order, and the dissemination of the guides is appropriate and effective. DOJ plans to use the results of this initial review as an opportunity to evaluate and possibly reduce our current delegations of OCA in accordance with section 1.3 of the Order.