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To: All-Staff
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Subject: Handling of Classified Information and the Use of Materials of Uncertain Classification Status

With the recent large-scale public release of classified information by Wikileaks, many of you may have questions about the proper use and sourcing of publicly-available materials of both a classified and uncertain classification status. CRS is respected and trusted for its rigorous research methodologies, and its careful documentation and vetting of sources. Events of the last week have added new challenges to our work.

As employees of the legislative branch, we must all weigh the obligations we have under the law and Library of Congress regulations to safeguard classified information that can cause damage to U.S. national security, against the genuine need we have to provide congressional clients with authoritative, objective, and nonpartisan research and analysis. On December 4, 2010, the Library issued a memorandum to staff with security clearances reaffirming our obligations to properly handle classified material. The obligation to adhere to law and regulations governing classified material applies to all of us, regardless of whether we have security clearances.

The Office of the Counselor to the Director has informed our House and Senate oversight committees, and solicited their guidance, regarding the complexities that the recent leaks of classified information present for CRS. I have also contacted the majority and minority counsels of select committees in the House and Senate requesting guidance on the appropriate boundaries that CRS should recognize and adhere to in summarizing, restating or characterizing open source materials of uncertain classification status in unclassified CRS reports and memoranda for Congress.

We recognize that CRS staff holding security clearances equal to or exceeding the level of the classified information in question may discuss with, or provide classified information to congressional clients holding appropriate security clearances. We also contend that discussions of classified information in support of legislative activities would likely constitute speech or debate privileged activities. However, our challenge is how to balance the need to provide the best analysis possible to the Congress on current legislative issues against the legal imperative to protect classified national security information. This is especially a problem in light of the massive volume of recently released documents, which may shed important light on research and analysis done by the Service.

As guidance becomes available from Congress, I will follow-up with additional information. At present, it seems clear that the republication of known classified information by CRS in an unclassified format (e.g., CRS reports or congressional distribution memoranda) is prohibited. We believe this prohibition against the further dissemination of classified information in an unclassified setting applies even if a secondary source (e.g., a newspaper, journal, or website) has reprinted the classified document. The laws and applicable regulations are decidedly less clear, however, when it comes to the referencing and citing secondary sources that refer to, summarize, or restate classified information. (For additional information on the possible violation of criminal law that results from the publication of classified documents by organizations such as WikiLeaks, see CRS Report R41404.)

To protect you and CRS until we have additional guidance, all questions on the use of classified information, or the use of, and citation to, materials of uncertain classification status in our work for Congress should be directed to your research manager or supervisor, and division management. Managers in turn are asked to consult with Lizanne Kelley in the Office of the Counselor to the Director. For now, we will examine specific congressional requests on a case-by-case basis. Contact Janine D'Addario in the Communications Office if you receive any media requests for your comment (on background or for attribution), or for a statement from CRS, on the public disclosure of specific classified information. CRS Security Manager Bruce Krafte is available to respond to questions on the proper handling and storage of classified information.