

CHARRTS No.: SHSGAC-01-010  
Senate Committee on Governmental Affairs  
Hearing Date: March 10, 2011  
Subject: Information Sharing  
Witness: HON Ferguson, Ms. Takai  
Senator: Senator Lieberman  
Question: #10

EO 13526 Classification Guidance

Question. According to a recent article at Secrecy News, the Department of Defense has not yet published updated implementing regulations on classification guidance, as required by Executive Order 13526 <[http://www.fas.org/blog/secrecy/2011/02/reform\\_stymied.html](http://www.fas.org/blog/secrecy/2011/02/reform_stymied.html)>. Is this report accurate? If it is, is the Department of Defense currently working on updated implementing regulations, and what is its timetable for completing them?

Answer. The article you mention is inaccurate on a number of counts, and Mr. Aftergood did not consult with the DoD office responsible for updating this issuance. He is correct that the policy in DoD 5200.1.R, "Information Security Program," dates from 1997. A new manual, which will update this policy, as well as consolidate several policies into a single, four volume guide for the field, has been in development since 2009.

DoD policy issuance is a very thorough process that coordinates policy across the entire department and includes legal reviews at multiple stages. Each comment or change receives a thorough adjudication which must be accepted by the commenting components. We notified the Information Security Oversight Office (ISOO) that DoD would not be able to reissue the policy in the timeframe allowed; however, ISOO and the National Security Staff denied the DoD request to extend the deadline established in the Executive Order (E.O.) 13526 and its implementing directive.

The good news is that this new DoD manual is in final comment adjudication. It will require DoD components to complete a Fundamental Classification Guidance Review and to take into account all relevant guidance from the new E.O., President's memo, and implementing directive.

In October 2010, we sent formal notification to all DoD components reminding them of their obligation to comply with the E.O. as well as with the President's memo. We also initiated a DoD wide update of classification guidance. As a result, in 2010, the Department went from only 30% currency of its classification guides to over 70%.

To provide additional guidance to DoD components in the interim, the Department established a Defense Information Security Advisory Board (DISAB) with membership from across DoD, which drafted and sent correspondence on the subject of the Fundamental Classification Guidance Review.

ISOO and Mr. Aftergood may not understand the enormity of such an undertaking for DoD. DoD has more classification guidance than any other agency or Department by several orders of magnitude. The limited resources available for conducting such a review are already over-tasked by several new initiatives and activities resulting from the EO as well as other circumstances such as the WikiLeaks disclosure. Regardless, the Department has made solid strides forward in implementing the national policy contrary to Mr. Aftergood's assertions.

**INFORMATION SHARING IN THE ERA  
OF WIKILEAKS: BALANCING SECURITY  
AND COLLABORATION**

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**HEARING**

BEFORE THE

COMMITTEE ON  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

OF THE

ONE HUNDRED TWELFTH CONGRESS

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