Office of Classification

Classification

Training

Institute

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This briefing provides information on Classification Bulletin GEN-16, Revision 2, "No Comment" Policy on Classified Information in the Open Literature

EHSS
Office of Environment, Health, Safety and Security

What is the purpose of GEN-16, the "No Comment" policy?

GEN-16 provides guidance to cleared DOE employees on what to do if they encounter classified information in the in the open literature.

Why do we have a "No Comment" policy?

- If a DOE employee comments on classified information in the open literature, it creates a greater risk of damage to the national security by drawing attention to the information, confirming it is classified, or confirming the technical accuracy of the information.

- Employees must know how to handle inadvertent/unintentional contact with classified information in the open literature.

Why is GEN-16 important to you?

- If you are a Derivative Classifier, Classification Officer, or a security officer you must be able to determine when the "No Comment" policy applies in order to know how to handle circumstances when classified information (marked or unmarked) in the open literature is inadvertently viewed, stored, or printed on DOE unclassified systems.

- You may have to give briefings or attend discussions in classified subject areas with uncleared persons. You need to develop strategies to deal with situations where you are asked about classified information.

- If you are conducting DOE research using sources from the open literature containing classified information, you must be aware of when and how you may cite those resources.

What is the basic guidance in GEN-16?

- Do not comment verbally or in writing on <u>classification status</u> of classified information in the open literature to an unauthorized person.

- Do not comment verbally or in writing on the <u>technical accuracy</u> of classified information in the open literature to an unauthorized person.

What are the definitions of terms used in GEN-16?

- **Classified information** - Restricted Data, Formerly Restricted Data, Transclassified Foreign Nuclear Information, and National Security Information

- **Open literature**
  - Information outside of the Federal Government
  - Information not copyrighted as well as information that is copyrighted
  - Does not include information sent to other Agencies (interagency communication)
- **Comment** - Any activity that would allow an unauthorized person to locate classified information or confirm the classified nature or technical accuracy of the information

- **Authorized Person** – a person who has a clearance and a need to know the information

How do you deal with discussions in a classified subject area?

- You should have a strategy on how to deal with discussions that arise concerning information in the open literature that could be classified.

- You should be aware that if you plan to use information in an unclassified DOE document that comes from the open literature and concerns a classified subject area, you must follow the review requirements in DOE Order 475.2B, *Identifying Classified Information*.

- **You may not always be aware that specific information in the open literature is classified. When in doubt, don't discuss it.**

In applying the "No Comment" policy, consider your audience

- Techniques to avoid comment depend on the situation and context (e.g., a friend, neighbor, someone at a conference, interviewer)
- Discussions with friends and acquaintances allow for informal and casual responses -- you can
  - Be humorous
  - Change the subject
  - Be vague
- Questions during public forums (e.g., presentations, panels, interview) require a more formal response.
  - "I can't comment on that."
  - "Because of my work, I can't discuss it."
  - "I'm not sure what I can or can't say about the subject, so it would be better if I didn't say anything."
  - Also, consider setting ground rules and parameters before questions are asked. ("We won't be discussing xyz.")

In applying the "No Comment" policy, be consistent

- In public discussions, including press conferences, town hall meetings, presentations, and panels that include uncleared audiences, think about how to respond. The use of "No Comment" can be seen as confirming classified information.
- What not to say:
  - Are there nuclear weapons in country x? "No."
  - Are there nuclear weapons in country y? "No."
  - Are there nuclear weapons in country z? "No comment."
- Better use of "No Comment":
  - Are there nuclear weapons in country x? "We acknowledge that nuclear weapons are or were located in a number of countries. I cannot comment further on the location of nuclear weapons."

What are examples of inappropriate <u>comments</u> on the classification status?

What you should NOT say!

- Comments on the fact that the information is classified [Joe and Josephine are not authorized access to the information]

  - Josephine: "What did you think about that article in the Post about nuclear weapons this morning?"

  - DOE: "That shouldn't have been printed, it's SECRET."

- Confirming classified information

  - Joe: "Can you believe there were weapons in X country?" [Fact is classified]

  - DOE: "I thought everyone knew that."

What are examples of appropriate responses?
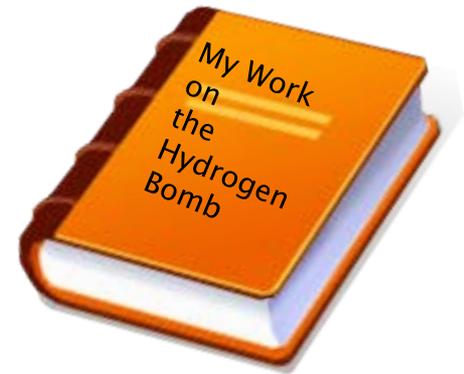
What you should say!

- Josephine: "What did you think about that article in the Post about nuclear weapons this morning?"

  - DOE response to a friend: "I don't pay any attention to that stuff."

  - DOE formal response: "Because of the nature of my work, I avoid discussing things like that."

- Joe: "Can you believe there were weapons in X country?" [Fact is classified]

  - DOE response to a friend: "I never really thought about it."

  - DOE formal response: "DOE doesn't confirm or deny the presence of weapons in most countries."

What are examples of inappropriate <u>comments</u> on the classification status?

What you should NOT say!

- Saying the information is being reviewed for classification or the results of the review
  [Joe is a coworker, but is not authorized access to the information]

  - Joe: "Is it true you're holding up publication of Jim's book on his work in nuclear weapons development because of classification concerns?"

  - DOE: "It's taking a long time to review, not just because there is a lot of classified information about thermonuclear weapons, but also because it's boring."
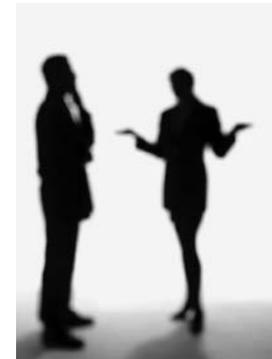
My Work on the Hydrogen Bomb

What is an example of an appropriate response?

What you should say!

- Joe: "Is it true you're holding up publication of Jim's book on his work in nuclear weapons development because of classification concerns?"

- DOE: "If we were, I certainly couldn't say so."

What are examples of inappropriate comments on the technical accuracy of information?

What you should NOT say!

- Accuracy - includes the fact that something will or will <u>not</u> work
  - "That article wasn't accurate at all, the expected yield they gave was way too low."
  - "I hope terrorists read that article, because the design was a joke."
  - "If they used that design to make special nuclear material, they'd be working on it until the cows come home and wouldn't have enough material to take an X-ray."

How do I deal with information I find on the Internet that I believe is classified, but is not marked?

- You may find information you believe is classified that was not generated by the Government in news media, blogs, or technical papers in the open literature
- What you can do:
  - Read
  - Collect unmarked and unannotated publications or web pages or lists of publications/web pages – but must not limit collections only to those with classified information
  - Summarize – but must ensure summary does not contain classified information
  - Print, store, and distribute – if you do not in any way imply the information is classified or that it is technically accurate
  - Cite only well-known, unmarked sources if the vast majority of the document or publication does not contain classified information and the citation does not point to classified information
- What you cannot do:
  - Annotate the source in any manner that indicates in any way that the source contains classified information or that it is technically accurate
  - Use information from the open literature that may be classified in a new unclassified document unless the document is reviewed by a Derivative Classifier and is determined to be unclassified

How do I deal with information I find on the Internet that is marked as classified?

- May still be classified or may have been declassified and the markings were not struck out – classification status may be ambiguous

- What you can do:
  - Inadvertently view the document
  - Print to a printer with volatile memory only (the memory is cleared when the printer is turned off)

How do I deal with information I find on the Internet that is marked as classified?

- What you cannot do:
  - Save the document
  - Forward links to any other person
  - Send the document to any other person
- What you should do – report the document through secure means following DOE policies and local instructions
- If you don't know what to do – contact your local Classification Officer/Classification Representative
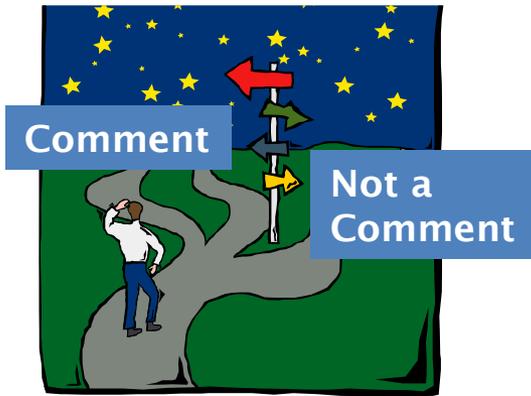
What is NOT a "Comment?"

- Reading publications on the Internet

- Collecting publications or web pages in general subject areas of interest

  - List of web pages, references – as long as list is not solely open literature documents that contain classified information and…

  - Does NOT include summaries – these could be comments

What could be a Comment?

- Annotations on a document in the open literature containing classified information

- However, context is very important - what is being referenced? (e.g., political developments or historical information versus technical information)

- Contact your Classification Officer for guidance

Situations that are not comments

Accessing the Internet - you follow a link to a public webpage that contains <u>unmarked</u> classified information in paragraph 3

- **Action:** Accessing and reading the webpage
  Is this a comment? No

- **Action:** Bookmarking the webpage
  Is this a comment? No

Note: Unless specific instructions are issued by the U.S. Government concerning a specific compromise

More situations that are not comments

Accessing the Internet - you follow a link to a public webpage that contains <u>unmarked</u> classified information in paragraph 3

- **Action:** Sending the link via email to someone within DOE with a note "FYI"
  Is this a comment? No

- **Action:** Sending the link in a collection of links with an email titled "Articles of Interest" without any additional text
  Is this a comment? No

And more situations that are not comments

A book in the open literature concerning the development of nuclear weapons contains classified information – most of the book does not contain classified information

- **Action** Owning the book
  Is this a comment? No

- **Action** Loaning the book to a coworker
  Is this a comment? No

- **Action** Listing the book among sources of interest to persons working in a classified subject area (list also includes sources that do not contain classified information)
  Is this a comment? No

- **Action** Citing the book in a bibliography (that is not annotated)
  Is this a comment? No

Situations that are comments

Accessing the Internet - you follow a link to a public webpage that contains <u>unmarked</u> classified information in paragraph 3

- **Action** Sending the link to someone within DOE via email with a note "Check out paragraph 3"
  Is this a comment? Yes

- **Action** Printing a copy of the webpage to include in a collection that <u>only</u> includes examples of documents in the open literature that contain classified information
  Is this a comment? Yes

- **Action** Sending a link via email to someone within DOE with a note "Can you believe someone spilled this information?"
  Is this a comment? Yes

More situations that are comments

A book in the open literature concerning the development of nuclear weapons contains classified information

- **Action** Citing a page in the book (the citation refers to the classified information)
  Is this a comment? Yes
- **Action** Owning a copy of the book with personal notes in the margins concerning the accuracy of the technical details
  Is this a comment? Yes

What NOT to do

Other Situations

Ask your CO!

Accessing the Internet - you follow a link to a public webpage that contains classified information in paragraph 3

- **Action** Sending the link in a collection of links with an email titled "Articles of Interest" and writing a summary of the article
- **Is this a comment?** May or may not be

Have the summary reviewed to make sure it is not classified!
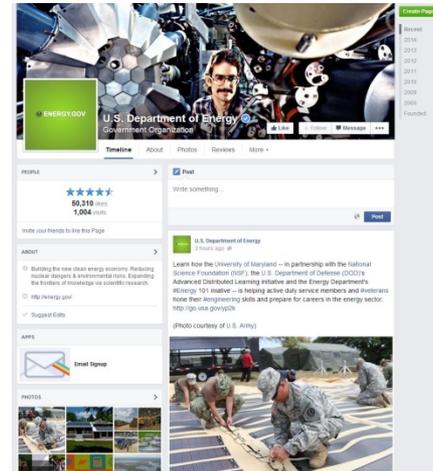
Another Situation

Ask your CO!

A book in the open literature concerning the development of nuclear weapons contains classified information

- **Action** Citing a page in the book that does not contain classified information in a footnote
  Is this a comment? May or may not be

- **Action** Owning a copy of the book with notes in the margins adding information to the context
  Is this a comment? May or may not be

What about social media?

Posting a link to an article with nuclear-related information on Facebook without commenting on the article

Is this a comment? No – but be careful…

The "No Comment" policy allows for distribution without comment. However, when a link is posted on a social networking site, anyone with access to the page can comment on the link.   Be aware that others commenting on the link may add a classified association to the link, so you should consider turning off the ability for people to comment on the post.

What should I do if I want to incorporate information from the Internet or an open literature source into an unclassified DOE document?

- Remember, just because information is in the open literature **does not mean it is unclassified!**
  - Regardless of when it is published
    - In current open literature documents (newspapers, books)
    - But also in older documents!
  - Regardless of subject
    - The vast majority of information on fusion is unclassified, but there is some information that is classified
    - Civilian nuclear reactor information is unclassified, but in the context of naval nuclear propulsion, such information is classified
  - Applies to pictures, drawings, and diagrams, as well as text

What should I do if I want to incorporate information from the Internet or a source from the open literature into an unclassified DOE document?

- If you use information that is in <u>a classified subject area</u> from the open literature, you must follow the review requirements of DOE Order 475.2A

  - If the document is <u>not for public release</u>, a Derivative Classifier must review it if it <u>potentially</u> contains classified information

  - If the document <u>is</u> for public release, the Classification Officer must review it – even if you feel it is not classified.

DC/ CO

Final Thoughts

- The "No Comment" policy is not intended to prevent you from discussing every aspect of your work or from using all sources in the open literature.

- It is intended
    - To alert you to how comments on sources in the open literature can risk the compromise of classified information, and
    - To make you aware that documents in the open literature that deal with a classified subject area could contain classified information, and there are times when you should seek assistance if you want to incorporate that information into an unclassified DOE document.

- So,
    - Consider what you will say about classified information in the open literature or about any classified aspects of your work and reason things out before speaking, writing or sending information to someone else, and
    - Know when a document you create that contains information from the open literature should or must be reviewed for classification.

What should I do if I don't know what to do?

- Contact your Classification Officer/Classification Representative

REMEMBER

- Do not discuss information that might be classified over non-secure phone lines
- Do not send information that might be classified through regular email or by non-secure fax

Who do I contact if I have questions about the "No Comment" Policy?

- Your Classification Officer/Classification Representative

- The Classification Outreach Program

(301) 903-7567

outreach@hq.doe.gov