

Office of Inspector General of the Intelligence Community



**Evaluation of the
Office of the Director of National Intelligence
Under the Reducing Over-Classification Act
Report Number INS-2014-002
30 December 2014**

Executive Summary

Evaluation of the Office of the Director of National Intelligence

The Intelligence Community Inspector General (IC IG) conducted this evaluation pursuant to the Reducing Over-Classification Act (ROCA), Public Law 111-258 (October 7, 2010). The ROCA states, "...the Inspector General of each department or agency of the United States with an officer or employee who is authorized to make original classifications, in consultation with the Information Security Oversight Office, shall carry out no less than two evaluations of that department or agency or a component of the department or agency—

(A) to assess whether applicable classification policies, procedures, rules, and regulations have been adopted, followed, and effectively administered within such department, agency, or component; and,

(B) to identify policies, procedures, rules, regulations, or management practices that may be contributing to persistent misclassification of material within such department, agency or component."

IC IG found no instances where classification was used to conceal violation of law, inefficiency, or administrative error; prevent embarrassment to a person, organization, or agency; restrain competition; or prevent or delay the release of information not requiring protection in the interest of national security.

IC IG found the Office of the Director of National Intelligence (ODNI) has adopted all applicable classification policies, procedures, rules, and regulations. However, some ODNI procedures and management practices require refinement to ensure full compliance with, and effective administration of, the prescribed standards and requirements. Specifically, IC IG found:

- Original Classification Authority (OCA) training records, and the business processes used to monitor that training, require improvement.
- The ODNI OCA program is generally effective, with built-in redundancy to ensure uniformity and compliance with Executive Order (E.O.) 13526; however, the number of authorized ODNI OCAs may be too high compared to other Intelligence Community elements.
- ODNI compliance with mandatory derivative classifier training periodicity requirements, records of training, and the business processes used to monitor training, require improvement to meet the requirements of E.O. 13526.
- Derivative classifier training and product quality assurance by supervisors, managers, and production officers requires improvement.

The focused engagement of the ODNI Chief Management Officer (CMO), Director Information Management Division, and other senior leaders throughout ODNI will be needed to ensure maximum compliance.

The Intelligence Community: Common Themes

In addition to the evaluation of the ODNI under ROCA, the Inspector General of the Intelligence Community directed the IC IG to conduct a review and analysis of the ROCA reports from the Inspectors General (IG) of five Intelligence Community (IC) partners – Central Intelligence Agency (CIA), Defense Intelligence Agency (DIA), National Geospatial-Intelligence Agency (NGA), National Security Agency (NSA), and National Reconnaissance Office (NRO) – and the IC IG evaluation of the ODNI to determine the extent that systemic issues might require the immediate attention of the Director of National Intelligence (DNI) on an IC-wide basis.

The IC IG review and analysis identified three key areas requiring emphasis across the IC enterprise – training, effective program management, and oversight. Specifically:

- Training:
 - Two IG reports noted that less than half of their workforce met the recurring biennial training requirement, while two others noted their organizations did not measure compliance with this requirement.
 - Five of the six IG reports found their training for derivative classifiers did not adequately prepare those personnel to make derivative classification decisions.
- Program management:
 - All six IG reports noted their organization's self-inspection program did not fully comply with the E.O. 13526 requirements.
- Oversight:
 - One IG report noted its organization did not assess appropriate performance metrics as part of its oversight of the IC classification markings program.

The use of standardized classification and control markings, part of classification management, are the primary means by which the IC protects intelligence sources, methods, and activities. The proper application and use of these markings enables information sharing while allowing information to be properly safeguarded from inadvertent or unauthorized disclosure.

The development of a modular IC-wide derivative classifier training program could reduce costs and enhance efficiency. The bulk of the IC derivative classifier training requirements are derived from common sources: E.O. 13526; 32 Code of Federal Regulations (C.F.R.) § 2001; the Information Security Oversight Office (ISOO) booklet, *Marking Classified National Security Information*; ISOO Notice 2012-01: *Requirements for Derivative Classifier Training*; the *Intelligence Community Markings System Register and Manual*; Intelligence Community Directives; and Intelligence Community Policy Guidance.

Overall, effective program management – including high quality training, self-inspections, and adequate oversight – requires an increased emphasis across the IC enterprise.

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Results and Recommendations

Finding 1: Intelligence Community Enterprise: The Office of the Director of National Intelligence oversight of the Intelligence Community classification management program requires improvement.

Intelligence Community Directive (ICD) 710, *Classification Control Markings and Management System* (June 21, 2013), and its predecessor ICD 710, *Classification and Control Markings System* (September 11, 2009), require the heads of Intelligence Community (IC) elements to certify the training of their workforce with an annual report to the Director of National Intelligence through the Office of the National Counterintelligence Executive (ONCIX). ONCIX prepares that report with IC elements' input provided in response to an annual ONCIX questionnaire. The process does not include independent ODNI data validation.

ICD 710 also assigns the Intelligence Community Chief Information Officer (IC CIO) the responsibility to “[m]onitor IC element compliance, implementation, and reporting activities associated with EO 13526 ...requirements.”

IC IG reviewed the 2012 ONCIX report “*Annual Report to the Director of National Intelligence on the Use of Control Markings in the Intelligence Community.*” A comparison of that report with the findings from the same time period contained in the ROCA reports from Inspectors General (IG) of five Intelligence Community (IC) partners – Central Intelligence Agency (CIA), Defense Intelligence Agency (DIA), National Geospatial-Intelligence Agency (NGA), National Security Agency (NSA), and National Reconnaissance Office (NRO) – and the IC IG evaluation of the ODNI determined there were significant differences in the conclusions between the ONCIX report to the DNI and the IG reports.

According to the Policy Compliance and Oversight section of the 2012 ONCIX report, “[a]ll IC elements and OUSD(I) have established self-inspection programs as directed by EO 13526.” However, all six IG reports noted their organization’s self-inspection program did not fully comply with the requirements of E.O. 13526. A review of the 2012 ONCIX questionnaire revealed that ONCIX asked agencies if they had an organizational program, but did not ask if that program was in full compliance with the requirements set forth in E.O. 13526 and 32 Code of Federal Regulations (C.F.R.) § 2001.

Similarly, according to the Workforce Training section of the 2012 ONCIX report, “[a]ll IC elements reported being in compliance with EO 13526. The EO mandates that persons who apply derivative classification markings receive training in derivative classification principles, with an emphasis on avoiding overclassification [sic], at least once every two years.” Two of the IG ROCA reports noted less than half of their workforce met the recurring biennial training requirement while two others noted their organizations did not track compliance with this requirement. Further, five of the six IG reports found their training for derivative classifiers did not sufficiently prepare personnel to make accurate derivative classification decisions. Again, a review of the 2012 ONCIX questionnaire revealed the question ONCIX posed measured for the

presence of an organizational training requirement, but failed to measure for compliance with that requirement or assess the quality of the training.

The 2013 ONCIX Control Markings report questionnaire did not contain most of the questions regarding Policy Compliance and Oversight, and Workforce Training because ONCIX personnel reasoned the continued reporting of full compliance with those questions provided little-to-no actionable information to ODNI leadership.

IC CIO leverages the Classification Markings Implementation Working Group to engage on specific agency classification issues. IC CIO also uses self-inspection reports from CIA, DIA, NGA, NRO, and NSA to monitor those elements' compliance with E.O. 13526; however, IC CIO does not use self-inspection reports from other IC elements for monitoring because the responses from those cabinet-level departments comingle intelligence and non-intelligence classification management data.

Recommendation 1: The ODNI should align the monitoring authorities and reporting responsibilities for the IC Classification Management Program under a single office to provide more effective and efficient oversight. Performance metrics that office develops should measure workforce compliance and assess the quality of IC training efforts.

Management Comments: Concur. ODNI management will review options for consolidating classification monitoring and reporting responsibilities in one office. That component will be tasked with providing effective oversight of IC training and compliance efforts.

Finding 2: Office of the Director of National Intelligence: The Original Classification Authority training records, and the business processes used to monitor that training, require improvement.

IC IG partnered with the Information Management Division (IMD) within the ODNI Office of the Intelligence Community Chief Information Officer (IC CIO) to evaluate ODNI Original Classification Authority (OCA) training compliance with E.O. 13526, 32 C.F.R. § 2011.70-71, Intelligence Community Directives, and ODNI Instructions.

OCA's are individuals authorized in writing, by either the President, the Vice President, or agency heads, or other officials designated by the President, to originally classify information. By definition, original classification precedes all other aspects of the security classification system, including derivative classification, safeguarding, and declassification. 32 C.F.R. § 2011.70 requires OCA's to receive training in proper classification and declassification prior to originally classifying information, and at least once each calendar year thereafter. Both E.O. 13526 and 32 C.F.R. § 2011.70 require the agency head or senior agency official to suspend the classification authority of any OCA who fails to meet this training requirement until such training has taken place.

ODNI Instruction 10.03, *Director of National Intelligence Delegation of Original Classification Authority (OCA)* (December 3, 2013), ODNI Instruction 80.12, *Classification of Office of Director of National Intelligence Information* (October 25, 2010), and ODNI Instruction 80.16, *Office of the Director of National Intelligence Original Classification Authority* (May 19, 2014) require that ODNI OCAs receive training prior to originally classifying information and at least once each successive calendar year. ODNI Instruction 80.12 § 5.F further states “[p]ersonnel designated as OCAs will receive mandated training when designated...”

IC IG reviewed the training records for all ODNI OCAs who made an original classification decision between January 2008 and May 2014. In all but one case, OCAs had the mandated training prior to making an initial original classification decision. Redundant review processes established under ODNI Instructions 10.03, 80.12, and 80.16 ensured the one decision made prior to the responsible OCA completing training was reviewed by a certified OCA for compliance with E.O. 13526 prior to being published.

Evaluators found minor discrepancies in the administration of the ODNI’s OCA training program in the following areas:

- On two occasions, OCAs were given credit for completing training in both CY 2012 and CY 2013 by completing their CY 2012 training in early January 2013.
- OCA initial training did not meet the “when designated” requirement of ODNI Instruction 80.12; however, average elapsed time between designation and initial training has steadily dropped since 2012 and now stands at slightly over 70 days.
- Some OCAs were erroneously given credit for their predecessor’s training due to IMD tracking training by position only, instead of by position and name.
- IMD staff reconstructed some records of OCA training from the personal records of some Special Assistants due to a transition between records hosting environments.

Recommendation 2: None. ODNI-initiated corrective actions for these minor discrepancies were already underway during this evaluation. Accordingly, we make no specific corrective recommendations on these points.

Management Comments: All OCA training will be conducted in a limited period of time to cover the particular calendar year. This change, in addition to a significant reduction in the number of OCAs, will greatly improve compliance with training requirements.

Finding 3: Office of the Director of National Intelligence: The Original Classification Authority Program was generally effective with built-in redundancy to ensure uniformity and compliance with E.O. 13526; however, the number of authorized ODNI OCAs appears greater than the minimum required.

IC IG found the ODNI Original Classification Authority program is generally effective with built-in redundancy to ensure uniformity and compliance with E.O. 13526. Presidential Order, *Original Classification Authority* (December 29, 2009), designated the DNI to classify information originally up to and including TOP SECRET. The DNI delegated this authority to 24 senior intelligence officers within the ODNI via ODNI Instruction 10.03, *Director of National Intelligence Delegation of Original Classification Authority (OCA)* (December 3, 2013).

ODNI instructions require advanced coordination with the Director, Information Management Division (D/IMD) for all original classification decisions to ensure uniformity and compliance with E.O. 13526. In the rare event an emergent, operational circumstance requires an OCA decision and immediate coordination with the D/IMD is not feasible, the OCA is required to notify the D/IMD as soon as feasible, but not later than ten days after making the decision.

E.O. 13526 § 1.3(c)(1) directs “[d]elegations of original classification authority shall be limited to the minimum required to administer this order.” ODNI Instruction 10.03 further directs the D/IMD to “periodically review the positions granted OCA for removal if OCA has not been utilized.”

Three ODNI OCAs made a total of 45 original classification decisions between FY 2011 and FY 2013. One was a major revision to the ODNI Classification guide while 44 were element classification guides authored by two ODNI components.

Recommendation 3: D/IMD should review positions granted OCA pursuant to ODNI Instruction 10.03, and in consultation with the Deputy Director of National Intelligence for Intelligence Integration and through the Chief Management Officer, recommend to the DNI adjustments minimizing those positions delegated OCA.
Note: The DNI updated ODNI Instruction 10.03 on October 31, 2014 in response to this recommendation.

Management Comments: Concur; action completed. A revised Instruction 10.03 was signed by the DNI on 31 October 2014, reducing the number of ODNI OCAs from 24 to 10.

Finding 4: Office of the Director of National Intelligence: Compliance with mandatory derivative classifier training, maintenance of training records, and the business processes used to monitor training, requires significant improvement.

32 C.F.R. § 2011.70 requires derivative classifiers to receive training in proper application of the derivative classification principles of E.O. 13526 prior to derivatively classifying information (initial) and at least once every two calendar years thereafter (recurring). 32 C.F.R. § 2011.71 and *ISOO Notice 2012-01: Requirements for Derivative Classifier Training* (December 8, 2011) establish minimum training content.

ODNI Instruction 80.12, which “applies to all ODNI components and all categories of ODNI personnel,” mandates training for derivative classifiers, states “[p]ersonnel authorized to derivatively classify ODNI information will receive basic classification training within 30 days of arrival (normally as part of [Entry on Duty] training) as well as mandated refresher training.” ODNI Instruction 80.12 § 6 also directs:

“C. Program Managers who control and administer programmatic, financial, contractual, and other resources will:

- (1) Ensure that all derivative classifiers, including contractor personnel, attend training on the proper classification of information.”

Mandatory Initial Training

ODNI removed the 15-minute segment dedicated to initial derivative classifier training from the Entry on Duty (EOD) course in late 2012. Instead, in CY 2013 ODNI used two online courses: the *Agency Information Security Course (AISC)* and *Staying Out of Trouble on the Internet*. Both courses were required on first login to gain general classified computer access and to meet the initial derivative classifier training requirement. According to IMD, completion of the ODNI Classification Management Course (classroom or web-based training) was also encouraged, but not required.

IC IG reviewed the EOD derivative classifier training (prior to its removal), and the *AISC* and *Staying Out of Trouble on the Internet* courses, against the minimum training requirements described in 32 C.F.R. § 2011.71 and *ISOO Notice 2012-01*, and found all three inadequate (see table below).

ISOO Notice 2012-01 Requirement	EOD Trng	AISC	Staying Out of Trouble on the Internet
Principles of derivative classification	No	No	No
Classification levels	Yes	No	No
Duration of classification	No	No	No
Identification and markings	Partially	No	No
Avoidance of over-classification	Partially	No	No
Prohibitions and limitations of classification	No	No	No
Sanctions	Partially	No	No
Classification challenges	Partially	No	No
Classification guides	No	No	No
Information sharing	Partially	No	No

Based on a direct comparison of electronic training records with EOD attendance records, IC IG was able to substantiate that only 70 percent of the government employees and 20 percent of the contractor employees who initially reported to ODNI between January 2012 and April 2014 completed the mandatory initial classification management training.

Mandatory Recurring Training

ODNI Human Resources (HR) accepted two courses to fulfill the mandatory recurring derivative classifier training requirements of E.O. 13526 and 32 C.F.R. § 2011.71 during FY 2012 and FY 2013:

- ODNI Classification Management Course (classroom or web-based training)
- CIA Derivative Classification Course – 2013

Compliance with the mandatory recurring derivative classifier training requirement for the overall ODNI government workforce was calculated as 44 percent based on a comparison of the total number of government employee course completions documented in electronic training records between January 2012 and April 2014 with the total ODNI government workforce during the same timeframe.

Two factors, however, mitigate the calculated low compliance rate:

1. During quality assurance review of the initial training data, evaluators discovered the Lawson training system underreported course completion by 4.5 percent. The results of this report reflect the corrected data.
2. The web-based ODNI Classification Management Course did not automatically update the employee's training record, and instead the employee had to print a certificate and provide it to their component's HR representative for manual electronic training record entry. This manual process introduced an unknown number of compliance errors.

Both E.O. 13526 and 32 C.F.R. § 2011.70 require the agency head or senior agency official to suspend the Derivative Classification Authority of anyone who fails to meet this training requirement until such training has taken place. None of the ODNI Instructions emphasize the requirement for suspending Original or Derivative Classification Authority contained in E.O. 13526 and 32 C.F.R. § 2011.70. IC IG found no instances where ODNI suspended Original or Derivative Classification Authority for non-compliance with training requirements.

On June 26, 2014, subsequent to the evaluation of the electronic training records, but prior to the publishing of this evaluation, the ODNI CMO directed all ODNI cadre who had not completed the mandatory derivative classification course in the past nine months to complete the CIA's online training module (*Derivative Classifier Training 2013 – Web Based Training*) prior to October 1, 2014.

Recommendation 4: ODNI CMO should require completion of initial derivative classifier training for all categories of newly reporting employees pursuant to E.O. 13526 and 32 C.F.R. § 2001.

Management Comments: Concur; action completed. CIO/IMD has resolved this issue by working with MSD to track all new EODs to ensure that training is completed within ten days of arrival or CWE access is suspended. This process has been in place since June 2014.

Finding 5: Office of the Director of National Intelligence: Derivative classifier training and product quality assurance by supervisors, managers, and production officers requires improvement.

32 C.F.R. § 2001.23 *Classification marking in the electronic environment*, in implementing E.O. 13526, specifically requires national security information in the electronic environment to meet all classification marking requirements. When it cannot be appropriately marked, 32 C.F.R. § 2001.23(a)(4) requires "...a warning shall be applied to alert users that the information may not be used as a source for derivative classification and providing a point of contact and instructions for users to receive further guidance on the use and classification of the information."

The IC IG's review of 200 intelligence products electronically published between January and March 2014 by the National Counterterrorism Center and National Intelligence Council, as well as 66 pieces of classified correspondence signed by senior ODNI officials, found that less than 10 percent were fully compliant with classification directives contained in E.O. 13526, 32 C.F.R. § 2001, and the Intelligence Community Markings System Register and Manual (Dec. 31, 2013). Some examples of the nonconformities with the materials IC IG reviewed included:

- Eight percent of the NCTC products continued to use the 25X1-Human entry in the classification block. E.O. 13526 eliminated the use of 25X1-Human when the E.O. was fully implemented on June 27, 2010. The Information Security Oversight Office (ISOO) also emphasized this through the issuance of *ISOO Notice 2012-02: Classification Marking Instructions on the Use of "50X1-HUM" vs. "25X1-human" as a Declassification Instruction* (December 23, 2011).
- Twenty-eight percent of the intelligence products used the 50-year declassification date when there was no sensitive human source information to justify the extended period of classification. E.O. 13526 prohibits the use of 50X1 except for information that should clearly and demonstrably be expected to reveal the identity of a confidential human source or a human intelligence source (50X1-HUM) or key design concepts of weapons of mass destruction (50X2-WMD).
- Forty percent of the intelligence products were marked "HCS" vice specifying "HCS-P" (product) or "HCS-O" (operational). *The Intelligence Community*

Markings System Register and Manual (December 31, 2013) states “All HCS information is contained within the O and P compartments; the HCS marking may no longer be used alone. Legacy information marked HCS must be remarked HCS-P if reused.” However, the Principal Deputy Director of National Intelligence on May 20, 2014 issued new guidance to the IC delaying the required implementation of the HCS-P and HCS-O markings until January 1, 2015.

- Twenty-three percent of the intelligence products used “Multiple Sources” on the “Declassify On:” line of the classification block but did not include the listing of source materials as E.O. 13526 and 32 C.F.R. § 2001 required. Another ten percent did include a list of source materials, but failed to fully comply with the content provisions of E.O. 13526 and 32 C.F.R. § 2001. The *ODNI Classification Management Self-Inspection Program* report for FY 2013 (November 22, 2013) found a similar percentage of reviewed documents citing “Multiple Sources” that failed to provide a list of source documents to support the classification decision.
- A number of products failed to follow guidance on portion markings. This included classification of country names, the names of common chemical compounds, and individual words (*e.g.*, in one product, the word “Assumptions” was by itself portion marked S//NF). There were several instances where identical text was classified at two different classification levels (*i.e.*, TOP SECRET in one document and SECRET in another) or two different dissemination caveats (*i.e.*, NOFORN in one document and Releasable in another), an example of overgrading. 32 C.F.R. § 2001.21 states, “In cases where portions are segmented such as paragraphs, sub-paragraphs, bullets, and sub-bullets and the classification level is the same throughout, it is sufficient to put only one portion marking at the beginning of the main paragraph or main bullet. If there are different levels of classification among these segments, then all segments shall be portion marked separately in order to avoid over-classification of any one segment. If the information contained in a sub-paragraph or sub-bullet is a higher level of classification than its parent paragraph or parent bullet, this does not make the parent paragraph or parent bullet classified at that same level. Each portion shall reflect the classification level of that individual portion and not any other portions.”

While the apparently low compliance with the initial and recurring Derivative Classifier training requirement identified in Finding 4 may have contributed to a higher error rate, IC IG also identified another contributing factor - ODNI mandatory annual training does not fully incorporate the recommended “annual refresher security education and training” elements listed under 32 C.F.R. § 2001.71(f) (table below).

32 CFR § 2001.71(f) Training Element	Incorporated into ODNI Mandatory Annual Training
Reinforce basic security policies from initial training.	Partially
Reinforce basic security principles from initial training.	Partially
Reinforce basic security practices from initial training.	Partially
Reinforce knowledge of criminal penalties from initial training.	Partially
Reinforce knowledge of civil penalties from initial training.	Partially
Reinforce knowledge of administrative penalties from initial training.	Partially
Address the Identification and handling of other agency-originated information.	Partially
Address the Identification and handling of foreign government information.	Partially
Address the threat and the techniques employed by foreign intelligence activities attempting to obtain classified information.	Yes*
Advise personnel of penalties for engaging in espionage activities.	Yes*
Address issues or concerns identified during agency self-inspections.	No

*ODNI Counterintelligence Essentials refresher course.

IC IG evaluated the current ODNI Classification Management Course training materials (classroom and online) to determine if the course was in compliance with the minimum derivative classifier training criteria established under E.O. 13526 § 2.1(d); 32 C.F.R. § 2001.71(e) and (f); and *ISOO Notice 2012-01: Requirements for Derivative Classifier Training* (December 8, 2011). IC IG determined the course materials did comply with the minimum training criteria; however, some areas requiring improvement may be contributing to the issues noted above. Those areas are:

- The classroom and online courses were insufficiently modified between 2012 and 2014 to address issues identified during the 2013 ODNI annual self-inspection.
- The online course is generic to the IC and touches on the elements of a classification block; however, it does not address the specific steps or citations necessary to make a derivative classification decision using the ODNI classification guide, nor does it delve into the nuances of those decisions; and,
- The practical exercises included as part of the classroom and online courses focused solely on the proper construction of a security banner.

Subsequent to the evaluation of the online ODNI Classification Management Course, but prior to the publishing of this evaluation, the ODNI CMO on June 26, 2014 directed all ODNI cadre who had not completed the mandatory derivative classification course in the past nine months to complete the CIA's online training module (*Derivative Classifier Training 2013 – Web Based Training*) prior to October 1, 2014.

Recommendation 5a: ODNI CMO should direct IMD to enhance the training of derivative classifiers to thoroughly explain their responsibilities and how to properly apply classification concepts and markings.

Management Comments: Concur. As noted in the report, the current courses meet the minimum training requirements, but IMD will continue to enhance the training based on the feedback from this report and other sources.

Recommendation 5b: ODNI CMO should direct supervisors, managers, and production officers to emphasize classification review as part of their quality assurance procedures.

Management Comments: Concur. The CMO will work with IMD to identify ways to emphasize classification review to supervisors, managers, and production officers.

Recommendation 5c: ODNI CMO should explore additional strategies to ensure information is systematically reviewed for overgrading and over-classification.

Management Comments: Concur. We will charge CIO/IMD with a requirement to develop a continuous education campaign to inform/sensitize/remind managers that they need to specifically check for over-classification on intelligence reports and products that they approve. In addition, we will explore with other IC elements initiatives they are taking to minimize or eliminate over-classification, especially given that the limited classification experts we have are largely dedicated to addressing the FOIA and other required declassification backlog. It is important to note that employees make complicated classification decisions every day, and while it is clear over-classification does occur, all ODNI documents are reviewed by classification experts when information is to be released; adjustments are made at that time, if necessary, to correct over- and underclassification.

Appendix A: Evaluation Scope and Methodology

Scope

IC IG conducted this evaluation pursuant to the Reducing Over-Classification Act, Public Law 111-258 (October 7, 2010). The ROCA requires “...the Inspector General of each department or agency of the United States with an officer or employee who is authorized to make original classifications, in consultation with the Information Security Oversight Office, shall carry out no less than two evaluations of that department or agency or a component of the department or agency—

(A) to assess whether applicable classification policies, procedures, rules, and regulations have been adopted, followed, and effectively administered within such department, agency, or component; and

(B) to identify policies, procedures, rules, regulations, or management practices that may be contributing to persistent misclassification of material within such department, agency or component.”

Additionally, IC IG evaluated the IC ROCA reports from the Inspectors General (IG) CIA, DIA, NGA, NSA, and NRO for IC-wide issues.

Methodology

The evaluation team used the Department of Defense Inspector General authored guide, *A Standard User’s Guide for Inspectors General Conducting Evaluations Under Public Law 111-258, the “Reducing Over-Classification Act”* (January 22, 2013), to conduct the evaluation, to ensure our evaluation followed a consistent methodology to allow for cross-agency analysis. Evaluators reviewed the following eight areas for compliance with Executive Orders, regulations, directives, policies, and procedures:

- Original classification authority;
- General program management responsibilities;
- Original classification, to include control markings;
- Derivative classification, to include control markings;
- Self-inspections;
- Reporting;
- Security education and training; and,
- Intelligence Community cross-cutting issues, as applicable.

The evaluation team reviewed:

Relevant documents establishing criteria (Executive Orders, regulations, directives, policies, and procedures);

Relevant Intelligence Community Directives, Intelligence Community Policy

Guidance, Intelligence Community Standards, and internal ODNI Instructions;

Original Classification Authority training records from January 2008 to May 2014;

Staff and contractor derivative classifier training records from January 2012 to May 2014;

ODNI and component authored or assigned Security Classification Guides;

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Original and derivative classifier training materials from January 2011 to May 2014;
A judgmental sample of classified correspondence senior ODNI officials signed;
A judgmental sample of classified intelligence products the National Counterterrorism Center and National Intelligence Council produced and electronically published; and,
ODNI Self-Inspection and SF-311 Reports for FY 2011 through FY 2013.

Appendix B: Background and Authorities

Background

Executive Order (E.O.) 13526, *Classified National Security Information*, December 29, 2009, prescribes a uniform system for classifying, safeguarding, and declassifying national security information.

E.O. 13526 also expresses the President's belief that the Nation's progress depends on the free flow of information, both within the government and to the American people. Accordingly, protecting information critical to national security and demonstrating a commitment to open government through accurate and accountable application of classification standards and effective declassification are equally important priorities.

Federal Government organizations that create or hold classified information are responsible for its proper management. Classification management includes developing security classification guides (SCGs) through which Original Classification Authorities (OCA) provide instructions to derivative classifiers. These instructions identify elements of information on a specific subject that must be classified and the classification level and duration for each element.

Only OCAs may originally classify information. These are individuals authorized in writing, by either the President, the Vice President, or agency heads, or other officials the President designates to originally classify information. By definition, original classification precedes all other aspects of the security classification system, including derivative classification, safeguarding, and declassification.

ODNI Senior Agency Official

Pursuant to E.O. 13526, the Director of National Intelligence (DNI) designated the Chief Management Officer (CMO) as the ODNI Senior Agency Official accountable for directing and administering the program under which ODNI information is classified, safeguarded, and declassified. The Director, Information Management Division (IMD), in the Office of the IC Chief Information Officer (OIC/CIO), supports the CMO in carrying out these responsibilities. The Director, IMD, serves as the ODNI focal point for developing and implementing policies and procedures on the creation, classification, maintenance, use, disposition, access, review, release, and declassification of all ODNI records. Additionally, IMD is responsible for classification training.

Original Classification Authority

The Presidential Order, *Original Classification Authority* (December 29, 2009), designated the Director of National Intelligence as one of the officials to classify information originally as "Top Secret." The DNI, pursuant to E.O. 13526 § 1.3(c), has further delegated original classification authority up to and including TOP SECRET to a select group of 24 senior intelligence officers within the Office of the Director of National Intelligence through ODNI Instruction 10.03, *Director of National Intelligence*

Delegation of Original Classification Authority (OCA) (December 3, 2013). Of note, ODNI Instruction 10.03 was updated on October 31, 2014 and reduced the number of ODNI OCAs to ten.

E.O. 13526 and its implementing directive, 32 Code of Federal Regulations (C.F.R.) § 2001, require OCAs to receive detailed training in the proper classification and declassification, with an emphasis on the avoidance of over-classification, prior to originally classifying information, and at least once each calendar year thereafter. ODNI Instruction 80.12, *Classification of Office of Director of National Intelligence Information* (October 25, 2010), further stipulates OCAs will receive mandated training “when designated.” According to 32 C.F.R. § 2001.70, “At a minimum, the training shall cover classification standards, classification levels, classification authority, classification categories, duration of classification, identification and markings, classification prohibitions and limitations, sanctions, classification challenges, security classification guides, and information sharing.” 32 C.F.R. § 2001.71(c)(3) also directs that “Original classification authorities who do not receive such mandatory training at least once within a calendar year shall have their classification authority suspended until such training has taken place.”

Derivative Classification Authority

All ODNI personnel are authorized to apply derivative classification provided they have a valid need-to-know, signed a non-disclosure agreement, and received proper training regarding their responsibilities. Derivative classifiers must receive training on the proper application principles of E.O. 13526 prior to derivatively classifying information and at least once every two years thereafter. Information may be derivatively classified from a source document or documents, or by using a classification guide.

Classification Challenges

IC marking challenge procedures are detailed in Attachment 1 to ODNI National Counterintelligence Executive memorandum, Subject: *DNI Guidance for Intelligence Community Marking Challenge Procedures*, NCIX 260-11 (January 18, 2012). Authorized holders of information (including authorized holders outside the classifying organization) who, in good faith, believe that its classification status is improper, are encouraged and expected to challenge the classification status of information.

Appendix C: Definitions

Agency	Any “Executive agency,” as defined in 5 U.S.C. § 105; any “Military department” as defined in 5 U.S.C. § 102; and any other entity within the executive branch that comes into the possession of classified information.
Authorized Holder of Classified Information	Anyone who satisfies the conditions for access stated in E.O. 13526 § 4.1(a).
Classification	The act or process by which information is determined to be classified information.
Classification Guidance	Any instruction or source that prescribes the classification of specific information.
Classification Guide	A documentary form of classification guidance issued by an original classification authority that identifies the elements of information regarding a specific subject that must be classified and establishes the level and duration of classification for each such element.
Classification Management	The life-cycle management of classified national security information from original classification to declassification.
Classified National Security Information or Classified Information	Information that has been determined pursuant to E.O. 13526 or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.
Damage to the National Security	Harm to the national defense or foreign relations of the United States from the unauthorized disclosure of information, taking into consideration such aspects of the information as the sensitivity, value, utility, and provenance of that information.

Derivative Classification	The incorporating, paraphrasing, restating, or generating in new form information that is already classified, and marking the newly developed material consistent with the classification markings that apply to the source information. Derivative classification includes the classification of information based on classification guidance. The duplication or reproduction of existing classified information is not derivative classification.
Document	Any recorded information, regardless of the nature of the medium or the method or circumstances of recording.
Information	Any knowledge that can be communicated or documentary material, regardless of its physical form or characteristics, that is owned by, is produced by or for, or is under the control of the United States Government.
Intelligence	Includes foreign intelligence and counterintelligence as defined by E.O. 12333 of December 4, 1981, as amended, or by a successor order.
Intelligence Community	An element or agency of the U.S. Government identified in or designated pursuant to section 3(4) of the National Security Act of 1947, as amended, or section 3.5(h) of E.O. 12333, as amended.
Multiple Sources	Two or more source documents, classification guides, or a combination of both.
National Security	The national defense or foreign relations of the United States.
Original Classification	An initial determination that information requires, in the interest of the national security, protection against unauthorized disclosure.

UNCLASSIFIED

Original Classification Authority	An individual authorized in writing, either by the President, the Vice President, or by agency heads or other officials designated by the President, to classify information in the first instance.
Over-classification	Classified information that does not meet one or more of the standards necessary for classification under E.O. 13526.
Overgraded	Information classified at a higher level than appropriate.
Portion Marking	A classification abbreviation, contained within parentheses, preceding a segment of information such as paragraphs, sub-paragraphs, bullets, and sub-bullets.
Self-inspection	The internal review and evaluation of individual agency activities and the agency as a whole with respect to the implementation of the program established under this order and its implementing directives.
Senior Agency Official	The official designated by the agency head under E.O. 13526 § 5.4(d) to direct and administer the agency's program under which information is classified, safeguarded, and declassified.
Source Document	An existing document that contains classified information that is incorporated, paraphrased, restated, or generated in new form into a new document.
Undergraded	Information classified at a lower level than appropriate.
Weapons of Mass Destruction	Any weapon of mass destruction as defined in 50 U.S.C. § 1801(p).

Appendix D: Acronyms

AISC	Agency Information Security Course (CIA)
C.F.R.	Code of Federal Regulations
CIA	Central Intelligence Agency
CMO	Chief Management Officer
CY	Calendar Year (January 1 through December 31)
DIA	Defense Intelligence Agency
DNI	Director of National Intelligence
DOD	Department of Defense
E.O.	Executive Order
EOD	Entry on Duty
FCGR	Fundamental Classification Guidance Review
FY	Fiscal Year (October 1 through September 30)
GS	General Schedule
HCS	HUMINT Control System
HCS-O	HUMINT Control System - Operations
HCS-P	HUMINT Control System - Product
HR	Human Resources
HUMINT	human intelligence (contraction)
IC	Intelligence Community
IC CIO	Intelligence Community Chief Information Officer
ICD	Intelligence Community Directive
IC IG	Intelligence Community Inspector General
ICPG	Intelligence Community Policy Guidance
IG	Inspector General
IMD	Information Management Division
ISOO	Information Security Oversight Office
NCIX	National Counterintelligence Executive
NCTC	National Counterterrorism Center
NF	NOFORN (abbreviation)
NGA	National Geospatial-Intelligence Agency
NOFORN	No Foreign Distribution (contraction)
NRO	National Reconnaissance Office
NSA	National Security Agency
OCA	Original Classification Authority
ODNI	Office of the Director of National Intelligence
OIC CIO	Office of the IC Chief Information Officer
OIG	Office of the Inspector General
ONCIX	Office of the National Counterintelligence Executive
ORCON	Originator Controlled (contraction)
OUSD(I)	Office of the Under Secretary of Defense for Intelligence
ROCA	Reducing Over-Classification Act
SCG	Security Classification Guide
SCI	Sensitive Compartmented Information
SF	Standard Form
WMD	Weapons of Mass Destruction

Appendix E: References

1. Exec. Order No. 13,526, *Classified National Security Information*, 75 Fed. Reg. 707 (January 5, 2010).
2. Presidential Order, *Original Classification Authority* (December 29, 2009).
3. Presidential Memorandum, *Implementation of the Executive Order, "Classified National Security Information"* (December 29, 2009).
4. 5 C.F.R. § 430, Performance Management, 60 Fed. Reg. 43943 (August 23, 1995).
5. 32 C.F.R. § 2001, *Classified National Security Information* (June 28, 2010).
6. 50 U.S.C. § 4301 (2014).
7. *Reducing Over-Classification Act*, Public Law 111-258, (October 7, 2010).
8. ISOO Booklet, *Marking Classified National Security Information*, Rev. 2 (January 2014).
9. *ISOO Notice 2012-01: Requirements for Derivative Classifier Training* (December 8, 2011).
10. *ISOO Notice 2012-02: Classification Marking Instructions on the Use of "50X1-HUM" vs. "25X1-human" as a Declassification Instruction* (December 23, 2011).
11. *Intelligence Community Markings System Register and Manual* (December 31, 2013).
12. Intelligence Community Directive (ICD) 403, *Foreign Disclosure and Release of Classified National Intelligence* (March 13, 2013).
13. ICD 501, *Discovery and Dissemination or Retrieval of Information within the IC* (January 21, 2009).
14. Intelligence Community Policy Guidance (ICPG) 501.2, *Sensitive Review Board and Information Sharing Dispute Resolution Process* (May 26, 2009).
15. ICD 651, *Performance Management System Requirements for the Intelligence Community Civilian Workforce* (November 28, 2007, amended April 4, 2012).
16. ICD-656, *Performance Management System Requirements for Intelligence Community Senior Civilian Officers* (April 28, 2008, amended April 4, 2012).
17. ICD 700, *Protection of National Intelligence* (June 7, 2012).
18. ICD 701, *Security Policy Directive for Unauthorized Disclosures of Classified Information* (March 14, 2007).
19. ICD 703, *Protection of Classified National Intelligence, Including Sensitive Compartmented Information* (June 21, 2013).
20. ICD 710, *Classification Management and Control Markings System* (June 21, 2013).
21. ICD 710, *Classification and Control Markings System* (September 11, 2009), superseded.
22. ICPG 710.1, *Application of Dissemination Controls: Originator Control* (July 25, 2012).
23. ICPG 710.2/403.5, *Application of Dissemination Controls: Foreign Disclosure and Release Markings* (March 20, 2014).
24. Office of the Director of National Intelligence (ODNI) Instruction 10.03, *Director of National Intelligence Delegation of Original Classification Authority (OCA)* (October 31, 2014).
25. ODNI Instruction 10.03, *Director of National Intelligence Delegation of Original Classification Authority (OCA)* (December 3, 2013) (superseded).

26. ODNI Instruction 10.03, *Director of National Intelligence Delegation of Original Classification Authority (OCA)* (January 23, 2013), (superseded).
27. ODNI Instruction 10.03, *Director of National Intelligence Delegation of Original Classification Authority (OCA)* (February 2, 2011), (superseded).
28. ODNI Instruction 10.03, *Director of National Intelligence Delegation of Original Classification Authority (OCA)* (April 16, 2010), (superseded).
29. ODNI Instruction 10.20, *The ODNI Director, Information Management* (May 18, 2009).
30. ODNI Instruction 80.12, *Classification of Office of Director of National Intelligence Information* (October 25, 2010).
31. ODNI Instruction 80.16, *Office of the Director of National Intelligence Original Classification Authority* (May 19, 2014).
32. ODNI Instruction 80.16, *Office of the Director of National Intelligence Original Classification Authority* (October 21, 2010), (superseded).
33. *Office of the Director of National Intelligence Classification Guide, Version 2.0* (July 3, 2012).
34. Council of the Inspectors General on Integrity and Efficiency booklet, *Quality Standards for Inspection and Evaluation* (January 2011).
35. DOD IG Guide, *A Standard User's Guide for Inspectors General Conducting Evaluations Under Public Law 111-258, the "Reducing Over-Classification Act"* (January 22, 2013).
36. CIA OIG Report, Report of Evaluation, *Evaluation Required by the Reducing Over-Classification Act*, 2013-0016-AS (September 26, 2013).
37. DIA OIG Report, *Reducing Over-Classification Act Inspection – Final Report*, 2012-200008-HQ (July 11, 2013).
38. NGA OIG Report, *NGA's Implementation of the Reducing Over-Classification Act*, OIGE-13-09 (September 2013)[sic].
39. NRO OIG Report, *Final Report – Evaluation of the National Reconnaissance Office Classification Management under Public Law 111-258*, Project Number 2013-001 S (September 30, 2013).
40. NSA OIG Report, *Report on the Audit of NSA's Compliance with Public Law 111-258, the "Reducing Over-Classification Act"*, AU-13-0005 (August 7, 2013).
41. ODNI CMO memorandum, Subject: *ODNI Classification Management Self-Inspection Program* (November 22, 2013).
42. Information Security Oversight Office memorandum, Subject: *Annual Senior Agency Official Self-Inspection Program Report* (May 7, 2013).
43. Information Security Oversight Office memorandum, Subject: *Feedback on 2012 Annual Senior Agency Official Self-Inspection Program Report* (March 6, 2013).
44. Chief, ODNI Information and Data Management Group memorandum, Subject: *Standard Form 311, Agency Security Classification Management Program Data for Fiscal Year 2012* (undated).
45. Chief, ODNI Information and Data Management Group memorandum, Subject: *ODNI Fundamental Classification Guidance Review (FCGR) Report* (June 27, 2012).
46. Chief, ODNI Information and Data Management Group memorandum, Subject: *ODNI Classification Management Self-Inspection Report* (October 24, 2012).
47. Information Security Oversight Office memorandum, Subject: *Annual Senior Agency Official Self-Inspection Program Report* (June 29, 2012).

48. Director, ODNI Information Management Division memorandum, Subject: *Standard Form 311, Agency Security Classification Management Program Data for Fiscal Year 2013* (December 4, 2013).
49. Chief, ODNI Information and Data Management Group memorandum, Subject: *Corrected Standard Form 311, Agency Security Classification Management Program Data for Fiscal Year 2012* (Undated).
50. Chief, ODNI Information and Data Management Group memorandum, Subject: *Corrected Standard Form 311, Agency Security Classification Management Program Data for Fiscal Year 2011* (November 7, 2011).
51. Chief, ODNI Information and Data Management Group memorandum, Subject: *ODNI Classification Management Self-Inspection Program* (November 23, 2011).
52. Information Security Oversight Office memorandum, Subject: *Self-Inspection Program* (April 5, 2011).
53. Principal Deputy Director of National Intelligence memorandum, Subject: *Changes to the HUMINT Control System (HCS)* (May 20, 2014).
54. National Counterintelligence Executive memorandum, Subject: *DNI Guidance for Intelligence Community Marking Challenge Procedures*, NCIX 260-11 (January 18, 2012).
55. Chief, ODNI Information and Data Management Group memorandum, Subject: *ODNI Fundamental Classification Guidance Review* (January 27, 2012).
56. Director, ODNI Information Management Division, Subject: *Standard Form 311, Agency Security Classification Management Program Data for Fiscal Year 2013* (December 4, 2013).
57. Office of the National Counterintelligence Executive DRAFT report, Subject: *Report to the Director of National Intelligence On the use of Control Markings in the Intelligence Community 2013*.
58. Office of the National Counterintelligence Executive report, Subject: *Report to the Director of National Intelligence On the use of Control Markings in the Intelligence Community 2012*.
59. Office of the National Counterintelligence Executive report, Subject: *Report to the Director of National Intelligence On the Use of Control Markings in the Intelligence Community 2011*.
60. Office of the National Counterintelligence Executive report, Subject: *Report to the Director of National Intelligence On the Use of Control Markings in the Intelligence Community 2010*.

Appendix F: ODNI Chief Management Officer Comments

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE
CHIEF MANAGEMENT OFFICER
WASHINGTON, DC 20511

MEMORANDUM FOR: I. Charles McCullough, III
Intelligence Community Inspector General

SUBJECT: Response to Draft Report, *Evaluation of the ODNI Under the Reducing Over-Classification Act*

Thank you for the opportunity to comment on the revised draft report on the subject evaluation. The CMO's office has coordinated with other components as necessary to provide this response. I appreciate the efforts of your team to communicate findings during the evaluation, providing ODNI management an opportunity to immediately address some of the issues raised, and the team's careful consideration of the comments previously provided to you.

Please consider the following comments regarding the findings and recommendations identified in the evaluation report:

Finding 1: IC Enterprise: The ODNI oversight of the IC classification management program requires improvement.

Recommendation 1: The ODNI should align the monitoring authorities and reporting responsibilities for the IC Classification Management Program under a single office to provide more effective and efficient oversight. Performance metrics developed by that office should measure workforce compliance and assess the quality of IC training efforts.

Comments: Concur. ODNI management will review options for consolidating classification monitoring and reporting responsibilities in one office. That component will be tasked with providing effective oversight of IC training and compliance efforts.

Finding 2: ODNI: The Original Classification Authority training records, and the business processes used to monitor that training, require improvement.

Recommendation 2: None, due to corrective actions already underway.

Comment: All OCA training will be conducted in a limited period of time to cover the particular calendar year. This change, in addition to a significant reduction in the number of OCAs, will greatly improve compliance with training requirements.

Finding 3: ODNI: The Original Classification Authority Program was generally effective with built-in redundancy to ensure uniformity and compliance with EO 13526; however, the number of authorized ODNI OCAs appears greater than the minimum required.

Recommendation 3: D/IMD should review positions granted OCA pursuant to Instruction 10.03, and in consultation with the DDII and through the CMO, recommend to the DNI adjustments minimizing those positions delegated OCA.

Comment: Concur; action completed. A revised Instruction 10.03 was signed by the DNI on 31 October 2014, reducing the number of ODNI OCAs from 24 to 10.

Finding 4: ODNI: Compliance with mandatory Derivative Classifier training, maintenance of training records, and the business processes used to monitor training, require significant improvement.

Recommendation 4: ODNI CMO should require completion of initial Derivative Classifier training for all categories of newly reporting employees pursuant to E.O. 13526 and 32 C.F.R § 2001.

Comment: Concur; action completed. CIO/IMD has resolved this issue by working with MSD to track all new EODs to ensure that training is taken within 10 days of arrival or CWE access is suspended. This process has been in place since June 2014.

Finding 5: ODNI: Derivative classifier training and product quality assurance by supervisors, managers, and production officers require improvement.

Recommendation 5a: ODNI CMO should direct IMD to enhance the training of derivative classifiers to thoroughly explain their responsibilities and how to properly apply classification concepts and markings.

Comment: Concur. As noted in the report, the current courses meet the minimum training requirements, but IMD will continue to enhance the training based on the feedback from this report and other sources.

Recommendation 5b: ODNI CMO should direct supervisors, managers, and production officers to emphasize classification review as part of their quality assurance procedures.

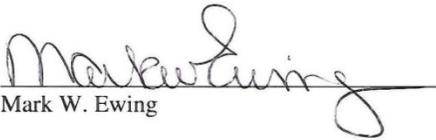
Comment: Concur. The CMO will work with IMD to identify ways to emphasize classification review to supervisors, managers, and production officers.

Recommendation 5c: ODNI CMO should explore additional strategies to ensure information is systematically reviewed for over-grading and over-classification.

Comment: Concur. We will charge CIO/IMD with a requirement to develop a continuous education campaign to inform/sensitize/remind managers that they need to specifically check for over-classification on intelligence reports and products that they approve. In addition, we will explore with other IC elements initiatives they are taking to minimize or eliminate over-classification, especially given that the limited classification experts we have are largely dedicated to addressing the FOIA and other required declassification backlog. It is important to note that employees make complicated

classification decisions every day, and while it is clear over-classification does occur, all ODNI documents are reviewed by classification experts when information is to be released; adjustments are made at that time, if necessary, to correct over- and under-classification.

Thank you for the opportunity to provide comments on this draft report. Please let me know if you have any questions.


Mark W. Ewing


Date