



Office of Classification

Classification

Training

Institute



Office of Classification

This briefing provides information on Classification Bulletin GEN-16, “No Comment” Policy on Classified Information in the Public Domain

Classification Training Institute

June 2014



GEN-16

“No Comment” Policy on Classified Information in the Public Domain

Revised 2011





What is the purpose of the revision to GEN-16?

- To provide guidance as to what use or discussion is allowed concerning sources in the public domain that contain classified information
- To clarify what constitutes "comment"



Why revise GEN-16 now?

- Change in information environment since 1986 - more information, information is more accessible, "push" technologies
- DOE employees much more likely to encounter classified information in the public domain





Why revise GEN-16 now?

- Cleared DOE researchers may need to use sources containing classified information, must cite the sources
- Cleared employees increasingly sharing links and/or documents via email/newsletters





What are the definitions of classified information, public domain, comment, and authorized person?

- Classified information - Restricted Data, Formerly Restricted Data, Transclassified Foreign Nuclear Information, and National Security Information
- Public Domain
 - Release outside of the Federal Government
 - 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



What is the basic guidance in GEN-16?

- No comment to unauthorized person verbally or in writing on classification status of classified information in the public domain
- No comment to unauthorized person verbally or in writing on the technical accuracy of classified information in the public domain





In applying the “No Comment” policy, develop a strategy

- You should have a strategy on how to deal with discussions that arise concerning information in the public domain that could be classified
- You should be aware that if you plan to use information in an unclassified DOE document that comes from the public domain and concerns a classified subject area, you must follow the review requirements in DOE Order 475.2A, *Identifying Classified Information*.
- You may not always be aware that specific information in the public domain 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.
- Example
 - 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 comments on the classification status?

- 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.”



CLASSIFIED?



What are examples of appropriate responses?

- 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.



CLASSIFIED?

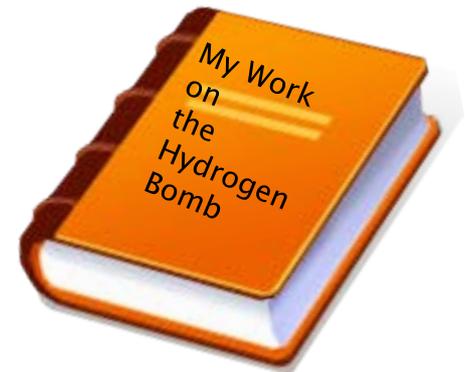


What are examples of comments on the classification status?

- 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]

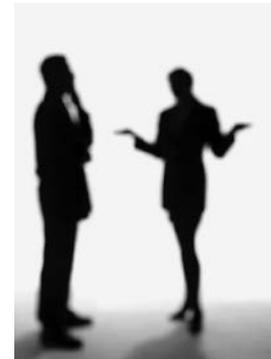
- Joe: “Is it true you’re holding up publication of Jim’s book on his work in nuclear weapons development because of classification concerns?”
- DOE: “It’s taking a long time to review, not just because there is a lot of classified information about thermonuclear weapons, but also because it’s boring.”





What is an example of an appropriate response?

- 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 discussing the technical accuracy of information?

- Accuracy - includes the fact that something will or will not 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.”



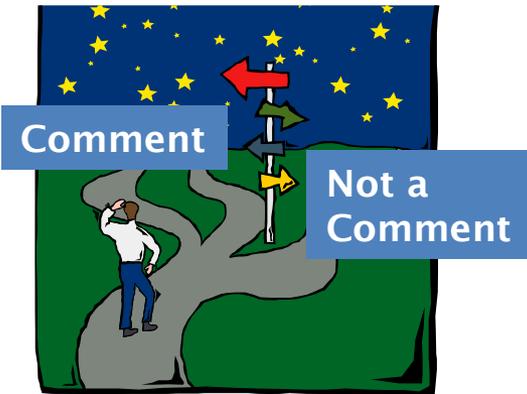
What is NOT a “Comment?”

- 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 source documents that contain classified information and
 - Does NOT include summaries – these MAY be comments





What could be a Comment?



- Annotations on a public domain document 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



Sample Situations



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

Action	Comment?
Accessing and reading the webpage	No
Bookmarking the webpage	No

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

GEN-16, IVc(1)(a) and (b): Merely reading documents or publications in the open literature that contain classified information is not a comment. Collections of topical news stories, favorite or bookmarked web sites, or a listing of references do not by themselves constitute a comment.



Sample Situations



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

Action	Comment?
Sending the link via email to someone within DOE with a note "FYI"	No
Sending the link in a collection of links with an email titled "Articles of Interest" without any additional text	No

GEN-16, IVc(5)(a): The mere possession, storage, or distribution of material from the public domain does not by itself add credibility to such material or constitute comment.



Sample Situations



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

Action	Comment?
Sending the link to someone within DOE via email with a note “Check out paragraph 3”	Yes
Printing a copy of the webpage to include in a collection that <u>only</u> includes examples of documents in the public domain that contain classified information	Yes

GEN-16, IVc(5)(a): Any annotation of such documents which implies in any way that the source contains classified information constitutes comment.



Sample Situations

Ask
your
CO!

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

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

GEN-16, IVc(1)(b) Basic summaries of collections of news articles may or may not constitute a comment depending on the content of the summary.



Sample Situations



- A book in the public domain concerning the development of nuclear weapons contains classified information – most of the book does not contain classified information

Action	Comment?
Owning the book	No
Loaning the book to a coworker	No

GEN-16, IVc(5)(a): The mere possession, storage, or distribution of material from the public domain does not by itself add credibility to such material or constitute comment.



Sample Situations



- A book in the public domain concerning the development of nuclear weapons contains classified information – most of the book does not contain classified information

Action	Comment?
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)	No
Citing the book in a bibliography (that is not annotated)	No

GEN-16, IVc(5) (b): Cleared personnel may cite well-known, open literature sources that contain classified information if the vast majority of the open source document or publication does not contain classified information and the specific reference does not point to the classified information in the document.



Sample Situations



- A book in the public domain concerning the development of nuclear weapons contains classified information

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

GEN-16, IVc(5) (b): Cleared personnel may cite well-known, open literature sources that contain classified information if the vast majority of the open source document or publication does not contain classified information and the specific reference does not point to the classified information in the document.

GEN-16, IVc(5) (c): Cleared personnel should not annotate public domain sources to indicate in any way that the source contains classified information or that the section containing classified information is technically accurate.



Sample Situations

Ask
your
CO!

- A book in the public domain concerning the development of nuclear weapons contains classified information

Action	Comment?
Citing a page in the book which does not contain classified information in a footnote	May or may not be
Owning a copy of the book with notes in the margins adding information to the context	May or may not be



Sample Situations



Action	Comment?
Posting a link to an article with nuclear-related information on Facebook without commenting on the article	No – but...

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 a public domain source into an unclassified DOE document?

- Remember, just because information is in the public domain **does not mean it is unclassified!**
 - Regardless of when it is published
 - In current public domain documents (newspapers, books)
 - But also in older documents!
 - Regardless of subject
 - 99% 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



E.O. 13526, Part I, Section 1.1(c): Classified information shall not be declassified automatically as a result of any unauthorized disclosure of identical or similar information.



What should I do if I want to incorporate information from the internet or a public domain source into an unclassified DOE document?

- If you use information that is in a classified subject area from the public domain, you must follow the review requirements of DOE Order 475.2A
 - If the document is not for public release, a Derivative Classifier must review it if it potentially contains classified information
 - If the document is for public release, the Classification Officer must review it – even if you feel it is not classified.





Final Thoughts

- The “No Comment” policy is not intended to prevent you from discussing every aspect of your work or from using every public domain document as a source.
- It is intended
 - To alert you to how comments on public domain sources can risk the compromise of classified information and
 - To make you aware that documents in the public domain 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 public domain or about any classified aspects of your work and reason things out before speaking and**
 - **Know when a document you create that contains information from the public domain 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