Declassification Options & Requirements

062013 Webinar

Hello and thank you for standing by. All lines will be in listen only during today's presentation. Today's call is being recorded if you have any objections, you may disconnect. I would like to introduce your host for today's call Marc Brandsness, please begin.

Thank you Audra. Before we get started please be aware that the video portion of this webinar is being recorded. Once the red light recording appears we'll begin. Okay thank you. Hello and welcome to the Declassification Options and Requirements webinar. We're very excited to have you join us today and thank you for taking time out of what I know is an extremely busy schedule to join us for this. My name is Marc Brandsness I'm an instructor in Physical Security Course manager here at CDSE. My role over the years in terms of Information Security Program Management has been varied, it's been from management oversight inspection over the last 25 years and now I'm lucky enough to be here at CDSE for the last 4 years instructing the Information Security Management course and the DoD Security Specialist course so I'll be your host for this webinar. So today's webinar topic to make sure we're all on the same page is Declassification Options and Requirements with a DoD flavor but our target here is really derivative classifiers. But not to worry I see we have a lot of industry folks out there and what we want to do is make sure you're familiar with the processes and where to go for policy if you have questions. So our producer today is Rachel Mongeau. Before we get started Rachel will provide you with the ground rules for today's webinar and some instructions on how to use the tools you'll need to participate. Rachel!

Thank you Marc. As you can see there's a notes box at the bottom of your screen, the phone number is listed here along with the pin number. Then up at the right hand corner of your screen is the full screen button, select this if you would like to see the screen in more detail, but make sure you select it again when it's time to respond to poll questions or enter a question into the question and answer box. Over here is the question and answer box this is where you can send in any questions you may have for us we'll try to answer them during the webinar or we'll post them online later. There's also a file share box here you'll find a pdf of the slides from today's presentation and there are a couple job aids in there as well as the 5200.45 and we'll be talking about that during the webinar.

This is an example of a poll question and these will come up periodically throughout the webinar and you'll get to check your understanding of the concepts we talk about. And we'll also have chat questions, we are actually going to be starting with a chat question and all you'll need to do is just simply enter your responses into the box. It will show up where the Q&A box is right now. To get us started I'm going to have Marc introduce our first chat question. Thanks Rachel. So before we get started let's get an idea of what kind of experience we got out there on this call. We'd like to know what your experience might be as a derivative classifier and/are using sources to determine declassification instructions. Please enter your response in the chat box. You can proceed anytime. This is great we got great response coming in. Some have 3 to 4 years, some have no experience, looks like a little bit of everything. Alright 20 years and all the way to none and very little. Okay good audience. Let's move right into the content then.

So far overview of what we're going to discuss today we're going to identify declassification policy and options, we're going to define declassification requirements as it applies to derivative classifiers and we're going to identify source documents for that derivative classifier to use to determine declassification instructions. So a few things in overview I'd like to mention that we're going to specifically cover, again going through as we need to lay the policy framework here for derivative classifiers. We need you to know where to reach back to in order to get information to make decisions on declassification. We're going to talk about automatic exemptions. What information and the declassification instructions do derivative classifiers need to be familiar with. So again we'll talk about the policy for that and we'll talk about some methodology regarding the sources. We'll talk about guidance using single multiple source your security classification guidance, your declassification guides, and the DD254 as I know our industry partners are very familiar with as a source document to find out declassification instructions. And then as we go through this I want you to be aware of the term calculated declassication that's for previously classified information and we're going to carry forward the most stringent restricted declassification dates for that and we'll have an example of that during the presentation to clear that up for you.

Regarding security classification guide the last topic we'll cover, there's a webinar on SEGs on the 17th of October you're welcome to participate in that webinar series. So before we get started let's define what we're talking about here to make sure we're not confused with downgrading, this is declassification. It's the authorized change in status of information from classified information to declassified information. So let's talk about policy. So our first overarching national security policy on declassification would derive from Executive Order 13526.

Before we get into 13526 let's talk about the poll question that we have and that would be poll question number 1, Rachel! Yes Marc sort of gave away the first answer here. What we'd like you to do to just to test and see if you are aware of the overarching guidance document please select from the Executive Order 13526, DoD Manual 5200.01, DoD5200.2R, or the Information Security Oversight office 32CFR parts 2001 and 2003 or Executive Order 12968, you can select as many that apply. Well great I see that we're listening so far, we got a lot of correct answers on what I gave you guys, so I appreciate that. I like it when you play nice.

So let's talk about policy then we mentioned Executive Order 13526, that's the President's Executive order for National Security Information and as you know President Obama when he took office wanted to promote a Presidential agenda of greater openness and transparency while enhancing national security. Now how he did that was he wanted to establish a uniform system for classifying safeguarding and declassifying national security information, so he did that through the Executive Order 13526. Next slide. So the Information Security Oversight office is responsible to the President for policy and oversight of the government wide security classifications systems so that's our next step. Got 13526 now we're stepping down like a waterfall effect and Information Security Oversight office manages and implements 13526 for the President. Now they did that as they released 32CFR parts 2001 and 2003 it's classified national security information final rule. Okay as the waterfall continues to cascade down we get to DoD policy so Office of Secretary of Defense and the Undersecretary of Defense for Intelligence issues policies, directives, memorandums related to intelligence and national security. Now how they implemented the DoD program for information security was the release of DoDM5200.01, Volumes 1 through 4. So basically our DoD policy explains classification and to easy understand statements. Information must be classified as long as it's in the best interest of national security and its continued classification is in accordance with Executive Order 13526. So before we get any further into the content we have another poll question for you. So Rachel would you like to take that? Here we're switching gears and thinking about authorities who have the power to declassify information. If you look at the choices here would this be the Secretary of Defense, DoD component heads, senior intelligence officers, Secretary of the Military department, delegated original classification authorities, or officials delegated by DoD component heads who have original classification authority? Again you can select as many that apply. And it appears they are way ahead of you and the correct answer is going to be showing up on the next slide actually. We'll list them here. You'll find that they are Secretary of Defense, Secretary of the Military Department, delegated original classification authorities and officials delegated by DoD component heads who have original classification authority.

Okay so let's discuss that just a little bit further before we move on. Again it's the SecDef's, Secs of the Military departments, Senior agency officials is a term you're going to see a lot in the DoD manual so don't get that confused that's delegated regional classification authorities typically a senior agency official and then officials delegated by DoD component heads, again probably a senior agency official in the Department of Defense is case. Next slide please. Here we're moving to thinking about is this true or false? Derivative classifiers are able to declassify information? True or false folks. Alright good, that's what I like to see. Okay so your correct answer is false. Only original classification authorities can declassify information.   To alleviate any confusion if there is any out there, an OCA can both classify and declassify information, so declassification authority and classification authority is an OCA and it's one in the same. Okay so let's move on Rachel.

Okay so now we talked about policy we're going to talk about our options, our processes or systems depending on what policy document you're looking at you'll see the term systems, you'll see the term options and you'll see the term processes. In the DoD you'll be more familiar with the term process, but if I say any of those they're all synonymous with the four declassification systems. Next slide.

So the first one we're going to cover is scheduled, the next will be automatic, then there's mandatory declassification review and then there's systematic review for declassification so those are your four declassifications systems, options or processes. Next slide.

So when we talk about scheduled declassification the first thing we need to do as derivative classifiers is ask ourselves a question. Is there a declassification date or event assigned. So if we go to the next slide let's try to answer that question in a cohesive manner. So to take you back a step, we have what we call the ten year rule that comes out of the DoD guidance, what we want OCA to do especially the security professionals is to limit the classification to an event or date that indicates the length of time that we require that information to be classified. So if we look at our graph here we have original classification date of 2015 January 18th, okay that's our date of origin of the document. So if I say date of origin it is the same thing. So the first thing that OCA can do, it can establish a date or event within ten years of the date of origin. So in that case OCA chose to establish a date five years from the date of origin of the document. Second option is date ten years from the date of origin of the source document, so your declassification date would be January 18th of 2025, ten years out. Next step they can do is date the event twenty five years of the date of origin just like with your within ten years, so they chose the date there. And then the next step would be to date twenty five years from the date of origin. After twenty five years you're looking at automatic declassification so we're going to have to get into exemptions when we get into automatic declassification.

Twenty five plus years requires an interagency security classification appeals panel approved extension, so if I use the term ice-cap from now on that's what I'm referring to for automatic extensions. Again it's got to be approved beyond twenty five years by ice-cap. Next slide. So that brings us to our second option which is automatic declassification so a question we want to ask ourselves here is, is the classified information considered to have permanent historical value or PHV? So if it's a record material then it becomes PHV so designated PHV the information is automatically exempted at twenty five years from the date of origin unless it falls under one of the criteria for extended duration under the nine automatic exemption categories which we'll discuss here shortly. It then goes through the approval process with ice-cap to establish a date or event. Okay so let's talk about how classified information is designated and how that designation impacts automatic declassification exemption on our next slide. Okay so records classified information falls basically into two categories: classified non-record material and PHV records. So with your classified non-record materials that's temporary or non-record materials, that's classified non-record materials and artifacts identified in Executive Order 13526. Any information designated as non-record material can be classified for longer than twenty five years only with ice-cap approval. So it is automatically declassified at twenty five years unless it has ice-cap approval, very similar to PHV. If the information has no origin date then an approval date from ice-cap can be used as the declassification date, again we're talking about non-record material.

So now the second category PHV or permanently valuable records that's things like Presidential records, original plans, designs, weapons systems, formulas and then finally invention or patent details, in fact we had some documents recently released from the Cuban Missile Crisis that were originally Presidential records and designated as PHV records that were recently declassified if you wanted an example. So now that we've defined what record material and non-record material is, again that's non-record is temporary on non-record material which is not scheduled and then PHV is going to be scheduled because there's going to be an extension with that so let's talk about the extension criteria and the category. So you can go ahead and go to the next slide Rachel, thank you.

Okay so PHV records may be exempted from automatic declassification at twenty five years, remember even PHV records are going to be automatically declassified at the twenty five year point unless they're exempted. That complies with ISOO 32CFR part D, paragraph M which I would like to read to you right now. Exemption from automatic declassification at twenty five, fifty or seventy five years, agencies may propose to exempt automatic declassification specific information either by reference to information of specific records, it's specific files series of records, or in the form of declassification guide, so we'll talk about those on another slide a little bit later here.

Agencies may propose to exempt information within five years of but not later than one year before the information is subject to automatic declassification obviously in this case it would be at that twenty five year point that's when automatic declassification kicks in, so that's right out of your CFR32 part 2001.   So we talked about the types of records, those would be specific records, specific file series and then declassification guidance as the CFR noted. So one note I want you to remember to is the exemption criteria determines the duration that the material will be will remain classified until declassification. And the categories determined by the information in itself exactly what that is. So there are nine categories of information may be exempted from automatic declassification. As we look at these let's mention that we have two special circumstances in exemptions one and two that impact derivative declassification instructions. Those are in the twenty five X1 and the twenty five X2 categories. As a derivative classifier if you're going to derive a new document from a source document or a security classification guide and you see a particular marking which we'll go through on a slide a little bit further down the road here so you have a previous marking or you see a twenty five X1 or X2 you can automatically change it to a 50 X1 or a 50 X2 WMD depending on which category it falls in on your new or originally derived document that you've created.   So we've got obviously 3 through 9 are other categories we're not going to read those out. But those can have a 25 year extension as well, and like we talked about before on a previous slides and specific information if it needs to remain classified after 25 years falls into that category then we're going to determine the criteria for duration and that kind of gives you your criteria right there 25 X5 is an example for U.S. military war planes. Next slide please.

So that brings us to our third process that would be mandatory declassification review. A mandatory declassification review is a response to a request for declassification that meets the requirements as the Executive Order. The mandatory review process follows these 5 steps. The requestor requests in writing a specified classified document or material. The request cannot be overly broad. Request is forwarded to the agency with jurisdiction that would be the agency that has the original classification authority position in it. Remember when OCA is assigned a position not a person. DoD will review the request if the information has not been reviewed within 2 years. So in other words if it's been reviewed that specific information has been reviewed within 2 years they'll provide an immediate response based on that review if it hasn't then the process will go to step 4. The agency may choose to act, deny or declassify the requested information and in full. So again they can act, deny or declassify. If they deny he or she the requestor may appeal to the interagency security classification appeals panel or ice-cap for further review.

DoD components in particular must make prompt declassification determination and notify their requestor or inform the requestor of the additional time needed to process the request. DoD components ordinarily make a final determination within 1 year from date of receipt. One thing important to mention here at this mandatory review process, this does not include foyer requests. The foyer requests are a completely different process so let's not get those confused at any point. So next slide Rachel.

And then our last process we're looking at we have to ask ourselves a question this one is pretty easy. Systematic review for declassification is the information historically valuable and exempt from automatic declassifications? So we know if it's exempt from automatic declassification then it's either 25 years or older or it's already been exempted from automatic declassification. So therefore it falls under systematic review. Pretty simple right? Hopefully it will be for you if you ever come across that. So again only records 25 years old are exempted as 25 as permanently historical value will fall under systematic review for declassification. Okay let's have another poll question here. Rachel! Okay this is just going to review the four processes we talked about. Based on this list here which describe the systems not discussed were they frequent, scheduled, automatic, mandatory, systematic, emergency, or simultaneous? We're getting a great response here. I like that we have zero percent. Okay that means you're listening and that's important to me. Fantastic so let's move on. Looks like we nailed that one.

So let's talk about declassification requirements. As a derivative classifier usually the first question you're going to ask yourselves is how do I determine declassification and we're talking specifically declassification. So next slide please. So we need to identify first the source that we're going to use, typically the source is a properly marked source document, you can have multiple source documents you're going to use but if they're properly marked source document would be one, the second one would be a security classification guide hopefully that would be the first thing that you would be able to go to, and the third item would be a DD254 for our industry folks in particular part 13 or section 13 usually there's some declassification instructions noted in there, if not hopefully you'll have a security classification guide or a declassification guide attached to the contract that you build or refer to. Okay next slide.

So let's step through these very quickly here. Using a single source document is very simple, it's the most simple process. You're going to transfer the declassification decision from your source document to the derivative document, in other words the document on the top left is your source document you're simply going to transcribe that declassification instruction down to your newly derived document. Okay so let's go to the next slide where we're going to talk about using multiple source documents. It's a little more tricky here. You use a matrix or rule to carry over control markings and declassification information. If you remember early on in the overview I told you we're going to use the most restrictive classification always as a rule of thumb, but we need to ask ourselves two questions here. One we need to determine the classification level of the derived document. Second step is we need to determine the declassification dates and as you can see in the example source 1 and source 2 we're going to carry over the most restrictive marking from those two source documents, so we're going to use the latest declassification date and that would be the date used on your newly derived document. Also please visit our website we have a great short out there that's called downgrading and declassification it takes no more than ten minutes to complete and it will run you through this example and others and I think it's a pretty good useful tool for a security professional. Next slide please.

So we talk about declassification instructions in transferring those over we have a restrictive marking order that we can follow please use this as a job aid. When derivative of classifying using multiple source documents use our restrictive marking order. Restrictive marking order means that you work from the top down to assign downgrading and declassification dates to your derivative document. You select the dates from the latest from amongst those specified on your source material, sounds familiar. Please note we have a job aid in the file share box that will assist you in doing this and again you're just going to walk down these steps and again at the end it says absent declassification guidance you're going to use a calculated date which again is the most restrictive and the latest date possible on your newly derived document. Next slide please.

So one of the questions that came in prior to the webinar was please discuss non day to dates ie the X guidance. So on previously used declassification instructions you might see a 25 year exemption noted as X5 or the X1 through 9 exemption categories. So what we're going to do is we're going to automatically calculate the date that's most restrictive and in this case we're going to add 25 automatically. Because it's an X then we would and will carry over the most restrictive under the calculated date to which in this case is the 25 year date and you can see that date is noted on there is now our newly derived declassification instruction is 2036 November 15th so that means our source document date or our date of origin that we had access to is November 15th of 2011.

Okay so let's talk about security classification guides to wrap us this webinar. Like we said before it's one of your source documents and it's one of the most important ones that you can go to to find out what declassification instructions you need to apply to a derived document. Provides comprehensive guidance on elements of classified information. I would like to point out to you in your file share box that you have the new developing security classification guidance DoD Manual it's 5200.45 and that is in the file share box that you can download, it's the first file in there. And that is dated 2 April 2013. So it's rare when we get a DoD Manual with such a recent date so I would jump all over that and download that, that would give you guidance on developing, so what we want to point out in particular for derivative classifiers is the portion marking within the security classification guide. That's where you're going to get your declassification instructions. You see the duration column on our example. That's going to be your declassification instructions and again when you're determining your declassification control markings you're going to use that portion mark, if there's multiple security classification guides, you're going to use the most restrictive marking like we discussed before.

That folks wraps up the content for the webinar. I really appreciate you guys taking the time to participate today and Rachel is going to wrap this thing up with a couple of slides with a lot of good information on it. Thank you! Rachel. Thanks Marc. As Marc mentioned we have a lot of great resources on the CDSE website. We have 11 information security specific e-Learning courses, there's also an information security management curricula, and there are also security shorts that only take 5 to 10 minutes of your time. We're offering instructor-led training August 12th through the 16th here in Linthicum, Maryland, and also about if you enjoyed this webinar it will be posted on our website you can find the link at the top of the page that we'll move into our archive section and we will actually have a video of the webinar and the audio and transcript. If you have any more questions please submit them to our email box there, and there's also a link to our information security section of our website. Thanks again for attending. We will have another webinar on July 18th and that one will focus on security incidents involving special circumstances. Have a great day and we hope to see you again.