

Instruction

DEFENSE INTELLIGENCE AGENCY
WASHINGTON, DC 20340-5100

DIAI 5400.300

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OPR: [REDACTED]

(b)(3):10 USC
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Prepublication Review of Information Prepared for Public Release

References:

- (a) Executive Order 12333, "United States Intelligence Activities," 4 December 1981, as amended by Executive Orders 13284, on 23 January 2003 and 13355, on 27 August 2004
- (b) Executive Order 12958, "Classified National Security Information," as amended 25 March 2003
- (c) DoD Directive 5230.9, "Clearance of DoD Information for Public Release," 9 April 1996, certified current as of 21 November 2003
- (d) DoD Instruction 5230.29, "Security and Policy Review of DoD Information for Public Release," 6 August 1999

1. PURPOSE

- 1.1. This instruction establishes procedures and general guidelines for the agency's prepublication (security and policy) review program for unclassified information and material prepared for public release.
- 1.2. This instruction replaces, in part, DIA Regulation 12-2, "Public Release of DIA Information."
- 1.3. This instruction does not pertain to the policies and procedures governing release of information under the purview of the Freedom of Information Act (FOIA), requests for declassification of classified material, requests for "classification reviews" to determine appropriate level of classification of information, or release of official information in litigation or testimony by DIA personnel as witnesses.
- 1.4. This instruction applies to all DIA personnel and elements, and those obligated by contract with DIA, whether the information is intended to be an official or non-official product.

(Encl 4)

2. DEFINITIONS

- 2.1. **Information.** Any communication or representation of knowledge such as facts, data, or opinions in any medium or form including papers, articles, manuscripts, brochures, pamphlets, CDs, video- or audio-tape, or briefings (viewgraphs and text) or other oral presentations.
- 2.2. **Official Department of Defense (DoD) Information.** All information that is in the custody and control of DoD, relates to information in the custody and control of the department, or was acquired by DoD employees as part of their official duties or because of their official status within the department.
- 2.3. **DIA information.** All information that is in the custody and control of DIA, relates to information in the custody and control of DIA, or was acquired by DIA employees as part of their official duties or because of their official status within DoD and/or the United States Intelligence Community. DIA information is a sub-category of DoD information.
- 2.4. **Official product.** Material that is prepared as part of one's official duties as a DIA employee or contractor acting in an official capacity.
- 2.5. **Non-official product.** Material that is prepared by a DIA employee or contractor as a private individual and who is not acting in an official capacity for DIA, DoD, or the U.S. Government.

3. POLICY

- 3.1. DIA employees, and others obligated by contract and/or non-disclosure agreements, will submit for prepublication (security and policy) review all ostensibly unclassified information prepared and intended for public release that pertains to intelligence; national security issues; military matters; or the policies or operations of DIA, DoD, and /or the U.S. Government.
- 3.2. Official information cleared for public release will be consistent with established DIA, DoD, and national policies and programs.
- 3.3. The release of information to the public is limited only as necessary to safeguard information requiring protection in the interest of national security or other legitimate governmental interest.
- 3.4. Information will not be denied release because its public disclosure may reveal administrative error or inefficiency.

4. GUIDELINES

- 4.1. Information being released in any form to the public must undergo

prepublication—security and policy—review if the information pertains to or mentions intelligence data; intelligence activities; military matters; national security issues; foreign relations; policies or operations of DIA, the Department of Defense, the U.S. Intelligence Community or the U.S. Government; subjects of significant concern to DIA or the Department of Defense; or any subject about which the author has had access to classified information during his or her affiliation with DIA or DoD.

4.1.1. See reference (d) for further delineation of information requiring review.

4.1.2. Because works of fiction may be based upon and/or can be used to convey factual information, fictional material is subject to review if it meets the criteria in paragraphs 4.1 and 4.1.1.

4.2. Information intended for placement on publicly accessible websites, electronic bulletin boards accessible through the INTERNET, or other publicly accessible computer servers, requires review and clearance for public release if it meets the criteria above in paragraphs 4.1, 4.1.1, or 4.1.2.

5. RESPONSIBILITIES

5.1. Individual. DIA employees, and those obligated by contract and/or non-disclosure agreements, will submit information and material prepared for public release to the [REDACTED] for review and clearance, regardless of whether the individual is acting in an official or non-official capacity; or will obtain guidance from [REDACTED] on whether information is required to be submitted.

5.2. [REDACTED] will manage, administer, and coordinate DIA's prepublication review program and will develop the agency position regarding releasability of information submitted for review.

5.2.1. [REDACTED] as necessary, will coordinate with DIA elements that have relevant subject matter expertise related to and/or equity in the information submitted for review in order to develop the agency position regarding releasability.

5.2.2. [REDACTED] will serve as the coordination point between DIA and the DoD Office of Security Review (OSR) on matters related to the DIA and DoD security and policy review programs:

- [REDACTED] will be the portal through which OSR requests DIA review of and recommendations on information proposed for public release.

- As required, [REDACTED] will coordinate with OSR to obtain departmental review and clearance of information submitted by DIA personnel and

components.

(b)(3):10 USC 424 5.2.3. [redacted] will serve as the coordination point between DIA and the respective prepublication review components of Intelligence Community and other agencies. When [redacted] reviews submissions that involve the equities of another agency, [redacted] will coordinate its review with that agency. Additionally, [redacted] will be the portal through which these offices request DIA review of their material intended for public release.

5.3. DIA Elements.

5.3.1. All DIA elements will submit unclassified official information and products proposed for public release to [redacted] after review and approval by element's management chain of command. (b)(3):10 USC 424

5.3.2. All DIA elements will provide prompt guidance and assistance when [redacted] seeks their recommendations related to requests for the review of information proposed for public release and will: (b)(3):10 USC 424

- Identify information known to be classified or warranting classification.
- Identify information that if publicly disclosed would jeopardize DIA, DoD, or U.S. Government interests.
- Provide explanation and rationale for any objections posed to release of information.
- Provide acceptable substitute language, where practical, if information conflicts with DIA/DoD policies, programs, or regulations. Or the reviewing office will specify needed changes in sufficient detail to enable the author to prepare a version suitable for unclassified public release.

6. PROCEDURES

(b)(3):10 USC 424 6.1. Information is submitted to [redacted] for review through two channels: internally, from DIA elements and employees, and externally, from DoD/OSR or other agencies.

6.2. Submissions from DIA personnel/elements.

(b)(3):10 USC 424 6.2.1. The submitter should provide [redacted] with four copies of what is to be reviewed. In lieu of hardcopies, softcopies may be provided on 4 separate disks or CDs. Short articles may be e-mailed or faxed via secure means to [redacted] for processing. (b)(3):10 USC 424

6.2.2. All submissions must include a statement giving the intended date and

purpose for public release (forum for presentation, intended publication document), publication deadlines, and a statement that the material in question was derived from unclassified information and is, to the best of the submitter's knowledge, unclassified and appropriate for public disclosure.

6.2.2.1. Official products intended for public release should be appropriately coordinated with those agency elements that have equities in the material prior to submitting them to [REDACTED]. Employees submitting official products also must obtain and indicate that their respective management chain concurs with public disclosure.

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6.2.2.2. DIA personnel who are requesting review of material prepared in a non-official capacity should, in the forwarding statement, identify their supervisor and indicate that their supervisor does not object to public disclosure of the material.

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424 6.2.3. Submissions to [REDACTED] must be made prior to disclosing such information to anyone who is not authorized by DIA to have access to it. Draft material prepared in a non-official capacity must be submitted for review at each stage of development prior to disclosing such information to anyone, such as a publisher, editor, co-author, or other member of the public, who does not have the requisite clearance and "need-to-know" as determined by an appropriate level of management for information that has not yet been reviewed and may be classified. This is intended to prevent comparison of different versions of the material, which would reveal items that have been deleted and determined not appropriate for public disclosure.

6.2.4. Material submitted should be complete and include any slides, photographs, or other items to be used with the information. Notes, abstracts, or outlines will not be cleared as substitutes for a complete text. Briefings should include proposed text/remarks as well as viewgraphs themselves. Abstracts to be published or presented in advance require review for public release, although clearance of such an abstract will not obviate the requirement to submit the full text for clearance. Submitters are encouraged to submit completed works rather than chapters or portions of such works.

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424 6.2.5. [REDACTED] reviews the submission; obtains any necessary additional reviews by other DIA elements; and determines agency position regarding release.

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424 6.2.7. If necessary, [REDACTED] forwards the product/information to other agencies whose equities are involved in the product for their review and clearance.

6.2.8. After all review of the material is completed, [redacted] notifies the submitter of the results of the review as follows:

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- *Cleared for Open Publication.* The information may be released without restriction by the originating component. A disclaimer may be required to accompany the information. Additionally, “recommended” changes may be suggested. These changes are not binding on the author.
- *Cleared “as amended” for open publication.* Amendments are binding on the submitter. Amendments may be deletion of certain material or alternative wording of phrases and sentences.
- *Not cleared.* The information submitted for review may not be released.

6.2.9. Although [redacted] has no responsibility for correcting errors of fact or making editorial changes, obvious errors in the text may be identified and noted as amendments or “recommended” changes.

6.2.10. Authors who are required to amend or delete material may be required to re-submit revisions to [redacted] for final review.

6.2.11. Review Timelines. Elements should allow sufficient time for [redacted] to process their request. In accordance with DoD/OSR guidance, DIA review and clearance must be accomplished prior to obtaining DoD/OSR review and clearance. [redacted] will handle relatively short, time-sensitive submissions as expeditiously as practicable. Submitters should allow a minimum of 5-10 working days for short, non-technical items and 30 or more working days for lengthier or more complex items.

6.3. Referrals from DoD/OSR or other agencies.

6.3.1. DoD/OSR or other agencies may refer material to DIA for review. [redacted] reviews the material. If [redacted] determines additional review by DIA elements is warranted, [redacted] will task appropriate DIA elements that have the relevant subject matter expertise to provide recommendations regarding public disclosure of information.

6.3.2. [redacted] will develop and provide to OSR or other submitting agency the agency position regarding release of information.

6.4. Appeals. All amendments or “not cleared” determinations may be appealed. Appeals should be in writing and offer justification and/or additional material to support publication.

6.4.1. Appeals of determinations made by [redacted] based on internal DIA review are to be in writing and submitted to [redacted]

[REDACTED] CP will forward the appeal and any additional documentation to those components that had objections to open publication of the product at issue. The respective component's management chain will affirm or revise the determination regarding the material involving its equities and forward that recommendation to CP for decision.

6.4.2. Appeals of decisions made by DoD/OSR are to be in writing and are to be addressed to the DoD Office of Security Review, in accordance with reference (d). Appeals may be submitted to [REDACTED] for forwarding to OSR.

6.4.3. Appeals of decisions by other agencies are to be made in accordance with the guidance and established procedures of the respective agency.

7. IN A NON-OFFICIAL CAPACITY

7.1. DIA personnel may prepare information in a private and non-official capacity for disclosure in the public domain if such action:

7.1.1. Is not contrary to law.

7.1.2. Is consistent with proper ethical standards and is otherwise compatible with *DIA Standards of Conduct*.

7.1.3. Is not done during normal working hours or with the use of government facilities, property, or personnel.

7.1.4. Does not use information unavailable to non-DoD personnel. When an author asserts that information intended for publication is already in the public domain, the author may be required to identify any open sources, to include official open-sources, for that information and be requested to reference or cite the source of the information in a footnote. Open-source information or citations may be disallowed under certain circumstances, such as when otherwise classified information appears in the public domain because of compromise or unauthorized disclosure, or when the author's DIA/DoD affiliation or position might confirm classified content or information.


7.1.5. Would reasonably not be expected to impair the author's performance of duties, interfere with the authorized functions of DIA or DoD, or have an adverse impact on the security or foreign relations of the United States.

7.1.6. Does not require commitments for drafts or manuscripts prior to the information being cleared.

7.2. DIA personnel should obtain supervisor's concurrence prior to submission of material to [REDACTED]

8. IN A DOD ACADEMIC ENVIRONMENT

8.1. In the interest of academic freedom and the advancement of national defense-related concepts in the DoD school environment, students and faculty members of the Joint Military Intelligence College may prepare academic papers and manuscripts for publication. They may express their views in such materials, as long as those views do not disclose classified or operations security information or jeopardize DoD interests in nonclassified areas, and the author accurately portrays official policy, even if the author takes issue with that policy. Material is to be submitted for review prior to release to any publisher.

8.2. DIA personnel attending other DoD schools will follow the review and approval procedures applicable to such schools, or may use the review services of 

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9. IN A NON-DOD ACADEMIC ENVIRONMENT

9.1. DIA personnel in a non-official academic environment do not have to submit their course work for clearance; however:

- Classified information must not be used, referenced, or divulged.
- Official information unavailable to the general public must not be used.
- Course work should not be posted electronically to a publicly accessible website or published by the academic institution or elsewhere without personnel first obtaining public release clearance.

10. USE OF DISCLAIMER

10.1. Approval for public release of material prepared in a non-official, private capacity or in a DoD-academic environment does not represent DIA endorsement or verification of the information. Such material may be required to carry a disclaimer.

10.2. An appropriate disclaimer is as follows: "The views expressed in this paper [article, briefing, manuscript, etc] are those of the author and do not reflect the official policy or position of the Defense Intelligence Agency, the Department of Defense or the U.S. Government."

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