

Review of classification rules represents an opportunity, even for medicine

Steven Aftergood

The US system of classifying national security information is bloated and dysfunctional, shielding the government from the scrutiny it needs to avoid error and abusive practices. In the medical field, this secrecy has, in rare cases, enabled unethical, state-sponsored research to proceed without public knowledge. The Fundamental Classification Guidance Review that is now underway could make a difference—if it's done right.

The unauthorized release of many thousands of classified government records by WikiLeaks over the past year continues to make headlines. The debate also goes on as to whether the publication of the secret documents may have placed individuals at risk of physical harm and disrupted legitimate diplomatic activities. But one unambiguously good result of the rash of leaks has been to focus attention on the national security classification system that is used to restrict access to certain types of information.

Even the architects and proponents of the secrecy system acknowledge that it has become unwieldy and ineffective and that it is in need of corrective action. What's worse is that it is susceptible to abuse. Sunlight may not be "the best disinfectant," contrary to US Supreme Court Justice Louis Brandeis's famous suggestion, but the obverse is certainly true: secrecy facilitates corruption, misconduct and unethical behavior.

Some of the darkest chapters of modern medical history—from the US Central Intelligence Agency's MKULTRA behavioral modification program, involving surreptitious drug administration, to the US Atomic Energy Commission's radiation experiments on unwitting human subjects—have been shielded and enabled by official secrecy. It is extremely unlikely that such programs could have been undertaken with full public knowledge. In fact, it is hard to imagine that they could even be publicly proposed without shame. In this sense, openness can serve as a means of error correction or avoidance. Instead of having to repudiate such episodes after the fact, a predominately open government makes it possible to prevent them in the first place.

The current executive order that governs the secrecy system was put forth by US President Obama in December 2009. It permits the classification of "scientific... matters relating to the national security" while also cautioning that "basic scientific research information not clearly related to the national security shall not be classified." In practice, however, even Obama himself has acknowledged "the problem of overclassification," referring to the fact that too much information is classified at too high a level, and that much of it should not be classified at all.

In biomedical science, most classification controls today seem to be focused on areas that are directly or indirectly related to biological weapons, including their development, use, impact, detection and remediation. But even within this fairly well-defined topical area, classification controls often cut a jagged line through the public domain.

I recently sought a copy of a US Department of Defense report that was prepared in 2008 by the JASON government scientific advisory panel entitled "Microbial Forensics," only to be told that the report was classified and could not be made available even in part to unclassified persons such as myself. A request for another JASON report on "Synthetic Viruses" elicited the same response.

Meanwhile, the US Director of National Intelligence has established a thoroughly opaque Biological Sciences Experts Group, which is composed of nongovernmental scientists who advise the country's intelligence community on issues related to biological weapons. Aside from the fact of its existence, nearly everything about the group is classified or otherwise unknown, including the names of its members and its supporting network of subject-matter experts. According to a 2006 charter that I obtained (without authorization, I'm afraid), the Biological Sciences Experts Group was expected to provide expertise across a broad range of disciplines, from microbiology and synthetic biology to medicine, immunology and epidemiology. A request that I filed under the US Freedom of Information Act last April for a copy of the group's most recent annual report on its activities was denied in its entirety.

It hardly needs to be said that there are valid reasons for secrecy. National security, including the conduct of authorized military, intelligence and diplomatic activities, will often depend on a reliable capacity for confidentiality.

But, just as certainly, there is too much classification, and there has been for many years. "The amount of scientific and technical information which is classified," said the Defense Science Board in a 1970 report, "could profitably be decreased perhaps as much as 90 percent by limiting the amount of information classified and the duration of its classification."

This is as true today as it ever was. "We do overclassify," US Director of National Intelligence James R. Clapper Jr. said at his confirmation hearing last summer. "My general philosophy is that we can be a lot more liberal, I think, about declassifying, and we should be."

Experience teaches that a reduction in official secrecy will not occur spontaneously. It will need to be driven by leadership from above, by support from below and with independent oversight.

As the failings of current secrecy policy become more broadly evident, the conditions may finally be ripe for a sharp reduction in the scope of secrecy. The Obama administration has mandated what it calls a Fundamental Classification Guidance Review, which requires all agencies to eliminate obsolete or unnecessary classification requirements. This review, which must be completed by June 2012, could become the vehicle for a real contraction of official secrecy, leaving the classification system both smaller and more effective as an instrument of security policy. To succeed, the review will need steady encouragement from the administration and close monitoring from Congress and interested members of the public. It's an opportunity waiting to be seized.

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