

OS REGISTRY
*** FILE** *Legal 100*
DCID 1/7

16 AUG 1979

MEMORANDUM FOR: Chief, Special Security Center

FROM:

CIA Member, DCI Security Committee

SUBJECT: Revision of DCID 1/7

REFERENCE: Memo from CIA Member, DCI Security Committee, dated 2 July 1979, same subject (OS 9 1623)

1. As stated in subparagraph a of reference (copy attached), certain components within CIA have voiced strong concerns regarding the disappearance of the NOFORN caveat from the proposed draft revision of DCID 1/7. The DCI Security Committee has been alerted to these concerns and verbally advised that the CIA was attempting to coordinate, with the concerned CIA components, a proposed NOFORN draft paragraph to be reinstated in the revised DCID 1/7. Coordination has been completed and you will find our proposed draft NOFORN paragraph attached. As you will note, this proposal represents, in essence, a return to the format and language of the current (18 May 1976) DCID 1/7 NOFORN paragraph, but, at the same time, incorporates and expands on the DIA proposed draft NOFORN paragraph. Further, the NSA proposal for the return of the NOFORN caveat to cover intelligence controlled under DCID 6/2 is incorporated in the attached draft.

2. It is noted that revitalization, in any form, of NOFORN as a sensitivity marking in the revised version of DCID 1/7 will require a corresponding elimination of "NO FOREIGN DISSEM" as an obsolete marking as set forth on page 8, paragraph 9, the last sentence, of the proposed revision of DCID 1/7.

3. In addition to the NOFORN issue, additional CIA recommendations and concerns regarding the revision of DCID 1/7 are contained in the referenced memorandum to SECOM. As set forth in subparagraph e of the attached reference, one of the areas of concern, now shared by the Office of General Counsel (OGC), regards the control marking. OGC has advised

that they are pursuing with the U. S. Department of Justice the legal ramifications of the use of [] on an unclassified document. A final legal opinion regarding this matter will be forwarded as soon as received from OGC, and will hopefully be available to you prior to 23 August 1979 (the next scheduled meeting of the SECOM Compartmentation Subcommittee).

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4. During the coordination process regarding the NOFORN paragraph, additional concerns were brought out regarding the ORCON and REL (--) control markings and the proposed wording of certain sections of the draft revision of DCID 1/7. These concerns/suggestions and the rationale for them are set forth as follows (changes/additions in wording are underlined):

a. Experience has indicated that even though the "primary referent" mechanism is supposedly operative and a provision of the current DCID 1/7, it has, in fact, not been put into effect. Individual Intelligence Community organizations have not designated "primary referents" to expedite the flow of intelligence to the appropriate end-user or consumer. This failure has occasionally resulted in the waste or misdirection of large amounts of R&D funds. In an effort to rectify this problem, the following change is proposed for paragraph 2, subparagraph b, page 2, sentence 5: ". . . will designate a primary referent to ensure that these procedures are available and understood by consumers within each organization. The referent will, in turn, serve as a channel through which intelligence consumers can seek relief from certain controls (the function of the referent will in no way impinge on existing regulations for the handling, security, dissemination and use of intelligence in compartmented or restricted channels). Originators . . . promptly."

Rationale: The above wording will place added emphasis on the necessity to designate a "primary referent" and clarify the primary referent's role in securely facilitating the orderly flow of intelligence to the appropriate end-recipient.

b. The primary concern regarding the AUTHORIZED FOR RELEASE TO (country(ies)) control marking is that the marking itself provides no instruction or warning to the foreign recipient of the material. It is recognized that the currently proposed DCID 1/7

(paragraph 6e) stipulates that material predetermined to be releasable to a foreign country(ies) may not be disseminated further without approval of the originator. This restriction presupposes that the foreign recipient is familiar with DCID 1/7 or more likely any "third party" constraint agreement between the United States and the recipient foreign country(ies). To address this concern and allow for the possible lack of awareness on the part of foreign recipients, it is recommended that the word ONLY be added to this control marking after the (country(ies)) designator. Therefore, the control marking would read: AUTHORIZED FOR RELEASE TO (country(ies)) ONLY. This control marking may be abbreviated REL (country(ies)) ONLY.

Rationale: The rationale for this change is set forth above, but concisely put, it is to add a visual "flag" to the REL () ONLY control marking to alert the recipient foreign government(s) that the material is not to be disseminated further without the approval of the originator.

c. It is suggested that the clauses be inverted in the sentence beginning on line 4, paragraph 6, subparagraph a(2), page 5, to read as follows: "In making such assessment, consideration should be given to reducing the risk to the intelligence sources or methods which provided the intelligence by sanitizing or paraphrasing the information so as to permit its wide dissemination."

Rationale: This change would place the emphasis on the purpose of reducing risk and subordinate the means by which this purpose would be achieved.

d. It is suggested that paragraph 6, subparagraph b(2), the first sentence, be changed to read as follows: "Information bearing this marking may not be disseminated beyond the Headquarters elements⁵ of the recipient organizations and may not be incorporated in all or in part into other reports or briefings without . . . originator." Footnote 5 would, in turn, be revised to read: "At the discretion of the originator, the term 'Headquarters elements' may include subordinate intelligence-producing components."

Rationale: It is felt that occasionally an overly strict interpretation of the phrase "headquarters of the recipient organization," coupled with intelligence distribution system deficiencies outside the CIA, have inhibited the flow of Directorate of Operations intelligence to intelligence-producing components and end-users (with a clear need-to-know) which are subordinate to recipient organizations. This suggested change is designed to encourage recipient organizations (specifically, primary referents) to work closely with intelligence-originate/collecting agencies to ensure that consumers with a clear need-to-know receive information relevant to their tasking. The added phrase "or briefings" is designed to provide additional protection to information bearing ORCON control.

e. Paragraph 6, subparagraph b(2), page 6, with the sentence beginning on line 2, should be changed to read: ". . . and that timely procedures, per paragraph 2b above, are established . . . marking."

Rationale: This change will link the procedures for the release from ORCON control with the role of the primary referent (see recommendation a above) in facilitating such relief.



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Attachments (2)

Distribution:

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OS/P&M/PPG/[redacted] cbt
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PROPOSED DRAFT NOFORN
PARAGRAPH TO DCID 1/7

"f. NOT RELEASABLE TO FOREIGN NATIONALS (NOFORN)"

(1) Classified intelligence so marked means that the originator has predetermined that the release of the material in any form to foreign governments, foreign nationals or non-U. S. citizens is not appropriate. Originators may be requested to waive their determination.

(2) Examples of when this control marking may be applied are as follows:

(a) When there would be a possible compromise of the status of relations with collaborating foreign governments or officials.

(b) When intelligence controlled under DCID 6/2 would be jeopardized.

(c) When intelligence has been officially or unofficially obtained from a foreign government or national with the implied or explicit understanding that it not be given to any other country.

(d) When the continuing viability of vital technical collection programs would be jeopardized.

(3) This marking may be abbreviated NOFORN.