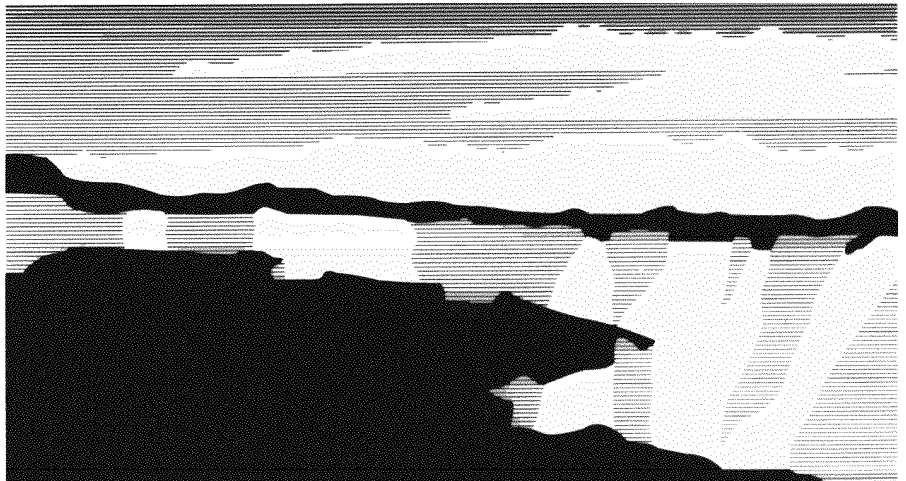


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Public Releasability of Technical Information: The Experience of Los Alamos National Laboratory

by Kenneth Alan Collins

Abstract

The public release of information that was once classified or that is currently unclassified, but in some way controlled (i.e., restricted, sensitive) is becoming increasingly important within the DOE community (and beyond) for several reasons. Two important reasons for this are (1) the Department's emphasis on openness and (2) the accelerating use of the World Wide Web and the Internet in general to quickly and easily disseminate the published results of research. This paper explores the experience of the Los Alamos National Laboratory (LANL) Research Library's Report Collection in confronting and resolving a wide-ranging cluster of issues relating to what information can be publicly released: how to identify it, historical roots, and putting into place a process that would make information that does not really need to be controlled available to the public. Working with the LANL Classification Group, specific problem areas were identified and appropriate guidelines developed -- each of these areas are described and the decisions reached summarized. The paper concludes with some lessons learned and suggests some of the important questions that the DOE and similar communities will probably have to resolve as we move into the era of electronic document delivery.

Introduction

The Report Collection of the Los Alamos National Laboratory's Research Library houses a significant number of Los Alamos technical reports that have been declassified over the years. Current DOE and laboratory procedures require that a declassified report must also be reviewed for controlled or sensitive information before being made available to the general public. Although the Classification Group at Los Alamos had begun reviewing selected declassified reports on a case-by-case basis to determine suitability for public release, it was only when the Report Collection embarked on efforts to optically scan Los Alamos technical reports and to clearly document and mark the classification status of all such reports, that the need to develop formal procedures and make policy decisions arose.

This paper describes the complex set of public releasability issues that emerged as a result of the collaboration between the Report Collection and the Classification Group. Because questions of public releasability have not been systematically handled across the DOE complex, it is my hope that this paper will help foster a discussion on how the Los Alamos experience compares with others, what issues may have been overlooked, where our decisions part company with those made by other DOE facilities, and how we all can

encourage a DOE-wide approach to resolving the issues and simplifying the effort to make information that no longer needs to be restricted publicly available.

NOTE: In this paper, terms such as "restricted," "limited," "sensitive," "controlled," and "caveated" will be used to mean substantially the same thing -- unclassified information that may not be made generally or publicly available.

What does Publicly Releasable Mean?

At Los Alamos National Laboratory (LANL), the term "publicly releasable" means that information has been reviewed by the appropriate entity (typically, but not, in all cases the Classification Group) and found to pose no danger or violate any other information controls if made available to any person or organization, domestic or foreign. In its most narrow sense, it refers to the review of declassified information to determine whether or not any unclassified "caveats" need to be applied; any such caveat would restrict the information from being made publicly available. In a somewhat more expansive sense, it refers to the removal of any and all restrictions that had previously existed on dissemination of information. Such restrictions may have applied to unclassified as well as to previously classified matter .

While the concept of public releasability is not local, that is, unique to LANL, "Publicly Releasable" is a LANL designation that actually is stamped on a paper document. The name of the person making the determination and the date the determination was made, are written in, to verify the validity of the determination.

This paper focuses on technical information specifically. Issues related to personnel, administrative matters or internal policy-making, are excluded from consideration. Also, technical subject areas covered by a DUSA (Designated Unclassified Subject Area) are automatically exempted from formal classification review.

Public release of information is becoming increasingly important. The DOE's Openness Initiative has made it clear that we have an obligation to make information available to the general public when there is no longer a legitimate need to restrict or protect it. However, DOE Orders are not terribly clear on how one makes public release determinations. The time has arrived for consistent, rational standards across the complex and throughout the federal government. With each facility holding information generated by others, the lack of clear standards and information exchange mechanisms means inconsistent handling of the same information at different sites, and duplication of effort due to an uncoordinated situation.

Furthermore, with the conversion of archival holdings to electronic form, followed by dissemination via the Internet, the need for consistent standards

and procedures becomes ever more pressing. Last but not least, providing optimal customer service requires information managers, librarians, archivists, and record managers to make access to information as easy and straightforward as possible.

From the perspective of public releasability, unclassified information falls into one of three categories:

- **Inherently publicly releasable.** This is technical information intended for dissemination outside the organization that has always been unclassified and never had any restrictions place on it. There is no indication of any access or use limitation placed on the information when it was originally created or at any subsequent time. An exception, however, is information *primarily* concerned with administrative matters, etc., which contains some technical information but may not necessarily display indications of restriction, since there was never any intent to eventually make it publicly available.
- **Previously restricted but the restriction(s) no longer apply.** This is information that had once been controlled, but that upon later review was found to no longer require control. At LANL the lifting of any restrictions must be by a formal review and approval process. In the case of declassified information, note that originally there was never a separate issue of public release. Generally, once a document was declassified it was equivalent to being suitable for the public domain. With the accumulation of restrictions on unclassified information, the picture has become considerably more complex in recent decades.
- **Still restricted.** After review, information that had been restricted is determined to still require control.

There are three main sources of restriction on DOE information:

- a) **U.S. and state law** (e.g., Atomic Energy Action of 1954, as amended; Code of Federal Regulations (various titles), California Information Practices Act;
- b) **DOE Orders** (e.g., 1430.1D, 471.2, 5650.3A)
- c) **Local practice** (limitations created by the originating/collaborating institutions)

Since technical information is obviously restricted if it is classified, this area is well defined. Unclassified information may be restricted from three main perspectives:

- a) **national security** (e.g., **Unclassified Controlled Nuclear Information--UCNI**)
- b) **economic/legal** (e.g., Applied Technology, Export Controlled, Proprietary)
- c) **personnel/administrative/internal** (Official Use Only)

but the criteria become somewhat more elusive. Generally, restrictions placed on declassified DOE-originated information stem from national security concerns.

Some considerations regarding the public release review process:

- Review must be by the agency that created the information/document;
- It is not entirely clear whether Opennet or local databases can be used as an authority for releasing information to the public;
- Ideally, DOE's Office of Scientific and Technical Information (OSTI), as the central clearinghouse for DOE-generated scientific and technical information, should be notified when an agency makes a public release determination concerning a document that previously had been furnished to OSTI. Unfortunately, this has generally not been the case, although in recent years, LANL has begun informing OSTI in writing of all downgrading, declassification, and public release decisions concerning technical reports originally furnished to OSTI.

Public Release Review of LANL Report Collection Holdings

There were several "drivers" for the Report Collection's desire to resolve public release issues. First, unique to the DOE national laboratory community, the LANL Research Library, of which the Report Collection is a component, is open to and serves the general public. For us it is critical to be absolutely clear on what information can be given to the public and what cannot.

Next, a high priority of the Research Library has been to build an on-line library management system containing records for both classified and unclassified/controlled documents, primarily technical reports. Wherever possible, we want to know the status of a document **before** determining whether the bibliographic record describing it should go into our unclassified (open, that is, containing no records for controlled documents) or classified library system. We are now able explicitly indicate in the relevant bibliographic records of our unclassified online catalog that a Los Alamos report is both declassified and publicly releasable and the date it was approved for public release. Our unclassified system is available worldwide through the Internet.

Similarly, the Report Collection made a decision that at the time that we retrospectively created bibliographic records for our holdings, we would physically separate the actual documents according to the database in which the records resided. Once again, being able to know the status of the document definitively before separating the Collection would obviously be more efficient than re-locating later.

Another important driver was the Report Collection's project to scan all Los Alamos technical reports, a key element in delivery of information and documents to customers' desktops. The status of reports had to be definitively

indicated prior to making them available through either the open or secure network.

A formal body of public release review policies and procedures at LANL developed through the efforts of the Classification Group to solve an on-going series of issues raised by the Report Collection. Because of the size of the Collection and the requirement for responsible stewardship, the Report Collection Team uniquely tends to encounter a broad spectrum of unusual issues for which formal decisions, clearly documented, were needed. Through a one-year, iterative effort between these two entities (the Report Collection and the Classification Group), issues were systematically dealt with, decisions made and reviewed to ensure they were consistent with previous decisions, and a detailed guidance memorandum prepared which was revised numerous times in response to not only new problems, but reconsideration of a previous decision as the "big picture" emerged over time.

The following is a summary of the major issues dealt with:

- Official versus "other" documents
- Unclassified Controlled Nuclear Information (UCNI)
- Applied Technology
- Comprehensive Classification Review Program (CCRP)
- Restricted
- Official Use Only
- Rover Declassified
- U.S. Sales Only
- Deleted text
- Local restrictions
 - ◇ Limited access
 - ◇ Limited distribution
 - ◇ Special distribution
 - ◇ Post hoc author limitation
 - ◇ Los Alamos Controlled Publications (LA-CP series)
- Reproduction requiring written consent...
- Availability from Government Information Centers
- Discrepancy between originating agency and OSTI
- Valid indication of public release review

Official versus "other" documents

Early on, we made a distinction between "official" documents and "other" documents. Official publications are those which *must* undergo Classification Group review prior to being issued. The "other" category refers to strictly internal documents that were not originally intended for public dissemination and therefore may never have undergone review -- this is quite important, since

such documents may appear to be unclassified and non-sensitive, when in fact, they *are* sensitive, but no indications explicitly appear on the document.

Unclassified Controlled Nuclear Information (UCNI)

This category of controlled information has been very difficult to clearly understand. It is covered by Section 148 of the Atomic Energy Act. Originally, the only public release issue for declassified documents was whether they contained Section 148 information. The LANL Classification Group recently made a decision that any document that had been reviewed for Section 148 and was found not to contain such information could be treated as publicly releasable without further review. The one exception is documents declassified under the Comprehensive Classification Review Program (CCRP), which will be discussed later.

One UCNI problem area has been how to treat reports that were reviewed for Section 148 and a determination made that they "may contain UCNI." The "may contain" indication is a result of the absence of final DOE rules for some aspects of an UCNI (e.g., Section 148). With the Classification Group, we determined that for all practical purposes, "may contain UCNI" material is treated as equivalent to "Does contain UCNI." Although a "may contain" document can be re-reviewed for final determination, in the absence of final rules, the likelihood is that the review would result in a continuation of the "may contain" designation.

Applied Technology

This designation is used to prevent information about valuable technologies from being disseminated to foreign competitors. The only DOE Program Office currently using it is the Office of Nuclear Energy.

Some of the problems with this designation, from the standpoint of a library collection, is that the designation has been applied retroactively, and therefore, some copies of the documents may not carry the warning. The restriction, when placed on some very early technologies, appears to be highly questionable, and only serves to deny those having a legitimate need access to the information.

Because of OSTI's microfiche procedures, instances have been discovered of LANL reports with an ***Applied Technology*** designation on the inside cover being issued as "Unlimited distribution" because until recently, OSTI did not microfiche the front and back of the cover page. (See below, "Discrepancy between originating agency and OSTI").

One of the problems with this designation, as with some others, is there is a lack of policy and procedures on whether access is limited to U.S. government and its contractor personnel, or is considerably more restrictive.

Comprehensive Classification Review Program (CCRP)

The CCRP was a large-scale declassification carried out between 1971 and 1975 that subsequently was found to be plagued with problems. As a result, declassification under CCRP is not, by itself, accepted any longer as a valid determination that information is in fact declassified. As a result, at LANL, substantially different procedures were developed by the Report Collection and the Classification Group to make public release determinations for this large subset of declassified reports.

The first step was to be able to clearly identify those reports that had been declassified under CCRP. Three criteria were used as indicators:

- The declassification date was between Jan. 1, 1971 and Dec. 31, 1975;
- The document might bear a stamp *CLASSIFICATION CANCELED PER DOC REVIEW date*;
- The document might bear a label stating *Verified Unclassified* with the name of the authorized LANL derivative declassifier and the date.

CLASSIFICATION CANCELED PER DOC REVIEW was a DOE-wide designation indicating declassification under CCRP. In contrast, *Verified Unclassified* was a local designation developed by the LANL Classification Group to indicate that a document originally declassified under CCRP had been subsequently reviewed under rigorous procedures and found to be declassified. Only if a CCRP declassified document had been through a subsequent review and been "Verified Unclassified" could it be treated as genuinely declassified.

Therefore, to be publicly releasable without a new review, a CCRP report must indicate both *Verified Unclassified* and that it does not contain UCNI (i.e., Section 148). Documents that state only "Does not contain UCNI" must be re-reviewed to determine that they have been properly declassified. Even reports that are now available from U.S. information centers (e.g., NTIS) but which are not marked *Verified Unclassified* in our Collection must be reviewed by the Classification Group.

Restricted

Restricted was a classification marking in use before Dec. 15, 1953. Documents marked *Restricted* that were issued before this date must therefore be reviewed first to determine if they can be declassified, and if they can, whether they are publicly releasable.

Official Use Only

Official Use Only was a classification marking used from July 18, 1949 to Oct. 22, 1951. It has no relationship to the current *Official Use Only* caveat placed on some unclassified information. Thus, documents issued between the above

dates must be reviewed first to determine if they can be declassified, and if they can, whether they are publicly releasable.

Rover Declassified

Originally, the LANL Classification Group decided that Rover Program documents that already had been declassified would be automatically publicly releasable without a formal review. However, based on concerns about other information that might be found embedded in Rover Program documents, this decision was revised and now Rover Program documents that have been declassified must receive a formal review for public releasability.

U.S. Sales Only

This designation appears on some microfiche reports distributed by OSTI. It was not clear to the LANL Report Collection if this was an indication of controlled information or not. After formal inquiry, LANL received an explanation in writing from OSTI that the statement reflected an agreement between OSTI and the National Technical Information Service (NTIS) not to sell so-designated OSTI-supplied reports to foreign organizations or individuals. This was based on arrangements between OSTI and some of its foreign partners to ensure that foreign customers obtained certain reports from their home agencies and not directly from a U.S. agency, such as NTIS. In sum, no public release issue is involved, and such reports can be accessed, world-wide, via the Internet.

Deleted Text

Some classified Los Alamos reports have had text deleted from them so that in the deleted form they would contain no classified information. This was handled in two different ways. The report might be republished with an appended report number, e.g., LA-10000-Del. Alternatively, the undeleted report was altered by hand (text might literally have been cut-out). In such instances, the "-Del." suffix was handwritten after the published report number. Presented with these two scenarios, the LANL Classification Group determined that an unclassified report with a published report number that included the "-Del." suffix was publicly releasable absent any other caveat or controlled designation. The Report Collection has decided that as a matter of policy, classified reports that had been altered by hand will not be submitted for public release review. One interesting question the Report Collection has not ultimately resolved is whether to retain a "-Del." version of a report if the full report becomes declassified and publicly releasable.

Local Restrictions

One of the stickiest problem areas in publicly releasing documents has been the use of local restrictions. By definition, these are limitations created by one organization that are not in general use. Several problems with the use of local "informal" restrictions at Los Alamos have been identified:

- Lack of documentation on the meaning of the limitation;

- Used in isolation -- there is nothing on the document to explain the rationale for the limitation;
- No expiration date provided -- thus the restriction tends to apply long after it has any usefulness;
- Applied ***after*** the document has been published and distributed.

Some of the restrictions that have been more widely used locally at Los Alamos are:

- * Limited access
- * Limited distribution
- * Special distribution

An ad hoc team meeting at Los Alamos to inventory all caveats/controlled information designations, proposed that only "Limited access" be retained, and used, not in isolation, but as a flag to call attention to an "official" caveat, e.g., "Limited Access: Export Controlled Information."

The existence of these local designations on reports has required them to be reviewed by the Classification Group for public release, without any indication of why they were originally restricted. Current procedure is that whenever at least one of the authors of the publication is still with the Laboratory, he or she is asked to make a determination of whether the information still needs to be controlled. If not, the Report Collection obtains a statement in writing from the author, and indicates that the report is publicly releasable.

Similarly, if an author placed a post hoc restriction on dissemination of a document, current policy is to obtain release first from the author (if still a member of the Laboratory community) and if not, then have the Classification Group make a determination. The Report Collection has implemented a policy, however, that it will no longer accept a post hoc limitation that the author wishes to place on a report held in the Collection. Instead, an author who wants to subsequently place a limitation on information will be expected to make such a request to the Classification Group for its determination.

Another situation arises when a report appears in the LA-CP series. The "CP" originally stood for "Classified Publication" but some years back was changed to mean "Controlled Publication," an expanded concept that includes not only classified information but unclassified information that is intended to be restricted. Though these reports may not bear any explicit designation of restriction, the very fact that they are on the LA-CP series means that ipso facto, they must be reviewed and a formal decision made before they can be publicly released. The procedure to be followed is the same as that worked out for such local designations as "Limited Access" and "Special Distribution."

Reproduction Requiring Written Consent...

For approximately 20 years, it had been routine policy to place the following statement on the inside cover of all classified Los Alamos "formal" technical reports (and in some cases, on unclassified reports as well):

NOTICE: Reproduction of this document requires the written consent of the originator, his successor, or higher authority.

However, investigation by the Report Collection during the past year of why this was being done revealed no clear rationale. While it appears that this statement was never literally followed for internal reproduction, with the implementation of modified accountability throughout DOE, whatever rationale might once have existed would be very difficult to enforce. This being the case, several groups at the Laboratory worked together to review the situation and propose that routine use of this statement be discontinued.

The groups involved were the Report Collection, Communication Arts and Services (technical writers, editors, illustrators), the Classification Group, and Information Security. The Information Security Officer for the Laboratory issued a formal memorandum approving discontinuation of the routine use of this statement on future reports. It also approved reproduction of reports containing the statement ***without approval*** from the author, successor, or higher authority, ***in the absence of any other specific restriction appearing on the document***

Complicating Situations

One of the lessons learned from the Report Collection's increased awareness of the complexity of public release issues has been an growing appreciation for the need to standardize, rationalize, and communicate amongst all those organizations facing similar problems. Two current situations are reviewed below, describing the situation, indicating how it has been resolved for the interim, but highlighting the need for a unified strategy to bring documents into a public setting.

Availability from Government Information Centers

One of the complicating problems the Report Collection has regularly dealt with is that we hold a report with a restriction on it but the same report can be ordered by the public from a government information center, typically, NTIS.

The Report Collection and the Classification Group made a decision that a controlled report held by the Report Collection could be automatically marked as publicly releasable without Classification Group review, if available to the public from a government information center, except for three situations:

- * Classified
- * UCNI
- * Declassified under CCRP without subsequent review

If any of these three situations apply (and they have arisen), the Report Collection notifies the Classification Group for decision on how to resolve the discrepancy.

Discrepancy between Originating Agency and OSTI

The Report Collection has discovered discrepancies in the identification of controlled information in a technical report as published by Los Alamos National Laboratory and in the microfiche version produced by OSTI. There are instances in which the hardcopy report we hold is controlled but the microfiche indicates "Unlimited Distribution" (OSTI's term for publicly releasable), and the reverse exists as well.

If available from OSTI, it becomes automatically publicly releasable except if the report falls into one of the three exceptional categories listed under "Availability from Government Information Centers" above or if we believe a processing error has been made by OSTI. If the latter, we notify OSTI.

By working closely with OSTI, we believe we have resolved two of the problem areas:

1. OSTI formerly filmed from the title forward and did not include the cover page, front or back. LANL customarily has placed some caveat statements on the front or back of the cover. OSTI has changed its procedure and now films cover-to-cover.
2. OSTI had, on occasion, placed a caveat on a report submitted by LANL but had not informed LANL. Therefore the Report Collection's copy was treated as publicly releasable, the OSTI microfiche as limited.

One of the as yet unresolved issues is how all members of the DOE community can work together to put in place a system to ensure that public release reviews and approvals are available to all and can be used as the basis for making reports at various locations publicly available.

Related Activities at LANL

As a result of the Report Collection's desire to ensure the appropriate distribution of and access to classified and unclassified/controlled reports two improvement projects emerged.

Yellow-Folder Project

This project resulted from the Report Collection's goal to clearly indicate the status of all reports that had gone through any kind of classification or controlled information change. The name originated from the use of yellow manila folders in which all official documentation concerning the status of the information content of the report would be brought together and filed with the report -- typically such documentation related to downgrading, upgrading, declassification, changes in controlled information status, and public release review. One of the first areas of focus for the Yellow-Folder Project was declassified reports, and in carrying out the Project, many of the issues emerged which required the prolonged cooperative effort with the Classification Group to resolve.

Caveats Team

Because of increasing concern about how to handle controlled information, the Report Collection initiated an ad hoc effort to examine caveats used to protect and restrict information. The Team's regular members came from the Report Collection, the Classification Group, and Communication Arts and Services (technical writing, editing, etc.) Group, with "floating" members joining from Information Security, Procurement, General Counsel, and other areas as specific needs arose.

The goals were to inventory all applicable caveats at LANL, determine what each meant, the source and/or authority for each, what was the appropriate LANL or external organizational unit to determine if the caveat was needed on a specific document, propose time limits when applicable, define how the caveat was to be used and to whom it applied, procedures for access control, process improvements, and as a final product, develop a useful guide for the LANL community.

Although the Team had to terminate before completing all its objectives, excellent progress was made on developing a matrix inventorying current and obsolete caveats, citing the source or authority, developing definitions, proposing the appropriate unit to make caveat determinations, and suggesting time limits, when applicable. The Team also proposed the discontinuation of most "local" caveats, i.e., those that did not have an official basis in DOE Orders.

Lessons Learned

The on-going effort to move information from a restricted environment into the public realm resulted in a number of lessons learned:

- Managing controlled information is not straightforward;
- Consistent with good security and responsible stewardship, move information into the least controlled environment possible;
- Simplify wherever possible;
- Work closely with those responsible for classification and information security decisions;
- Document precisely all issues and their resolution -- this often becomes the basis for formal policy and procedures;
- There is a positive institutional impact when the handling of information and access to it can be simplified;
- Share problems and their resolution with other sites.

Questions for the Future

Some fascinating questions are beginning to emerge from the effort to re-examine previously classified and controlled information and place it in the public domain. Most of these are a result of the growing importance of the Internet in the delivery of information easily, widely and quickly. When the

LANL Research Library's Report Collection began trying to clarify policies and procedures relating to public releasability, we were still focusing on hardcopy. However, in the course of tackling the public release questions, we also moved into high gear to begin making technical reports available to our users electronically.

Here are some of the emerging issues I suggest the DOE community (and beyond) will have to start to grapple with and resolve:

- Does public releasability mean one thing for paper and microfiche, on the one hand, and another thing when the same information is widely-disseminated in electronic form? If so, what are the differences and how are they justified?
- Using the example of the **U.S. Sales Only** designation described above, how does the international sales paradigm hold-up when worldwide electronic publishing of and access to information over the Internet become virtually effortless?
- What technological structures and cooperative approaches can we put into place to escape from the old model of separate physical collections, each separately managed (including information security aspects considerations) and move towards a model that allows all to benefit from each others' efforts in making technical and research information as widely available as is permissible?

To do this we must develop a clear understanding of the new world we are entering, share communications and technical systems, and build a common collaborative framework. Most of all we need to leverage individual efforts by taking mutual advantage of where we all find we are increasingly going.