



UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES



SUBJECT: Clearance for Public Release of Information and Scientific Materials by USUHS Personnel

Instruction 5202.1

OCT 12 1989

(VAM)

ABSTRACT

This Instruction assigns responsibilities and prescribes the procedures to be followed for the appropriate, accurate, and timely clearance and public-release of information, including but not limited to, the public release of manuscripts, and information written or produced for submission to journals and magazines.

A. Purpose. This Instruction reinstates Uniformed Services University of the Health Sciences (USUHS) Instruction 5202^a, cancels USUHS Instruction 7700^b, and delineates requirements for clearance, control and disposition of information for public release, so as to ensure that USUHS policies conform with Department of Defense (DoD) public information directives.

B. References. See *Enclosure 1*.

C. Applicability. The provisions of this Instruction apply to all employees of the USUHS and the Armed Forces Radiobiology Research Institute (AFRRI), to include civilians and members of the Uniformed Services.

D. Definitions. See *Enclosure 2*.

E. Policy. It is USUHS policy that:

1. Accurate and timely information will be made available to the public, Congress and news media for analysis and understanding of University issues and programs;

2. Public release of official DoD information is limited only when it is necessary to safeguard information requiring protection in the interest of national security or other legitimate governmental interest, as authorized by the enclosed references;

3. University information officially released should be consistent with established national and DoD policies and programs. In the majority of instances, the release of information can be expeditiously approved by the appropriate USUHS Department Chair or Activity Head;

4. University authors may take issue with U.S. policy as long as such policy is accurately portrayed and it is clear that the opinion expressed is an individual opinion, and not that of the USUHS or the DoD. University authors should keep in mind the advice of paragraph 10.a. of this Instruction (i.e., that the public may judge their profession, their institution, and the DoD by their public statements);

5. Public release of University information (to non-DoD sources) pertaining to military matters, national security issues, or subjects of significant concern to DoD will be reviewed for clearance in conformity with the appropriate DoD security review process. In general, information will be submitted for review if it:

- a. has the potential to become an item of national or international interest (e.g., an issue or information that contradicts or challenges national policy), or has foreign policy or foreign implications,
- b. concerns a high-level U.S. Government, DoD policy,
- c. concerns subjects of potential controversy among the DoD components or with other Federal agencies, and/or
- d. is classified information that cannot be released to any unauthorized individual or organization without the expressed approval of the designated U.S. Government authority responsible for the information;

6. To ensure a climate of academic freedom and to encourage intellectual expression, University faculty (civilian and military) and students do not ordinarily need to submit papers or materials prepared in response to academic requirements.

However, papers or materials that are intended for public release (i.e., outside the USUHS or the DoD), will be made available to public access libraries and shall be submitted to the appropriate Department Chair or Activity Head for review. Clearance shall be promptly granted if classified information is not disclosed, the DoD interests in non-classified areas are not jeopardized, the author accurately portrays official policy, and if required (see paragraph 5. above), release has been approved by the DoD;

7. The USUHS will authorize public release of information as follows:

- a. "Cleared for Open Publication" without restriction,
- b. "Cleared for Open Publication" with the following disclaimer: "The views expressed are those of the author and do not reflect the official policy or position of the USUHS, the Department of Defense, or the United States Government.",
- c. "Cleared (as amended) for Open Publication." Note Amendments made by the DoD reviewer are binding on the submitter. Such amendments will be identified in red (items to be added) or in brackets (items to be deleted). The reviewer may also provide alternate wording for deleted material, or
- d. "Not Cleared." The information submitted for review may not be released to the public;

8. When in doubt about procedures, areas of concern or applicability of DoD directives or instructions, University faculty and students will contact the Office of University Affairs (OUA) for guidance;

9. Writing, revising, editing, and publishing scientific, academic and professional publications (including electronic means) are considered in the academic interest of the University and constitute an official duty. University members must at all times be accurate, exercise appropriate restraint and show proper respect for the opinions of others;

10. Faculty, staff, and students shall be:

- a. aware that the public may judge their profession, their institution and the DoD by their public statements. As a consequence, they should at all times be accurate, exercise appropriate restraint, show respect for the intellectual property and the opinions of others, and make every effort to indicate that they are not USUHS spokespersons, unless designated as such, and

- b. free from institutional censorship or discipline when they speak, write, or publish through hard copy or electronically, so long as they are speaking and/or writing within their field of expertise and it is within the scope of their duties to do so. Moreover, they are still subject to certain other restrictions, such as those embodied by the consequences of scientific misconduct. The special position of USUHS faculty and staff within the DoD imposes certain limitations on the dissemination of information as defined in Section E. of DoD Directive 5230.9^c and DoD Instruction 5230.27^d;

11. Research performed under budget category 6.1 will be considered to be fundamental research not containing any critical military technology except in rare, exceptional cases, as for example, where there is a high likelihood of disclosing performance characteristics of military

systems, or of manufacturing technologies unique and critical to defense (see *Enclosure 2*); and

12. Consistent with DoD Directive 5230.9^c, all research information arising out of non-critical military technologies in budget category 6.2 will be treated in the same way as 6.1 research. USUHS Research and Development (R&D) funds are categorized as 6.1, 6.2, and 6.3. DoD grants and contracts may be categorized as either 6.2 or 6.3 (see *Enclosure 2*).

F. Responsibilities.

1. The President, USUHS shall:

- a. Make the final determination as to whether material intended for public release, (especially information dealing with truly critical technologies), must be forwarded to the DoD Office of Public Affairs (DoD/PAO) for review before publication if this issue cannot be resolved by the appropriate Dean and the Director, OUA; and

- b. Ensure that granted clearances are documented and appropriate records are maintained by the respective clearance authority (the Department Chair or Activity Head).

2. The Director, Office of University Affairs shall:

- a. Provide guidance and information as requested by faculty and/or staff, reference the publication, or release of information or written material;

- b. Consult with the DoD/PAO when necessary for clarification of issues;

- c. Provide a decision on the release of information in accordance with DoD Directive 5230.9^c within 20 working days of receipt of the request to publish; and

d. Monitor the submission to the DoD/PAO which will confirm or overrule the proposed action within 30 working days).

3. The Deans, School of Medicine or the Graduate School of Nursing shall:

- a. Resolve questions or disputes that may arise between the authors of material submitted for publication and their Department Chair or Activity Head;
- b. Contact the Director, OUA for clarification when in doubt; and
- c. Forward, when necessary, disputes to the President, USUHS for final resolution within 14 working days.

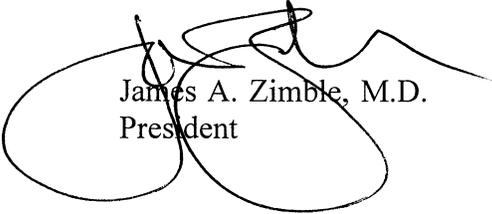
4. The Department Chairs and Activity Heads shall:

- a. Retain responsibility for clearing publications;
- b. Approve/Disapprove the material submitted for review within 14 working days of receipt of the request to publish;
- c. Document and maintain appropriate records on the submitted material; and
- d. Forward all unresolved disputes to the appropriate Dean (SOM or GSN).

5. Faculty or Staff with Material for Publication shall:

- a. Follow the guidance set forth in this Instruction at *Enclosures 2 and 4* when determining whether or not sensitive material is contained within the information proposed for release;
- b. Use the Clearance Approval Form at *Enclosure 3*;
- c. Seek guidance as required from the Director, OUA;
- d. Submit requests for the public release of information to the appropriate Department Chair or Activity Head;
- e. Seek assistance in resolving a dispute from the Director, OUA and/or forward a request for resolution of the dispute through their Chair or Activity Head to the appropriate Dean; and
- f. Forward reprints of articles after publication to the Director, Learning Resource Center (LRC) and the Director of Research Administration (REA).

G. Procedures for USUHS Faculty, Staff, and Students. *See Enclosure 4.*



James A. Zimble, M.D.
President

Enclosures:

1. References
2. Definitions
3. Clearance Approval Form
4. Procedures for USUHS Faculty, Staff, and Students

REFERENCES

- (a) USUHS Instruction 5202, "Clearance for Public Release of Information and Scientific Material by USUHS Personnel," dated December 27, 1989 (cancelled March 24, 1995)
- (b) USUHS Instruction 7700, "Publication Costs," dated June 24, 1986 (hereby cancelled)
- (c) DoD Directive 5230.9, "Clearance of DoD Information for Public Release," dated April 9, 1996
- (d) DoD Instruction 5230.27, "Presentation of DoD Related Scientific and Technical Papers at Meetings," dated October 6, 1987
- (e) DoD Directive 5500.7, "Standards of Conduct," dated August 30, 1993
- (f) DoD 5500.7-R, "Joint Ethics Regulation (JER)," dated August 1993
- (g) DoD 5400.7-R, "DoD Freedom of Information Act Program," dated September 1998

DEFINITIONS

1. R&D Funds are broken down in the following standard subcategories:
 - a. 6.1 Research;
 - b. 6.2 Applied Research;
 - c. 6.3 Advanced Technology Development;
 - d. 6.4 Demonstration and Validation;
 - e. 6.5 Engineering and Manufacturing Development;
 - f. 6.6 R&D Management Support; and
 - g. 6.7 Operational Systems Development.
2. Critical Research implies special or unusual and must be applied selectively; non-critical military technologies will be processed more simply and more speedily at the level of the USUHS without resort of forwarding the matter to the DoD/PAO.
3. Fundamental Research is research performed under budget category 6.1 and will be considered to be fundamental research not containing any critical military technology except in rare, exceptional cases. This information should be expeditiously granted release at the appropriate USUHS Department Chair or Activity Head level.
4. Genetic Research is anticipated that in the case of generic 6.2 research (i.e., research not related to specific military systems), all decisions on publications, with only few exceptions, will be made and documented at the level of the appropriate USUHS Department Chair or Activity Head.

Uniformed Services University
of the Health Sciences

Manuscript Approval or Clearance*

INITIATOR

1. USU Principal author: _____
2. Academic title: _____
3. School/Department: _____
4. Phone: _____
5. Type of publication (submitted to): Paper Article Book
USU WWW Home Page at (location) _____
Other: _____
6. Manuscript title: _____
7. Intended publication (include organization if appropriate): _____

8. Required by (publication receipt) date: _____
9. Date submitted for USU approval: _____

CHAIR OR DEPARTMENT HEAD APPROVAL

1. Name: _____
2. School/Department: _____
3. Date: _____
4. Higher approval/clearance required (for University-, DoD or U.S. Government-level policy, communication systems or weapons issues review*).
**Note: It is DoD policy that clearance of information or material shall be granted if classified areas are not jeopardized, and the author accurately portrays official policy, even if the author takes issue with that policy. Material officially representing the view or position of the University, DoD, or the Government is subject to editing or modification by the appropriate approving authority.*
- Chair or Department Head Approval

Chair or Department Head Signature/Date

(If additional approval or clearance is required, see other side of form)

DEAN APPROVAL

- 1. Name: _____
- 2. School/Department: _____
- 3. Date: _____

- 4. Higher approval/clearance required (for University-, DoD or U.S. Government-level policy, communication systems or weapons issues review*).

**Note: It is DoD policy that clearance of information or material shall be granted if classified areas are not jeopardized, and the author accurately portrays official policy, even if the author takes issue with that policy. Material officially representing the view or position of the University, DoD, or the Government is subject to editing or modification by the appropriate approving authority.*

- Dean Approval

Dean Signature/Date

DIRECTOR, UNIVERSITY AFFAIRS (OUA) ACTION

- 1. Name: _____
- 2. Date: _____

- 3. USU Approved or
 DoD approval/clearance required

- 4. Submitted to DoD (Health Affairs) on (date): _____
or

- Submitted to DoD (Public Affairs) on (date): _____

- 5. DoD approved/cleared (as written) or DoD approved/cleared (with changes)

- 6. DoD clearance/date: _____

- 7. DoD disapproval/date: _____

Director, OUA Signature/Date

PROCEDURES FOR USUHS FACULTY, STAFF, AND STUDENTS

1. If the writing, editing, or electronic publishing is related to the employee's official duties, USUHS academic interests or other responsibilities and programs of the Federal Government, or if his/her official title or affiliation with the USUHS is used, a disclaimer as shown below will be used and the material must be submitted for clearance. This activity includes writing, editing, or electronic publishing in scientific or professional journals, or electronic bulletin boards, news groups, or via the World Wide Web (WWW). Subject to paragraph 4 below, clearance for scientific or professional publications should be given by the applicable Department Chair or Activity Head.

A disclaimer will be used in the release of public information when the writing or electronic publication relates to the employee's official duties or other responsibilities and programs of the USUHS. The disclaimer should read as follows: "This work was supported by the USUHS Protocol N. XXXXXX. The views expressed are those of the author and do not reflect the official policy or position of the USUHS, the Department of Defense, or the United States Government." When the writing, editing or electronic publication concerns research involving the use of animals, the disclaimer should also include the following sentence: "The research reported herein was conducted according to the principles set forth in the Guide for Care and Use of Laboratory Animals, Institute of Laboratory Animal

Resources, National Research Council, HHS, Pub. No. (NIH) 85-23, revised 1985."

2. Sensitive material which is planned for release to the general public, including, but not limited to, written releases, interviews for newspapers, magazines, the public internet (computer systems communication), radio and/or television will be submitted to the Director, OUA for coordination with the Office of Health Affairs and the DoD/PAO).

3. Non-official material: In accordance with DoD Directive 5230.9^b, when not performing official duties, a DoD employee may write, edit, or publish material without restriction, if such effort:

- a. Is consistent with U.S. law;
- b. Complies with DoD ethical standards in DoD Directive 5500.7^c and DoD 5500.7-R^f;
- c. Is not performed at a DoD facility or property nor utilizes DoD resources; and
- d. Does not use official DoD information not generally available to the public and/or not releasable under DoD 5400.7-R^g.

4. Non-billeted faculty will obtain clearance from appropriate authorities at the institution at which they are billeted. This will ordinarily be accepted as meeting USUHS clearance requirements. To the extent papers or materials involve USUHS or work performed pursuant to a USUHS faculty appointment, clearance will be

coordinated with the appropriate Department Chair or Activity Head at the USUHS.

5. Informational material will be forwarded to the USUHS Director, OUA, for review and clearance prior to disclosure if it meets any of the following criteria:

a. Is or has the potential to become an item of national or international interest (e.g., an issue or information that contradicts or challenges DoD or national policy), or has foreign policy or foreign relations implications;

b. Concerns a high-level DoD or U.S. Government policy;

c. Concerns subjects of potential controversy among the DoD components or with other Federal agencies; and/or

d. Is classified information that cannot be released to any unauthorized individual or organization without the expressed approval of the designated U.S. Government authority responsible for the information or concerns the following subject areas:

(1) new weapons or weapons system or significant modifications or improvements to existing weapons, systems, equipment, or techniques,

(2) military operations, operations security, potential operations, and significant exercises,

(3) national command authorities and command posts,

(4) military applications in space; nuclear weapons, including nuclear weapons effects research; chemical

warfare; defensive biological, and toxin research; and high-energy lasers and particle beam technology,

(5) material, including that submitted by defense contractors, involving critical military technology,

(6) communications security, signals intelligence, and computer security, or

(7) others as the DoD/PAO may designate.

6. When a request for approval to publish the results of fundamental research is received, it will be reviewed and a decision made in accordance with DoD Directive 5230.9^b within 14 working days by the appropriate Department Chair or Activity Head.

7. If a decision is requested by the Director, OUA, it must be provided within 20 working days of receipt of the request to publish;.

8. In exceptional cases, a final decision may be requested from the DoD/PAO for resolution. The DoD/PAO is required to confirm or overrule the proposed action within 30 working days.

9. The USUHS, under the procedures for clearance set forth in this section will exercise its responsibility to expeditiously make decisions on all non-critical military technologies, and will pass on to DoD/PAO only that information dealing with truly critical technologies.

Attachment:

Memorandum from the Under Secretary of Defense, Subject: Publication of the Results of DoD Sponsored Fundamental Research, 1 October 1984, Attachment 1



THE UNDER SECRETARY OF DEFENSE

Enclosure 4
Attachment

WASHINGTON DC 20301

RESEARCH AND
ENGINEERING

01 OCT 1984

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (RESEARCH,
DEVELOPMENT AND ACQUISITION)
ASSISTANT SECRETARY OF THE NAVY (RESEARCH,
ENGINEERING AND SYSTEMS)
ASSISTANT SECRETARY OF THE AIR FORCE (RESEARCH,
DEVELOPMENT AND LOGISTICS)
DIRECTOR, DEFENSE ADVANCED RESEARCH PROJECTS AGENCY
DIRECTOR, DEFENSE NUCLEAR AGENCY

SUBJECT: Publication of the Results of DoD Sponsored
Fundamental Research

Reference DoD Directive 2040.2, "International Transfers of
Technology, Goods, Services, and Munitions."

This memorandum defines "fundamental research" in the context of the Administration's recent draft national policy on the transfer of scientific and technical information (attachment 1). The statement requires that, consistent with existing statutes, no controls other than classification may be imposed on fundamental research and its results when performed under a federally supported contract. I would like the policy to be applied consistently to all DoD sponsored research. The policy, however, does not and cannot remove the necessity for sound judgment by all concerned.

Experience shows that attempts to define the terms "basic", "applied", or "fundamental" by elaborating the concept do not necessarily sharpen distinctions for decision making. Simple, unambiguous characteristics, though not perfect, are more useful discriminants. For DoD purposes the decision whether a particular research activity is or is not fundamental will be determined primarily by considering the following easily identified characteristics: (1) performer (for example, university, industry, in-house), (2) budget category (for example, 6.1, 6.2), (3) sponsoring DoD entity, (4) special contractual provisions.

The new policy addresses contracted research, which in the context of DoD is extended to include grants. Unclassified contract research supported by 6.1 funding shall be considered "fundamental." Similarly, unclassified research performed on campus at a university and supported by 6.2 funding shall with rare exceptions be considered "fundamental;" where there is a high

likelihood of disclosing performance characteristics of military systems, or of manufacturing technologies unique and critical to defense, more restrictive contractual clauses may be agreed to by the contracting parties prior to effecting the contract. Contract research performed in off-campus university facilities that is not 6:1 funded generally will not be considered "fundamental."

Furthermore, in order to ensure reasonably consistent treatment for the publication of the results of fundamental research performed in DoD laboratories and components, the guidance provided in Attachment 2 will be followed closely.

In no case may further interpretation of this policy result in more restrictive conditions. In case of disagreements about the nature of research content or the applicability of any of the above policies, differences should be resolved by the Service or Agency providing funding support, and if this fails to result in a resolution, individual cases or questions may be referred to Subpanel B - "Research and Development", as provided for in the referenced directive.



Attachments

NATIONAL POLICY ON THE TRANSFER OF SCIENTIFIC AND TECHNICAL INFORMATION

(Draft of June 15, 1984)

I. PURPOSE

This directive establishes national policy for controlling the flow of science and technology information produced in fundamental research at colleges, universities, and laboratories under contract to U.S. government agencies.

II. BACKGROUND

The acquisition of advanced technology from the United States by Eastern Bloc nations for the purpose of enhancing their military capabilities poses a significant threat to our national security. Intelligence studies indicate a small but significant target of the Eastern Bloc intelligence gathering effort is science and engineering research performed at universities and federal laboratories. At the same time, our leadership position in science and technology is an essential element in our economic and physical security. The strength of American science requires a research environment conducive to creativity, an environment in which the free exchange of ideas is a vital component.

In 1982, the Department of Defense and National Science Foundation sponsored a National Academy of Sciences study of the need for controls on scientific information. This study was chaired by Dr. Dale Corson, President Emeritus of Cornell University. It concluded that, while there has been a significant transfer of U.S. technology to the Soviet Union, the transfer has occurred through many routes with universities and open scientific communication of fundamental research being a minor contributor. Yet as the emerging government-university-industry partnership in research activities continues to grow, a more significant problem may well develop.

III. POLICY STATEMENT

It is the policy of this administration that the mechanism for control of fundamental research in science and engineering at colleges, universities and laboratories under contract to U.S. Government Agencies is classification. Consistency of this policy with applicable U.S. Statutes must be maintained. Each federal government agency is responsible for: a) determining whether classification is appropriate prior to the award of a research grant or contract and, if so, controlling the research results through standard classification procedures; b) periodically reviewing all research grants or contracts for potential classification. No restrictions may be placed upon the conduct or reporting of fundamental research that has not received national security classification.

PUBLICATION OF THE RESULTS OF DOD SPONSORED FUNDAMENTAL RESEARCH PERFORMED IN GOVERNMENT LABORATORIES AND COMPONENTS

Reference DoDD 5230.9, Clearance of DoD Information for Public Release, April 2, 1982.

Department of Defense and other Federal Government laboratories perform much of the R&D sponsored by DoD. The Department has developed procedures for reviewing DoD-generated documents for publication (referenced above), to determine whether they are technologically sound, are consistent with DoD policy, or contain classified information, or critical military technology. These procedures are designed to protect our technological investments from foreign exploitation without impeding our own technological progress.

In view of the new national policy on the publication of unclassified contracted fundamental research, and its implementation in the foregoing memo, this attachment provides guidelines to ensure consistent and uniform treatment for DoD sponsored fundamental research performed in DoD and other Government laboratories and components.

R&D papers that are closely related to military operations and systems deserve close scrutiny before release. However, application of extensive review procedures to the results of fundamental or generic research slows progress and thereby reduces the effectiveness of research investments.

Research performed under budget category 6.1 shall be considered to be fundamental research not containing any critical military technology except in rare and exceptional cases, as for example where there is a high likelihood of disclosing performance characteristics of military systems, or of manufacturing technologies unique and critical to defense. When a request for approval to publish the results of fundamental research is received, it shall be reviewed and a decision made in accordance with DoDD 5230.9 (referenced above), by the originating DoD laboratory or component within 20 working days of receipt of request to publish. In exceptional cases a final decision may be requested from the Office of the Assistant Secretary of Defense (Public Affairs) for resolution. In the latter case, the originating organization must include a proposed action to OASD(PA), and OASD(PA) shall confirm or overrule the proposed action within 5 working days of receipt. The total time for resolution shall be no more than 30 working days.

Consistent with DoDD 5230.9, all research papers arising out of non-critical military technologies in budget category 6.2 shall be treated in the same way as 6.1 research. It is imperative that

laboratory directors and other DoD component heads exercise their responsibility to make decisions on all non-critical military technologies, and pass on for headquarters review only those publications dealing with truly critical technologies. "Critical" implies special or unusual and must be applied selectively; other useful (but not critical) military technologies will be processed more simply and more speedily at the local level. It is anticipated that in the case of generic 6.2 research (i.e., research not related to specific military systems), all decisions on publications, with only few exceptions, will be made at the laboratory director or equivalent level. All such decisions should be documented in a simple, uniform and consistent manner.

Commanding officers and technical directors should make sure that they are fully cognizant of current DoD directives and instructions, in particular those dealing with distribution markings and dissemination controls, to enable them to exercise prudent judgment. If you have any questions or concerns, please direct them to the International Technology Transfer Subpanel B on Research and Development (see DoD Directive 2040.2).