

# **DoD Controlled Unclassified Information (CUI)**

# **CUI Awareness and Marking**

November 2020

https://www.dodcui.mil

CLEARED For Open Publication

Apr 01, 2021

Department of Defense
OFFICE OF PREPUBLICATION AND SECURITY REVIEW

SLIDES ONLY
NO SCRIPT PROVIDED

21-S-0588



This presentation provides basic information on the CUI program.

Mandatory CUI training is provided by the Defense Counterintelligence and Security Agency (DCSA) / Centers for the Development of Security Excellence (CDSE) at https://www.cdse.edu

DoD's CUI policy and a link to the CDSE-provided training are available at https://www.dodcui.mil

INFOSEC Staff: Michael Russo, Chief, Information Security michael.c.russo14.civ@mail.mil

Oscar (Chip Smith) oscar.f.smith.ctr@mail.mil

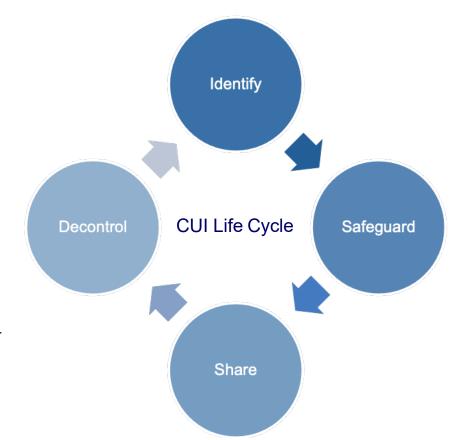
Peggy Ushman peggy.s.Ushman.ctr@mail.mil

Michael (Mike) Orridge michael.a.orridge.ctr@mail.mil

**CUI Executive Agent** - Information Security Oversight Office (ISOO)

**DoD CUI Senior Agency Official** - Under Secretary of Defense for Intelligence and Security (USD(I&S))

**DoD CUI Senior Program Manager** - Director for Defense Intelligence (Law Enforcement, Counterintelligence, and Security) (DDI(CL&S))



NOTE: Not all CUI can be decontrolled. Check with applicable laws and regulations before decontrolling.

Example: Privacy Act information has limitations on decontrol and release.



# **Frequently Asked Questions (FAQ)**

#### What is CUI?

• UNCLASSIFIED information that allows for, or requires, safeguarding and dissemination controls in accordance with laws, regulations, or Government-wide policies.

#### What is the basis of CUI?

- Executive Order 13556, "Controlled Unclassified Information," November 4, 2010
- 32 Code of Federal Regulations, part 2002, September 14, 2016
- DoDI 5200.48, "Controlled Unclassified Information (CUI)" March 6, 2020

### What does DoDI 5200.48 replace/cancel?

DoDM 5200.01, Volume 4 – the original guidance on implementation of CUI.

### What is the CUI Registry?

- Provides an official list of the categories used to identify the various types of CUI.
- The DoD CUI Registry is available at https://www.dodcui.mil



# **Frequently Asked Questions (FAQ)**

### What information requires safeguarding controls?

 Information the Government creates or possesses that is protected by law, regulation, or government-wide policy.

**Example**: DoD work products and emails

 Information that an entity creates or possesses for or on behalf of the Government that is protected by law, regulation, or government-wide policy.

Example: information associated with DoD contracts

### What does not qualify as CUI?

- Classified information
- Information not created by, or under the control of the U.S. Government.

<u>Example</u>: information from a non-executive branch journal article on counterinsurgency

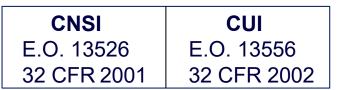


# **Frequently Asked Questions (FAQ)**

#### Is CUI a classification between UNCLASSIFIED and CONFIDENTIAL?

- No. CUI is not a classification and should not be referred to as "classified as CUI." A better way to
  phrase it is "controlled as CUI."
- CUI is a safeguarding system for UNCLASSIFIED information.
- CUI and Classified National Security Information (CNSI) have separate, co-equal Executive Orders and implementing directives.









#### What is the difference between FOUO and CUI?

- DoD's legacy "FOUO" marking was authorized to protect UNCLASSIFIED information that "may be exempt from mandatory disclosure under the Freedom of Information Act (FOIA)."
- The CUI Program developed a common marking system across Federal agencies and created categories to capture the many types of UNCLASSIFIED information requiring safeguarding based on existing laws, regulations, and government-wide policies.

#### What's new with CUI?

- Uniform system
- Indexed guidance (Registry)
- Greater specificity
- Safeguarding standards



#### Does all legacy-marked FOUO qualify as CUI?

- Not necessarily. It is not an automatic one-to-one swap. Some information previously marked as FOUO will qualify as CUI.
- Information previously marked as FOUO does not need to be re-marked as long it remains under DoD control or is accessed online and downloaded for use within the DoD. However, if that same information is put in a new document or is shared outside the Department, it needs to be assessed to see if it meets the criteria for CUI and re-marked appropriately.

#### **Examples of what may qualify as CUI:**

- Defense Critical Infrastructure Information (DCRIT)
- Export Controlled information
- Information related to sensitive international agreements
- Law Enforcement information
- Legal Privilege
- Pre-decisional budget or policy information
- Privacy Act information
- Naval Nuclear Propulsion Information (NNPI)



# **Comparing Previous Markings and CUI**

# Legacy Policy

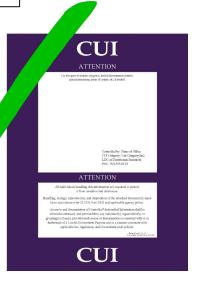
- Marking system and reasoning unique to DoD, DoS, etc.
- Based on FOIA exemptions
- No underlying FOIA category or originator information required
- Encouraged, but did not require or define "secure communications"

#### **CUI Policy**

- Executive branch-wide policy
- Based on laws, regulations, and Government-wide policies
- Requirement to document category and originator
  - Defines configuration standards for Federal and non-Federal systems and requires encryption in transit



Many cover sheets a single cover sheet





# **Information Sharing**

- The standard for sharing and access to CUI is an authorized "lawful government purpose."
- Lawful government purpose any activity, mission, function, operation, or endeavor that the U.S. Government authorizes or recognizes as within the scope of its legal authorities or the legal authorities of non-executive branch entities (such as state and local law enforcement).

#### May I share CUI with State, Local, Tribal, and Private Sector entities?

Unless otherwise prohibited by a limited dissemination control (e.g. "FEDONLY" or "NOFORN"),
and if sharing is consistent with a lawful government purpose, yes, you may; but it's a best practice
to check with your security manager, or information security policy representative.

Sharing U.S. Government information with outside entities may only occur if:

- The entity is authorized to receive the information.
- The sharer is authorized to pass the information.
- The sharing complies with U.S. laws and regulations.
- The sharing benefits the U.S. Government.

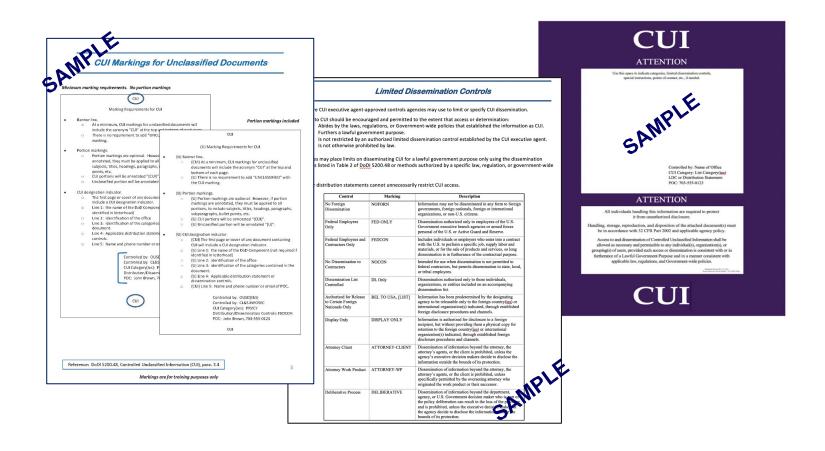
### May I share CUI with foreign governments?

 Unless otherwise prohibited by a limited dissemination control (e.g. "FEDONLY" or "NOFORN"), and if sharing is consistent with a lawful government purpose, yes, you may; but you must check with your foreign disclosure office to ensure there is a signed disclosure agreement or arrangement in place.



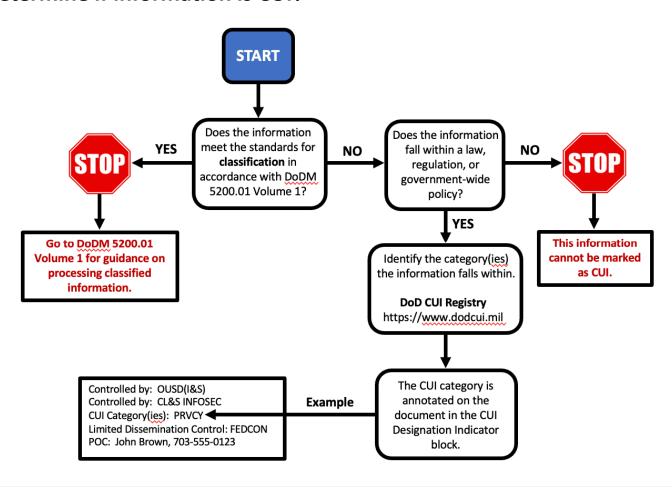
# **CUI Training and Reference Material**

Available on CUI web page at https://www.dodcui.mil



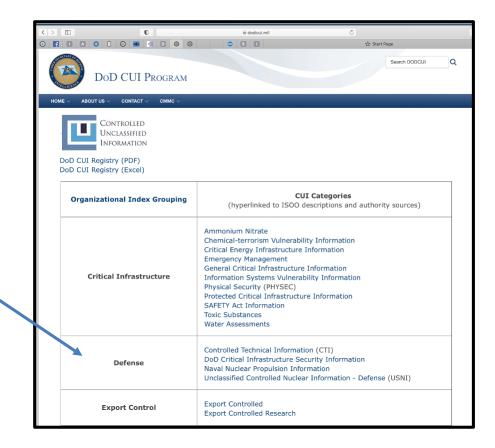


#### How do I determine if information is CUI?





### **CUI Registry**





#### How do we mark CUI?

Mandatory markings include:

- "CUI" at the top and bottom of the page
- CUI designation indicator block

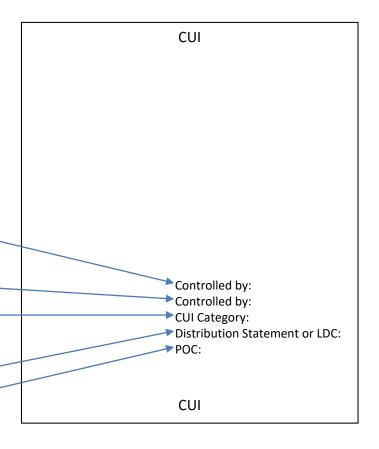
Line 1. The name of the DoD Component. If this is identified in the letterhead or other standard indicator, this line may be omitted.

Line 2. The identity of the office creating the document.

Line 3. Identification of all types of CUI contained in the document. ONLY USE THE DOD-APPROVED CATEGORY ABBREVIATIONS AND ACRONYMS. DO NOT SPELL OUT THE CATEGORY.

Line 4. The distribution statement or LDC applicable to the document

Line 5. The name and phone number or office mailbox for the originating DoD Component.





# **CUI Designation Indicator Block**

Controlled by: OUSD(I&S)

Controlled by: CL&S INFOSEC

CUI Category(ies): PRVCY, OPSEC

Limited Dissemination Control: FEDCON

POC: John Brown, 703-555-0123

Controlled by: OUSD(I&S)

Controlled by: CL&S INFOSEC

CUI Category(ies): CTI
Distribution Statement B

POC: John Brown, 703-555-0123

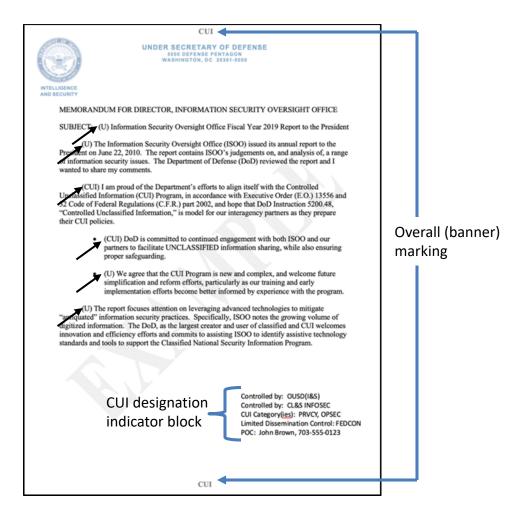
Demonstrates use of LDC

Demonstrates use of Distribution Statement. The full distribution statement will be placed on the cover or first page of the document.



Portion marking is optional. However, if portion markings are applied, then all portions must be marked. Portions include subjects, titles, paragraphs and subparagraphs, bullet points and subbullet points, headings, pictures, graphs, charts, maps, reference list, etc. Do not apply portion marks to the designation indicator block.

When portion marking, all portions containing CUI will be portion marked with "(CUI)." Do not place "(U)//" before "(CUI)." Unclassified information will be portion marked with "(U)."





### **Distribution Statements**

#### **Distribution statements**

Distribution statements, in accordance with DoDI 5230.24, are authorized for use with:

- CUI export controlled technical information
- Other scientific, technical, and engineering information
- Controlled technical information

Distribution Statement A: Approved for public release. Distribution is unlimited.

Distribution Statement B: Distribution authorized to U.S. Government agencies only [fill in reason and date of determination].

Distribution Statement C: Distribution authorized to U.S. Government agencies and their contractors [fill in reason and date of determination]. Other requests for this document shall be referred to [insert controlling DoD office].

Distribution Statement D: Distribution authorized to Department of Defense and U.S. DoD contractors only [insert reason and date of determination]. Other requests for this document shall be referred to [insert controlling DoD office].

Distribution Statement E: Distribution authorized to DoD Components only [fill in reason and date of determination]. Other requests shall be referred to [insert controlling DoD office].

Distribution Statement F: Further dissemination only as directed by [insert controlling DoD Office and date of determination] or higher DoD authority.



# **Limited Dissemination Controls**

### **Limited Dissemination Controls (LDC)**

#### LDCs:

- Facilitate control, secondary sharing, decontrol, and release without the need to repeatedly obtain approval or authorization from the controlling DoD office.
- Identify the audience deemed to have an authorized lawful government purpose to use the CUI.

LDCs are to be placed on unclassified documents and other materials when the CUI requires access restrictions, including those required by law, regulation, or government-wide policy.

The absence of an LDC on a document means anyone with an authorized lawful government purpose is permitted access to the document. This does not imply it can be publicly released. All CUI documents must go through a public release review in accordance with DoDIs 5230.09 and 5230.29.



# **Limited Dissemination Controls**

<b>Limited Dissemination Control</b>	Marking	Description
No Foreign Dissemination	NOFORN	Information may not be disseminated in any form to foreign governments, foreign nationals, foreign or international organizations, or non-U.S. citizens.
Federal Employees Only	FED ONLY	Dissemination authorized only to employees of the U.S. Government executive branch agencies or armed forces personnel of the U.S. or Active Guard and Reserve.
Federal Employees and Contractors Only	FEDCON	Includes individuals or employees who enter into a contract with the U.S. to perform a specific job, supply labor and materials, or for the sale of products and services, so long as dissemination is in furtherance of the contractual purpose.
No Dissemination to Contractors	NOCON	Intended for use when dissemination is not permitted to federal contractors, but permits dissemination to state, local, or tribal employees.
Dissemination List Controlled	DL ONLY	Dissemination authorized only to those individuals, organizations, or entities included on an accompanying dissemination list.
Authorized for Release to Certain Foreign Nationals Only	REL TO USA, [LIST]	Information has been predetermined by the designating agency to be releasable only to the foreign country(ies) or international organization(s) indicated, through established foreign disclosure procedures and channels.



# **Limited Dissemination Controls**

<b>Limited Dissemination Control</b>	Marking	Description
Display Only	DISPLAY ONLY	Information is authorized for disclosure to a foreign recipient, but without providing them a physical copy for retention to the foreign country(ies) or international organization(s) indicated, through established foreign disclosure procedures and channels.
Attorney Client	ATTORNEY-CLIENT	Dissemination of information beyond the attorney, the attorney's agents, or the client is prohibited, unless the agency's executive decision makers decide to disclose the information outside the bounds of its protection.
Attorney Work Product	ATTORNEY-WP	Dissemination of information beyond the attorney, the attorney's agents, or the client is prohibited, unless specifically permitted by the overseeing attorney who originated the work product or their successor.
Deliberative Process	DELIBERATIVE	Dissemination of information beyond the department, agency, or U.S. Government decision maker who is part of the policy deliberation can result in the loss of the privilege and is prohibited, unless the executive decision makers at the agency decide to disclose the information outside the bounds of its protection.



### **Warning Statements**

# Examples of Required Warning Statements

#### **DoD UCNI**

DEPARTMENT OF DEFENSE UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION EXEMPT FROM MANDATORY DISCLOSURE PURSUANT TO 5 U.S.C. 552(b)(3), AS AUTHORIZED BY 10 U.S.C. 128

#### **GEOINT LIMDIS**

Distribution authorized to DoD, IAW 10 U.S.C. §§130 & 455. Release authorized to U.S. DoD contractors IAW 48 C.F.R. §252.245-7000. Refer other requests to: Headquarters, NGA, ATTN: Disclosure and Release Office, Mail Stop S81-IA, 7500 GEOINT Drive, Springfield, VA 22150 or by email at NDRO@nga.mil. Destroy IAW DoDI 5200.48. Removal of this caveat is prohibited; the caveat must be retained regardless of classification. Sharing LIMDIS material beyond USG-authorized users requires NGA-originator approval.

### **Export Control**

WARNING - This document contains technical data whose export is restricted by the Arms Export Control Act (Title 22, U.S.C., Sec 2751, et seq.) or the Export Control Reform Act of 2018 (Title 50, U.S.C., Chapter 58, Sec. 4801-4852). Violations of these export laws are subject to severe criminal penalties. Disseminate in accordance with provisions of DoD Directive 5230.25.

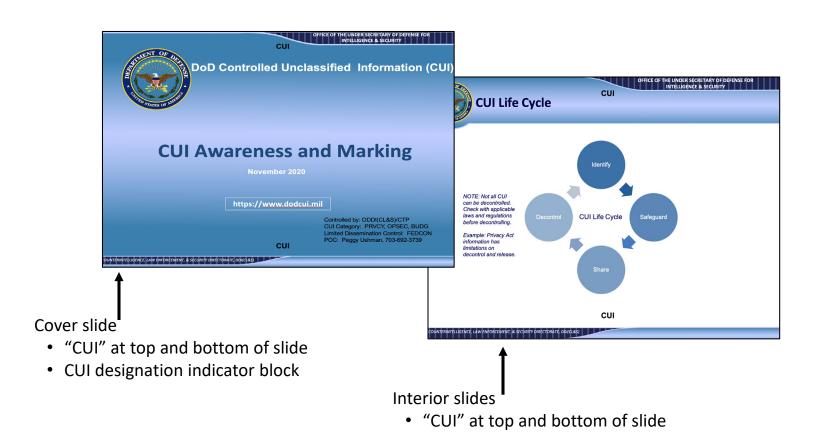
### **Privacy Act**

**Authority:** The legal authority for collecting the information – statute, executive order, regulation.

- **Purpose:** The purpose(s) for collecting the information and how [agency] will use it.
- **Routine Uses:** To whom [agency] may disclose the information outside of the Department and for what purposes.
- **Disclosure:** *Mandatory or Voluntary:* Whether providing the information is mandatory or voluntary. [Agency] can only make collection mandatory when a Federal statute, executive order, regulation, or other lawful order specifically imposes a duty on the person to provide the information; and the person is subject to a specific penalty for failing to provide the requested information. The effects, if any, of not providing the information for example, the loss or denial of a privilege, benefit, or entitlement sought as a consequence of not furnishing the requested information.



### **Marking example – PowerPoint Presentation**





### Marking example – Excel Spreadsheet

CUI

Controlled by: Dept of the Army, G2
CUI category: PRVCY / LDC: FEDCON
POC: Paul Jones, 703-555-7456

#### Cancelled/Superseded Security Classification Guides

Title Component OCA (by position)		OCA (by position)	Date Cancelled	Superseded By
Advanced Data Transfer System (ADTS)	Navy	Program Executive Officer Air ASW Assault & Special Mission Program (PEO-A)	4/16/15	
AN/AAR-47 Missile Warning Set	Navy	Program Executive Officer Tactical Aircraft Programs (PEO-T)	2/3/14	
AN/AAR-59 Joint and Allied Threat Awareness System	Navy	Program Executive Officer Tactical Aircraft Programs (PEO-T)	11/7/16	
AN/ALQ-157 Infrared Jammer	Navy	Program Executive Officer Tactical Aircraft Programs (PEO-T)	2/3/14	
AN/APR-39A(V)2, AN/APR-39B(V)2, & AN/APR-39C(V)2 Radar Warning Receiver	Navy	Program Executive Officer Tactical Aircraft Programs (PEO-T)	8/29/13	
AN/AWG-9 Weapon Control System	Navy	Program Executive Officer Tactical Aircraft Programs (PEO-T)	5/27/10	
AN/BLQ-10(V)	Navy	Program Executive Officer Submarines (PEO SUB)	10/19/16	
AN/MSQ-124 Air Defense Communication Platform (ADCP)	Navy	Commander Marine Corps Systems Command (MCSC)	6/18/18	
AN/MSQ-134 Tactical Exploitation Group	Navy	Commander Marine Corps Systems Command (MCSC)	11/20/19	
AN/TYQ-23 Tactical Air Operations Module (TAOM)	Navy	Commander Marine Corps Systems Command (MCSC)	6/18/18	
Autonomous Mine Detection System (AMDS)	Army	Joint Program Executive Officer, Armaments and Ammunition		AN/PSS-14 Mine Detecting Set
BLU-126/B Low-Collateral Damage Bomb Warhead	Navy	Executive Director NAWCWD	2/13/12	
C-27J Spartan Aircraft	Air Force	Program Executive Officer Mobility (AFLCMC/WL)	10/3/19	

CUI

Place "CUI" in the header and footer. This ensures it shows on all pages.

Place the CUI designation indicator block at the top of the spreadsheet. Do not put it in the header as it only needs to appear on the first page.



#### Marking example - Word Document

CUI



OFFICE OF THE UNDER SECRETARY OF DEFENSE

MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP (SEE DISTRIBUTION)

DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Fiscal Year 2020 Information Security Oversight Office Annual Reporting Requirements

Executive Order 13526, "Classified National Security Information," and Title 32, Code of Federal Regulations Part 2001, "Classified National Security Information," require agencies to report on aspects of their information security programs.

This year's request from the Information Security Oversight Office (ISOO), along with its stated enclosures, is attached. Enclosure 1 includes questions regarding the impact of the COVID-19 pandemic on your organizations. Components must also verify that the Original Classification Authority (OCA) listing located in Enclosure 2 is accurate, annotate necessary changes, and provide the ISOO-requested data. Additionally, provide the number of original classification decisions made by each OCA within your Component during Fiscal Year 2020 on the spreadsheet.

Garry P. Reid
Director for Defense Intelligence
Counterintelligence, Law Enforcement,
& Security

Controlled by: DDI/CL&S CUI Category: OPSEC

Limited Dissemination Control: FEDCON

POC: Stan Jones, 703-555-9512

CUI



### Marking example – Word Document

Portion marking is optional, but if used, all portions must be marked.

Portions include titles, subject lines, paragraphs and subparagraphs, bullet points, graphics, etc.

The signature block and CUI designation indicator block are not portion marked.

CUI



OFFICE OF THE UNDER SECRETARY OF DEFENSE

MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP (SEE DISTRIBUTION)

DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: (U) Fiscal Year 2020 Information Security Oversight Office Annual Reporting Requirements

(CUI) Executive Order 13526, "Classified National Security Information," and Title 32, Code of Federal Regulations Part 2001, "Classified National Security Information," require agencies to report on aspects of their information security programs.

(U) This year's request from the Information Security Oversight Office (ISOO), along with its stated enclosures, is attached. Enclosure 1 includes questions regarding the impact of the COVID-19 pandemic on your organizations. Components must also verify that the Original Classification Authority (OCA) listing located in Enclosure 2 is accurate, annotate necessary changes, and provide the ISOO-requested data. Additionally, provide the number of original classification decisions made by each OCA within your Component during Fiscal Year 2020 on the spreadsheet.

Garry P. Reid
Director for Defense Intelligence
Counterintelligence, Law Enforcement,
& Security

Controlled by: DDI/CL&S
CUI Category: OPSEC

Limited Dissemination Control: FEDCON

POC: Stan Jones, 703-555-9512

CUI