SCIENCE AND SECURITY

Entering the Twilight Zone Of What Material to Censor

For scientists struggling to cope with "sensitive but unclassified" information, the National Academy of Sciences offers a provisional answer

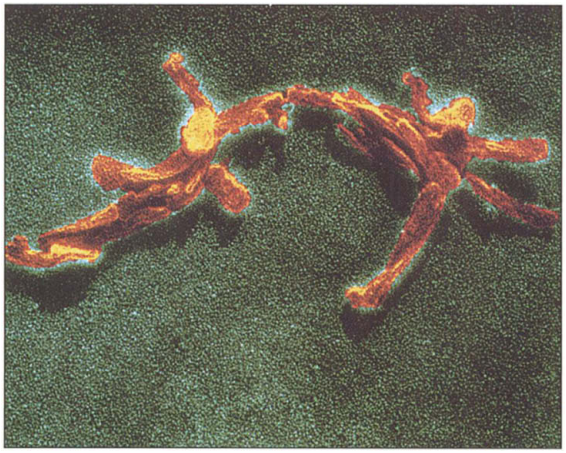
You can't read it online. You can order a paper copy, but you won't receive what many say is the most interesting part—unless you have a good reason to see it. That's the status of a recent study on agricultural bioterrorism from the National Academy of Sciences (NAS), an entire chapter of which was excised and is now available only on a need-to-know basis (*Science*, 20 September, p. 1973). The academy doesn't particularly enjoy playing censor. But experts say its new role is a harbinger of what's to come for the scientific community.

The samizdat chapter falls under a rapidly growing category of information that the government wants to keep under wraps, even though, for one reason or another, it can't be classified. Scientific organizations are concerned about this "sensitive but unclassified" label, however, not only because it increases the administrative burden, but also because it crimps the free flow of scientific information. Its inherent murkiness can lead to arbitrary decisions and abuse, says Steven Aftergood, a secrecy expert at the Federation of American Scientists in Washington, D.C. "The classification system, with all its defects, at least has clear rules and procedures," says Aftergood.

But the academy's approach to the agroterrorism report is being closely watched by those who suspect that other professional organizations might have to travel down the same path. Meanwhile, NAS says it would like clearer cues from the Bush Administration about how far to extend the veil of secrecy in the future. "We'd like the government to give us explicit guidance about what 'sensitive but unclassified' information is," says chief executive William Colglazier.

Not writing a terrorist's cookbook was a priority for the members of the academy panel, says veterinary pathologist Harley Moon of Iowa State University in Ames, who chaired the group. Everything in the study was already out in the literature, says Moon, and as far as the group was concerned, the entire report could have been made public. The Office of Homeland Security reviewed the document but did not recommend classification, academy officials say.

Still, the U.S. Department of Agriculture, which paid for the report, strongly insisted that the academy withhold the entire thing. By way of compromise, NAS removed the third chapter, which contained a series of bioterrorism case studies, plus a few other bits and pieces, and placed them in an appendix. (In another unprecedented move, NAS also agreed not to post the study online.)



For your eyes only. One of the restricted case studies featured an attack with BSE, a prion disease that could threaten the U.S. beef industry.

Academy officials then drew up guidelines as to who could see the appended material. The list encompasses federal, state, and local government workers, officials involved in homeland security, and animal and plant health scientists, but not members of the media or the general public. Anyone interested in the appendix has to file a written request, says Charlotte Kirk Baer of the academy's Board on Agriculture and Natural Resources. Academy staff members then call applicants, ascertain their identity, and ask why they need the report, she says.

So far, about 50 people have requested the document, most of them security officials from government agencies such as the Pentagon and the CIA. None has been denied a copy, says Kirk Baer—although one person has not yet responded to the academy's request for more information.

Legally, NAS is walking a fine line when it withholds documents from the public domain, says Howard Crystal, an attorney at Meyer and Glitzenstein in Washington, D.C. Under the Federal Advisory Committee Act, the academy must cite one of seven exemptions listed in the Freedom of Information Act when rejecting public requests for documents. Classified materials form one often-used exemption, but the censored chapter falls under a different one, explains Colglazier, which protects matters "related solely to the internal personnel rules and practices of an agency." The provision protects the government from having to store and release trivial information, like employee parking rules, but it is also used to keep a variety of information—from law enforcement manuals to habitat maps of protected bird species—out of the hands of those who might use it to break the law.

Moon says he has "respect for the process" that vetted his report and has accepted the restrictions, although he was hoping for a different outcome. But the growth of the "sensitive but unclassified" category is worrisome to the academy. In an 18 October statement about science and security, NAS's three presidents urged the government to affirm the general principle that there should be no restrictions on reporting nonclassified research and to help "avoid creation of vague and poorly defined categories" of information.

Others say they are flatly opposed to the new category. "My bias is that information should be either classified or not classified," says Steven Teitelbaum, president of the Federation of American Societies for Experimental Biology. A neither-fish-nor-fowl category will create "administrative nightmares" for research organizations, says Teitelbaum, and make it difficult to repeat and verify any new scientific results. That would ultimately be "bad for the country," he says.

In a statement to the House Science Committee last month, presidential science adviser John Marburger said the Office of Homeland Security's designation of the new information category is still "in the formative stage" and is being shaped in "listening sessions" with many parties, including scientific societies. Marburger acknowledged, however, that open access to research findings is "critical to continued scientific advancement."

Aftergood says he hopes the issue will soon be clarified. A somewhat vague class of restricted information—and an ad hoc system to guard it—might be "acceptable in the short run, while we try to develop more standardized procedures," he says. "But it's not acceptable in the long run."

–MARTIN ENSERINK

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