

Researching Anomalies Lawfully: Classification, Export Controls, and Academic Freedom in UAP Science

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Audience. University counsel and research-compliance officers, export-control officers, counsel to scientists and research nonprofits, and contractor counsel.

Key points

- Fundamental research is meant to stay unrestricted, and classification is the only proper control on it (NSDD-189; EO 13526 §1.7(b)); the government cannot classify a private researcher's independent work.
 - Export controls exclude published fundamental research, but a project loses the exclusion if it accepts publication restrictions or uses controlled inputs, and sharing controlled data with foreign nationals is a deemed export (*Roth*).
 - Controlled Unclassified Information (32 C.F.R. part 2002; DFARS 252.204-7012) reaches more university projects than classification does.
 - Public university researchers have First Amendment protection for scholarship in several circuits after *Garcetti* (*Adams*; *Demers*; *Meriwether*).
 - Never open or keep marked material offered by an insider; route it to the security officer (*Form A5-2*).
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1. Summary

Scientists who study UAP work under the same legal rules as other researchers, but several of those rules bite harder in this field because the best data are military sensor data, the most interesting physics overlaps with defense technology, and some of the people offering information are cleared insiders. Four bodies of law matter most.

1. **Classification.** National policy since 1985 (NSDD-189) is that fundamental research should remain unrestricted and that classification is the only proper mechanism for restricting it. Executive Order 13526 bars classifying basic scientific research not clearly related to national security. The government cannot classify a private researcher's independent work

after the fact, but it can control access to government data and can reach privately generated nuclear weapons information under the Atomic Energy Act's "born secret" provisions.

2. **Export controls.** ITAR and EAR exclude published fundamental research, but a project loses that protection if it accepts publication restrictions or uses controlled inputs, and sharing controlled technical data with foreign nationals in a U.S. lab is a "deemed export." A university professor was imprisoned for exactly that in *United States v. Roth*, 628 F.3d 827 (6th Cir. 2011).
3. **Patents and secrecy orders.** Patent applications on propulsion, energy, materials, or sensing may draw secrecy orders under the Invention Secrecy Act ([Issue E2](#)).
4. **Academic freedom and retaliation.** Public university researchers have First Amendment protection for scholarship and teaching in several circuits even after *Garcetti v. Ceballos*, 547 U.S. 410 (2006); private university researchers depend on contract and institutional policy.

Disclosure would raise the stakes. If the government confirms possession of material of non-human origin, the first scientific work on it will almost certainly take place under classification, export controls, and contract terms; access for independent scientists will be a legal fight; and the government may move quickly to control related technology through EAR's catch-all mechanisms.

2. Classification of science

2.1 Policy limits

- **NSDD-189** (Sept. 21, 1985), *National Policy on the Transfer of Scientific, Technical and Engineering Information*, provides that "to the maximum extent possible, the products of fundamental research remain unrestricted," and that "where the national security requires control, the mechanism for control of information generated during federally funded fundamental research in science, technology and engineering at colleges, universities and laboratories is classification."

The Department of Defense reaffirmed the policy in 2008 and in a May 24, 2010 memorandum from the Under Secretary for Acquisition, Technology and Logistics, which states that DoD will not restrict unclassified fundamental research beyond legal requirements.

- **EO 13526 §1.4(e)** permits classification of "scientific, technological, or economic matters relating to the national security." **§1.7(b)** provides: "Basic scientific research information not clearly related to the national security shall not be classified." **§1.7(a)** bars classification to conceal violations of law or prevent embarrassment. Section 1.7(c) also limits reclassification of information already released to the public.
- **No reclassification of private work.** EO 13526 applies to information "owned by, produced by or for, or ... under the control of the United States Government" (§1.1(a)(2)). Information a private researcher develops independently is not classifiable under the order.

The government's tools for private work are statutory: the Atomic Energy Act, the Invention Secrecy Act, export controls, and (for acquired information) the Espionage Act.

2.2 “Born secret” information

The Atomic Energy Act defines “Restricted Data” to include “all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy,” unless declassified. 42 U.S.C. §2014(y). The definition does not depend on who created the information. Communicating Restricted Data with intent or reason to believe it will injure the United States is a crime. 42 U.S.C. §§2274-2277.

United States v. The Progressive, Inc., 467 F. Supp. 990 (W.D. Wis. 1979), is the only case in which a court enjoined publication of scientific information assembled from public sources. Judge Warren granted a preliminary injunction against publication of “The H-Bomb Secret” on the ground that it likely contained Restricted Data, reasoning that “[a] mistake in ruling against the United States could pave the way for thermonuclear annihilation for us all.” The government abandoned the case after similar material was published elsewhere, and the appeal was dismissed. *United States v. Progressive, Inc.*, 610 F.2d 819 (7th Cir. Oct. 1, 1979) (table).

Relevance. If UAP-related research touches the use of special nuclear material for energy, or weapons physics, the Restricted Data provisions could apply to privately developed work. Researchers in energy-related UAP science should obtain an early determination from DOE if their work approaches those categories.

2.3 Access to government data

Most high-quality UAP data come from military and intelligence sensors and are classified, often to protect sensor capabilities rather than anything about the objects observed. The NASA UAP Independent Study Team made this point in its September 2023 report, which recommended data standards, calibration, use of NASA assets, crowdsourced reporting, and adapting the Aviation Safety Reporting System to UAP reports. Routes to government data are FOIA, mandatory declassification review, the UAP Records Collection (which defines “record” in the pending House bill to include “intelligence, surveillance, reconnaissance, and target acquisition sensor data,” H.R. 8800 §1773(17)), and collaborative agreements with AARO or NASA under which researchers accept access conditions. *Slaughter v. Department of the Air Force*, 2026 WL 571249 (D.D.C. Mar. 2, 2026), shows both the possibility (a SOCOM video declassified and released after litigation) and the limit (an F-22 video withheld under Exemption 1 because it revealed missile envelope cues) ([Issue B1](#)).

3. Export controls

3.1 The framework

- **ITAR**, 22 C.F.R. parts 120-130 (State Department; defense articles and technical data on the U.S. Munitions List). Categories most likely to touch UAP research: IV (launch vehicles), XII (fire control, sensors), XV (spacecraft), and XXI (articles not otherwise enumerated).

- **EAR**, 15 C.F.R. parts 730-774 (Commerce Department; dual-use items and technology). Of particular importance is ECCN 0Y521, under which Commerce, with Defense and State concurrence, may control items not listed elsewhere on the Commerce Control List that provide “at least a significant military or intelligence advantage.” Such items must be reclassified under another ECCN within one calendar year or the 0Y521 classification expires, but BIS may extend it for two one-year periods if the government has proposed multilateral controls. 15 C.F.R. §742.6(a)(8). This is the fastest regulatory tool for controlling technology derived from recovered material after a disclosure.
- **Fundamental research exclusion.** Information arising during or resulting from fundamental research intended to be published is not subject to the EAR (15 C.F.R. §734.8) and is not ITAR technical data (22 C.F.R. §120.34(a)(8), which treats as public domain information made available through “fundamental research in science and engineering at accredited institutions of higher learning in the U.S.”). The exclusion covers results; inputs are outside it, so a sponsor’s controlled data remain controlled.
- **Loss of the exclusion.** Under the ITAR, university research is not fundamental research if the university or researchers accept restrictions on publication, or if federally funded research carries specific access and dissemination controls. The EAR permits customary prepublication review by a sponsor to protect proprietary or patent interests without loss of the exclusion; the ITAR has no equivalent allowance.
- **Deemed exports.** Releasing controlled technology or technical data to a foreign person in the United States is an export to that person’s country. 15 C.F.R. §734.13(a)(2), (b) (release of “technology” or source code to a foreign person in the United States is a “deemed export” to the person’s most recent country of citizenship or permanent residency); 22 C.F.R. §120.56 (ITAR “release” of technical data, including visual inspection by foreign persons).

3.2 *United States v. Roth*

J. Reece Roth, a University of Tennessee plasma physics professor, worked on an Air Force contract to develop plasma actuators for drones. He allowed foreign graduate students to work on the project and carried project data on a trip to China. The Sixth Circuit affirmed his conviction under the Arms Export Control Act, holding that the technical data, an agency proposal, and a testing device were “defense articles,” and that the evidence supported conviction for exporting the agency proposal. *United States v. Roth*, 628 F.3d 827 (6th Cir. 2011). He was sentenced on July 1, 2009 to 48 months in prison (DOJ press release) and began serving his sentence in January 2012 after his appeals failed.

The facts track a foreseeable UAP research scenario: a university laboratory receives defense-funded or contractor-supplied data on anomalous propulsion or materials, and foreign nationals work in the lab. Without a technology control plan, the principal investigator faces criminal exposure.

3.3 Export controls as speech regulation

Courts have recognized that some technical information is protected speech and that licensing requirements for publication can be prior restraints. *Bernstein v. U.S. Department of Justice*, 176 F.3d 1132 (9th Cir. 1999) (encryption source code), withdrawn on grant of reh’g en banc, 192 F.3d 1308

(9th Cir. 1999); *Junger v. Daley*, 209 F.3d 481 (6th Cir. 2000) (source code is expressive). The Defense Distributed litigation over 3D-printed firearm files tested the limits for design files. These cases bear on any government attempt to restrict publication of NHI-derived technical information ([Issue F3](#)).

3.4 Controlled unclassified information

Classification is not the only control. Much of the sensor data and technical information a university would receive from DoD or a contractor is Controlled Unclassified Information, governed by the CUI program (32 C.F.R. part 2002) and, for defense contractors and their subcontractors, by the safeguarding and incident-reporting clause in DFARS 252.204-7012. A project that accepts CUI must meet the clause's security requirements and report cyber incidents, and the information stays controlled after the project ends. The research agreement should identify any CUI at the start ([Form A5-1](#)).

3.5 Federally funded UAP research has been published before

The Defense Intelligence Agency's Advanced Aerospace Weapon System Applications Program commissioned 38 Defense Intelligence Reference Documents on propulsion, materials, and related physics, and DIA released their titles under FOIA in 2018. A former director of the Navy's UAP Task Force describes their scope (Jay Stratton, *Out of the Shadows* ch. 12 (2026)). The papers show that a government sponsor can fund speculative physics in this field without classifying the results, which is a useful precedent when a sponsor proposes publication restrictions.

4. Academic freedom and retaliation

- *Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006), held that public employees speaking pursuant to official duties are not speaking as citizens, but reserved whether the rule applies to "speech related to scholarship or teaching." *Id.* at 425.
- Several circuits have held that *Garcetti* does not apply to academic scholarship and teaching at public universities: *Demers v. Austin*, 746 F.3d 402 (9th Cir. 2014); *Adams v. Trustees of the University of North Carolina-Wilmington*, 640 F.3d 550 (4th Cir. 2011); *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021). *Demers* holds, as a matter of first impression, that teaching and academic writing by state-employed teachers are analyzed under the *Pickering* balancing test, and *Meriwether* that First Amendment protection for public university professors' core teaching speech survives *Garcetti*. *Adams* held that "*Garcetti* would not apply in the academic context of a public university as represented by the facts of this case," 640 F.3d at 562, where a professor's columns and books were "intended for and directed at a national or international audience on issues of public importance unrelated to any of [his] assigned teaching duties," *id.* at 564, and remanded the retaliation claim.
- Researchers at public universities who are disciplined or denied tenure for UAP research therefore have a First Amendment claim in those circuits, analyzed under *Pickering v. Board of Education*, 391 U.S. 563 (1968). Researchers at private institutions rely on faculty handbooks, contracts, and academic freedom policies (AAUP 1940 Statement).

- Federal scientists (NASA, DOE laboratories, DoD laboratories) are covered by agency scientific integrity policies and the Whistleblower Protection Act for disclosures of wrongdoing, but not for research choices as such.
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5. Insider information and spillage

A scientist who receives information from a cleared insider faces risks that ordinary research does not:

- Information that remains classified does not lose its classification because it has been disclosed without authorization. A researcher who retains or further discloses national defense information can face exposure under 18 U.S.C. §793(e) ([Issue B4](#), C3).
- Universities with facility clearances must report suspected classified information under the National Industrial Security Program Operating Manual, 32 C.F.R. part 117.
- A disclosure made through the 50 U.S.C. §3373b channel is protected for the person making it; the protection does not extend to a researcher who receives the same information informally.

Institutions should adopt a written policy for unsolicited UAP information: do not open or copy marked material; route it to the security officer; document receipt; and seek counsel ([Form A5-2](#)).

6. After disclosure

- **Access.** Expect early scientific work on any confirmed material to be performed by cleared government and contractor scientists. Independent scientists will need access agreements, clearances, or statutory access rights. The pending House bill gives the Review Board access to material and makes no provision for access by independent scientists (H.R. 8800 §1767(b)); scientific access should be a priority for advocates.
 - **Controls.** Expect Commerce to use OY521 or new ECCNs for derived technology, and State to revise USML Category XXI. Commodity jurisdiction requests (22 C.F.R. §120.4) will be the main route for researchers seeking a determination that particular work is not ITAR-controlled.
 - **International collaboration.** NSPM-33 research-security requirements, foreign-talent-program disclosure rules, and the EU Dual-Use Regulation (EU) 2021/821 (with its basic scientific research exemption) will govern collaborations. Policy groups such as the Sol Foundation have published proposals for international governance of UAP-derived technology.
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7. Practice checklist for research institutions

1. Classify each UAP project at the outset: fundamental research (no publication restrictions, no controlled inputs) or controlled research (technology control plan, foreign-national screening).
 2. Refuse sponsor clauses that restrict publication beyond customary EAR review, unless the project is intended to be controlled.
 3. Segregate any controlled inputs; log who has access.
 4. Request commodity jurisdiction or classification determinations for anything that might be a defense article.
 5. Adopt a spillage and unsolicited-information policy.
 6. For energy-related work near nuclear categories, consult DOE early.
 7. Preserve academic freedom by contract (faculty handbook language protecting controversial research topics).
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