

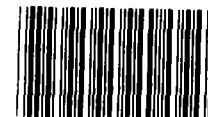
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STATEMENT OF

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BEFORE THE
SUBCOMMITTEE ON LEGISLATION
AND NATIONAL SECURITY
HOUSE COMMITTEE ON GOVERNMENT OPERATIONS



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ON

NATIONAL SECURITY DECISION DIRECTIVE 84 AND
PROPOSED REVISIONS TO DEPARTMENT OF DEFENSE DIRECTIVE 5210.48
ON USE OF THE POLYGRAPH

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before you this morning to discuss (1) some of the major provisions of National Security Decision Directive 84; (2) proposed revisions to Department of Defense Directive Number 5210.48 on its polygraph program; and (3) the probable impact that both directives would have on government and contractor employees who have, or have had, access to classified information.

National Security Decision Directive 84

On March 11, 1983, the President issued National Security Decision Directive 84 on "Safeguarding National Security Information." This directive makes several major changes in policies for those with access to classified information. In total, it

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affects 2.5 million government and 1.5 million contractor employees, including 128 thousand individuals who also have access to sensitive compartmented information, or SCI.

First, under the directive, all persons with authorized access to classified information are required to sign a nondisclosure agreement as a condition of access to such information. Pursuant to the directive, the Director of the Information Security Oversight Office has developed a standard form for the agreements, in a format which the Department of Justice has determined would be enforceable in a civil action instituted by the government against an individual who violates the agreement. The directive permits government agencies to implement the requirement for the agreements on a prospective basis, that is, for all new security clearances, in cases where the administrative burden of compliance would be excessive.

Second, all persons with authorized access to SCI are required to sign a nondisclosure agreement as a condition of access to SCI and other top secret, secret, and confidential information. Such agreements also must include a provision for prepublication review of all non-official information or materials, including works of fiction, to assure the deletion of SCI and other classified information. The requirement for prepublication review applies to individuals while they are employed by the government or by a contractor, and at any time subsequent to their employment. Some of the different types of material subject to review includes books, articles, and speeches.

Unlike the provisions affecting those without access to SCI classified information, the requirement for the SCI nondisclosure agreements must be implemented immediately. However, this should not be a problem because most individuals with SCI access already have signed nondisclosure agreements, with a prepublication review clause, under existing agency regulations.

Third, the Office of Personnel Management and all agencies with employees having access to classified information are directed to revise or establish policies and regulations that may require employees to submit to a polygraph examination during the course of an investigation of the unauthorized disclosure of classified information. Such regulations must include a provision permitting an agency to decide what appropriate adverse consequences will follow an employee's refusal to cooperate with a polygraph examination.

Proposed Department of Defense Polygraph Directive

Unlike National Security Decision Directive 84, which is being implemented, the changes to Department of Defense Directive 5210.48 are still in the proposal stage. Most of the proposed changes in the June 1983 draft revision result from recommendations in an April 1982 Department of Defense (DOD) report on the Department's personnel security program. Probably the most significant change is a reversal of the longstanding policy that an individual be advised that no adverse action would result from his or her refusal to submit to a polygraph examination. The proposed revision provides that adverse

consequences, such as nonselection for assignment or employment, denial or revocation of a clearance, or reassignment to a nonsensitive position may result from such refusal.

The draft revision to the directive also greatly expands the situations under which polygraph examinations may be used. Under the proposal, individuals with access to SCI may be given such examinations on an aperiodic basis to assist in determining their continuing eligibility. This means that, excluding the National Security Agency, over 116 thousand DOD and contractor employees could be subject to a polygraph examination. Under the current directive, about 7,000 individuals are given polygraph examinations annually in connection with special assignments.

Other proposed changes also expand the situations when a polygraph examination could or must be given. For example, in contrast to the current directive, individuals assigned to a nonintelligence special access program may be given an examination to determine their initial eligibility and aperiodically thereafter. The proposed revision also provides that polygraph examinations will be required for many Defense Intelligence Agency personnel and for military and civilian personnel assigned to the National Security Agency. Currently, such examinations are authorized, but not required; however, we were told that all civilian and some military personnel assigned to the National Security Agency were being given such examinations.

The Probable Impact of the Directives

In May 1983, Mr. Chairman, you asked the General Accounting Office to assist your subcommittee in your inquiry into the potential impact of National Security Decision Directive 84 on our security interests, the morale of government employees, and the efforts of the government to recruit well-qualified personnel. Specifically, our staff was asked to compile and analyze the responses to a questionnaire sent by you to about 50 government agencies who have employees with security clearances. Later, we were asked to informally obtain additional data from the agencies, as well as information concerning the impact of the proposed changes to DOD's polygraph policy. Our analysis of the information obtained from the questionnaire survey and our informal follow-up is included in a report, addressed to you, and dated October 18, 1983. As noted in the report, we did not verify the information reported by the agencies; however, we did request clarification in many cases.

Here is a brief summary of our findings:

Excluding the Central Intelligence Agency and National Security Agency, as of December 31, 1982, there were about 5.1 million Federal employees, both civilian and military. Of these, about 460 thousand, or about 9 percent, had top secret security clearances; and about 2.1 million, or about 40 percent, had secret security clearances. That means that over 2.5 million individuals, or almost half of the federal work force, both civilian and military, would be subject to the requirements of

National Security Decision Directive 84, making them susceptible to the signing of a nondisclosure agreement and a polygraph examination if they were suspect in an investigation of an unauthorized disclosure of classified information. In addition, approximately 1.5 million contractor employees with security clearances would be subject to the same requirements.

The number of personnel affected by the more stringent requirements concerning SCI access is substantially less. Agencies reported that there were about 113 thousand federal civilian and military personnel and about 15 thousand contractor employees, with SCI access as of December 31, 1982. As previously noted, information concerning personnel was not obtained from the Central Intelligence Agency and National Security Agency.

Concerning the impact of DOD's proposed revision to its directive on use of the polygraph, which we were requested to provide, about 2.4 million civilian and military personnel who have security clearances, would be subject to the directive's requirements. In addition, about 1.3 million employees of Defense contractors would also be affected by the directive as it is now proposed. In total, then, about 3.7 million personnel would be affected by the proposed directive. Included in this group are about 42,000 individuals in government and industry involved in nonintelligence-related special access programs, who may be given a polygraph examination on an aperiodic basis.

Mr. Chairman, this concludes my prepared statement. If you or members of the committee have any questions, we would be pleased to answer them.