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STATEMENT OF

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BEFORE THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

ON

IMPROVEMENTS NEEDED IN THE GOVERNMENT'S PERSONNEL
SECURITY CLEARANCE PROGRAM

0-511 . /126710

Mr. Chairman, Ranking Minority Member, and Members of the Subcommittee:

I appreciate the opportunity to appear before you this morning to discuss (1) some of the principal recommendations in our reports on personnel security clearances during the past 10 years; (2) the status of those recommendations; and (3) our current thoughts on some of the issues raised by those recommendations. With me is Irv Boker, who is our manager for the security area.

I would like to submit for the record, and as part of my prepared statement, (1) a listing of GAO reports containing recommendations and observations concerning personnel security and suitability; (2) a summary and status of principal recommendations from GAO reports from 1974 to 1984; (3) a listing, by agency, of the number of government and contractor employees with security clearances as of December 31, 1983; (4) copies of Executive Orders 10450 and 10865, which govern personnel security in government and industry, respectively; and (5) a glossary of terms and acronyms relative to the personnel security program. Copies of the GAO reports included in the listing can be furnished if the Subcommittee would like to have them.

The personnel security program has improved in a number of ways during the past 10 years. Nevertheless, we believe that improvements are still needed in the following six areas.

- Legislation or a new executive order,
- Consistent standards for investigations and adjudications,
- Centralized adjudication at the agency level,
- Continuous monitoring and periodic reinvestigation of cleared employees,
- Timely investigations, and
- Control of the number of requests for investigations.

Background

Since the first executive order was issued in 1940 prescribing policy and procedures for security classification, various orders have been issued defining the levels of classification. The current executive order, 12356, issued in April 1982, like several orders before it, prescribes three levels of classification--top secret, secret, and confidential--depending upon the level of sensitivity of the information and the potential damage that would result from its disclosure.

The type of security clearance an individual needs is determined by the classification level of the information to which the individual will have access. For example, if information is classified top secret, the individual must have a top secret clearance to be given access. However, having a top secret security clearance does not automatically give the individual the right of access to classified information. The overriding general rule is still "need to know." That is, the individual must have an official need to know or see the information.

Most government and industry employees with security clearances have either secret or top secret clearances. A secret clearance can be granted if a National Agency Check and Inquiries (NACI) produces no serious derogatory information. The National Agency Check (NAC) portion consists of searching the records of certain federal agencies such as the Office of Personnel Management (OPM) and the Departments of Defense, Justice, and State to determine the existence of any previous investigations or a criminal record and to verify citizenship and any military service. The inquiries portion involves sending written inquiries covering specific areas of the subject's background during the past 5 years or since the individual's 18th birthday, whichever is shorter. A top secret clearance requires the same information but, in addition, it requires a favorable background investigation which covers the same period. The background investigation, among other things, includes personal interviews with people who know the individual being investigated and a verification of his or her birthdate, education, and employment.

In addition to a regular security clearance, the intelligence agencies, including some components of the Department of Defense (DOD) involved in intelligence activities, require that a more extensive background investigation be conducted before an individual is granted access to intelligence information, methods, or sources. Such information is referred to as sensitive compartmented information (SCI). The minimum standards for the special background investigation are prescribed by the Director of Central Intelligence.

The latest figures that we have on security clearances are more than a year old, but they nevertheless are useful to provide some perspective about the size of the personnel security clearance program. At the end of calendar year 1983, there were approximately 5,116,000 civilian and military personnel, of which 2,725,000, or about 53 percent, had security clearances. The number of clearances increased about 7.5 percent from 1982. In addition, about 1,500,000 contractor employees have security clearances. That means about 4,200,000 individuals have security clearances. At the end of calendar year 1983, DOD accounted for 94 percent of the government employees and 87 percent of the contractor employees with security clearances.

Executive Order 10450 makes OPM responsible for conducting all competitive service investigations used in determining the suitability of individuals for government employment and as a basis for insuring that the employment of the individual is clearly consistent with the interests of national security. Some agencies, such as the Departments of Defense, State, and Treasury, are authorized by law, or agreement with OPM, to conduct investigations of competitive service positions. Excepted service positions, however, are not covered by Executive Order 10450 and agencies are free to use whatever means they choose to investigate applicants for these positions.

OPM and DOD, through the Defense Investigative Service (DIS), perform the majority of the personnel investigations made each year. These investigations are needed because of new employee hiring, changes in jobs, retirements; military enlistments, promotions and discharges; new programs; and periodic reinvestigations. In calendar year 1984 OPM performed 245,000 investigations, including a large but unknown number that involved investigations to determine suitability for government employment. During this same period, DIS performed 1,071,000 investigations involving DOD and industry personnel. Ten other agencies also performed personnel investigations on some or all of their employees last year. Some examples are the Department of State, Central Intelligence Agency, Federal Bureau of Investigation, and Secret Service.

Legislation or New Executive Order Needed

Executive Order 10450 entitled Security Requirements for Government Employment, issued April 27, 1953, is the basic authority for the federal government's personnel security clearance program. However, there has been a continuing debate over the applicability of the order's provisions concerning personnel suitability and security clearances. In our December 1977 and August 1979 reports, we recommended that the Congress consolidate into one law the authority to investigate and judge the suitability of federal employees, including the potential of employees in sensitive positions to impair national security.

We believe that legislation would be helpful primarily because it could address certain matters which cannot be dealt with by executive order. For example, an executive order cannot require local law enforcement authorities to provide information needed by the government for security or suitability investigations. However, in the absence of legislation, we would support efforts to replace or revise Executive Order 10450. Other studies have recommended replacement or revision of the order.

Need for Consistent Standards for Investigations and Adjudications

In our December 1977 and August 1979 reports, we identified the need for consistent standards for conducting investigations and adjudications. For example, in our 1979 report, we recommended that the Director of OPM work with other agencies to develop definitive standards for reporting costs and determining the scope of investigations. We concluded that, once this was done, OPM, as part of its monitoring process, could make more accurate comparisons across agencies and determine the most effective program.

Our recent inquiries at several larger agencies indicated that inconsistent standards and procedures still exist. For example, DOD uses different procedures to grant secret clearances to government and contractor personnel. A favorable NACI is required for government personnel, but only a favorable NAC is required for industry employees.

A DOD official explained the rationale for this inconsistency as follows. Executive Order 10450, which governs only federal employees, requires the NACI. Executive Order 10865, issued February 20, 1960, which pertains to safeguarding classified information in industry, does not require the NACI. In our opinion, this illustrates why the two executive orders need to be rethought.

Another inconsistency in DOD is that some individuals with secret clearances are provided access to information while others with top secret clearances, and a "need to know" are denied access. This inconsistency was pointed out in our February 1983 report on special access contracts awarded by DOD. DOD's special access programs are supported by several thousand special access contracts. These programs and supporting contracts are controlled by the military service or DOD component responsible for the programs. At the time of our review, some of these nonintelligence-related contracts were classified only at the secret level. However, in many cases, DIS inspectors, with top secret clearances, were unable to make periodic security inspections of the contracts in accordance with DOD's Industrial Security Program because of limited access requirements. On the other hand, of about 39,000 contractor employees who had been cleared for access to nonintelligence-related special access contracts, 13,500 had only secret clearances. Some of those employees with only secret clearances had access to contract information. It seems inconsistent to allow access for contractor employees whose clearances were based on only a NAC, while denying access to a DIS inspector with a top secret clearance based on a background investigation.

In defense of this practice, DOD stated that it believed that a program security officer, with program familiarity, is better equipped to make inspections than a DIS inspector would

be. DOD also said that access by DIS inspectors would cause the number of individuals with access to proliferate beyond the minimum number of individuals necessary to meet the objectives of providing extra security protection.

As noted in our report, we believe that a knowledge of security requirements is required to make security inspections and that DIS inspectors, who must receive formal training before being allowed to make inspections, may be better qualified than a program security officer. Further, when the number of contractor employees with special access authorizations is at least 39,000, it does not seem unreasonable for a small number of DIS employees to have such access.

We believe that the establishment of consistent standards for investigations and adjudications can not be fully effective unless the investigators and adjudicators are properly trained. Although useful guidance on personnel investigations and adjudications is available, we believe that personnel involved in these activities still need formal training government-wide. Such training would provide greater assurance that the investigative and adjudicative processes are performed in a professional and consistent manner that protects the interests of the government and the interests of the subjects of the investigations in a fair and equitable manner.

DIS has a 4-week course at its Defense Security Institute in Richmond that is mandatory for all DIS investigators, but few investigators from other agencies attend. The Institute currently has no adjudication course. The intelligence agencies have a course on adjudicating cases involving access to SCI, and some of the agencies do send representatives to that course. OPM ran an adjudicator training class until 1983. OPM is now replacing that course as part of its establishment of three training courses. These courses, based on work done by a private contractor, are to be offered government-wide. The courses deal with investigations, security, suitability, position sensitivity, and adjudications. Such courses could be useful to those investigators and adjudicators who have not had formal training or recent training in these areas. We believe that there is a need for a government-wide training program for both groups.

Need for Centralized Adjudication at the Agency Level

In our December 1977 report, we recommended that OPM assign adjudicative responsibility for all sensitive positions, which includes security clearances, to the employing agencies. This has been done. We recently surveyed six of the larger agencies--the Departments of Defense, Energy, Justice, State, and Treasury, and the Postal Service. Excluding DOD, only the State Department said that it had a centralized adjudication process. The other four agencies were decentralized by bureau

or field office, as the case may be. At some of the agencies, adjudication is a part-time function of the employees assigned that duty.

Centralized adjudication provides uniformity and consistency in the application of standards and criteria for granting access to national security information. Since full-time adjudicators spend all, or a significant part of their time performing that function, they become more proficient, which means that fewer adjudicators are required. Centralization also means that adjudications can be more closely monitored to ensure that clearance decisions are uniformly made.

Centralized adjudication also reduces the potential for bias in an adjudicative decision. If the adjudication is made at a level low enough so that the adjudicator has personal knowledge of the individual, the decision might be influenced (either favorably or unfavorably) based on that knowledge rather than the criteria that are supposed to be used. As noted in a 1982 DOD report on its personnel security program, another factor that could influence an adjudicative decision, made at a lower level, is the immediacy of need for someone to occupy a position. Again, it is possible that the adjudicative decision could be influenced by that need rather than by strict adherence to the required criteria.

As far as the executive orders governing the protection of national security information are concerned, DOD is considered to be comprised of more than one department. The Office of the Secretary of Defense is responsible for establishing security policy throughout DOD, and current regulations require the heads of the military services, to the extent practicable, to establish a single adjudication facility. The Army and the Air Force have complied. All three services have their own centralized adjudication process for handling SCI accesses. The Navy has a centralized adjudication process for civilian personnel, but not for military personnel.

In May 1983, we, like others before us and others since, recommended that the Navy centralize the adjudication activity for its 3,000 commands and over 500 thousand military personnel. Because the adjudicative process is not centralized, data is not readily available on how many adjudications were performed in fiscal year 1984; however, there were 26,000 background investigations of Navy military personnel during that year by DIS. The Navy has not responded to our recommendation.

Need for Continuous Monitoring and Periodic Reinvestigation of Cleared Employees

The granting of security clearances to government or contractor employees is the first step in the protection of national security information. Monitoring previously cleared

individuals to ensure that their access to classified information remains in the best interest of national security is, or should be, a continuing process. Policies and procedures for providing that assurance differ among agencies.

The Federal Personnel Manual, issued by OPM, which applies only to government employees, requires a reinvestigation every 5 years after an individual is placed in a position designated "special sensitive" or "critical sensitive". These terms are equivalent to an SCI access and top secret clearance, respectively.

In June 1981, DOD placed a moratorium on periodic reinvestigations for individuals with SCI access, because of the investigative backlog resulting from an increased number of initial investigations. In April 1983, because of improvements in the backlog and turnaround time, DOD resumed periodic reinvestigations for persons with SCI access and expanded the scope of its periodic reinvestigations of individuals with top secret clearances. To ensure that the periodic reinvestigations would not adversely impact the overall backlog and case completion time for all investigations, DOD established an annual quota of 40,000 periodic reinvestigations. With over 100,000 individuals with SCI access and about 500,000 with top secret clearances in DOD and industry, it may be several years before DIS can get the reinvestigation process back on schedule, considering its heavy work load of requests for new investigations.

The continuous monitoring of employees who have security clearances is also important. Government agencies and contractors need to pay close attention to employees with emotional, alcohol- or drug-related or severe financial problems. We have found that, when derogatory information on a individual is reported, agencies are reluctant to revoke security clearances because such revocation might be considered an adverse action. Agencies prefer to reassign the employee to a position that does not require a clearance.

DOD requires its contractors, operating some 14,000 cleared facilities that may have access to classified information, to report any adverse information about an employee with a security clearance. This is a formalized reporting process, with the reports being sent to the Defense Industrial Security Clearance Office, which is the central adjudication facility for contractor employees. During fiscal year 1984, the Clearance Office received 2,400 reports with adverse information and, based on these reports, suspended 24 clearances, on an interim basis, until the adverse information could be resolved.

DOD regulations covering military and civilian personnel require the immediate reporting of adverse information, by the most expeditious means possible, to the commander or security officer of the organization to which the subject individual is assigned.

OPM has not established a similar adverse reporting requirement for all agencies, although some may have established such a requirement.

Timely Investigations are a Significant Factor

Delays in the processing of security clearances result in significant costs to the government. In our September 1981 report, we identified some of the causes and problems associated with the delayed processing of clearances. In industry, a contractor is required to hire an employee before submitting a request for a security clearance. If the individual does not have a clearance, or is cleared at a level lower than what is needed for the job, the individual is not given access to the classified information for which the clearance is requested until the clearance request is processed favorably. In May 1981, DIS was processing top secret and secret clearances for contractor employees in an average of 220 and 103 days, respectively, well above its standard of 90 and 30 days, respectively.

Based on an earlier industry study that identified the costs of the lost productivity of individuals awaiting clearances, and not being able to do the classified contract work for which they were hired, we estimated that such costs could have totaled about \$340 million in fiscal year 1982. Using the industry study as a basis for DOD in-house costs, we estimated that such productivity losses within DOD for both civilian and military personnel could have run as high as \$580 million a year.

On the basis of this work, we supported a DIS request for additional investigators to help reduce the backlog and processing time of clearance requests. Additional investigators were authorized, and the backlog and processing time were both reduced. By August 1984, the average processing time for top secret and secret clearances for contractor employees had been reduced to 82 and 51 days, respectively. However, continuing increases in the number of requests for investigations and periodic reinvestigations are causing delays and increasing the time for processing clearances. In January 1985, the average processing time for top secret and secret clearances for contractor employees had increased to 114 days and 63 days, respectively.

For several years, OPM has experienced similar delays in processing the investigations that are a prerequisite for the granting of security clearances. In many cases, the government cannot hire or place an individual in a sensitive position until a favorable investigation is completed. In January 1985, the Department of Energy, the largest user of OPM, told us that the average processing time for background investigations was 217 days, or about 7 months. The State Department said that when it started using OPM for background investigations 3 years ago, the agreed turnaround time was 60 days. However, after the

cases started taking 6 months, State began to conduct its own investigations, using personal service contracts with ex-FBI agents. The Justice Department also told us that OPM investigations were being completed in about 6 months.

Need to Control the Number of Requests
for Security Clearance Investigations

Excessive requests for security clearances is a contributing factor to backlogs and processing delays and the incurrance of unnecessary costs. In our February 1983 report, which pertained only to DOD special access contracts, we recommended that instructions be issued that would require DOD's advance approval of a contractor's nominee for a special background or regular background investigation. We also recommended that the DIS return to contractors any requests not containing the advance approval. DOD took steps to implement our recommendations.

Some contractors said that it was possible to circumvent the system and that they were submitting more requests than they needed. Two contractors who acknowledged requesting a few more special access authorizations than they needed said that delays by DOD in completing investigations forced them into an untenable situation. If they received a new contract or needed additional employees for an existing contract, they could transfer appropriately cleared employees from other contracts (which would delay that work), hire other contractors' employees who already had special access authorizations (which was costly), or submit requests in anticipation of need.

DOD officials have told us of cases where contractors' employees had security clearances that were in excess of the number needed to perform on classified contracts. Over the years, audit reports by the military services have identified situations where an excessive number of security clearances were being requested for military personnel. DOD recognizes the problem and has considered a number of options to control the proliferation of security clearances, such as authorizing a specific number of clearances to each major defense component, and charging each component and its constituent contractors for each investigation requested. DOD has also emphasized to military commanders and program managers their responsibility to keep clearance requests to an absolute minimum.

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This concludes my prepared statement. If you have any questions, we would be pleased to answer them.

GAO Reports Containing Recommendations and Observations
Concerning Personnel Security and Suitability

| <u>Date</u> | <u>Number</u> | <u>Title</u> |
|-------------|------------------|---|
| 12/02/74 | B-132376 | Personnel Security Investigations: Inconsistent Standards and Procedures |
| 12/16/77 | FPCD-77-64 | Proposals to Resolve Longstanding Problems in Investigations of Federal Employees |
| 01/30/79 | GGD-78-91 | IRS Inspection Service Functions: Manage- ment Can Further Enhance Their Usefulness |
| 08/31/79 | FPCD-79-79 | Costs of Federal Personnel Security Investigations Could and Should Be Cut |
| 09/25/79 | FPCD-79-92 | Status of the Investigative Program |
| 09/15/81 | GGD-81-105 | Faster Processing of DOD Personnel Security Clearances Could Avoid Millions in Losses |
| 07/08/82 | GAO/GGD-82-56 | The Department of Justice Needs to Address the Problem of Two Personnel Investigations Being Conducted on All Bureau of Prisons Employees |
| 10/07/82 | GAO/GGD-83-15 | Review of Department of Defense Investigation of Leak of Classified Information to <u>The Washington Post</u> |
| 02/18/83 | GAO/GGD-83-43 | Further Improvements Needed in Department of Defense Oversight of Special Access (Carve-out) Contracts |
| 05/18/83 | GAO/GGD-83-66 | Need for Central Adjudication Facility for Security Clearances for Navy Personnel |
| 10/18/83 | GAO/NSIAD 84-26 | Effect of National Security Decision Directive-84, Safeguarding National Security Information |
| 06/11/84 | GAO/NSIAD 84-134 | Polygraph and Prepublication Review Policies of Federal Agencies |

Summary and Status of Principal Recommendations
From GAO Reports 1974-1984

| <u>Report Number & Date</u> | <u>Recommendation</u> | <u>Implemented</u> | <u>Status as of February 1985</u> | | <u>No Longer Applicable</u> |
|-------------------------------------|---|--------------------|-----------------------------------|----------------------------|---------------------------------|
| | | | <u>Partially Implemented</u> | <u>Not Implemented</u> | |
| B132376 12/2/74 | We recommend that Civil Service Commission (CSC) (OPM) | | | | |
| | --assume a more active role in providing direction and guidance regarding the classification procedure and the adjudication process. | X | | | |
| | --examine existing classification criteria to see if they are as ambiguous as agencies claim. | X | | | |
| | --consider the possibility of establishing a central adjudication body to review derogatory cases. | | | | X |
| | --assume complete responsibility for the investigative function of all civil agencies. | | | X | |
| FPCD-77-64 12/16/77 | We recommend that the Congress consolidate into one law the authority to investigate and judge the suitability of federal employees, including the poten- tial of employees in sensitive positions to impair national security. The Congress should consider: | | | | |
| | --Restrictions imposed on personnel investigations by other laws, such as the Privacy Act of 1974, and court decisions protecting individuals constitutional rights. | | | X | |

| <u>Report Number & Date</u> | <u>Recommendation</u> | <u>Status as of February 1985</u> | | | |
|-------------------------------------|---|-----------------------------------|----------------------------------|----------------------------|---------------------------------|
| | | <u>Implemented</u> | <u>Partially Implemented</u> | <u>Not Implemented</u> | <u>No Longer Applicable</u> |
| | --Whether CSC (OPM) should investigate occupants of nonsensitive positions only to determine prior criminal conduct, leaving to employing agencies the responsibility for assessing applicants' efficiency. | | | | |
| | --Need to define, in a manner acceptable to the courts, disloyal acts which should bar federal employment. | | | | |
| | --Scope of investigation needed for the seven levels of security clearances granted federal employees. | | | | |
| | --Whether there is a need in the legislation for provisions to aid CSC (OPM) in gathering local law enforcement information; e.g., reimbursing local law enforcement agencies for supplying information, receiving assistance from federal law enforcement agencies, or clarifying CSC's (OPM's) legal authority to have local arrest information. | | | | |
| | We recommend that CSC (OPM): | | | | |
| | --Establish criteria which will provide agencies clear instructions on how to classify positions into three categories based on whether the position duties would enable an occupant to have (1) a materially adverse effect on national security and/or a materially adverse effect on other national interests, (2) a materially adverse effect on agency operations, or (3) no materially adverse effect on agency or national interest. | | X | | |
| | --Assign more people to the review of agency classifications to bring about consistent use of the categories and thus appropriate investigations. | | | X | |

| Report Number & Date | Recommendation | Status as of February 1985 | | | No Longer Applicable |
|-------------------------|--|----------------------------|--------------------------|--------------------|-------------------------|
| | | Implemented | Partially Implemented | Not Implemented | |
| | --Establish controls which insure that written inquiries are responded to and used for adjudication. | | X | | |
| | --Establish clear criteria for determining when cases should be further investigated to obtain complete and accurate information and to ascertain if a pattern of misconduct is continuing or if rehabilitation has been accomplished. | | X | | |
| | --Establish controls to prevent arbitrary reductions in the scope of investigations. | | | X | |
| | --Assume complete responsibility for adjudicating past conduct in making suitability determinations for occupants of nonsensitive positions and retain the investigative results. | | X | | |
| | --Assign adjudication responsibility for all sensitive positions to employing agencies. | X | | | |
| | --Establish criteria on the completeness, accuracy, and age of information which can be used by CSC (OPM) for adjudication or be disseminated to an employing agency for its adjudication. Also, restrict the collection of information to that which can be used. | X | | | |
| | --When needed to determine the qualifications of potential appointees, direct employing agencies to make appropriate inquiries of prior employment and educational sources. | | | X | |

| Report Number & Date | Recommendation | Status as of February 1985 | | | |
|-------------------------|--|----------------------------|----------------------------------|----------------------------|---------------------------------|
| | | <u>Implemented</u> | <u>Partially Implemented</u> | <u>Not Implemented</u> | <u>No Longer Applicable</u> |
| FPCD-79-79 8/31/79 | <p>We recommend that the Director, OPM, work with other agencies to</p> <p>--develop definitive standards for reporting costs and determining the scope of investigations;</p> <p>--reach agreements to use these standards;</p> <p>--share resources when appropriate; and</p> <p>--encourage the use of improvements made by other agencies.</p> <p>Once standards have been established and improvements made, OPM, as part of its monitoring process, should use the reported costs and other operational data to determine the most effective program, including assessing the potential savings that could result from consolidation. This would include identifying</p> <p>--which agencies will conduct or assist in personnel investigations;</p> <p>--an estimate of the workload which could be transferred, the number of staff years to make investigations, and the cost of these investigations; and</p> <p>--potential benefits which would result from consolidation.</p> <p>We also repeat our previous recommendation that the Congress consolidate into one law the authority to investigate and judge the suitability of Federal employees, including the potential of employees in sensitive positions to impair national security. (See p. 1)</p> | | X | | |
| | | | X | | |
| | | | | X | |
| | | | X | | |
| | | | | | X |
| | | | X | | |
| | | | | X | |

| <u>Report Number & Date</u> | <u>Recommendation</u> | <u>Status as of February 1985</u> | | | <u>No Longer Applicable</u> |
|-------------------------------------|--|-----------------------------------|----------------------------------|----------------------------|---------------------------------|
| | | <u>Implemented</u> | <u>Partially Implemented</u> | <u>Not Implemented</u> | |
| GGD-81-105 9/15/81 | We recommend that the Secretary of Defense reprogram the 1982 budget to provide the Defense Investigative Service authority to hire the additional personnel needed to expedite the investigation and processing of personnel security clearances. | X | | | |
| | We recommend that the Attorney General request, and that the Director, Office of Management and Budget, approve authority for the FBI to increase the number of personnel in the Identification Division. | | X | | |
| | We further recommend that the Attorney General expedite implementation of the proposed automation program in that division. | | | X | |
| GAO/GGD 83-66 5/18/83 | We recommend that the Secretary of the Navy establish a central adjudication facility for civilian and military personnel, in accordance with the requirement of DOD Regulation 5200.2-R, "Personnel Security Program." | | | X | |

Government and Contractor Employees
With Security Clearances and SCI Access
As of December 31, 1983

| <u>Department/Agency</u> | <u>Total No. of Gov't Employees</u> | <u>Number of Government Employees with Clearances</u> | | | | <u>Number of Contractor Employees with Clearances</u> | | | |
|---|---|---|---------------|---------------------|-------------------------------|---|---------------|---------------------|-------------------|
| | | <u>Top Secret</u> | <u>Secret</u> | <u>Confidential</u> | <u>SCI Access¹</u> | <u>Top Secret</u> | <u>Secret</u> | <u>Confidential</u> | <u>SCI Access</u> |
| Defense | 3,317,086 | 480,360 | 2,066,643 | 28,160 | 111,167 | 111,000 | 900,000 | 304,800 | 10,808 |
| Postal Service | 675,000 | 5 | 100 | 0 | 3 | 0 | 0 | 0 | 0 |
| Veterans Administration | 239,355 | 201 | 1,523 | 0 | 0 | 0 | 0 | 0 | 0 |
| Health & Human Services | 144,576 | 941 | 318 | 279 | 0 | 0 | 0 | 0 | 0 |
| Treasury | 124,287 | 6,871 | 2,993 | 274 | 1,733 | 183 | 0 | 0 | 2 |
| Agriculture | 120,000 | 750 | 1,500 | 2,900 | 155 | 0 | 0 | 0 | 0 |
| Transportation | 99,750 | 530 | 15,000 | 266 | 55 | 0 | 0 | 0 | 0 |
| Interior | 74,482 | 596 | 1,658 | 104 | 229 | 0 | 3 | 0 | 0 |
| Justice | 60,490 | 25,406 | 4,905 | 791 | 3,220 | 28 | 9 | 80 | 10 |
| Tennessee Valley Authority | 36,229 | 35 | 455 | 137 | 0 | 0 | 0 | 2 | 0 |
| Commerce | 35,104 | 1,285 | 7,150 | 100 | 215 | 0 | 25 | 0 | 0 |
| General Services Administration | 30,252 | 1,800 | 4,500 | 200 | 200 | 0 | 0 | 0 | 0 |
| State | 24,016 | 13,938 | 733 | 0 | 4,350 | 0 | 0 | 0 | 200 |
| National Aeronautics & Space Administration | 22,000 | 523 | 15,706 | 719 | 280 | 0 | 0 | 0 | 29 |
| Labor | 19,484 | 100 | 175 | 0 | 18 | 0 | 0 | 0 | 0 |

ATTACHMENT III

ATTACHMENT III

| | Total No. of Gov't Employees | Number of Government Employees with Clearances | | | | Number of Contractor Employees with Clearances | | | |
|---|------------------------------|--|------------------|---------------|-------------------------|--|----------------|----------------|---------------|
| | | Top Secret | Secret | Confidential | SCI Access ¹ | Top Secret | Secret | Confidential | SCI Access |
| Energy ² | 17,057 | 10,885 | 1,832 | 0 | 260 | 164,634 | 21,038 | 0 | 330 |
| Housing & Urban Development | 12,648 | 117 | 202 | 0 | 0 | 0 | 0 | 0 | 0 |
| Environmental Protection Agency | 11,568 | 54 | 833 | 79 | 14 | 15 | 18 | 3 | 7 |
| United States Information Agency | 8,200 | 3,162 | 852 | 0 | 71 | 0 | 0 | 0 | 0 |
| Office of Personnel Management | 6,827 | 40 | 405 | 0 | 25 | 1 | 0 | 0 | 0 |
| Agency for International Development | 5,232 | 1,875 | 1,923 | 0 | 100 | 0 | 72 | 50 | 0 |
| Education | 5,230 | 82 | 53 | 20 | 0 | 0 | 0 | 0 | 0 |
| Small Business Administration | 5,020 | 53 | 1,595 | 24 | 0 | 0 | 0 | 0 | 0 |
| Others (24 with under 3,800 employees) ³ | 21,967 | 4,326 | 5,888 | 103 | 301 | 728 | 4,440 | 0 | 2 |
| TOTALS | 5,115,660 | 553,935 | 2,127,142 | 34,156 | 122,396 | 276,589 | 925,605 | 304,935 | 11,388 |

NOTES: ¹Employees with sensitive compartmented information (SCI) access are required to have a top secret clearance. Therefore, the number of such individuals is included in the number of individuals with top secret clearances.

²The Department of Energy uses "Q" and "L" clearances which are comparable to the top secret and secret clearances used by other agencies.

³Information was not requested from the Central Intelligence Agency and National Security Agency. Furthermore, the following offices never responded to the April 1984 questionnaire requesting the data:

- Executive Office of the President
- Office of Management and Budget
- United States Arms Control and Disarmament Agency
- United States Trade Representative.

Executive Order 10450

Security Requirements For Government Employment

WHEREAS the interests of the national security require that all persons privileged to be employed in the departments and agencies of the Government, shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States; and

WHEREAS the American tradition that all persons should receive fair, impartial, and equitable treatment at the hands of the Government requires that all persons seeking the privilege of employment or privileged to be employed in the departments and agencies of the Government be adjudged by mutually consistent and no less than minimum standards and procedures among the departments and agencies governing the employment and retention in employment of persons in the Federal service:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including section 1753 of the Revised Statutes of the United States (5 U. S. C. 631); the Civil Service Act of 1883 (22 Stat. 403; 5 U. S. C. 632, et seq.); section 9A of the act of August 2, 1939, 53 Stat. 1148 (5 U. S. C. 118 j); and the act of August 26, 1950, 64 Stat. 476 (5 U. S. C. 22-1, et seq.), and as President of the United States, and deeming such action necessary in the best interests of the national security, it is hereby ordered as follows:

SECTION 1. In addition to the departments and agencies specified in the said act of August 26, 1950, and Executive Order No. 10237 of April 26, 1951, the provisions of that act shall apply to all other departments and agencies of the Government.

SEC. 2. The head of each department and agency of the Government shall be responsible for establishing and maintaining within his department or agency an effective program to insure that the employment and retention in employment of any civilian officer or employee within the department or agency is clearly consistent with the interests of the national security.

SEC. 3. (a) The appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to investigation. The scope of the investigation shall be determined in the first instance according to the degree of adverse effect the occupant of the position sought to be filled could bring about, by virtue of the nature of the position, on the national security, but in no event shall the investigation include less than a national agency check (including a check of the fingerprint files of the Federal Bureau of Investigation), and written inquiries to appropriate local law-enforcement agencies, former employers and supervisors, references, and schools attended by the person under investigation: *Provided*, that upon request of the head of the department or agency concerned, the Civil Service Commission may, in its discretion, authorize such less investigation as may meet the requirements of the national security with respect to per-diem, intermittent, temporary, or seasonal employees, or aliens employed outside the United States. Should there develop at any stage of investigation information indicating that the employment of any such person may not be clearly consistent with the interests of the national security, there shall be conducted with respect to such person a full field investi-

gation, or such less investigation as shall be sufficient to enable the head of the department or agency concerned to determine whether retention of such person is clearly consistent with the interests of the national security.

(b) The head of any department or agency shall designate, or cause to be designated, any position within his department or agency the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security as a sensitive position. Any position so designated shall be filled or occupied only by a person with respect to whom a full field investigation has been conducted: *Provided*, that a person occupying a sensitive position at the time it is designated as such may continue to occupy such position pending the completion of a full field investigation, subject to the other provisions of this order: *And provided further*, that in case of emergency a sensitive position may be filled for a limited period by a person with respect to whom a full field preappointment investigation has not been completed if the head of the department or agency concerned finds that such action is necessary in the national interest, which finding shall be made a part of the records of such department or agency.

SEC. 4. The head of each department and agency shall review, or cause to be reviewed, the cases of all civilian officers and employees with respect to whom there has been conducted a full field investigation under Executive Order No. 9835 of March 21, 1947, and, after such further investigation as may be appropriate, shall readjudicate, or cause to be readjudicated, in accordance with the said act of August 26, 1950, such of those cases as have not been adjudicated under a security standard commensurate with that established under this order.

SEC. 5. Whenever there is developed or received by any department or agency information indicating that the retention in employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, such information shall be forwarded to the head of the employing department or agency or his representative, who, after such investigation as may

be appropriate, shall review, or cause to be reviewed, and, where necessary, readjudicate, or cause to be readjudicated, in accordance with the said act of August 26, 1950, the case of such officer or employee.

SEC. 6. Should there develop at any stage of investigation information indicating that the employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, the head of the department or agency concerned or his representative shall immediately suspend the employment of the person involved if he deems such suspension necessary in the interests of the national security and, following such investigation and review as he deems necessary, the head of the department or agency concerned shall terminate the employment of such suspended officer or employee whenever he shall determine such termination necessary or advisable in the interests of the national security; in accordance with the said act of August 26, 1950.

SEC. 7. Any person whose employment is suspended or terminated under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950, or pursuant to the said Executive Order No. 9835 or any other security or loyalty program relating to officers or employees of the Government, shall not be reinstated or restored to duty or reemployed in the same department or agency and shall not be reemployed in any other department or agency, unless the head of the department or agency concerned finds that such reinstatement, restoration, or reemployment is clearly consistent with the interests of the national security, which finding shall be made a part of the records of such department or agency: *Provided*, that no person whose employment has been terminated under such authority thereafter may be employed by any other department or agency except after a determination by the Civil Service Commission that such person is eligible for such employment.

SEC. 8. (a) The investigations conducted pursuant to this order shall be designed to develop information as to whether the employment or retention in employment in the Federal service of the person being investigated is clearly

consistent with the interests of the national security. Such information shall relate, but shall not be limited, to the following:

(1) Depending on the relation of the Government employment to the national security:

(i) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(ii) Any deliberate misrepresentations, falsifications, or omissions of material facts.

(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

(iv) Any illness, including any mental condition, of a nature which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the employee, with due regard to the transient or continuing effect of the illness and the medical findings in such case.¹

(v) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security.

(2) Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereat or preparation therefor, or conspiring with, or aiding or abetting, another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Advocacy of use of force or violence to overthrow the government of the United States.

¹ As amended by Executive Order 10548 of August 2, 1954.

or of the alteration of the form of government of the United States by unconstitutional means.

(5) Knowing membership →with the specific intent of furthering the aims of, or adherence to and active participation in; any foreign or domestic organization, association, movement, group, or combination of persons (hereinafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising← their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the government of the United States or any State or subdivision thereof by unlawful means.²

(6) Intentional, unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations.

(7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(8) Refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee regarding charges of his alleged disloyalty or other misconduct.³

(b) The investigation of persons entering or employed in the competitive service shall primarily be the responsibility of the Civil Service Commission, except in cases in which the head of a department or agency assumes that responsibility pursuant to law or by agreement with the Commission. The Commission shall furnish a full investigative report to the department or agency concerned.

(c) The investigation of persons (including consultants, however employed), entering employment of, or employed by, the Government other than in the competitive service shall primarily be the responsibility of the employing department or agency. Departments and agencies without investigative facilities may use the

² As amended by Executive Order →11785 of June 4 1974.

³ As amended by Executive Order 10491 of October 13, 1953.←

investigative facilities of the Civil Service Commission, and other departments and agencies may use such facilities under agreement with the Commission.

(d) There shall be referred promptly to the Federal Bureau of Investigation all investigations being conducted by any other agencies which develop information indicating that an individual may have been subjected to coercion, influence, or pressure to act contrary to the interests of the national security, or information relating to any of the matters described in subdivisions (2) through (8) ⁴ of subsection (a) of this section. In cases so referred to it, the Federal Bureau of Investigation shall make a full field investigation.

SEC. 9. (a) There shall be established and maintained in the Civil Service Commission a security-investigations index covering all persons as to whom security investigations have been conducted by any department or agency of the Government under this order. The central index established and maintained by the Commission under Executive Order No. 9835 of March 21, 1947, shall be made a part of the security-investigations index. The security-investigations index shall contain the name of each person investigated, adequate identifying information concerning each such person, and a reference to each department and agency which has conducted an investigation concerning the person involved or has suspended or terminated the employment of such person under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950.

(b) The heads of all departments and agencies shall furnish promptly to the Civil Service Commission information appropriate for the establishment and maintenance of the security-investigations index.

(c) The reports and other investigative material and information developed by investigations conducted pursuant to any statute, order, or program described in section 7 of this order

⁴ As amended by Executive Order 10531 of May 27, 1954.

shall remain the property of the investigative agencies conducting the investigations, but may, subject to considerations of the national security, be retained by the department or agency concerned. Such reports and other investigative material and information shall be maintained in confidence, and no access shall be given thereto except, with the consent of the investigative agency concerned, to other departments and agencies conducting security programs under the authority granted by or in accordance with the said act of August 26, 1950, as may be required for the efficient conduct of Government business.

SEC. 10. Nothing in this order shall be construed as eliminating or modifying in any way the requirement for any investigation or any determination as to security which may be required by law.

SEC. 11. On and after the effective date of this order the Loyalty Review Board established by Executive Order No. 9835 of March 21, 1947, shall not accept agency findings for review, upon appeal or otherwise. Appeals pending before the Loyalty Review Board on such date shall be heard to final determination in accordance with the provisions of the said Executive Order No. 9835, as amended. Agency determinations favorable to the officer or employee concerned pending before the Loyalty Review Board on such date shall be acted upon by such Board, and whenever the Board is not in agreement with such favorable determination the case shall be remanded to the department or agency concerned for determination in accordance with the standards and procedures established pursuant to this order. Cases pending before the regional loyalty boards of the Civil Service Commission on which hearings have not been initiated on such date shall be referred to the department or agency concerned. Cases being heard by regional loyalty boards on such date shall be heard to conclusion, and the determination of the board shall be forwarded to the head of the department or agency concerned: *Provided*, that if no specific department or agency is involved, the case shall be dismissed without prejudice to the applicant. Investigations pend-

ing in the Federal Bureau of Investigation or the Civil Service Commission on such date shall be completed, and the reports thereon shall be made to the appropriate department or agency.

SEC. 12. Executive Order No. 9835 of March 21, 1947, as amended,⁵ is hereby revoked.

SEC. 13. The Attorney General is requested to render to the heads of departments and agencies such advice as may be requisite to enable them to establish and maintain an appropriate employee-security program.

SEC. 14. (a) The Civil Service Commission, with the continuing advice and collaboration of representatives of such departments and agencies as the National Security Council may designate, shall make a continuing study of the manner in which this order is being implemented by the departments and agencies of the Government for the purpose of determining:

(1) Deficiencies in the department and agency security programs established under this order which are inconsistent with the interests of, or directly or indirectly weaken the national security.

(2) Tendencies in such programs to deny to individual employees fair, impartial, and equitable treatment at the hands of the Government, or rights under the Constitution and laws of the United States or this order.

Information affecting any department or agency developed or received during the course of such continuing study shall be furnished immediately to the head of the department or agency concerned. The Civil Service Commission shall report to the National Security Council, at least semiannually, on the results of

⁵ As amended by Executive Order →11785 of June 4' 1974, which revoked Executive Order 11605 of July 2' 1971.←

such study, shall recommend means to correct any such deficiencies or tendencies, and shall inform the National Security Council immediately of any deficiency which is deemed to be of major importance.⁶

(b) All departments and agencies of the Government are directed to cooperate with the Civil Service Commission to facilitate the accomplishment of the responsibilities assigned to it by subsection (a) of this section.

(c) To assist the Civil Service Commission in discharging its responsibilities under this order, the head of each department and agency shall, as soon as possible and in no event later than ninety days after receipt of the final investigative report on a civilian officer or employee subject to a full field investigation under the provisions of this order, advise the Commission as to the action taken with respect to such officer or employee. The information furnished by the heads of departments and agencies pursuant to this section shall be included in the reports which the Civil Service Commission is required to submit to the National Security Council in accordance with subsection (a) of this section. Such reports shall set forth any deficiencies on the part of the heads of departments and agencies in taking timely action under this order, and shall mention specifically any instances of noncompliance with this subsection.⁶

SEC. 15. This order shall become effective thirty days after the date hereof.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
April 27, 1958.

⁶ As amended by Executive Order 10550 of August 5, 1954.

EXECUTIVE ORDER 10865

SAFEGUARDING CLASSIFIED INFORMATION
WITHIN INDUSTRY

WHEREAS it is mandatory that the United States protect itself against hostile or destructive activities by preventing unauthorized disclosures of classified information relating to the national defense; and

WHEREAS it is a fundamental principle of our Government to protect the interests of individuals against unreasonable or unwarranted encroachment; and

WHEREAS I find that the provisions and procedures prescribed by this order are necessary to assure the preservation of the integrity of classified defense information and to protect the national interest; and

WHEREAS I find that those provisions and procedures recognize the interests of individuals affected thereby and provide maximum possible safeguards to protect such interest:

NOW, THEREFORE, under and by virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States and as Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of State, the Secretary of Defense, the Commissioners of the Atomic Energy Commission, the Administrator of the National Aeronautics and Space Administration, and the Administrator of the Federal Aviation Agency, respectively, shall, by regulation, prescribe such specific requirements, restrictions, and other safeguards as they consider necessary to protect (1) releases of classified information to or within United States industry that relate to bidding on, or the negotiation, award, performance, or termination of, contracts with their

respective agencies, and (2) other releases of classified information to or within industry that such agencies have responsibility for safeguarding. So far as possible, regulations prescribed by them under this order shall be uniform and provide for full cooperation among the agencies concerned.

(b) Under agreement between the Department of Defense and any other department or agency of the United States, including, but not limited to, those referred to in subsection (c) of this section, regulations prescribed by the Secretary of Defense under subsection (a) of this section may be extended to apply to protect releases (1) of classified information to or within United States industry that relate to bidding on, or the negotiation, award, performance, or termination of, contracts with such other department or agency, and (2) other releases of classified information to or within industry which such other department or agency has responsibility for safeguarding.

(c) When used in this order, the term "head of a department" means the Secretary of State, the Secretary of Defense, the Commissioners of the Atomic Energy Commission, the Administrator of the National Aeronautics and Space Administration, the Administrator of the Federal Aviation Agency, and, in sections 4 and 8, includes the Attorney General. The term "department" means the Department of State, the Department of Defense, and the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency, and, in sections 4 and 8, includes the Department of Justice.

SECTION 2. An authorization for access to classified information may be granted by the head of a department or his designee, including, but not limited to, those officials named in section 8 of this order, to an individual, hereinafter termed an "applicant", for a specific classification category only upon a finding that it is clearly consistent with the national interest to do so.

SECTION 3. Except as provided in section 9 of this order, an authorization for access to a specific classification category may not be finally denied or revoked by the head of a department or his designee, including, but not limited to, those officials named in section 8 of this order, unless the applicant has been given the following:

(1) A written statement of the reasons why his access authorization may be denied or revoked, which shall be as comprehensive and detailed as the national security permits.

(2) A reasonable opportunity to reply in writing under oath or affirmation to the statement of reasons.

(3) After he has filed under oath or affirmation a written reply to the statement of reasons, the form and sufficiency of which may be prescribed by regulations issued by the head of the department concerned, an opportunity to appear personally before the head of the department concerned or his designee, including, but not limited to, those officials named in section 8 of this order, for the purpose of supporting his eligibility for access authorization and to present evidence on his behalf.

(4) A reasonable time to prepare for that appearance.

(5) An opportunity to be represented by counsel.

(6) An opportunity to cross-examine persons either orally or through written interrogatories in accordance with section 4 on matters not relating to the characterization in the statement of reasons of any organization or individual other than the applicant.

(7) A written notice of the final decision in his case which, if adverse, shall specify whether the head of the department or his designee, including, but not limited to, those officials named in section 8 of this order, found for or against him with respect to each allegation in the statement of reasons.

SECTION 4. (a) An applicant shall be afforded an opportunity to cross-examine persons who have made oral or written statements adverse to the applicant relating to a controverted issue except that any such statement may be received and considered without affording such opportunity in the circumstances described in either of the following paragraphs:

(1) The head of the department supplying the statement certifies that the person who furnished the information is a confidential informant who has been engaged in obtaining intelligence information for the Government and that disclosure of his identity would be substantially harmful to the national interest.

(2) The head of the department concerned or his special designee for that particular purpose has preliminarily determined, after considering information furnished by the investigative agency involved as to the reliability of the person and the accuracy of the statement concerned, that the statement concerned appears to be reliable and material, and the head of the department or such special designee has determined that failure to receive and consider such statement would, in view of the level of access sought, be substantially harmful to the national security and that the person who furnished the information cannot appear to testify (A) due to death, severe illness, or similar cause, in which case the identity of the person and the information to be considered shall be made available to the applicant, or (B) due to some other cause determined by the head of the department to be good and sufficient.

(b) Whenever procedures under paragraphs (1) or (2) of subsection (a) of this section are used (1) the applicant shall be given a summary of the information which shall be as comprehensive and detailed as the national security permits, (2) appropriate consideration shall be accorded to the fact that the applicant did not have an opportunity to cross-examine such person or persons, and (3) a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

SECTION 5. (a) Records compiled in the regular course of business, or other physical evidence other than investigative reports, may be received and considered subject to rebuttal without authenticating witnesses, provided that such information has been furnished to the department concerned by an investigative agency pursuant to its responsibilities in connection with assisting the head of the department concerned to safeguard classified information within industry pursuant to this order.

(b) Records compiled in the regular course of business, or other physical evidence other than investigative reports, relating to a controverted issue which, because they are classified, may not be inspected by the applicant, may be received and considered provided that: (1) the head of the department concerned or his special designee for that purpose has made a preliminary determination that such physical evidence appears to be material, (2) the head of the department concerned or such designee has made a determination

that failure to receive and consider such physical evidence would, in view of the level of access sought, be substantially harmful to the national security, and (3) to the extent that the national security permits, a summary or description of such physical evidence is made available to the applicant. In every such case, information as to the authenticity and accuracy of such physical evidence furnished by the investigative agency involved shall be considered. In such instances a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

SECTION 6. Because existing law does not authorize the Department of State, the Department of Defense, or the National Aeronautics and Space Administration to subpoena witnesses, the Secretary of State, the Secretary of Defense, or the Administrator of the National Aeronautics and Space Administration, or his representative, may issue, in appropriate cases, invitations and requests to appear and testify in order that the applicant may have the opportunity to cross-examine as provided by this order. So far as the national security permits, the head of the investigative agency involved shall cooperate with the Secretary or the Administrator, as the case may be, in identifying persons who have made statements adverse to the applicant and in assisting him in making them available for cross-examination. If a person so invited is an officer or employee of the executive branch of the Government or a member of the armed forces of the United States, the head of the department or agency concerned shall cooperate in making that person available for cross-examination.

SECTION 7. Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.

SECTION 8. Except as otherwise specified in the preceding provisions of this order, any authority vested in the head of a department by this order may be delegated to the

(1) Under Secretary of State or a Deputy Under Secretary of State, in the case of authority vested in the Secretary of State;

(2) Deputy Secretary of Defense or an Assistant Secretary of Defense, in the case of authority vested in the Secretary of Defense;

(3) General Manager of the Atomic Energy Commission, in the case of authority vested in the Commissioners of the Atomic Energy Commission;

(4) Deputy Administrator of the National Aeronautics and Space Administration, in the case of authority vested in the Administrator of the National Aeronautics and Space Administration;

(5) Deputy Administrator of the Federal Aviation Agency, in the case of authority vested in the Administrator of the Federal Aviation Agency; or

(6) Deputy Attorney General or an Assistant Attorney General, in the case of authority vested in the Attorney General.

SECTION 9. Nothing contained in this order shall be deemed to limit or affect the responsibility and powers of the head of a department to deny or revoke access to a specific classification category if the security of the nation so requires. Such authority may not be delegated and may be exercised only when the head of a department determines that the procedures prescribed in sections 3, 4, and 5 cannot be invoked consistently with the national security and such determination shall be conclusive.

DWIGHT D. EISENHOWER

THE WHITE HOUSE
February 20, 1960

EXECUTIVE ORDER 10909

AMENDMENT OF EXECUTIVE ORDER NO. 10865,
SAFEGUARDING CLASSIFIED INFORMATION
WITHIN INDUSTRY

By virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States, and as Commander in Chief of the armed forces of the United States, Executive Order No. 10865 of February 20, 1960 (25 F.R. 1583), is hereby amended as follows:

Section 1. Section 1(c) is amended to read as follows:

"(c) When used in this order, the term 'head of a department' means the Secretary of State, the Secretary of Defense, the Commissioners of the Atomic Energy Commission, the Administrator of the National Aeronautics and Space Administration, the Administrator of the Federal Aviation Agency, the head of any other department or agency of the United States with which the Department of Defense makes an agreement under subsection (b) of this section, and in sections 4 and 8, includes the Attorney General. The term 'department' means the Department of State, the Department of Defense, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency, any other department or agency of the United States with which the Department of Defense makes an agreement under subsection (b) of this section, and, in sections 4 and 8, includes the Department of Justice."

Section 2. Section 6 is amended to read as follows:

"Sec. 6. The Secretary of State, the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Administrator of the Federal Aviation Agency, or his representative, or the head of any other department or agency of the United States with which the Department of Defense makes an agreement under section 1(b), or his representative, may issue, in appropriate cases, invitations and requests to appear and testify in order that the applicant may have the opportunity to cross-examine as provided

by this order. Whenever a witness is so invited or requested to appear and testify at a proceeding and the witness is an officer or employee of the executive branch of the Government or a member of the armed forces of the United States, and the proceeding involves the activity in connection with which the witness is employed, travel expenses and per diem are authorized as provided by the Standardized Government Travel Regulations or the Joint Travel Regulations, as appropriate. In all other cases (including non-Government employees as well as officers or employees of the executive branch of the Government or members of the armed forces of the United States not covered by the foregoing sentence), transportation in kind and reimbursement for actual expenses are authorized in an amount not to exceed the amount payable under Standardized Government Travel Regulations. An officer or employee of the executive branch of the Government or a member of the armed forces of the United States who is invited or requested to appear pursuant to this paragraph shall be deemed to be in the performance of his official duties. So far as the national security permits, the head of the investigative agency involved shall cooperate with the Secretary, the Administrator, or the head of the other department or agency, as the case may be, in identifying persons who have made statements adverse to the applicant and in assisting him in making them available for cross-examination. If a person so invited is an officer or employee of the executive branch of the Government or a member of the armed forces of the United States, the head of the department or agency concerned shall cooperate in making that person available for cross-examination."

Sec. 3. Section 8 is amended by striking out the word "or" at the end of clause (5), by striking out the period at the end of clause (6) and inserting "; or" in place thereof, and by adding the following new clause at the end thereof:

"(7) the deputy of that department, or the principal assistant to the head of that department, as the case may be, in the case of authority vested in the head of a department or agency of the United States with which the Department of Defense makes an agreement under section 1(b)."

DWIGHT D. EISENHOWER

THE WHITE HOUSE

January 17, 1961

Glossary of Terms and Acronyms

- Adjudication - The determination, based on specific criteria and past behavior, of the probability of a person's future behavior having an adverse affect on national security.
- BI - Background Investigation - Includes all the elements of a NACI plus a credit check and personal interviews with selected sources covering specific areas of subject's background up to the past 7 years but not less than 5 years.
- C - CONFIDENTIAL - The designation applied to information or material the unauthorized disclosure of which could reasonably be expected to cause identifiable damage to the national security.
- CS - Critical Sensitive - A position designation based on the assessment that an individual, by virtue of occupancy of the position, could cause "exceptionally grave damage" to the national security.
- DIS - Defense Investigative Service - DOD component responsible for, among other things, conducting personnel security investigations for DOD military, civilian and contractor personnel.
- DISCO - Defense Industrial Security Clearance Office - The office responsible for initiating investigations, issuing clearances and maintaining clearance records for DOD contractor personnel.
- E.O. 10450 - Executive Order 10450 (Security Requirements for Government Employment) is the basic authority for the Federal Civilian Personnel Security Program. It requires that investigations be conducted on all persons entering the Federal civilian service, and makes agency heads responsible for maintaining within their agencies an effective personnel security program to insure that the employment and continued employment of each civilian in their agencies is clearly consistent with the interests of national security.

- E.O. 10865 - Executive Order 10865 (Safeguarding Classified Information Within Industry) is the authority for agency heads to grant access to contractor personnel, for a specific classification category, only upon finding that it is clearly consistent with national interests to do so.
- NAC - National Agency Check - Consists of record searches of selected agencies for information bearing on the loyalty, trustworthiness and suitability of individuals under investigation. A NAC may include checks of records at any or all of the following: Defense Central Index of Investigations; Federal Bureau of Investigation (both name and fingerprint checks); Office of Personnel Management, Immigration and Naturalization Service; and the State Department.
- NACI - National Agency Check and Inquiries - Consists of a NAC plus written inquiries covering specific areas of the subject's background during the past 5 years.
- NCS - Noncritical Sensitive - A position designation based on the assessment that an individual, by virtue of occupancy of the position, could cause "serious damage" to the national security.
- OPM - Office of Personnel Management, formerly the Civil Service Commission.
- PR - Periodic Reinvestigation - Consists of at least an updated Personal Information Questionnaire and a review of related personnel and security files. In addition, a NAC, subject interview, record searches, credit search, and resolution of issues raised since the last background investigation is ordinarily warranted.
- PSI - Personnel Security Investigation - Any investigation required for the purpose of determining an individuals eligibility for access to classified information.
- S - SECRET - The designation applied to information or material the unauthorized disclosure of which could reasonably be expected to cause serious damage to the national security.

- SAP - Special Access Program - Any program imposing "need-to-know" or access controls beyond those normally provided for access to CONFIDENTIAL, SECRET or TOP SECRET information.
- SBI - Special Background Investigation - Consists of the same components as a BI, however, the period of investigation is the past 15 years or to the subject's 18th birthday, whichever is shorter.
- SCI - Sensitive Compartmented Information - Includes all information and material that require special controls for restricted handling within compartmented intelligence systems and for which compartmentation is established.
- SS - Special Sensitive - A position designation based on the assessment that an individual, by virtue of occupancy of the position, could cause "inestimable damage" to the national security.
- TS - TOP SECRET - The designation applied to information or material the unauthorized disclosure of which could reasonably be expected to cause exceptionally grave damage to the national security.