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**PRIVATIZING OPM
INVESTIGATIONS**

**Perspectives on OPM's Role
in Background Investigations**

Statement of
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Perspectives on OPM's Role in Background Investigations

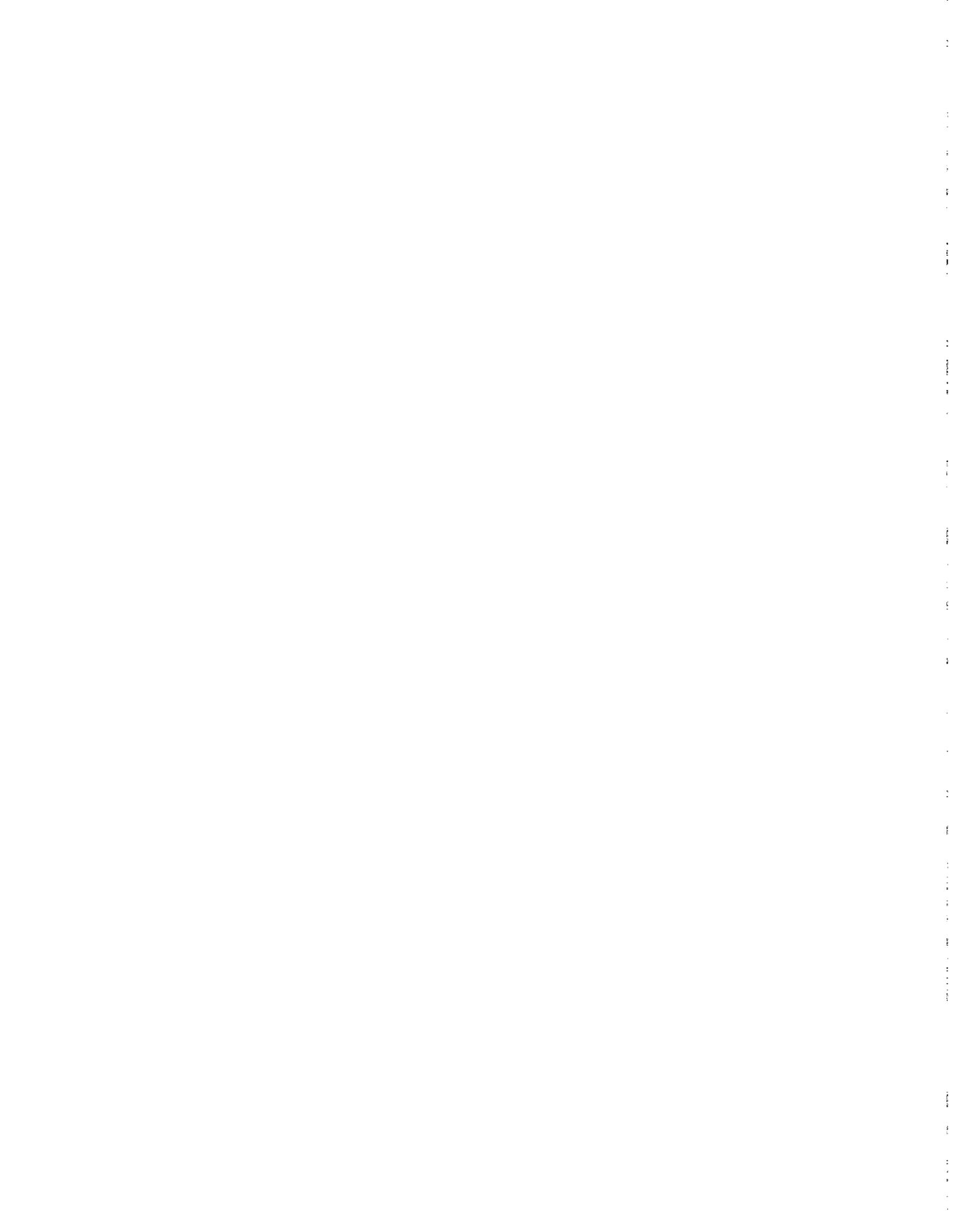
Summary Statement by
Timothy P. Bowling, Associate Director
Federal Human Resource Management Issues

As requested by the House Committee on Government Reform and Oversight's Subcommittee on Civil Service, GAO is reviewing OPM's proposal to privatize its Investigations Service. OPM is considering privatizing this function through the establishment of a private corporation owned by former Investigations Service employees through an Employee Stock Ownership Plan (ESOP). In this testimony, GAO focuses on OPM's role in federal investigations and describes how the number and scope of investigations have altered with the changing personnel security landscape in recent years. Testimony scheduled for tomorrow will focus on issues regarding the planning and implementation of the ESOP proposal.

OPM's policymaking and oversight role in federal investigations dates to its days as the Civil Service Commission. OPM conducts about 30 percent of the background investigations completed by the government. The remainder are completed by federal agencies that are authorized to conduct or contract for their own investigations by separate authority or that have been delegated that responsibility by OPM.

OPM has not withdrawn a delegation of investigation authority from any agency to date for lack of compliance with OPM standards. According to OPM officials, OPM prefers to work with the agency to correct any deficiencies that have been noted.

Several legal and policy changes over the last 40 years have affected the number and scope of federal investigations. Since Fiscal Year 1982, the number of cases received has ranged from a low of 20,596 to a high of 59,203. Over the last 5 years, the number of investigations performed by OPM has steadily declined.



Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss issues related to the Office of Personnel Management's (OPM) proposal to privatize its Investigations Service. As you know, OPM is considering privatizing this function through the establishment of a private corporation owned by former Investigations Service employees through an Employee Stock Ownership Plan (ESOP).

At your request, we are reviewing this proposal in order to assist the Subcommittee in its deliberations on OPM's plans. In performing our review, we have obtained information on the history, laws, and policies governing OPM's role in federal investigations; reviewed the privatization proposal and discussed the proposed changes with OPM's customer agencies and other stakeholders; and gathered information on recent trends in the nature and extent of OPM's investigations. We intend to address the issues regarding the planning and implementation of the ESOP proposal in our testimony tomorrow. Today, I will describe OPM's role in federal investigations and describe how the number and scope of these investigations have altered with the changing personnel security landscape in recent years.

OPM'S ROLE IN FEDERAL INVESTIGATIONS

OPM's policymaking and oversight role in federal investigations dates to its days as the Civil Service Commission (CSC). Under Executive Order 10450 (issued in 1953), Executive Order 10577 (issued in 1954), and Title 5, U.S.C., OPM is authorized to provide investigative services to federal agencies. Under this authority, it conducts background investigations of federal employees, contractors, and applicants for two basic purposes: (1) to provide a basis for determining an individual's suitability for federal employment, and (2) to provide agencies a basis for determining whether or not an individual should be granted a security clearance.

In cases involving an individual's suitability for federal employment, OPM makes the determination itself unless responsibility for investigations has been delegated by OPM or provided by separate authority to another agency. In cases involving security clearances, the agency makes the determination whether to grant the clearance.

OPM's Investigations Service is responsible for carrying out OPM's investigative function. The Service is currently staffed by approximately 771 employees assigned to headquarters and over 135 duty stations throughout the United States, including the Federal Investigations Processing Center in Boyers, Pennsylvania. The processing center maintains a governmentwide computer database on federal personnel that is used in performing background investigations.

OPM finances its investigations activities through a revolving fund, under which customer agencies reimburse OPM for the investigations it performs. In fiscal year (FY) 1994, OPM spent about \$87 million on the approximately 149,000 investigations it completed that year. About 40,000 of these required field work by investigators, while the remaining 109,000 investigations required only database searches.

In addition to OPM, eight federal agencies either conduct their own investigations in-house or contract them out under authorizations that predate the 1953 executive order. In recent years, these agencies have conducted or contracted for roughly 70 percent of the investigations completed by the government. These agencies are the Central Intelligence Agency, the National Security Agency, the Defense Investigative Service (for the Department of Defense), the Department of State, the Agency for International Development, the Federal Bureau of Investigation, the United States Information Agency, and the Department of the Treasury. OPM conducted the remaining 30 percent of investigations.

Also, as of FY 1994, OPM had delegated to five agencies the authority to either contract out for this service or perform it in-house. These agencies are the Departments of Commerce and Education, the Drug Enforcement Administration, the Customs Service, and the National Aeronautics and Space Administration. OPM retains oversight authority and the right to rescind these delegations.

OPM itself does not now use contractors to do background investigations. In February 1985, the OPM Director approved a proposal to contract out a number of OPM's background investigations. In October 1985, four firms were awarded 1-year contracts. As a result of that experience, OPM concluded that contracting out for these investigations was not advantageous. A principal problem cited was that the firms had significantly overestimated their ability to conduct investigations meeting OPM standards. The firms estimated they would be able to do 42,780 satisfactory investigations within the prescribed time period; however, they actually produced only 3,300. OPM also found that the firms' performance of background cases was unsatisfactory in terms of quality, timeliness, and integrity. These problems resulted in an overall loss to OPM of about \$1.3 million.

OPM'S OVERSIGHT ROLE

OPM is responsible for evaluating the effectiveness of its own and other agencies' compliance with the investigations standards and requirements it has established. OPM's policy is to exercise its oversight authority by (1) performing quality control reviews of investigations that OPM itself conducts and (2) reviewing investigation programs operated by agencies that hold delegated

investigations authority. OPM does not review investigations conducted by the eight agencies that are authorized under separate legislation to conduct their own investigations.

In the course of fulfilling these responsibilities, OPM (1) performs a field review of 10 to 15 percent of all investigations it does every year; (2) conducts a file review of a random sample of approximately 25 to 30 percent of its investigations; and (3) runs a computer check of all of the cases that come in during the year, including those from agencies with delegated authority, to determine, among other things, if the appropriate information has been included in the files. In addition, every year OPM performs a small number of detailed reviews of the records of investigations conducted by delegated agencies. These reviews cover issues such as proper documentation of interviews, appropriate use of investigative information, and other areas of compliance with standards.

OPM has never withdrawn a delegation based on an assessment that an agency failed to meet OPM standards in conducting investigations. Instead, OPM prefers to play a consultative role with its customer agencies. According to OPM officials, if deficiencies in investigations are found, OPM works with agency officials to improve the areas of weakness that it identifies.

Problems that have been found include an insufficient number of contacts and inadequate followup on issues. An OPM official told us that OPM has no plans either to award any new delegations of authority or to rescind others. This year, however, OPM declined to renew its delegation to the Department of Commerce pending OPM's decision on whether to privatize the Investigations Service. This action raises a question as to what will occur when the other delegations expire.

CHANGES IN THE NUMBER AND SCOPE OF INVESTIGATIONS

Several changes over the last 40 years have affected the number and scope of federal investigations. The first change occurred in 1956, when the Supreme Court found in Cole v. Young (351 US 536) that membership in a subversive organization was not a proper cause for dismissal from Federal employment unless the employee occupied a "sensitive" position. This eliminated one of the criteria used by federal investigators prior to that time in determining suitability.

Another change occurred in 1965. Until then, a full field investigation--requiring interviews of past employers, neighbors, landlords, etc.--had been required for all sensitive positions under Executive Order 10450. However, in a November 18, 1965, letter to the heads of federal departments and agencies, the Chairman of the Civil Service Commission redefined sensitive

positions by dividing them into critical-sensitive and noncritical-sensitive. Under this letter, full field investigations were required only for persons considered for critical-sensitive positions. Subsequently, the number of applicants requiring full field investigations sharply decreased due to the relatively small number of critical-sensitive positions in the federal civilian work force.

The period covered during a standard background investigation has also changed over time. Before 1961, background investigations of applicants and appointees went back to 1937 or to the subject's eighteenth birthday. Recognizing that a fixed 1937 starting point was no longer reasonable, in 1960, the Civil Service Commission reduced the period to 15 years or the time since the individual's eighteenth birthday. In 1968, the Civil Service Commission further reduced the requirement for a standard background investigation to 5 years.

According to OPM officials, the Privacy Act and the Freedom of Information Act have also had an impact on the investigations function by affecting the degree to which private individuals, companies, and state and local jurisdictions have been willing to share information with federal investigators. OPM officials told us that many sources are more reluctant to share information about an individual who is the subject of an investigation because now it is more likely that the individual, or some other party, may be able to access the information that is provided to a federal investigator.

The number of investigations requested has fluctuated significantly over the years. In FY 1982, for example, OPM received requests for 20,596 cases. In FY 1990, the number requested peaked at 59,203. Since 1990, the number has declined steadily, and for FY 1994, the latest year for which we have data, the number received was 37,942.

In summary, Mr. Chairman, while OPM has retained central responsibility for overseeing the performance of federal civilian investigations, a variety of laws, legal decisions, and policy changes have resulted in fewer investigations being performed. We look forward to appearing before you again tomorrow to discuss OPM's proposal for privatizing this function through an ESOP.

Mr. Chairman, this concludes my prepared statement. I will be pleased to respond to any questions you or the members of the Subcommittee may have.

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