

Hearing Date: March 07, 2018
Committee: SSCI
Member: Chairman Burr & Vice Chairman
Warner
Witness: Mr. Garry Reid and
Mr. Daniel Payne
Question: 1

Security Clearance Reform

Question: **Limits of Automation.** What are the policy or technical limits on the use of automation to acquire and analyze records that are not yet in digital format (such as certain fingerprints) or are unavailable in state-level repositories (such as certain local criminal records)?

Answer: There are no policy limits on the use of automation to acquire and analyze records that are not yet in digital format; however, there are technical limits on the use of automation to acquire and analyze non-digital records. For example, almost all paper records (e.g., arrest records, fingerprints) may be scanned and converted to digital format; but scanned documents may not lend themselves to automated analysis and fingerprints scanned from paper may not be of sufficient quality to be used. Unfortunately, there are many jurisdictions that do not submit their records to state-level repositories or the National Law Enforcement Telecommunications System (NLETS). While the National Background Investigations Bureau (NBIB) and Department of Defense (DoD) have encouraged states and smaller jurisdictions to make their records available electronically, mandating the reporting of criminal justice information into national repositories through legislation may improve the retrieval of significant criminal records when conducting background investigations.

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Question: **Robustness of the Investigative Industrial Base.** Please provide an analysis of the industrial base's ability to support both the National Background Investigation Bureau and the Defense Security Service as major investigative service providers.

Answer: We assess there will be sufficient capacity of background investigators throughout the transition between DoD and NBIB. Stress on the background investigation (BI) workforce will be mitigated by expanded use of Continuous Evaluation/Automated Records Checks-based investigations that will greatly reduce the requirement for manpower-intensive fieldwork. DoD and NBIB will work closely to coordinate and synchronize actions and avoid placing excessive strains on the BI workforce.

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Security Clearance Reform

Question: **Interim Clearances.** Please provide the number of interim clearances, by type, that were granted to industry personnel processed through the Defense Security Service in each of the last two years.

Answer: The Defense Security Service granted a total of 146,589 interim Secret security clearances and a total of 43,255 interim Top Secret security clearances over the last 2.5 years (as of March 2018)

| Interim Clearance Eligibility Granted | FY 2016 | FY 2017 | FY 2018 (through March) |
|---------------------------------------|---------|---------|-------------------------|
| Secret | 50,975 | 60,378 | 35,236 |
| Top Secret | 12,505 | 19,112 | 11,638 |

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Security Clearance Reform

Question: **Reducing the Number of Cleared Positions.** Please describe progress made in reducing the total number of government positions requiring a security clearance and lowering the clearance level for positions that do require clearances. In which departments, agencies and offices have there been the most progress, and where has there been the least progress? Are there target goals to reduce the number of positions requiring a clearance? If yes, what current processes are in place for achieving any of these goals?

Answer: Between FY 2013 and FY 2016, DoD reduced the number of personnel eligible for access to classified information from 4.6M to 3.5M, a decrease of more than 23%. DoD is focusing on validating the need for each cleared position, rather than on setting specific numbers-based goals. DoD will require its Components to validate the need for the level of clearance by each individual as using the Position Designation Tool (PDT) which identifies the level of risk and the security clearance or suitability determination required. The PDT is key to reducing the number of cleared personnel for new or existing positions. Consequently, the PDT is considered the starting point for the end-to-end processes of the National Background Investigation Services (NBIS), the Information Technology infrastructure for personnel vetting.

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Security Clearance Reform

Question: **Whistleblowers.** On June 18, 2014, Senator Grassley and I wrote the DNI about the potential impact of continuous monitoring and continuous evaluation on whistleblower protections. On July 25, 2014, the DNI responded that “some agencies” were training investigators and that the National Insider Threat Task Force had issued guidance emphasizing legal protections afforded whistleblowers. The DNI further wrote that “the Inspector General of the Intelligence Community, in coordination with the Intelligence Community Inspectors General Forum, is currently examining the potential for internal controls that would ensure whistleblower-related communications remain confidential, while also ensuring the necessary UAM [user activity monitoring] occurs.” Please detail any guidance, mechanisms, or procedures related to the controls the Intelligence Community and each of its component entities have implemented to ensure that any security-related personnel monitoring does not compromise the confidentiality of whistleblower-related communications.

Answer: The Intelligence Authorization Act for FY 2014 amended the National Security Act of 1947 to provide statutory protections for Intelligence Community (IC) employees who make lawful disclosures of fraud, waste, or abuse in IC programs and activities. These statutory provisions prohibit an employee from taking a personnel action in reprisal or making security clearance access determinations in reprisal against an employee who made a lawful disclosure. Further, these provisions require an inspector general to conduct fact-finding in reviewing allegations of security clearance reprisal.

Presidential Policy Directive – 19 (PPD-19), Protecting Whistleblowers with Access to Classified Information, also provides protections for IC employees against personnel actions taken in reprisal for lawfully participating in the whistleblowing process. In addition, employees and contractors are protected from reprisals in the security clearance adjudication process.

PPD-19 requires that the agency Inspector General (IG) review whistleblower reprisal allegations in violation of PPD-19. Further, PPD-19 allows employees and contractors to seek an external review from the IC IG of their reprisal allegations once they have exhausted their own agency’s review process.

An IC employee, assignee, detailee, or contractor, who intends to report to Congress a complaint or information with respect to an urgent concern, may report such complaint or information to the Intelligence Community Inspector General by calling 1-855-731-3260.