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PROPOSED NATIONAL CLEARANCE/INVESTIGATIVE POLICY

Background: Executive Order (EO) 10450 dated 27 April 1953 was established and designed to be the standard against which (civilian) employment in the Federal Government would be measured and gauged. The qualities required of the Federal employee are reliability, trustworthiness, good conduct and character, and unswerving loyalty to the United States.

• In order to measure these qualities, the EO established two levels of investigation based upon the sensitivity of the position to be occupied by the individual. If the position had the potential for having a material adverse effect on national security, the position was to be designated as sensitive. Such designation required that the candidate for employment be the subject of a full field investigation. The alternative was a nonsensitive position which required an investigation including national agency checks and written inquiries to appropriate law enforcement agencies, former employers and supervisors, references, and schools attended by the applicant.

In the application of EO 10450, the first and foremost factor in making the determination between a sensitive and nonsensitive position was the degree of access to classified material. Access to Top Secret material was considered to place the position in the sensitive category although classification per se was not mentioned or defined in EO 10450. Also, there was an accepted standard that originated with EO 10450 for defining the full field investigation. While the EO applied only to civilian employment, the standard full field investigation extended even to the military when a Top Secret clearance was required.

The standard then developed for the full field was an investigation of the most recent 15 years of the individual's life or investigation from age 18, whichever was the shorter period. The selection of a 15-year period of coverage was based upon the historical event of the German/Soviet nonaggression treaty of 1938 which caused the Communist Party of the United States to switch the "party line" 180 degrees in its attitude towards the Nazi government of Germany. This change in "party line" made a similarly observable change in 1940 with the invasion of the Soviet Union by the Germans. Since the period of the early 1950's was highlighted by an aggressive effort to purge any and all communists from federal employment, it was considered necessary for an investigation to extend back in time, at least

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organization, the Defense Investigative Service (DIS), also conducts a special background investigation (SBI) which meets the 15-year requirement of DCID 1/14 for access to SCI as well as for certain other highly sensitive assignments such as presidential support activities.

The Central Intelligence Agency (CIA) has continuously held to a background investigation of 15 years or coverage since age 17, whichever is shorter. This investigative coverage is augmented by a polygraph examination for all employees and assignees, whether military or civilian.

The National Security Agency (NSA) has personnel security requirements substantially the same as CIA in terms of investigative scope and coverage. NSA also uses the polygraph, but only for civilian employees.

The Federal Bureau of Investigation (FBI) background investigation for personnel security screening has remained substantially unchanged over the years and covers the "entire adult life" of the individual. The FBI does not routinely employ the polygraph examination as part of its applicant processing but has recently adopted a policy for its use where other means of investigation have not produced the information required.

Other departments and agencies of the Federal Government, such as the Department of the Treasury or the Postal Service, which conduct EO 10450 applicant or security clearance investigations have patterned their coverage after that of the Office of Personnel Management (formerly CSC) five-year background investigation. Treasury, like the FBI, does not normally employ the polygraph for applicant processing but has adopted its use to resolve serious issues in applicant/clearance cases related to the intelligence functions of the Department.

Attached are graphs depicting the scope of the investigations conducted by the various agencies. As can be seen, the original format of the EO 10450-associated 15-year background investigation has been considerably changed. In addition to reductions in the period of coverage, changes have been made in the required scope of coverage, e.g., places of residence, numbers of references, etc. Legislative changes have also affected investigations in terms of the type and amount of data available from NAC's, particularly the FBI, as well as credit and police checks. The State of Massachusetts, for example, provides no police criminal record access whatsoever to non-law-enforcement agencies.

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The effect of these changes over the years in the amount of coverage in the full field or background investigation is of very real concern when interagency or interdepartmental exchanges of data or material are considered. The same is true of certifications for visits between agencies or departments. What can happen is that two persons from different organizations have access to material classified Top Secret, the first being cleared on the basis of a full 15-year background investigation (BI) plus polygraph, while the second received a clearance based on a 5-year BI without a polygraph. Thus, national foreign intelligence at standard levels of classification (for purposes of this paper referred to as NFI/SLC) receives protection only to the personnel security standards of the organization which receives it.

Recent Studies: In early 1979 the NFIB Working Group on Compartmentation appointed a panel to review the security standards for personnel clearances. The panel concluded that the minimum acceptable personnel security screening standard was a 5-year BI. Such a requirement would have had only marginal impact on organizations receiving NFI/SLC other than the DoD. The other departments and agencies acting under EO 10450 designate virtually all positions that receive NFI/SLC as being critical sensitive and, thus, they would meet the minimum standard of a 5-year BI. With the military personnel as well as the contractors' employees associated with DoD, neither of whom are included under EO 10450, the situation was, and remains, quite different for two reasons. First, because of their vast numbers, the cost of conducting 5-year BI's for all having access to Secret-level information was found to be prohibitive. Second, to keep NFI/SLC separate from other classified material (e.g., military data) would require separate facilities for receiving, handling, storing and transmitting it, which, in effect, would be the creation of still another compartment. These factors brought an end to the discussion of raising the personnel security standards for NFI/SLC.

Several studies of EO 10450 have been conducted with the objective of modernizing the Order and standardizing its application to the Federal Government. To the present time such studies have been without success in accomplishing their objective. These efforts have encountered the problem of resource impact where they have suggested equating the Top Secret investigative standard with that of DCID 1/14 for SCI or they have met with resistance because of encroachment on the statutory responsibilities of the DCI where they have attempted to lower the investigative standard (e.g., a 5-year BI) across the board, including for SCI access.

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Discrepancies exist even within the Intelligence Community, as was found in a report prepared by the House Permanent Select Committee on Intelligence (HPSCI) in September 1979. The report, prepared by the Oversight Subcommittee Staff, focused on the security clearance procedures of CIA, NSA, State and the DoD intelligence-related organizations, particularly as they pertain to the screening of applicants for access to SCI. The report highlighted a need for greater uniformity in investigative procedures and standards and for improved access to pertinent information. The recommendations of the HPSCI report are summarized as follows:

1. Establish standards for access to TOP SECRET and SCI which would be substantially the same, i.e., investigation to DCID 1/14 standards.

2. Establish standards for searching out and reporting of both positive and negative data in order to have an effective screening process.

3. Conduct a study to validate the accuracy of the polygraph as used in the security screening process.

4. Establish Intelligence Community-wide criteria for use of the polygraph.

5. Examine the benefits and costs of establishing a centralized office to conduct background investigations for the entire Intelligence Community in order to assure uniform procedures and quality control.

6. Promote legislation to assure access for the purpose of background investigations to criminal justice records as well as education, employment, credit and medical records.

7. Resolve the inconsistency between EO 10450, the Attorney General's Domestic Security Investigations Guidelines and the Privacy Act which preclude obtaining certain information relevant to screening individuals nominated for access to SCI.

The Investigative Standards Working Group of the DCI Security Committee recently completed a study of the investigative scope and adjudicative procedures among the Intelligence Community agencies.

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This study confirmed the validity of the 15-year coverage requirement of DCID 1/14. It covered over 5,000 cases investigated by six different investigative units and adjudicated by ten participating agencies. In addition to the more standard investigative sources, it also included analysis of the utilization of polygraph examinations and personnel interviews with the subject of the investigation.

The examination included an analysis of the period of coverage required to capture significant adverse information which resulted in adjudications resolved against the person being considered for access. Briefly shown the period of coverage analysis provided the following information:

A PERIOD OF COVERAGE OF	WOULD RISK LOSING: SIGNIFICANT DATA	RESOLVED AGAINST DATA
5 YEARS	28%	22%
7 YEARS	17%	11%
10 YEARS	9%	3%
15 YEARS	4%	0%

The above indicates that target periods of coverage of 5, 7 or 10 years risk losing significant adverse data, including data resolved against the individual. This survey identified six cases in which a 15-year period of coverage acquired data serious enough to resolve against the individual. Put another way, data resolved against the individuals in those six cases would not have been identified with less than a 15-year period of coverage.

In the study a productivity scale was used to rank the sources that contributed to the identification of adverse information, both that which was resolved in the individual's favor as well as that which was resolved against the individual. With only a few minor variations when considered as a unique source versus a shared source the rank order for productivity was as follows:

	Source	Productivity Index (Resolved against data)
1.	Polygraph examination	23.48
2.	Developed Sources	2.92
3.	Subject Interview	2.62
4.	Employment Personal Interviews	1.71

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	Source	Productivity Index (Resolved against data)
5.	Police Records	1.35
6.	Employment Records	.74
7.	Credit Sources	.67
8.	Listed References	.52
9.	Educational Personal Interviews	.40
10.	Residence Checks	.39
11.	Educational Records	.02

From the above it is apparent that the minimum standards set forth in DCID 1/14 are needed to protect SCI as well as Top Secret if the definition "exceptionally grave damage to the national security" really means what it says. The very highest rated source of adverse information, the polygraph examination, is not required to be used as an investigative tool by Departments and Agencies of the Federal Government other than CIA and NSA.

Conclusions: The original scope of EO 10450 was limited to civilian federal employees. The first step in determining the sensitivity of the positions they were to occupy was their degree of access to classified information and material. This brings forth two questions: Why only civilian federal employees, and why not affix the degree of investigative coverage directly to the degree of access to classified information and material as defined in EO 12065? In a move toward simplification of the problems, it would be well to take the same step as was taken by the DCI with the promulgation of DCID 1/14. That is to create criteria and standards which would apply to all civilian federal employees, the military, contractors' employees and all others who are not specifically exempted. Such criteria and standards would have to address the degrees of sensitivity identified for each level of classified material, i.e., Top Secret, Secret, and Confidential, and equate to each a minimum standard of investigation which would have to be accomplished with favorable results in order to grant access. The establishment of these criteria and standards for access could be accomplished by publishing them as an annex to EO 12065, which specifically defines the levels of classification.

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Having arrived at this conclusion, the task yet remains to graduate the minimum standards of investigative coverage to each level of classification. It is necessary to make the minimum standards of investigation compatible insofar as possible with budgets and personnel resources as well as with the definitions of each level of classification. The definition of each level of classification is that information the unauthorized disclosure of which reasonably could be expected to cause the indicated degree of damage to the national security:

- TOP SECRET - Exceptionally grave damage
- SECRET - Serious damage
- CONFIDENTIAL - Identifiable damage

In addition to the three levels of classification, EO 12065 also defines special access programs. Among these are SCI programs for which the minimum personnel security standards for access eligibility to SCI are set forth by the Director of Central Intelligence in DCID 1/14. These minimum standards and procedures would be included in the EO 12065 annex. It would further appear appropriate to accept the first HPSCI recommendation and make the standards for access to Top Secret the same as the minimum standards for access to SCI.

In establishing investigative standards for access to material classified at the Secret level it must be kept in mind that this involves very large numbers of contractors employees and military personnel. Current Secret level clearances, for other than civilian federal employees, are usually granted on the basis of National Agency Checks (NAC's) only. Realizing that such a simple error as a misspelling of a name can result in no record returns from an NAC, which would result in the granting of Secret level access, it becomes evident that more is needed in the way of positive information on which to base access. It is necessary, therefore, to strike a balance between the large numbers of Secret clearances and the need for positive information developed from investigative sources.

It appears essential that investigative requirements for Secret level clearances cover at a minimum the most recent three years of the individual's life and include a NAC (with FBI fingerprint check), review of employment records and interviews at the current or most recent significant place of employment, interviews with at least two persons knowledgeable of the individual's reputation, character and loyalty as well as a check of police

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records at locations of residence within the period of coverage. In the event that adverse information is developed in the course of such investigation the coverage would be expanded to develop sufficient data on which to base a sound and reasonable adjudication.

Access to classified information at the Confidential level would require a NAC (with FBI fingerprint check) and a check of police records at the current or most significant location of residence within the past five years. These inquiries would be expanded if it was necessary to resolve adverse data.

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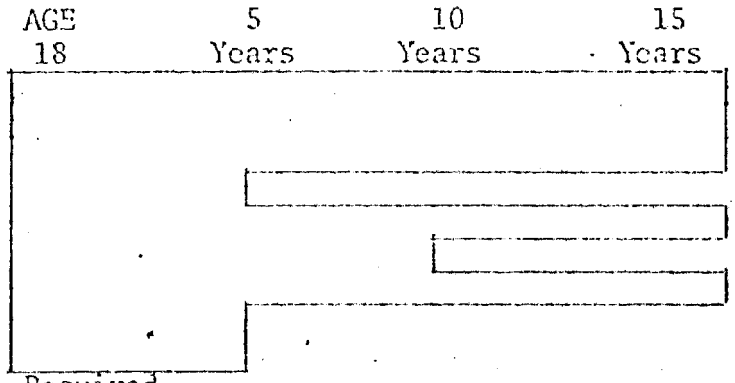
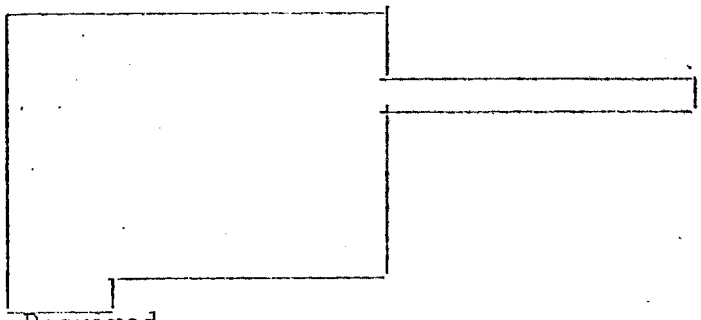
DCID 1/14



Basic Period of Coverage	
Education - High School	
" - College	
" - Interviews	
Employment Records	
" - Interviews	
Police	
Credit	
Residence	
Birth Citizenship	Required
Listed References	Judgment
Developed Sources	Minimum 3
Personal Interview	Optional
Polygraph	Optional
NAC	Yes

STATE



Basic Period of Coverage	
Education - High School	
" - College	
" - Interviews	
Employment Records	
" - Interviews	
Police	
Credit	
Residence	
Birth & Citizenship	Required
Listed References	2-3
Developed Sources	2+
Personal Interview	By Investigators
Polygraph	Not Used
NAC	Yes

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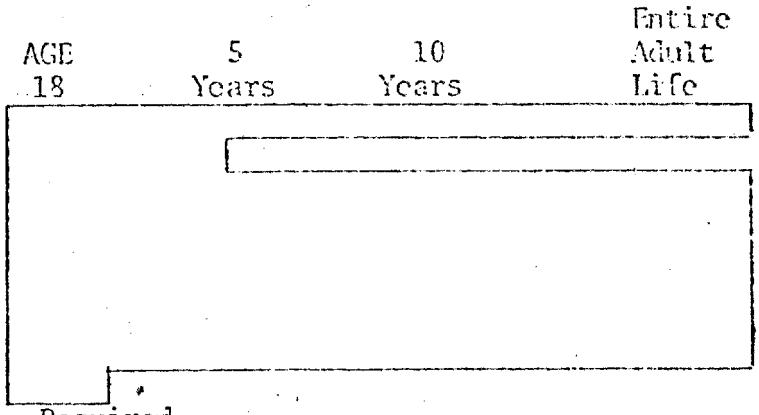
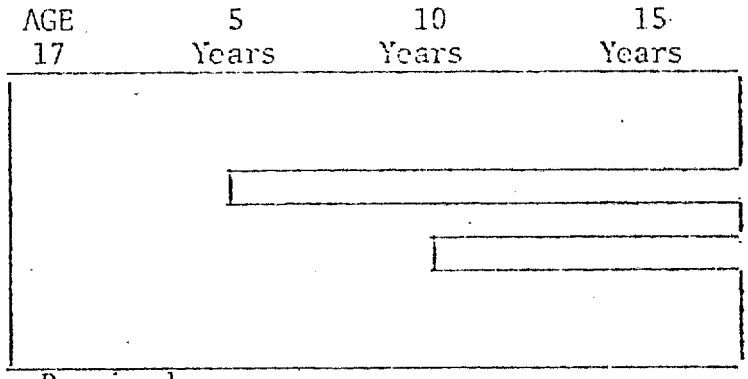
FBI



Basic Period of Coverage	
Education - High School	
" - College	
" - Interviews	
Employment Records	
" - Interviews	
Police	
Credit	
Residence	
Birth & Citizenship	Required
Listed References	All (3)
Developed Sources	Judgment
Personal Interview	Extensively Twice
Polygraph	Used as "last resort"
NAC	Yes

CIA



Basic Period of Coverage	
Education - High School	
" - College	
" - Interviews	
Employment Records	
" - Interviews	
Police	
Credit	
Residence	
Birth & Citizenship	Required
Listed References	Judgment
Developed Sources	Minimum 5
Personal Interviews	Optional
Polygraph	Required
NAC	Yes

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DIS BI

	AGE 18	5 Years	10 Years	15 Years
Basic Period of Coverage				
Education - High School				
" - College				
" - Interviews				
Employment Records				
" - Interviews				
Police				
Credit				
Birth Citizenship	Required			
Residence	Not Required			
Listed References	Not Required			
Developed Sources	Minimum 3			
Personal Interview	Yes			
Polygraph	Not used			
NAC	Yes			

DIS - SBI (DCID 1/14)

	AGE 18	5 Years	10 Years	15 Years
Basic Period of Coverage				
Education - High School				
" - College				
" - Interviews				
Employment Records				
" - Interviews				
Police				
Credit				
Residence				
Birth Citizenship	Required			
Listed References	Judgment			
Developed Sources	Minimum 3			
Personal Interview	Yes			
Polygraph	Not used			
NAC	Yes			

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OPM

	AGE 18	5 Years	10 Years	15 Years
Basic Period of Coverage				
Education - High School				
" - College				
" - Interviews				
Employment Records				
" - Interviews				
Police				
Credit				
Residence				
Birth & Citizenship	Checked if considered necessary			
Listed References	Judgment			
Developed Sources	Judgment			
Personal Interview	For clarification of allegations			
Polygraph	Not applicable			
NAC	Yes			

TREASURY

	AGE 18	5 Years	10 Years	15 Years
Basic Period of Coverage				
Education - High School				
" - College				
" - Interviews				
Employment Records				
" - Interviews				
Police				
Credit				
Residence				
Birth & Citizenship	Checked if considered necessary			
Listed References	3			
Developed Sources	2-3			
Personal Interviews	For Investigative Personnel			
Polygraph	Used as "last resort" in PCID 1/14 Cases			
NAC	Yes - Conducted by OPM			

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