

Testimony of

Ben Romero

On behalf of the Security Clearance Reform Coalition

Before the Readiness Subcommittee of the House Armed Service Committee
Of the U.S. House of Representatives
February 13, 2008

Aerospace Industries Association
American Council of Engineering Companies
Armed Forces Communications & Electronics Association
Associated General Contractors of America
Association of Old Crows
Information Technology Association of America
Intelligence and National Security Alliance
National Defense Industrial Association
Professional Services Council



**SECURITY CLEARANCE REFORM COALITION
TESTIMONY BEFORE THE READINESS SUBCOMMITTEE OF THE HOUSE ARMED SERVICES COMMITTEE
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Good afternoon Mr. Chairman, my name is Ben Romero and I speak to you as the chairman of the Intelligence Committee of the Information Technology Association of America (ITAA) and on behalf of the Security Clearance Reform Coalition¹. I would like to thank you for this opportunity to discuss reform of the clearance granting process. In addition to these oral comments, I ask that the committee accept our attached written recommendations that expand upon many of the issues we feel are critical to addressing this persistent problem.

Industry has used a simple mantra to explain what we believe will bring about transformation of the clearance granting process: one application, one investigation, one adjudication and one clearance. We seek an internet-based application that collects information electronically and forms the basis for an end-to-end digital process that creates a record that can be amended by investigators, adjudicators and security officers for the life of that clearance; an investigation that would be timely, uniform and thorough in its process and product; an adjudication where an applicant is judged using updated, viable post-Cold War criteria; and, a clearance that is accepted across the Federal government with minimal additional vetting.

In looking at the clearance granting process and its effectiveness, the Committee should examine the reports of an industry-led working group of the National Industrial Security Program Policy Advisory Committee (NISPPAC), which recently analyzed actual results from clearances processed through DSS and the Defense Industrial Security Clearance Office (DISCO). This task force found that on average, Secret clearances still took more than 200 days and Top Secret clearances took more than 300 days to process in 2007. This was an end to end analysis measuring from the time an applicant was given access to complete the online SF-86 provided on the Electronic Questionnaires for Investigations Processing website (e-QIP) to the point when the adjudicators determined whether or not a clearance was granted. Even more alarming is the finding of the working group regarding reinvestigations for Top Secret clearances, where the trend line has grown for more than a year and currently tops out at 540 days. Reinvestigations are the periodic reviews of the current clearance holders and these delays impact the ability of current employees to continue working on National Security programs. These findings are the most current and thorough evaluation of the process and gives empirical backing to the anecdotal experiences industry has been reporting for years.

Since this Committee has jurisdiction over the process at the Department of Defense (DoD), I will focus my comments there. A number of issues unique to DoD and the Defense Security Service (DSS) bear mentioning, as they are impacting how members of the defense industrial base are able to meet the National Security mission.

Problems at DSS include: an inability to accurately forecast budget needs; an inability in JPAS to accept electronic attachments, like release forms and digital fingerprints; an inability to identify submitting facility on the JPAS record; an inability to identify additional case codes that

¹ The Security Clearance Reform Coalition is comprised of the Aerospace Industries Association, the American Council of Engineering Companies, AFCEA International, the Associated General Contractors of America, the Association of Old Crows, the Information Technology Association of America, the Intelligence and National Security Alliance, the National Defense Industrial Association and the Professional Services Council.

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frequently cause a case to be re-opened for further investigation; and, “out-of-sync” applications.

While there have been some improvements in the budget forecast, the possibility that a future need to reprogram dollars will remain as long as the process is reliant upon estimates and voluntary disclosures of information. Some of the necessary information is resident or available elsewhere and could be captured to enhance the accuracy of the estimation.

The other issues I mentioned are technical in nature and can all be addressed when JPAS is replaced with a more robust system that will create additional capabilities and be able to more efficiently share information. For example, “out-of-sync” applications are applications that, while completed using the e-QIP internet based SF-86 form, are lost in the digital ether because of technical shortcomings. “Out of sync” applications frequently require the applicant to repeat the application, thus adding a delay to processing the clearance.

Another technical problem is the inability to process digital fingerprints through JPAS. Currently, applications processed through JPAS and sent to the Office of Personnel Management (OPM) are not able to bundle in digital format the three main components of the application: signatures for release forms, fingerprints and the SF-86 form. JPAS simply cannot handle digital fingerprints. Instead, applicants must still submit inked fingerprint cards, despite the abandonment of this older technology by the armed services for recruit fingerprinting, other Federal agencies and most local law enforcement. This condition remains a roadblock in the processing of clearances at DoD.

DSS has been responsive to industry’s repeated concerns about these and other issues. To their credit, DSS recognized some time ago that it would be necessary to replace JPAS in order to enable these and other capabilities the Department wants as part of an end-to-end automated clearance process. But resources have been scarce and solutions have not been implemented. This is something that the Committee can help remedy.

Since DoD is the largest customer for OPM, it bears mentioning the problems that are rooted in the investigative portion of the process and how those are delaying clearances at DoD. These include: the inefficient marriage of e-QIP applications with fingerprint cards and release forms; too much touch labor in the investigative stage of the process, including printing of electronic records because PIPS is incapable of saving attachments like criminal or electronic records; bar-coding and scanning (imaging) of documents rather than using a truly electronic record and the mailing of investigative files back and forth between OPM and field investigators.

I would like to close by commending the President for his February 5, 2008 memo that called for the submission of a plan to transform the clearance granting process no later than April 30, 2008. This memo memorializes the activity of a Joint Task Force coordinated by the Office of Management and Budget (OMB), the Undersecretary of Defense for Intelligence (USD(I)), the Director of OPM and the Office of the Director of National Intelligence (ODNI). This task force has proceeded under the premise that we need to bring about transformation of the way we determine whether or not someone is trustworthy enough to handle the Nation’s critical

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information. The effort would change what we ask, the way we ask it, how we ask it and the way we grant and maintain clearances once granted. This approach is different because it does not seek to fix the parts of the broken process we use today, but instead creates a new, more efficient process going forward.

Industry has been apprised of the work of this group and we fully support this initiative. The Tiger Team intends to use technology to create an end-to-end, automated, interoperable process that collects information in new and different ways and takes advantage of government and commercial databases to expedite the application, investigation and adjudication. These new technologies will also facilitate reciprocity. While industry is optimistic about the work of this Tiger Team and waits to evaluate their report in April, further action is needed now.

The IRTPA was passed by the Congress in 2004 – and the delays in the clearance granting process have been recognized for decades - but we are still calling for a plan. Further delays – be they bureaucratic, legislative or budgetary – should no longer be tolerated. We must move beyond additional calls for plans and begin to actually make investments to change the process. These plans must include the resources for DSS to build and deploy a replacement for JPAS.

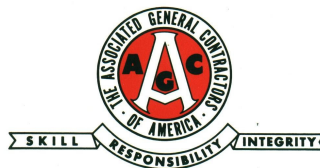
The nine associations of the Security Clearance Reform Coalition again thank the Committee for this opportunity to highlight our perspectives in this deliberation. We hope that 2008 will finally be the year that we see solutions implemented.

Recommendations of the

Security Clearance Reform Coalition For Improvements to the Clearance Granting Process

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These recommendations are focused on the collateral DoD clearance granting process, since many of the IC agencies are running efficient processes using state of the art technologies.

These recommendations are based upon extensive interviews with the various stakeholders in the clearance granting process to better understand what happens to an application as it moves through the process and are bolstered by the numbers of clearances in the backlog, defined as non-compliant with the metrics of the 2004 Intelligence Reform and Terrorism Prevention Act.

APPLICATIONS

- 1) End-to-End Capability: The process is one large paper shuffle and must adopt an end-to-end capability to share data interoperably in real-time. No such planning is currently underway, as there is no one manager for the process.
- 2) Require Electronic Applications: OPM must enforce the requirement published in the Federal Register requiring all new applications and renewals to be submitted via the Internet-based e-QIP. Currently, between 25-40% of all applications are still accepted in hard copy. Several major agencies, including the General Services Administration, still require applicants to complete paper applications and include other extraneous information, like resumes, as part of the application.
- 3) Clarify Metrics: Congress must clarify that the time frames established in the IRTPA for clearance processing begin when an application is actually received by the investigative agency, regardless of when it is actually scheduled. Frequently, the calendar for the investigation is not started until months after the application has been received by the investigative agency.
- 4) Improve JPAS: DoD must invest the funds necessary to make required improvements to JPAS. This is not happening at present and service is being degraded to the DoD adjudication facilities as well as to thousands of security managers in both government and industry who depend upon it for mission requirements. The JPAS user community and the Defense Security Service (DSS) have already identified the changes needed to streamline and accelerate JPAS processing, but the level of priority for this problem seems to have fallen since last summer when DSS ran out of funding. These improvements include the ability to accept and capture digitized fingerprints and signatures from industry and eliminate delays and dropped applications caused by JPAS being out of synch.

INVESTIGATIONS

- 1) Modernize Data Capture: OPM must modernize its data capture procedures. Imaging, while frequently cited as an “automation” of the clearance process, is nothing more than taking a picture of a document and is ineffective at capturing the data in the document for use in an information technology system.

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- a. OPM must stop accepting fingerprint cards and start using digitized fingerprint capture tools such as LiveScan.
 - b. Signatures on release forms can also be easily captured using technology at checkout counters across America and eliminates the need to print and mail release forms to investigators when needed.
 - c. Investigative files are also selectively imaged, where using truly digitized information would allow for the preservation of the entire file, not just summaries, and preserve critical information like credit reports and criminal histories.
- 2) Modernize Data Management at OPM: OPM-FISD continues to rely upon PIPS, an antiquated stand-alone mainframe computer system that is not interoperable and cannot be made so. This reliance forces continuation of labor-intensive paper handling that significantly delays the processing of clearances. Many of the problems identified by industry in the process are related to or stem from this reliance upon PIPS.
- a. PIPS does case assignment, but once a case is assigned, it is printed out and mailed to investigators for processing.
 - b. For paperwork management, OPM relies upon barcodes, which are manually keyed, printed and affixed to documents in the hard copy files.
 - c. Only some of the information collected during an investigation is preserved for future review or access by the adjudicators. Critical information sources, such as criminal and credit histories, are not retained.
 - d. CVS is an important tool, but cannot adequately verify a clearance since it relies upon batched data and is not real-time.
- 3) Eliminate the “Closed Pending” status for clearances at OPM: OPM categorizes investigations that are incomplete due to the lack of some data or incomplete status of some component of the application as “closed pending.” Some of these incomplete files are then passed to the originating agency for adjudication, while other departments, like DoD, refuse to accept or adjudicate these applications in “closed pending” status. Since this information is frequently needed to make adjudicative risk assessments, agencies are then forced to return the application to OPM, thereby incurring further charges to process the clearance.
- 4) Implement the Use of Phased Periodic Reinvestigations (PR): The federal government should direct implementation of phased periodic reinvestigation (currently being implemented only by DoD) to realize the full benefits of scaling the PR in such a way that limits the use of costly and time consuming field investigation. Using commercial and government databases, cleared personnel are evaluated for any activity that would require further investigation (Phase I). If the Phase I results (automated checks and selected interviews) are favorable, there is no need to proceed to the costly field investigation (Phase II). Phased PR’s can be conducted more frequently with less cost, so that the cleared personnel – those most in a position to cause harm to the United States – are more effectively monitored. It is conservatively estimated that such an approach could save 20% or more of the cost of conducting periodic reinvestigations.

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ADJUDICATIONS

- 1) Adequately Develop Derogatory Information: OPM has modified the criteria to which clearances at various levels are investigated, including dropping efforts to investigate and develop derogatory information for Secret collateral clearances. Such a change in the process makes it difficult if not impossible to effectively adjudicate many applications.
- 2) Enhance Training Standards: Develop and implement standardized professional training and certification criteria for adjudicators across the federal government. This would create equity in the training and development of adjudication officers and improve reciprocity of clearances by building trustworthiness across federal agencies with the application of adjudicative standards.
- 3) Establish Common Recordkeeping: Establish and implement a common approach across all agencies, using existing central clearance databases like CVS, JPAS, and Scattered Castles, for the recording of waivers, conditions, and deviations in order for adjudicators and security officers to have access to this information when taking an action to reciprocally accept another agency's clearance or access determination.

RECIPROCITY

- 1) Increase Clearance Data Sharing: Intelligence Community agencies should be required to populate JPAS with clearance/access information on non-classified employees. All such data should be validated to ensure that it is not corrupting critical, accurate information about existing clearance holders contained in the databases.
- 2) Reinforce Uniformity in the Application of Reciprocity: Some Intelligence Community agencies are requiring that a clearance must be "active" rather than "current" before it will be considered for acceptance under reciprocity rules. This approach necessitates obtaining the prior investigative file and re-adjudicating the clearance. This is a costly, time consuming and unnecessary process under existing policy and is in violation of the spirit, if not the letter, of the IRTPA. It is also in direct conflict with the provisions of EO 12968 and OMB memoranda of December 2005 and July 2006 (Checklist of Permitted Exceptions to Reciprocity) which require a valid "access eligibility determination."
- 3) Provide Access to JPAS for Authorized Agencies: All authorized Federal agencies should be given direct access to JPAS, as the sole system of record of the U.S. Government for all clearance and access eligibility determinations, in order to more fully and efficiently realize the goal of clearance/access reciprocity.

BUDGET AND PERSONNEL

- 1) Establish Efficient Budgetary Mechanisms: Budget issues were partly to blame for the processing moratorium on industry security clearances. As such, security clearance

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reform must include budget improvements as well. For instance, the federal government must develop a more accurate system for estimating the demand of industry clearances, and the appropriate agencies should submit budget requests that mirror the anticipated demand, with a limited reliance on charged premiums.

- 2) Enhance OPM Workforce Capabilities: Likewise, OPM's workforce capabilities must also be aligned to meet the anticipated demand for security clearances, as well as the demand for investigations of government and contractor personnel under HSPD-12 (industry estimates this requirement to include over 10M individuals). While some flexibility currently exists, industry is skeptical that it can meet these anticipated demands.
- 3) Build More Accountability Into the Invoicing Process for Clearances: OPM should not collect fees from the agency until the background check is completed and should provide greater clarity in their billing practices per the DoD IG investigation of these practices.