DRUG POLICY IN THE FEDERAL WORKFORCE

HEARING

BEFORE THE

SUBCOMMITTEE ON THE CIVIL SERVICE

OF THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

SEPTEMEBER 20, 1996

Printed for the use of the Committee on Government Reform and Oversight

U.S. GOVERNMENT PRINTING OFFICE

45-080 CC WASHINGTON : 1998

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-056016-0

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

WILLIAM F. CLINGER, JR., Pennsylvania, *Chairman*

BENJAMIN A. GILMAN, New York
DAN BURTON, Indiana
J. DENNIS HASTERT, Illinois
CONSTANCE A. MORELLA, Maryland
CHRISTOPHER SHAYS, Connecticut
STEVEN SCHIFF, New Mexico
ILEANA ROS-LEHTINEN, Florida
WILLIAM H. ZELIFF, JR., New Hampshire
JOHN M. MCHUGH, New York
STEPHEN HORN, California
JOHN L. MICA, Florida
PETER BLUTE, Massachusetts
THOMAS M. DAVIS, Virginia
DAVID M. MCINTOSH, Indiana
RANDY TATE, Washington
DICK CHRYSLER, Michigan
GIL GUTKNECHT, Minnesota
MARK E. SOUDER, Indiana
WILLIAM J. MARTINI, New Jersey
JOE SCARBOROUGH, Florida
JOHN B. SHADEGG, Arizona
MICHAEL PATRICK FLANAGAN, Illinois
CHARLES F. BASS, New Hampshire
STEVEN C. LATOURETTE, Ohio
MARSHALL "MARK" SANFORD, South Carolina
ROBERT L. EHRLICH, JR., Maryland
SCOTT L. KLUG, Wisconsin

CARDISS COLLINS, Illinois
HENRY A. WAXMAN, California
TOM LANTOS, California
ROBERT E. WISE, JR., West Virginia
MAJOR R. OWENS, New York
EDOLPHUS TOWNS, New York
JOHN M. SPRATT, JR., South Carolina
LOUISE MCINTOSH SLAUGHTER, New York
PAUL E. KANJORSKI, Pennsylvania
GARY A. CONDIT, California
COLLIN C. PETERSON, Minnesota
KAREN L. THURMAN, Florida
CAROLYN B. MALONEY, New York
THOMAS M. BARRETT, Wisconsin
BARBARA-ROSE COLLINS, Michigan
ELEANOR HOLMES NORTON, District of Columbia
JAMES P. MORAN, Virginia
GENE GREEN, Texas
CARRIE P. MEEK, Florida
CHAKA FATTAH, Pennsylvania
BILL BREWSTER, Oklahoma
TIM HOLDEN, Pennsylvania
ELIJAH E. CUMMINGS, Maryland

BERNARD SANDERS, Vermont (Independent)

JAMES L. CLARKE, *Staff Director*
KEVIN SABO, *General Counsel*
JUDITH MCCOY, *Chief Clerk*
BUD MYERS, *Minority Staff Director*

SUBCOMMITTEE ON THE CIVIL SERVICE

JOHN L. MICA, Florida, *Chairman*

CHARLES F. BASS, New Hampshire
BENJAMIN A. GILMAN, New York
DAN BURTON, Indiana
CONSTANCE A. MORELLA, Maryland

JAMES P. MORAN, Virginia
BERNARD SANDERS, Vermont (Ind.)
TIM HOLDEN, Pennsylvania

EX OFFICIO

WILLIAM F. CLINGER, JR., Pennsylvania
CARDISS COLLINS, Illinois

GEORGE NESTERCZUK, *Staff Director*
NED LYNCH, *Professional Staff Member*
CAROLINE FIEL, *Clerk*
CEDRIC HENDRICKS, *Minority Professional Staff Member*
MICHAEL KIRBY, *Minority Professional Staff Member*

CONTENTS

DRUG POLICY IN THE FEDERAL WORKFORCE

FRIDAY, SEPTEMBER 20, 1996

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE CIVIL SERVICE,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 9 a.m., in room 2154, Rayburn House Office Building, Hon. John L. Mica (chairman of the subcommittee) presiding.

Present: Representatives Mica, Burton, Moran, and Kanjorski.

Ex officio present: Representative Clinger.

Staff present: George Nesterczuk, staff director; Caroline Fiel, clerk; Ned Lynch, professional staff member; and Cedric Hendricks and Michael Kirby, minority professional staff members.

Mr. MICA. Good morning. I would like to call this meeting of the House Subcommittee on the Civil Service to order.

This morning we are going to have a hearing on a drug free workplace and talk specifically about standards in the highest office in our land, the White House. We are going to follow our usual procedure: I will give my opening statement, yield to the Members as they come in, and then we will hear from our witnesses.

But today's hearing of the Subcommittee on the Civil Service has been called because testimony previously provided to this Congress outlined a deeply troubling failure by the current White House to safeguard against the employment of individuals with recent and historic patterns of drug use and abuse. This information was obtained in congressional hearings related to the firing of the White House Travel Office employees and the use of FBI files by the current White House.

This hearing is intended to accomplish three purposes this morning. First, I think we need to reassure the American people that the abuses we learned about during the previous hearings did not compromise our country's national security interest. Second, I think we need to confirm that the White House has instituted an effective pattern for instituting corrective measures for the deficiencies identified in previous testimony this subcommittee has taken and the full committee has taken.

Third, I want to evaluate whether legislation and legislative action by Congress is appropriate and necessary to correct any of these problems. How serious is the problem that was identified in previous testimony? We must ask ourselves that question. Secret Service Agent Jeff Undercoffer testified at the Committee on Government Reform and Oversight's July hearing that more than 30 of the background investigations that he had reviewed included ref-

erences to previous drug abuse. He stated under oath, and I quote, I have seen cocaine usage. I have seen hallucinogenic usages, crack usages, end quote. And he admitted that these were generally fairly recent use.

FBI Agent Dennis Sculimbrene corroborated it in his testimony in a sworn deposition before our committee. He denied that these background investigations reported merely experimental usage of marijuana in college by observing, and let me quote again, It was older people who used illegal drugs much more recently, as recently as the inaugural, end quote.

He described the drugs identified in these background investigations, including cocaine and, again, I will quote, "designer drugs," and, I will quote again, hallucinogenic mushrooms, end quote. He repeated that this usage continued up to the inauguration. He contrasted the Clinton White House with previous administrations and emphasized, and again I will quote, I don't know of a single person in this administration, regardless of drug use or any other thing that I was aware of, was terminated because of anything that came up on their FBI background investigation, end quote.

Secret Service Agent Arnold Cole testified that the White House and Secret Service negotiated a compromise to deal with this problem among employees already on the White House staff. The compromise was, in fact, the creation of a special drug testing program. Now, we are going to look today at what the White House has done to correct the drug use problems that were identified in these background investigations. We need to know what they have done to deal with this problem.

The approval form that is sent from the Secret Service's White House pass section to the White House's Director of Personnel was revised. We have recently learned about this. The denial option on the Secret Service's form now has a paragraph that reads—we have obtained a copy of it—let me read this if I may, and I will quote verbatim:

> The above listed individual is considered a potential threat to the President of the United States, the Vice President of the United States, and/or the White House complex, and therefore is not suitable for issuance of a permanent pass. If, however, the individual agrees to a biannual drug testing program, above and beyond the mandatory applicant and random testing already required under the Executive Office of the President Drug Free Workplace Plan, the individual would no longer would be considered a threat and would be appropriate for the issuance of a pass.

That is the end of this new form.

[The information referred to follows:]

MEMORANDUM FOR WHD/PASS SECTION
U.S. SECRET SERVICE

April 11, 1995

SUBJECT: BACKGROUND INVESTIGATION OF

NAME: _____

SS#: _____

BADGE TYPE: _____

I have received the background investigation of subject individual and determined that the above named individual is ready for the issuance of a permanent badge.

Craig Livingstone
Director, White House
Personnel Security

MEMORANDUM FOR DIRECTOR, WHITE HOUSE PERSONNEL SECURITY

( ) APPROVED

( ) DENIED
- THE ABOVE LISTED INDIVIDUAL IS CONSIDERED A POTENTIAL THREAT TO THE PRESIDENT OF THE UNITED STATES, THE VICE PRESIDENT OF THE UNITED STATES, AND/OR THE WHITE HOUSE COMPLEX, AND THEREFORE IS NOT SUITABLE FOR ISSUANCE OF A PERMANENT PASS. IF, HOWEVER, THE INDIVIDUAL AGREES TO A BI-ANNUAL RANDOM DRUG TESTING PROGRAM, ABOVE AND BEYOND THE MANDATORY APPLICANT AND RANDOM TESTING ALREADY REQUIRED UNDER THE EXECUTIVE OFFICE OF THE PRESIDENT DRUG FREE WORKPLACE PLAN, THE INDIVIDUAL WOULD NO LONGER WOULD BE CONSIDERED A THREAT AND WOULD BE APPROPRIATE FOR THE ISSUANCE OF A PERMANENT PASS.

DATE: _____

_____
Authorizing Signature
WHD/PASS SECTION USSS

ACTION:

PASS AUTHORIZATION: _____

PASS ISSUED: _____

TRACKING UPDATED: _____

Mr. MICA. That paragraph provides the cover for the so-called special testing program, which is currently in place at the White House. The Executive Office of the President's Drug Free Workplace Plan contains no reference to, quote, a "special testing" program. I am not certain that any such program is appropriate for an institution with national security responsibilities exercised by the President and his White House staff. We will learn more about whether my position is correct and justified as we hear the testimony today.

Nonetheless, in an April 4, 1995, letter to Senator Richard Shelby, Patsy Thomasson wrote, and I quote, Currently, there are 15 EOP employees who are the subject of an individualized random drug testing program. That figure may fluctuate in either direction as employees come and go. For example, five individuals who had participated in such a program are no longer here, end quote.

The White House obviously monitors this testing program closely. The Committee on Government Reform and Oversight received more than 10 periodic reports on the program in response to its request for documents related to the Travel Office and the FBI file oversight.

The most recent of those reports, a June 26, 1996, memo from Irene H. McGowan of the Office of Administration to Mary C. Beck acknowledges that there were, at the time, nine individuals in the special drug testing program, six of whom had completed their testing for the year.

I am deeply concerned about the standards that the White House uses in selecting personnel for sensitive positions, and I believe that the American people need reassurance that the Clinton administration has not critically compromised the procedures by which people can gain access to national security information.

It is important to note that the President and the White House, the President as Commander-in-Chief of our military, holds a trust unparalleled to any other office or responsibility in the legislative, judicial or executive branches of our Government. This office, unlike any other office in Government or any other position at any level in the private sector, may determine in an instant whether this Nation is at war, whether we send our troops to foreign soil, or will be required to act swiftly to protect our citizens against some international terrorism threat to our national security.

Those charged with this national security responsibility and those individuals charged with backing up this office of the highest responsibility cannot at any time compromise that trust, even for one moment. Two hundred fifty-eight million Americans and other nations throughout the world depend on our Commander-in-Chief, and those who support him, to be able to make instantaneous decisions that may determine all of our fates. Regardless of who is in office, we in Congress have a responsibility to ensure that proper safeguards are instituted to preserve that security.

Congress needs assurance that this so-called special drug testing program is adequate to safeguard the national security responsibilities that the American people have entrusted to the White House. This subcommittee has received letters asserting that the White House has a zero tolerance policy and that three people who have had positive pre-employment drug tests were not given White

House employment. The White House did, however, grandfather in a number of staff who came on board right after the inaugural.

We should also make certain that this so-called special testing program, or any other corrective measures implemented by the White House, are adequate to resolve the concerns raised by the Secret Service and to convince this Congress that the incumbents in national security positions are suitable for the responsibility that they hold.

I am sometimes offended by the diversionary tactics initiated both by the White House and others in an effort to belittle this issue. I view it as a very serious issue and a very serious responsibility, and I am charged with some of the oversight in our civil service and personnel systems and for our Federal employees.

The White House is different from other workplaces. Other workplaces, including Congress, do not have access to the instruments that could involve the Nation in international conflicts. No one in Congress has access to the nuclear football. Only the President bears the responsibility for those decisions, and it is, in fact, essential that the people who are involved in advising him meet the very highest standards of suitability and security.

I said on the House floor yesterday that I am holding this hearing reluctantly. The Congress and the American people should not have cause to question the drug use of key advisors to the President. At the same time, when the Congress has repeatedly attempted to drag this information from this administration, we have repeatedly encountered evasions and sometimes resistance. I trust that the witnesses before us this morning will be able to help resolve our concerns, to set the issues to rest once and for all, to find some solutions so that we may, in fact, act and protect the best interests of the American people.

Those are my opening comments, and I am pleased to yield to Mr. Kanjorski for his remarks. Welcome.

Mr. KANJORSKI. Thank you very much, Mr. Chairman.

Mr. Chairman, I believe that it is not coincidental that today's Subcommittee on the Civil Service hearing examining the efforts of the White House to maintain a drug free workplace falls within a week of the Presidential candidate launching his major attack on the administration's record fighting illegal drugs. It also is not coincidental that yesterday's National Security Subcommittee held a hearing on the growing threat of heroin abuse. Both hearings seem to be timed and structured in a way calculated to achieve partisan political benefits. I believe that it is unfortunate.

I agree with you, Mr. Chairman, that drug use at any level of Government or in our society has a devastating effect. Illegal drug abuse is a devastating problem affecting all Americans. Its curtailment in the Federal workforce and our Nation's efforts to curb its production and distribution deserves this committee's serious consideration. Bipartisan solutions, successful strategies will not result from politically motivated forums where accusation is more important than fact and confrontation is preferred over cooperation.

Mr. Chairman, your own briefing on this hearing suggests that the President is to blame for increasing drug abuse because you claim he has failed to use the powers of his office to lead the war on drugs. This is far from the truth. President Clinton took action

to increase the funding and staff of the Office of National Drug Control Policy. President Clinton took action to elevate the position of the director of the office to Cabinet-level office. President Clinton took action to make the outstanding appointment of General Barry McCaffrey as director of the office.

Within the White House, the President has maintained a zero tolerance policy with respect to illegal drug use. Each year the White House conducts a rigorous drug testing program in accordance with the requirements of the Executive Office of the President's Drug-Free Workplace Plan. This plan provides that 12 percent of all White House employees will be subjected to random drug tests on an annual basis. Anyone testing positive is removed from his or her job. Since January 1993, positive test results have only been returned for two individuals. Both were terminated. Both were career employees hired during the Bush administration.

In contrast to what prevails at the White House, there is no comprehensive or stringent drug testing policy covering Members of Congress and employees serving in the legislative branch. In this sense, Mr. Chairman, no, we do not walk around with nuclear weapons, but sometimes we drop bombs. Those who work on Capitol Hill handle sensitive materials just like employees in the White House. Concerns over the personal security of public officials are present here, just as they are in the White House. Fairness would dictate that those Members who would criticize the drug testing programs in place at the White House would themselves demonstrate within their offices the standards against which they would measure the White House.

I have to concede that I do not know of any Member's office that has a comparable drug free policy at the level of the White House. Perhaps we are asking the questions of those who throw stones should not live in glass houses. I think that perhaps is not the approach I would like to take today. The approach that I would like today is to really find out what the White House policy is. Let us find out if there is anything we can add to it or stimulate to increase its level of awareness, but also let us not approach this hearing today with confrontation and blame and, most of all, not with political sideshow, because we are 7 weeks away from a Presidential election.

Some people in this city who are of a nature to think of conspiracies or present thought-out ideas of why to proceed on these, may conclude that there is an unusual coincidence between this hearing and yesterday's hearing, and the fact that Senator Dole is starting to campaign on drugs. But I know the chairman of this committee would not stoop to the level of using the Congress of the United States for a political purpose. So I am going to be very presumptive of the fact that we are here today to listen seriously to these witnesses. I look forward to the testimony of today's witnesses because I have no doubt that they are going to show the White House is addressing a difficult problem with drug abuse in an appropriate and responsible manner. The record will show the White House personnel serving during the Clinton administration have remained drug free and that there is no reason to believe this will change.

Thank you, Mr. Chairman.

Mr. MICA. I thank the gentleman. I am now pleased to recognize Mr. Burton for his opening comments.

Mr. BURTON. Thank you, Mr. Chairman.

There are some of us in the Congress that have advocated random drug testing in our own offices for a long time. I happen to be one of them. We did some time ago test the people in my office. I had to pay for that myself. I paid for the testing because it is not authorized in our budget.

I would just like to say to my colleague, Mr. Kanjorski, that we ought to seriously consider random drug testing and allow our office expense account to pay for those drug testing programs, which are not all that costly. But right now, if we have drug testing in our offices, the Member has to pay for it, and that's what I was doing. Incidentally, we have a drug testing opportunity for Members next Wednesday, and I hope all of our colleagues will take advantage of that. Joe Barton of Texas is setting that up.

Let me just say that it is serious that this administration had a lax policy or a look-the-other-way policy when they came into office, and this has been verified by FBI agents, Secret Service agents and others. Thirty of the background investigations, as was stated by the chairman, talked about previous drug use. Jeff Undercoffer testified before this committee in July, as was stated by the chairman, under oath, that he saw cocaine usage; he had seen hallucinogenic uses of crack. He admitted that these were generally fairly recent use. Thirty White House employees.

Now, they do have a drug testing program for those who were found to be using them, and I know that has been reduced because a lot of the people have been ferreted out. But one of the things that is troubling to me was this memo that was sent by Patsy Thomasson on April 4, 1995, to Senator Richard Shelby. In that, of course, she said there were 15 EOP employees that were subject to the individualized random drug testing program. What bothered me was she said that figure may fluctuate, may fluctuate in either direction as employees come and go.

Now, when you read that sentence, it leads one to believe that they may hire some people who may have had a drug problem into sensitive positions at the White House and that they might be included in this drug testing program. My question is: If they had a drug problem, why in the world, after the FBI background check, should they even be hired in the first place? We shouldn't be putting anybody in a sensitive position in the highest office of the land who may have had a drug problem because they may at some point use them again. They may continue to use them.

There are ways, I understand, for people to cleanse themselves, at least somewhat, before they are tested. And so, if somebody after an FBI background check is proven to have been using drugs, some of them hard drugs, they certainly should not be employed in the highest office of the land.

Now, regarding this being a politically motivated hearing, the chairman scheduled this hearing over a month ago, over a month ago. It wasn't just scheduled this past week.

We are concerned about people in the executive branch who may be very close to the President who may have used drugs or may be using them now. We hope they are not using them now, and the

testing certainly should eliminate a lot of that problem. But there shouldn't be people in the high positions in the executive branch close to the President where there's a national security risk.

He does have control over the nuclear capability of this country, and I don't believe that anyone who uses hallucinogenic drugs or hard drugs should be anywhere close to the Chief Executive in case we do have a national emergency.

The one thing I would like to mention that was disconcerting to me was something I read the other day. President Clinton, only weeks before he waged his attack against George Bush's record on the drug war, said in a national television interview to a national television audience of young people: Sure, I would inhale marijuana if I could; I tried before.

Now, that may have been a slip of the tongue. It may have just been a flippant comment of the moment. But the problem is, it sent the wrong message to the young people of this country. The attitude of the White House initially toward drug use in the White House was kind of flippant. I mean, FBI background checks weren't handled—weren't taken. And they found 30 people that had used hallucinogenic drugs and other hard drugs. That attitude was not conducive to sending the right message to the young people of this country. I think that's one of the reasons, Mr. Chairman, that we have seen a phenomenal rise in the use of numerous kinds of drugs over the past year to 2 years.

The drug increase has been just unbelievable. I think it has been doubling in some areas. So I hope that this hearing is revealing about the new attitude at the White House toward dealing with the drug problem. I hope this hearing leads to sending a very strong message to the young people of this country not to try hallucinogenic drugs, not to try crack cocaine or hard drugs of any type, these mushrooms or whatever they are. I hope that it leads to a new policy in the executive branch and the entire Government that will help minimize young people's use of drugs instead of seeing the trend go in the wrong direction.

With that, Mr. Chairman, I yield back the balance of my time.

Mr. MICA. I thank the gentleman for his opening statement.

We have one change in our first panel. The scheduled witness was Brian Sheridan, but the Department of Defense has sent Peter Nelson, Deputy Director for Personnel Security for the Assistant Secretary of Defense for Command Control Communications and Intelligence.

Our second witness is Jane Vezeris, Deputy Assistant Director for Administration for the U.S. Secret Service. The third witness is Thomas J. Coyle, Assistant Director of the Personnel Division of the Federal Bureau of Investigation.

Ladies and gentlemen, this is an investigation, an oversight subcommittee of Congress, and it is our custom and practice to swear in the witnesses. So if you would please stand and raise your right hand?

[Witnesses sworn.]

Mr. MICA. Thank you. The record will reflect that the witnesses answered in the affirmative. And I would like to thank you for your participation today and welcome you to the subcommittee.

Since you are all new witnesses to our panel, what we try to do is have our witnesses give a 5-minute summary of their testimony. We will be glad to add more lengthy testimony, details, or submissions for the record, and you will be given plenty of opportunity even beyond this hearing for that.

So I welcome you, and will first recognize Peter Nelson, Deputy Director for Personnel Security for the Assistant Secretary of Defense for Command Control Communications and Intelligence.

Mr. Nelson, you are recognized. Thank you.

STATEMENTS OF PETER NELSON, DEPUTY DIRECTOR FOR PERSONNEL SECURITY FOR THE ASSISTANT SECRETARY OF DEFENSE FOR COMMAND CONTROL COMMUNICATIONS AND INTELLIGENCE; JANE VEZERIS, DEPUTY ASSISTANT DIRECTOR FOR ADMINISTRATION, U.S. SECRET SERVICE; AND THOMAS J. COYLE, ASSISTANT DIRECTOR, PERSONNEL DIVISION, FEDERAL BUREAU OF INVESTIGATION

Mr. NELSON. Thank you, Mr. Chairman.

Members of the subcommittee, it is a pleasure to appear before you today to address your questions with regard to the use of drugs as it may relate to access to classified information for DOD military, civilian and contractor personnel. As the Deputy Director for Personnel Security in the Office of the Assistant Secretary of Defense for Command Control Communications and Intelligence.

Mr. MICA. Mr. Nelson, could you pull that microphone up a little closer?

Mr. NELSON. Certainly.

I am responsible for the development, implementation and oversight of DOD policies and procedures governing access to classified information.

A determination of loyalty, reliability and trustworthiness for access to classified information is necessarily an attempt to predict future behavior based on past conduct. The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is an acceptable security risk.

Since 1975—excuse me—1979, the Department of Defense has had uniform adjudication guidelines for the issuance, denial or revocation of security clearances. These guidelines, which include, of course, one on drug involvement, were updated in 1987 and again in 1996. Executive Order 12968, entitled Access to Classified Information, was signed by the President in August 1995 and directed the Security Policy Board to develop common adjudication guidelines for determining eligibility for access to classified information.

The Security Policy Board was created by Presidential Decision Directive 29 in September 1994 in order to establish a new interagency policy development process which would result in more cost-effective security without diminishing the effectiveness of U.S. security. The guidelines developed by the Security Policy Board will provide the foundation for uniform security clearance and access determinations throughout the executive branch, thereby creating the climate for reciprocal acceptance of such clearances and access.

In all of our security clearance or access determinations, the adjudicative process involves the careful weighing of a number of

variables known as the whole person concept. All available information about the person, both past and present, favorable and unfavorable, is considered in reaching a final determination. In the final analysis, each case must be judged on its own merits, and any doubt concerning personnel being considered for access to classified information must be resolved in favor of the national security.

Of course, the Department of Defense continues to be concerned about any issue like drug involvement, which could affect a person's judgment, reliability or trustworthiness in protecting classified national security information.

That concludes my statement, and I would be happy to respond to any questions. Thank you, Mr. Chairman.

Mr. MICA. Thank you, Mr. Nelson. We will defer questions until we have finished all of the witnesses.

I would like next to call Jane Vezeris, Deputy Assistant Director for Administration for the U.S. Secret Service. Welcome, and you are recognized for 5 minutes.

Ms. VEZERIS. Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee, I am pleased to be here today to talk about the Secret Service's workplace drug free program.

As you indicated in your letter inviting me to appear before the committee today, the Secret Service strives to maintain high professional standards for its workforce. It is imperative that individuals who use illegal drugs be screened out during the initial employment process before they are hired.

In the interest of time, I would like to very briefly acquaint the committee with the processes and the procedures that the Service uses, both for screening and selecting applicants for employment, and for ensuring that employees, once hired, adhere to the standards necessary to meet the needs of the Service's unique, sensitive and very important mission.

In 1988, in accordance with Executive Order 12564 and in line with statutory Federal guidelines established by the Department of Health and Human Services, the Office of Personnel Management and in conformity with guidance from the Department of Treasury, the Secret Service initiated its current Drug Deterrence Program.

Under this program, after an applicant has completed the interview and a conditional job offer has been made, a drug test is scheduled and completed prior to the initiation of a background investigation. The Service's policy regarding this required screening for illegal drug use is explicitly stated in all vacancy announcements, and each individual tentatively selected for the position is notified that appointment is contingent upon the receipt of a negative drug test result. Individuals who do not pass this test are not hired.

In addition to the drug test, all applicants are required to undergo a full-field background investigation. This investigation may develop information of prior drug use. When this occurs, the decision regarding employment is handled on a case-by-case basis, and the adjudication of background investigations where previous use of illegal drugs is admitted by the applicant, is carried out in accordance with Executive Orders 10450 and 12968, which cover top secret clearances and access to classified information.

Since all Service employees occupy "critical sensitive" positions within the definition of Executive Order 10450, we must ensure that, once hired, they continue to be drug-free. Therefore, random drug testing of all employees is done regularly. In addition to this random testing, the Service also has a reasonable suspicion testing program, whereby when there is a suspicion of drug usage, employees are notified to submit to drug testing.

Also, employees involved in on-the-job accidents or who engage in unsafe on-duty job-related activities that pose a danger to others or to overall operations, may be subject to testing if circumstances so warrant.

The Service's drug testing program is a mandatory program. Therefore, any employee who refuses to be tested is subject to the full range of disciplinary actions including, when appropriate, dismissal.

If an employee tests positive for illegal drugs, the Service is required to take disciplinary action, the severity of which will depend again on the circumstances of the individual case. The Service has a number of options regarding the specific disciplinary action it can take, to include dismissal.

In the case of an employee who voluntarily admits his or her drug use prior to receiving a notice for testing, and completes counseling or participates in an employee assistance program, and thereafter refrains from drug use, the decision as to whether to discipline the employee is, again, made on a case-by-case basis. Although a bar against discipline cannot be guaranteed, consideration is given to the fact that the employee came forward voluntarily.

Mr. Chairman, this concludes my brief overview of the Secret Service's drug-free workplace program and the processes and procedures used to carry it out. I am pleased to be part of this panel and to answer any questions that you or the other Members may have.

Mr. MICA. Thank you and we will come back to you.

[The prepared statement of Ms. Vezeris follows:]

Department of the Treasury

U. S. SECRET SERVICE

For Presentation to the Civil Service Subcommittee

House Committee on Government Reform and Oversight

September 20, 1996

Mr. Chairman and members of the Subcommittee, my name is Jane Vezeris. I am the Deputy Assistant Director for Administration for the United States Secret Service and I thank you for the opportunity to be here to discuss the Service's drug-free workplace program.

As you indicated in your letter inviting me to appear before the Committee today, the Secret Service strives to maintain high professional standards for its workforce. It is imperative that individuals who use illegal drugs be screened out during the initial employment process before they are hired by the Service.

In the interests of time, I would like to very briefly acquaint the Committee with the processes and procedures that the Service uses, both for screening and selecting applicants for employment, and for ensuring that employees, once hired, continue to adhere to the standards necessary to meet the needs of the Service's unique, sensitive, and very important mission.

In 1988, in accordance with Executive Order 12564, and in line with statutory federal guidelines established by the Department of Health and Human Services and the Office of Personnel Management, and following guidance from the Department of the Treasury, the Secret Service initiated its current Drug Deterrence Program.

Under this program, after an applicant has completed the interview, and a conditional job offer has been made, a drug test is scheduled and completed prior to the initiation of a background investigation. The Service's policy regarding this required screening for illegal drug use is explicitly stated in all vacancy announcements, and each individual tentatively selected for a position is notified that appointment is contingent upon the receipt of a

negative drug test result. Individuals who do not pass this drug test are not hired.

In addition to the drug test, all applicants are required to undergo a full-field background investigation. This investigation may develop information of prior drug use. When this occurs, the decision regarding employment is handled on a case by case basis, and the adjudication of background investigations where previous use of illegal drugs is admitted by applicants, is carried out in accordance with Executive Orders 10450 and 12968 which cover top secret clearances and access to classified information.

Since all Secret Service employees occupy "critical sensitive positions" within the definition of Executive Order 10450, we must ensure that, once hired, they continue to be "drug-free." Therefore, random drug testing of all employees is done regularly. In addition to this random testing, the Service also has a reasonable suspicion testing program, whereby when there is a suspicion of drug usage, employees are notified to submit to drug testing. Also, employees involved in on-the-job accidents, or who engage in unsafe on-duty job-related activities that pose a danger to others or to overall operations, may be subject to testing.

The Service's drug testing program is a mandatory program. Any employee who refuses to be tested is

subject to the full range of disciplinary actions, including, when appropriate, dismissal.

If an employee tests positive for illegal drugs, the Service is required to take disciplinary action, the severity of which will depend on the circumstances of the individual case. The Service has a number of options regarding the specific disciplinary action it can take, to include dismissal.

In the case of an employee who voluntarily admits his or her drug use prior to receiving a notice for testing, and completes counseling or participates in an Employee Assistance Program (EAP), and thereafter refrains from drug use, the decision as to whether to discipline the

employee is made on a case by case basis. Although a bar against discipline cannot be guaranteed, consideration is given to the fact that the employee came forward voluntarily.

Mr. Chairman, this concludes my brief overview of the Secret Service's drug-free workplace program, and the processes and procedures used to carry it out. I will be pleased to answer any questions that you or other members of the subcommittee may have.

Mr. MICA. Next, I would like to recognize Thomas J. Coyle, Assistant Director of the Personnel Division of the Federal Bureau of Investigation.

Mr. COYLE. Thank you and members of the subcommittee. My name is Thomas J. Coyle, and I am Assistant Director of the FBI's Personnel Division. I am assigned here at FBI headquarters. I have served in this position since August 1994. I would like to thank the subcommittee for inviting the FBI to participate in this hearing this morning on drug policies affecting Federal employees.

In addition to conducting background investigations on its own employees, the FBI conducts background investigations at the request of the White House, as well as other agencies, as well as several committees of Congress. Requests for background investigations received from the White House involve individuals being considered for Presidential appointments requiring confirmation by the U.S. Senate, Presidential appointments not requiring Senate confirmation, White House and National Security Council staff positions, and persons requiring access to the White House complex grounds.

The FBI's background investigation is a comprehensive inquiry designed to gather information to assist the White House and others in the decisionmaking process concerning the candidate's suitability for Federal employment and/or access to classified information. Several areas, such as character, loyalty, reputation and abilities are addressed during the background investigation.

In addition, the FBI investigation would address any illegal drug use or activity or prescription drug abuse by the candidate during the candidate's entire adult life, that is, since the individual's 18th birthday. If the investigation develops information of alleged misconduct or other types of unfavorable information about the candidate, all aspects of the allegation are thoroughly explored. Once the investigation is completed, the results are forwarded to the White House component which requested the investigation. It is the component's responsibility to disseminate the results to those involved in the appointment process itself. The FBI does not adjudicate nor does it render opinions on the results of the investigation which is provided to the White House component. In sum, the FBI's function in the background investigation process is purely fact finding.

As I mentioned previously, the FBI also conducts background investigations on all applicants for employment with the Bureau itself. With regard to prior experimental drug use, the FBI has established guidelines for determining suitability for employment. I have described these guidelines in my written statement in detail, which I have provided to the committee.

All applicants for FBI employment are required to complete an application and to make a personal declaration as to the full extent of their drug use. At that time, applicants are advised that all information provided by them concerning their drug history will be subject to verification by a pre-employment polygraph examination and that all prospective FBI employees will be required to submit to a urinalysis for drug abuse prior to employment. Failure to pass the polygraph or the urinalysis test would preclude the FBI having to conduct the background investigation on the candidate.

If the investigation develops allegations of illegal drug use by the applicant, all aspects of the allegations are thoroughly and completely investigated. A hiring decision is made based on the circumstances surrounding the alleged drug use as it relates to the FBI drug guidelines and the overall honesty of the applicant as determined by the background.

The committee has also expressed an interest in the FBI's employee assistance program and the drug demand reduction program which addresses drug use by on-board employees. I have provided the committee with a copy of the FBI's Drug Demand Reduction program manual which goes into great detail regarding these matters.

The FBI's drug deterrence program is based on objectives, policies, procedures and implementation guidelines to achieve a drug-free Federal workplace consistent with Executive Order 12564 and Department of Justice policy. The FBI drug deterrence program establishes a comprehensive drug testing program which, as applied to FBI employees, consists of the testing of all applicants seeking employment; testing of probationary special agents during the initial first year of employment; testing of employees when there is a reasonable suspicion of illegal drug use; the testing of all employees under a random testing program; followup testing; and the testing of employees on a voluntary basis.

The FBI testing protocol involves the detection of amphetamines, cocaine, cannabis, opiates and phencyclidine. Pursuant to the Executive order, the FBI is required to discipline any employee found to use illegal drugs, except if the employee self-initiates into the employee assistance program, completes counseling and rehabilitation through the FBI's employee assistance program and, thereafter, refrains from drug use.

As part of our employee assistance rehabilitation program, an employee may remain on duty if the employee's continued employment will not endanger public health and safety or national security.

The FBI will initiate action to dismiss any employee for refusing to obtain counseling or rehabilitation through the employee assistance program. Further, we will initiate action to dismiss an employee if the employee was found not to have refrained from illegal drug use after a first finding of illegal drug use, assuming the employee was not removed from the rolls initially.

I hope that my comments this morning have provided the committee with some insight as to how the FBI handles drug issues as they relate to the candidates for employment to a White House position, or bureau applicants themselves, and the procedures utilized by the FBI in addressing drug issues which surface with regard to on-board employees.

I would be more than glad to answer your questions at this time.

[The prepared statement of Mr. Coyle follows:]

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, MY NAME IS THOMAS J. COYLE AND I AM THE ASSISTANT DIRECTOR (AD) OF THE FBI'S PERSONNEL DIVISION (PD). I HAVE SERVED IN THIS POSITION SINCE AUGUST, 1994. I WOULD LIKE TO THANK THE SUBCOMMITTEE FOR INVITING THE FBI TO PARTICIPATE IN THIS HEARING THIS MORNING ON DRUG POLICIES AFFECTING FEDERAL EMPLOYEES. IN PARTICULAR, I WILL ADDRESS THE FBI'S RESPONSIBILITIES AND PROCEDURES IN CONDUCTING BACKGROUND INVESTIGATIONS (HEREIN AFTER REFERRED TO AS "BIs") ON ITS OWN EMPLOYEES, AND ON CANDIDATES FOR APPOINTED AND OTHER POSITIONS WITH THE WHITE HOUSE. I WOULD ALSO LIKE TO DISCUSS THE FBI'S EMPLOYEE ASSISTANCE PROGRAM (EAP) AS IT RELATES TO DRUG RELATED MATTERS, AS WELL AS BUREAU STANDARDS AND PROCEDURES FOR RESOLVING CASES OF FBI EMPLOYEES WHO TEST POSITIVE DURING RANDOM DRUG TESTING PROCEDURES.

IN ADDITION TO CONDUCTING BIs ON ITS OWN EMPLOYEES, THE FBI CONDUCTS BIs AT THE REQUEST OF THE WHITE HOUSE, AS WELL AS OTHER AGENCIES, COMMITTEES OF CONGRESS, ETC. HOWEVER, REQUESTS FOR BIs RECEIVED FROM THE WHITE HOUSE INVOLVE INDIVIDUALS BEING CONSIDERED FOR PRESIDENTIAL APPOINTMENTS REQUIRING CONFIRMATION BY THE UNITED STATES SENATE, PRESIDENTIAL APPOINTMENTS NOT REQUIRING SENATE CONFIRMATION, WHITE HOUSE AND NATIONAL SECURITY COUNCIL STAFF POSITIONS, AND PERSONS REQUIRING ACCESS TO THE WHITE HOUSE COMPLEX GROUNDS. THESE REQUESTS ARE RECEIVED FROM VARIOUS COMPONENTS WITHIN THE WHITE HOUSE. THESE COMPONENTS ARE THE OFFICE OF THE COUNSEL TO THE PRESIDENT, THE OFFICE OF ADMINISTRATION, AND THE NATIONAL SECURITY COUNCIL.

THE BI IS A COMPREHENSIVE INQUIRY DESIGNED TO VERIFY INFORMATION PROVIDED BY THE INDIVIDUAL WHO IS THE SUBJECT OF THE BI (HEREINAFTER REFERRED TO AS THE "CANDIDATE"). THE BI PROCESS IS DESIGNED TO GATHER INFORMATION TO ASSIST THE WHITE HOUSE, AND OTHERS, IN THE DECISION-MAKING PROCESS CONCERNING THE CANDIDATE'S SUITABILITY FOR FEDERAL EMPLOYMENT AND/OR ACCESS TO CLASSIFIED INFORMATION. IN CONDUCTING THESE BIs, IT IS THE FBI'S GOAL TO PROVIDE A COMPLETE, THOROUGH, AND IMPARTIAL PRODUCT TO THE WHITE HOUSE IN A TIMELY MANNER.

SEVERAL AREAS SUCH AS CHARACTER, LOYALTY, REPUTATION, AND ABILITIES ARE ADDRESSED DURING THE BI. THESE AREAS ARE ADDRESSED THROUGH INTERVIEWS WITH THE CANDIDATE, INTERVIEWS OF PERSONS KNOWLEDGEABLE OF THE CANDIDATE, AND APPROPRIATE RECORDS CHECKS.

IF THE BI DEVELOPS INFORMATION OF ALLEGED MISCONDUCT OR OTHER TYPES OF UNFAVORABLE INFORMATION ABOUT THE CANDIDATE, ALL ASPECTS OF THE ALLEGATION ARE THOROUGHLY EXPLORED. IF UNFAVORABLE INFORMATION DEVELOPED IS OF A SERIOUS NATURE (E.G., THE CANDIDATE IS CURRENTLY THE SUBJECT OF A FEDERAL, STATE, OR LOCAL CRIMINAL INVESTIGATION), THE WHITE HOUSE COMPONENT THAT REQUESTED THE BI WOULD BE NOTIFIED AFTER APPROPRIATE CONSULTATION WITH THE FBI UNIT HAVING INVESTIGATIVE OVERSIGHT AND THE DEPARTMENT OF JUSTICE. IF REQUESTED TO DO SO, THE FBI WILL PROVIDE THE WHITE HOUSE WITH AN INTERIM WRITTEN REPORT CONTAINING THE UNFAVORABLE INFORMATION WHILE THE BI IS COMPLETED.

ONCE THE BI IS COMPLETED, THE RESULTS ARE FORWARDED TO THE WHITE HOUSE COMPONENT WHICH REQUESTED THE BI. IT IS THE COMPONENT'S RESPONSIBILITY TO DISSEMINATE THE RESULTS TO THOSE INVOLVED IN THE APPOINTMENT PROCESS. THE FBI DOES NOT ADJUDICATE, NOR DOES IT RENDER OPINIONS ON, THE BI RESULTS PROVIDED TO THE WHITE HOUSE COMPONENT. FURTHERMORE, THE FBI DOES NOT ASSESS THE RELIABILITY OR CREDIBILITY OF THE SOURCE OF THE INFORMATION. THE FBI'S FUNCTION IN THE BI PROCESS IS PURELY FACT FINDING.

AS INDICATED ABOVE, EACH BI CONDUCTED FOR THE WHITE HOUSE ADDRESSES SEVERAL AREAS. ONE OF THE AREAS IS ANY ILLEGAL DRUG USE OR ACTIVITY OR PRESCRIPTION DRUG ABUSE BY THE CANDIDATE DURING THE CANDIDATE'S ENTIRE ADULT LIFE (I.E., SINCE THE CANDIDATE'S 18TH BIRTHDAY). IF NONE IS DEVELOPED, THAT FACT IS REPORTED IN THE FBI'S INVESTIGATIVE RESULTS PROVIDED TO THE WHITE HOUSE. IF INFORMATION IS RECEIVED, OR ALLEGATIONS ARE MADE, THAT THE CANDIDATE MAY HAVE USED ILLEGAL DRUGS, ABUSED PRESCRIPTION DRUGS, OR WAS INVOLVED IN OTHER ILLEGAL DRUG ACTIVITY, THAT INFORMATION WOULD BE FULLY EXPLORED IN THE BI IN AN ATTEMPT TO RESOLVE THE VERACITY OF THE INFORMATION, AND IF TRUE, TO OBTAIN COMPLETE DETAILS.

TO ILLUSTRATE, WHEN COMPLETING THE STANDARD FORM-86 (QUESTIONNAIRE FOR NATIONAL SECURITY POSITION, WHICH IS PROVIDED BY THE WHITE HOUSE TO THE FBI), AS WELL AS IN AN INTERVIEW BY THE FBI CONDUCTED AT THE OUTSET OF THE BI, THE CANDIDATE MUST INDICATE ANY PRIOR ILLEGAL DRUG USE OR ACTIVITY (E.G., PURCHASE,

SALE, DISTRIBUTION, RECEIPT, ETC.) OR PRESCRIPTION DRUG ABUSE. IF ANY IS IDENTIFIED, THEN DETAILS ARE OBTAINED (E.G., ALL DRUGS USED, WHEN USED, DURATION OF USAGE, AMOUNT OF DRUG USAGE, WHETHER OR NOT THE CANDIDATE PROVIDED DRUGS TO ANYONE, AND OTHERS HAVING KNOWLEDGE THEREOF). EFFORTS ARE MADE TO INTERVIEW INDIVIDUALS KNOWLEDGEABLE, IN ORDER TO SUBSTANTIATE THE INFORMATION PROVIDED BY THE CANDIDATE.

ALL PERSONS KNOWLEDGEABLE OF THE CANDIDATE INTERVIEWED DURING THE BI ARE ALSO ASKED IF THEY ARE AWARE OF ANY ILLEGAL DRUG USE OR ACTIVITY, OR PRESCRIPTION DRUG ABUSE, BY THE CANDIDATE. IF THEY ARE, ALL PERTINENT INFORMATION IS OBTAINED AND REPORTED TO THE WHITE HOUSE. FOR EXAMPLE, IF A COLLEAGUE OF THE CANDIDATE IS INTERVIEWED AND HE ALLEGES THAT THE CANDIDATE USES OR USED ILLEGAL DRUGS, WHAT HE KNOWS, AND HOW, WOULD BE OBTAINED AND REPORTED. ALSO, ANY INVESTIGATION THAT WAS CONDUCTED WHICH CORROBORATED OR DISPROVED THE COLLEAGUE'S STATEMENTS, OR WAS CONDUCTED IN AN ATTEMPT TO DO SO, WOULD BE REPORTED. FOR EXAMPLE, IF THE COLLEAGUE PROVIDED THE NAMES OF INDIVIDUALS WHO SUPPOSEDLY WITNESSED THE CANDIDATE'S ILLEGAL DRUG USE, THOSE INDIVIDUALS WOULD BE INTERVIEWED AND THE RESULTS REPORTED. LASTLY, A CANDIDATE REINTERVIEW WOULD BE CONDUCTED TO ALLOW THE OPPORTUNITY TO RESPOND TO THE INFORMATION.

AS I MENTIONED PREVIOUSLY, THE FBI ALSO CONDUCTS BIs ON ALL APPLICANTS FOR EMPLOYMENT WITH THE BUREAU. THE PURPOSE OF THE BI IS TO DETERMINE AN APPLICANT'S SUITABILITY FOR EMPLOYMENT,

AS WELL AS THEIR TRUSTWORTHINESS SO THAT HE MAY HOLD A TOP SECRET CLEARANCE.

FBI HAS ESTABLISHED GUIDELINES FOR DETERMINING SUITABILITY FOR EMPLOYMENT WITH REGARD TO PRIOR EXPERIMENTAL DRUG USE. THESE GUIDELINES ARE AS FOLLOWS:

FBI PREEMPLOYMENT DRUG USAGE POLICY

GUIDELINES

1. AN APPLICANT WHO HAS ILLEGALLY USED ANY DRUG WHILE EMPLOYED IN ANY LAW ENFORCEMENT OR PROSECUTORIAL POSITION, OR WHILE EMPLOYED IN A POSITION WHICH CARRIES WITH IT A HIGH LEVEL OF RESPONSIBILITY OR PUBLIC TRUST, WILL BE FOUND UNSUITABLE FOR EMPLOYMENT.

2. AN APPLICANT WHO IS DISCOVERED TO HAVE DELIBERATELY MISREPRESENTED HIS DRUG HISTORY IN CONNECTION WITH HIS APPLICATION WILL BE FOUND UNSUITABLE FOR EMPLOYMENT.

3. AN APPLICANT WHO HAS SOLD ANY ILLEGAL DRUG WILL BE FOUND UNSUITABLE FOR EMPLOYMENT.

4. AN APPLICANT WHO HAS ILLEGALLY USED ANY DRUG, OTHER THAN EXPERIMENTAL USE OF CANNABIS, WITHIN THE PAST TEN YEARS WILL BE FOUND UNSUITABLE FOR EMPLOYMENT, ABSENT COMPELLING MITIGATING CIRCUMSTANCES. EXPERIMENTAL USE OF DRUGS OTHER THAN CANNABIS, WHICH OCCURRED MORE THAN TEN YEARS PRIOR TO THE APPLICATION FOR EMPLOYMENT WILL BE EVALUATED BASED UPON THE GENERAL FACTORS SPECIFIED BELOW.

5. AN APPLICANT WHO HAS USED CANNABIS WITHIN THE PAST THREE YEARS WILL BE FOUND UNSUITABLE FOR EMPLOYMENT.

EXPERIMENTAL USE OF CANNABIS WHICH OCCURRED MORE THAN THREE YEARS PRIOR TO THE APPLICATION FOR EMPLOYMENT WILL BE EVALUATED BASED UPON THE GENERAL FACTORS SPECIFIED BELOW.

GENERAL FACTORS

IN DETERMINING SUITABILITY, THE FOLLOWING GENERAL FACTORS HAVE BEEN IDENTIFIED BY THE OFFICE OF PERSONNEL MANAGEMENT AND WILL BE TAKEN INTO ACCOUNT:

(1) THE KIND OF POSITION FOR WHICH THE PERSON IS APPLYING, INCLUDING THE DEGREE OF PUBLIC TRUST OR RISK IN THE POSITION;

(2) THE NATURE AND SERIOUSNESS OF THE CONDUCT;

(3) THE CIRCUMSTANCES SURROUNDING THE CONDUCT;

(4) THE RECENCY OF THE CONDUCT;

(5) THE AGE OF THE APPLICANT AT THE TIME OF THE CONDUCT;

(6) CONTRIBUTING SOCIETAL CONDITIONS; AND,

(7) THE ABSENCE OR PRESENCE OF REHABILITATION OR EFFORTS TOWARD REHABILITATION.

SECURITY DETERMINATIONS WILL CONTINUE TO BE MADE PURSUANT TO EXECUTIVE ORDER 10450, WITH ILLEGAL DRUG USAGE VIEWED IN TERMS OF THE GENERAL FACTORS LISTED ABOVE WITH RESPECT TO THE SUITABILITY DETERMINATION.

THE FOLLOWING PARAMETERS WILL BE USED REGARDING THE DEFINITION OF "EXPERIMENTAL."

USE OF CANNABIS 15 TIMES OR LESS AND/OR USE OF ANY OTHER DRUGS A COMBINED TOTAL OF FIVE (5) TIMES OR LESS

SHOULD BE CONSIDERED EXPERIMENTAL AND WILL BE ACCEPTABLE CONSISTENT WITH THE TIME LIMITATIONS SET FORTH.

FINALLY THE DRUG POLICY ALSO STATES THAT "AN APPLICANT WHO HAS ILLEGALLY USED ANY DRUG WHILE EMPLOYED IN ANY LAW ENFORCEMENT OR PROSECUTORIAL POSITION, OR WHILE EMPLOYED IN A POSITION THAT CARRIES WITH IT A HIGH LEVEL OF RESPONSIBILITY OR PUBLIC TRUST, WILL BE FOUND UNSUITABLE FOR EMPLOYMENT." IN LIEU OF DEFINING SPECIFIC POSITIONS OF TRUST TO WHICH THIS PROVISION APPLIES, THE AD, PD, WILL BE RESPONSIBLE FOR MAKING DECISIONS REGARDING THE APPLICATION OF THIS PARTICULAR GUIDELINE WHEN NECESSARY.

ALL APPLICANTS FOR FBI EMPLOYMENT ARE REQUIRED TO FILL OUT AN APPLICATION AND TO MAKE A PERSONAL DECLARATION AS TO THE FULL EXTENT OF THEIR DRUG USE. AT THAT TIME, APPLICANTS ARE ADVISED THAT ALL INFORMATION PROVIDED BY THEM CONCERNING THEIR DRUG HISTORY WILL BE SUBJECT TO VERIFICATION BY A PREEMPLOYMENT POLYGRAPH EXAMINATION AND THAT ALL PROSPECTIVE FBI EMPLOYEES WILL BE REQUIRED TO SUBMIT TO A URINALYSIS FOR DRUG ABUSE PRIOR TO EMPLOYMENT. PRIOR TO THE INITIATION OF THE BI, APPLICANTS ARE ADMINISTERED BOTH THE POLYGRAPH EXAMINATION AND THE DRUG TEST. FAILURE TO PASS EITHER OF THESE EXAMS WOULD PRECLUDE THE FBI HAVING TO CONDUCT THE BI. IF THE APPLICANT PASSES BOTH THE POLYGRAPH AND THE DRUG TEST, THEN THE BUREAU INITIATES THE BI. THE SCOPE OF THE BI GOES BACK TO THE APPLICANT'S 18TH BIRTHDAY AND CONSISTS OF BOTH PERSONAL INTERVIEWS AND A WIDE VARIETY OF RECORDS CHECKS. IN ADDRESSING THE AREA OF PRIOR/CURRENT ILLEGAL

DRUG USE, PERSONS WHO ARE KNOWLEDGEABLE OF THE APPLICANT ARE INTERVIEWED. THOSE INTERVIEWS TYPICALLY INCLUDE REFERENCES, ASSOCIATES, SUPERIORS, COLLEAGUES, AND NEIGHBORS. IF THE BI DEVELOPS ALLEGATIONS OF ILLEGAL DRUG USE BY THE APPLICANT, ALL ASPECTS OF THE ALLEGATIONS ARE THOROUGHLY INVESTIGATED AND A HIRING DECISION IS MADE BASED ON THE FACTORS AND/OR CIRCUMSTANCES SURROUNDING THE ALLEGED DRUG USE AS IT RELATES TO FBI DRUG GUIDELINES AND THE VERACITY OF THE APPLICANT AND OF THE INFORMATION SUPPLIED.

THE COMMITTEE HAS ALSO EXPRESSED AN INTEREST IN THE FBI'S EAP AND DRUG DEMAND REDUCTION PROGRAM (DDRP) WHICH ADDRESS DRUG USE BY ON-BOARD EMPLOYEES. (A COPY OF THE FBI'S DDRP MANUAL HAS BEEN PROVIDED SEPARATELY TO THE COMMITTEE).

THE DEVELOPMENT OF A FBI POLICY TO DETER ILLEGAL DRUG USE THROUGH COMPULSORY URINALYSIS BEGAN IN 1983 AND WAS IMPLEMENTED IN MAY, 1986. SUBSEQUENTLY, IN SEPTEMBER, 1986, EXECUTIVE ORDER 12564 ESTABLISHED THE GOAL OF A DRUG-FREE FEDERAL WORKPLACE IN ALL EXECUTIVE BRANCH AGENCIES. THE ORDER MADE IT A CONDITION OF EMPLOYMENT OF ALL FEDERAL EMPLOYEES TO REFRAIN FROM USING ILLEGAL DRUGS ON OR OFF DUTY. THE FBI'S DRUG DETERRENCE PROGRAM (DDP) IS BASED ON OBJECTIVES, POLICIES, PROCEDURES AND IMPLEMENTATION GUIDELINES TO ACHIEVE A DRUG-FREE FEDERAL WORKPLACE, CONSISTENT WITH THE EXECUTIVE ORDER AND DEPARTMENT OF JUSTICE POLICY.

THE FBI DDP ESTABLISHES A COMPREHENSIVE DRUG TESTING PROGRAM WHICH, AS APPLIED TO FBI EMPLOYEES, CONSISTS OF THE

FOLLOWING: THE TESTING/SCREENING OF ALL APPLICANTS SEEKING EMPLOYMENT; THE TESTING OF PROBATIONARY SPECIAL AGENTS DURING THE INITIAL FIRST YEAR OF EMPLOYMENT; THE TESTING OF EMPLOYEES WHEN THERE IS REASONABLE SUSPICION OF ILLEGAL DRUG USE; THE TESTING OF ALL EMPLOYEES UNDER A "RANDOM TESTING PROGRAM"; FOLLOW-UP TESTING; AND, THE TESTING OF EMPLOYEES ON A VOLUNTARY BASIS. THE FBI TESTING PROTOCOL INVOLVES THE DETECTION OF AMPHETAMINES, COCAINE, CANNABIS, OPIATES AND PHENCYCLIDINE.

ALL EXAMINATIONS CONFIRMED POSITIVE FOR DRUGS ARE REVIEWED BY THE FBI'S MEDICAL REVIEW OFFICER (MRO) PRIOR TO THE INITIATION OF ANY OFFICIAL ACTION. THE FBI'S MRO IS A BOARD CERTIFIED PHYSICIAN. IT IS THE RESPONSIBILITY OF THE MRO TO REVIEW ALL POSITIVE TEST RESULTS AND MEDICAL INFORMATION PROVIDED BY THE EMPLOYEE IN ORDER TO DETERMINE IF THERE IS AN ALTERNATE MEDICAL EXPLANATION FOR THE POSITIVE TEST. THE MRO MAY INTERVIEW THE EMPLOYEE, REVIEW MEDICAL HISTORY, CONSULT WITH LABORATORY PERSONNEL AND ORDER RETESTING AS DETERMINED NECESSARY. IF NO ALTERNATE MEDICAL EXPLANATION CAN BE DETERMINED, THE TEST IS DESIGNATED A VERIFIED POSITIVE BY THE MRO.

IN THE EVENT OF A VERIFIED POSITIVE TEST, THE MRO NOTIFIES THE DDP COORDINATOR WHO PREPARES AN APPROPRIATE MEMORANDUM OUTLINING THE SELECTION PROCEDURES AND TEST RESULTS. THIS INFORMATION IS THEN FORWARDED TO THE FBI'S OFFICE OF PROFESSIONAL RESPONSIBILITY (OPR) IN ORDER TO INITIATE APPROPRIATE INVESTIGATION.

INVESTIGATION CONDUCTED BY OPR IS CONDUCTED IN ACCORDANCE WITH THE FBI REGULATIONS REGARDING INVESTIGATION OF EMPLOYEE MISCONDUCT. THE RESULTS OF SUCH INVESTIGATIONS ARE THEN FORWARDED TO THE ADMINISTRATIVE SUMMARY UNIT (ASU), PD, FOR REVIEW AND A RECOMMENDATION AS TO APPROPRIATE ADMINISTRATIVE ACTION. THE DEGREE OF SEVERITY OF THE ADMINISTRATIVE ACTION IS DETERMINED ON A CASE-BY-CASE BASIS, TAKING INTO CONSIDERATION ALL EXTENUATING OR MITIGATING FACTORS.

PURSUANT TO EXECUTIVE ORDER 12564, THE FBI IS REQUIRED TO DISCIPLINE ANY EMPLOYEE FOUND TO USE ILLEGAL DRUGS UNLESS HE EMPLOYEE SELF-INITIATES INTO THE EAP; COMPLETES COUNSELING AND REHABILITATION THROUGH THE FBI'S EAP; AND THEREAFTER REFRAINS FROM DRUG USE.

THE FBI'S EAP PROVIDES EMPLOYEES AN OPPORTUNITY, WITH APPROPRIATE ASSISTANCE, TO DISCONTINUE THEIR ILLEGAL USE OF DRUGS. THEREFORE, THE FBI IMMEDIATELY REFERS AN EMPLOYEE FOUND TO BE USING ILLEGAL DRUGS TO THE EAP. AS PART OF AN EAP REHABILITATION PROGRAM, AN EMPLOYEE MAY REMAIN ON DUTY IF THE EMPLOYEE'S CONTINUED EMPLOYMENT WILL NOT ENDANGER PUBLIC HEALTH AND SAFETY OR NATIONAL SECURITY. THE FBI WILL INITIATE ACTION TO DISMISS AN EMPLOYEE FOR REFUSING TO OBTAIN COUNSELING OR REHABILITATION THROUGH EAP AS REQUIRED BY EXECUTIVE ORDER 12564. FURTHER, WE WILL INITIATE ACTION TO DISMISS AN EMPLOYEE IF THE EMPLOYEE WAS FOUND NOT TO HAVE REFRAINED FROM ILLEGAL DRUG USE AFTER A FIRST FINDING OF ILLEGAL DRUG USE, ASSUMING THE EMPLOYEE WAS NOT REMOVED FROM THE ROLLS INITIALLY.

EMPLOYEES WHO SEEK TREATMENT THROUGH EAP ARE PROVIDED COUNSELING AND REFERRAL SERVICES. IN ADDITION, THEIR PROGRESS IN OVERCOMING THEIR USE OF ILLEGAL DRUGS IS MONITORED DURING AND AFTER THE REHABILITATION PERIOD BY THE EAP COORDINATOR. IN ADDITION, FOLLOW-UP TESTING ON AN UNANNOUNCED BASIS MAY BE REQUIRED DURING OR AFTER EAP COUNSELING AND UP TO ONE YEAR AFTER COMPLETION OF REHABILITATION. IN SUCH CASES, THE FBI'S DDP ADMINISTRATOR IS AUTHORIZED, AT HIS DISCRETION, TO INITIATE THE COLLECTION OF A URINE SPECIMEN FOR TESTING.

THE FBI IS VERY COGNIZANT OF THE IMPACT OF ILLEGAL USE OF DRUGS BY EMPLOYEES ON FBI OPERATIONS AND HAS DEVELOPED A COMPREHENSIVE DDP WHICH EXAMINES DRUG USE BY BOTH APPLICANTS AND ON-BOARD EMPLOYEES. THIS PROGRAM IS CONTINUOUSLY REVIEWED AND ANY NEED FOR CHANGE AND/OR IMPROVEMENT IS CONSTANTLY CONSIDERED IN ORDER TO ENSURE THE INTEGRITY AND SECURITY OF FBI OPERATIONS.

I HOPE THAT MY COMMENTS THIS MORNING HAVE PROVIDED YOU WITH SOME INSIGHT AS TO HOW THE FBI HANDLES DRUG ISSUES AS THEY RELATE TO CANDIDATES FOR APPOINTMENT TO A WHITE HOUSE POSITION, BUREAU APPLICANTS, AND THE PROCEDURES UTILIZED BY THE FBI IN ADDRESSING DRUG ISSUES WHICH SURFACE WITH REGARD TO ON-BOARD EMPLOYEES. AT THIS TIME I WOULD BE GLAD TO TAKE ANY QUESTIONS.

Mr. MICA. Thank you for your testimony.

I would like to begin the first round of questions by asking a couple of questions here of Mr. Nelson. And we just got a copy of your testimony, so I didn't have a chance to review it in depth. But you testified about Executive Order 12968, which is access to classified information, a directive signed in 1995, to develop common adjudication lines for determining eligibility for access to classified information.

Are you working on that project? Have you been involved in that project?

Mr. NELSON. Yes, sir, deeply involved.

Mr. MICA. And so you are trying to find a consensus. I guess drug—history of drug use and abuse and problems in that area would be one of the elements you would consider setting some guidelines for; is that correct?

Mr. NELSON. Yes, indeed.

Mr. MICA. And I have been told informally that that will be issued very shortly. Is that correct?

Mr. NELSON. Well, sir, it's—the security policy board has approved the—all of the guidelines, of which there are 13, one of which involves drug involvement, and that is currently being finally reviewed over at the National Security Council.

Mr. MICA. And when do you anticipate those new guidelines will be approved?

Mr. NELSON. I couldn't say exactly. Hopefully soon, but I couldn't say.

Mr. MICA. A matter of a few weeks?

Mr. NELSON. I am not sure.

Mr. MICA. Well, let me ask you also about, in your testimony you stated in personnel security investigations, drug issues rarely appear in isolation. They are frequently associated with other significant issues such as criminal conduct, alcohol abuse or financial difficulties.

So this is part of the concern that you have and there will be criteria which address these problems, past drug or recent past drug offenders; is that correct?

Mr. NELSON. That's correct, Mr. Chairman.

Mr. MICA. One of the things that concerns me is how you develop a standard for dealing with, say, marijuana use, what's an acceptable past history use for employment? And then also the past history of the harder drugs, cocaine, hallucinogenic drugs, other drugs? Is this guideline going to have some—like I believe I read somewhere where it was 10 years, if you had had marijuana use history, you could not be employed in and, 15 years for cocaine or something like that? Do you have a standard of that sort being set?

Mr. NELSON. Well, sir, the guidelines which were developed and coordinated with all of the Federal agencies and the executive branch are necessarily not that specific. Now, one of the first factors of several that involve potentially disqualifying behavior is illegal drug abuse. Certainly, drug abuse that is current and recent is of paramount concern. However, we found from thousands of cases that we do each year, each individual case is different.

It is extremely difficult to set an absolute threshold of how long ago, how frequent, because there are other factors that are con-

tained in the case, such as there may be additional adverse information or there may be a substantive record of a stable, productive life-style since the time that the use took place.

So we do not have precise guidelines as you suggest. They are more general in nature.

Mr. MICA. Is that going to be left to each individual agency to determine?

Mr. NELSON. To a certain degree, yes, sir. We are trying to get a uniform application of the standards, but certainly there is flexibility to the various executive branch agencies.

Mr. MICA. Are there different levels of handling classified materials? Are there going to be higher standards as you determine levels of access to classified information?

Mr. NELSON. Well, sir, not—this is a single standard that covers all levels of access to classified information. The differentiation is the amount of investigation that we do to gather background information. So that is graduated based on the level of access. But the standard of trust and reliability is the same that's embodied in these guidelines.

Mr. MICA. Now, this is being done by Executive order and, basically, by a rule. It's not a law. Do you think Congress should pass a law that sets some standards?

Mr. NELSON. Well, sir, I really don't know what the correct solution is. These guidelines change from time to time, but we find the current climate, the current policy climate seems to work well from the Department of Defense's standpoint.

Mr. MICA. I want to turn, if I may, to Ms. Vezeris.

I have a copy of the form I read alound where, the "above individual is considered a potential threat to the President of the United States, the Vice President of the United States and/or the White House complex." This statement, this one happens to be for Mr. Livingstone. I pulled it from one of the files, and it has approved or denied.

Ms. VEZERIS. Thank you.

Mr. MICA. Do you have a copy of that form there?

Ms. VEZERIS. Yes.

Mr. MICA. Is this still the form that's in place?

Ms. VEZERIS. This form comes out of a—the White House Division, which is not a unit under the Office of Administration. So I would not—I would only be assuming. I don't know.

Mr. MICA. Well, if this is the form that was in place when Mr. Livingstone was put in this position, I am wondering if the Secret Service feels that this is adequate. I guess he was sort of the fox that was supposed to guard the personnel, White House Personnel Security Office, his title was Director of White House Personnel Security. And this is the form that they used.

Have there been any changes? Have there been any changes proposed in this or any of the procedures or the wording that you know of?

Ms. VEZERIS. I am not aware of that. The only comment that I can make is that Mr. Livingstone had a permanent pass. When the Secret Service reviews the FBI summary sheets for the background investigations for people at the White House, we are looking at that information to determine—to clarify issues relating to physical

security. So the best that I can tell you regarding Mr. Livingstone would be that, from a Secret Service standpoint, he did not pose a security—a physical security problem. And so, therefore, I am not sure if the Secret Service feels any need to change the wording in the form that you have before you.

Mr. MICA. Well, the other question would be, would the Secret Service recommend any changes in the law or any action by Congress to ensure that we have some protections in place, or some standards relating to drug use and abuse? Or do you think that should be left flexible and at the discretion of the Secret Service?

Ms. VEZERIS. Well, with respect to drug usage, we would be looking at that issue from a physical security standpoint.

Mr. MICA. Right.

Ms. VEZERIS. And we do not pass judgment with respect to suitability for employment or national security clearance issues. And so I would have to defer to those entities that are responsible for that, i.e., the White House or the intelligence community.

But from a Secret Service standpoint, I think we are comfortable with the applicable laws and provisions because, again, we are looking at it from a physical security standpoint.

Mr. MICA. OK. I would yield now to the gentleman, Mr. Kanjorski, and will get back to some other questions later. Thank you.

Mr. KANJORSKI. Thank you very much, Mr. Chairman.

From listening to the opening statements of all three witnesses, I gather there is a significant and broad use of drugs in the Federal workplace. Is that your experience, Mr. Nelson?

Mr. NELSON. Well, sir, in the thousands of investigations that we do in the Department of Defense, I can't give you a specific number, but we do see significant numbers of cases with prior and even more recent drug use, and much of which is admitted by the subject him or herself.

As you know, the Standard Form 86 that was recently approved contains a question relating to drug use, and we find frequently people are quite honest in responding in the affirmative, and then we fully explore those issues.

Mr. KANJORSKI. In the Secret Service, do you find that to be the same? I am talking now on applicants for becoming agents of the Secret Service. Is that fairly—are you—it is not that shockingly unusual to find a disclosure, is it?

Ms. VEZERIS. Clearly, applicants that apply for positions within the Secret Service, we do see people who indicate, or information comes to our attention that they have used drugs.

Mr. KANJORSKI. Do you have any idea—I know it would be a guesstimate, but would you say one in five?

Ms. VEZERIS. I don't think I have that information available.

Mr. KANJORSKI. Would that bar someone from becoming an agent? Any disclosure of prior drug use, would that bar the individual from ever entering into the Secret Service?

Ms. VEZERIS. We will hire—we have hired people who have used marijuana on an extremely limited experimental basis.

Mr. KANJORSKI. And experimental, is that what everybody sort of chuckles at, the old college try?

Ms. VEZERIS. You might call it that.

Mr. KANJORSKI. Mr. Coyle, with the FBI, if I were an applicant and I disclosed on my application prior experimental use, would that bar me from eventually becoming an FBI agent?

Mr. COYLE. Very possibly. Experimental use has been defined in our policy, which I have provided to the committee. It would depend on time, circumstances, type of narcotic or drug use, circumstances.

Mr. KANJORSKI. But you have people then that would consider and have considered, and do have as employees, that have had some past record of experimental use?

Mr. COYLE. Yes. Yes, sir, that's correct.

Mr. KANJORSKI. What I am trying to get at is—there was sort of a suggestion, and I don't want to put words in Mr. Burton's mouth, but that there should be a bar or, as the chairman said, a chronological bar. And I can understand now why it almost has to be a case-by-case method, to weigh what the circumstances were, the amounts, the potential addiction, the potential drug, and everything. But are you actively seeking and working more at exclusion or at rehabilitation and overview, such as random drug testing? I noticed in the White House, they have a 12 percent random test a year on all employees, including those who have had any record in the past or disclosure in the past, or just wandering around the grounds, I suspect, that periodically once a year, 12 percent do get tested. Do you do the same thing in the FBI?

Mr. COYLE. Yes, we have a random drug testing policy.

Mr. KANJORSKI. Is it the same amount or less or more?

Mr. COYLE. Let's see. I have some general figures. I have some figures from our applicant drug testing process. For example, in our applicant process itself, we did approximately 8,200 drug tests since late 1994, when we started rehiring.

Mr. KANJORSKI. So, that would have been everyone.

Mr. COYLE. Yes.

Mr. KANJORSKI. The White House does that, too. Everyone gets a drug test. But I mean, on a yearly basis do you have a fraction or some percentage that gets a random sample?

Mr. COYLE. Yes, we do, sir, but I don't have that figure in front of me. I am sorry.

Mr. KANJORSKI. I don't mean to underscore it. I appreciate that.

In the Secret Service, you must have a rolling random methodology.

Ms. VEZERIS. Yes, we do.

Mr. KANJORSKI. Do you have the percentage of staff that test on a yearly basis?

Ms. VEZERIS. On an annual basis it averages out to about 15, 16 percent.

Mr. KANJORSKI. OK. So it's very close to what the White House program is.

And at the Defense Department, would that be true also?

Mr. NELSON. Well, sir, I can't give you a number because that's handled by another office in the Department. But what I can tell you is that somewhere between 10 and 20 percent of our denial or revocation of clearances involves drug use, either by itself or in combination with other factors.

I might add, though, that drug use is not the most prevalent adverse issue that we look at. The more frequent issues involve finances, falsification of forms and alcohol abuse. Drugs is No. 4 in the frequency distribution.

Mr. KANJORSKI. As an abused substance, and alcohol is an even greater abused substance in the Federal services?

Mr. NELSON. That appears, at least in the cases we have seen.

Mr. KANJORSKI. Let me ask you, in the FBI do you find alcohol to be one of your——

Mr. COYLE. Well, sir, I don't really have a view on that. I don't have any figures or statistics to work from on that issue, so I am not really sure, to be honest about it.

Mr. KANJORSKI. How about in the Secret Service, Ms. Vezeris?

Ms. VEZERIS. As an applicant, I think the drug issue is probably more relevant.

Mr. KANJORSKI. More relevant?

Ms. VEZERIS. I think so.

Mr. KANJORSKI. Is there anyone who has traced applicants and disclosure of prior drug use to see whether there's any generational change? In other words, those of us that were in school in, say, the fifties and sixties, are we worse in that record than people were either in the seventies or the eighties?

And the reason I ask that is that I noticed some of the documentation I have here, that it is amazing the number of people that make the honest disclosure of prior experimental drug use, some members who have been appointed to the Supreme Court and are sitting on the Supreme Court. We almost ran out of potential Vice Presidential candidates this last time.

It seems to have a pervasive point, particularly in those people that seem to be coming into the age of leadership roles. Do you find that, that there's any peak or valley in use?

Mr. NELSON. Well, sir, for the Department of Defense, we don't track that information, the thousands of investigations and clearances that we issue each year. However, as you might suspect, we do find that the incidence of drug information or drug involvement is more prevalent at the younger—the lower end of the scale with our—certainly some of our military recruits and also our younger contract employees, we find that there's more recent evidence of drug abuse.

Mr. KANJORSKI. Recent evidence?

Mr. NELSON. Yes.

Mr. KANJORSKI. But I am talking about any history at all. Do you see that we spike somewhere in the seventies or the sixties?

Mr. NELSON. I don't have any data on that, sir.

Ms. VEZERIS. I don't have any data on trends analysis, but I would say that clearly, the vast majority of people that we do hire have never used drugs. And I don't want to give an impression that everyone that walks in the door has used drugs. We have thousands of people applying for positions, and we have very few positions. So we can be very selective, and we do get very good candidates that have never used any kind of drug.

Mr. KANJORSKI. Are the three of you familiar with the policy of the White House on drug use?

Mr. NELSON. No, sir, I am not.

Ms. VEZERIS. No.

Mr. COYLE. No.

Mr. KANJORSKI. You are not.

Thank you, Mr. Chairman.

Mr. MICA. Thank you. And I will yield now to Mr. Burton.

Mr. BURTON. You folks were notified, I think, 2 weeks or more ago about the hearing today. How come we didn't get your testimony until this morning? DOD. Excuse me, DOD.

Mr. NELSON. Sir, I was just notified yesterday that we would be testifying due to the apparent involvement or interest in security clearances and sensitive positions. So my statement, if you will, was really not completed until late last evening or early this morning.

Mr. BURTON. The Assistant Secretary that was asked to appear before the committee was notified a couple of weeks ago. Why didn't he come or talk to you about this before that?

Mr. NELSON. We did speak with his office, I believe, on Wednesday.

Mr. BURTON. What about him?

Mr. NELSON. I can't comment on that. I was asked to represent the office.

Mr. BURTON. His office talked to you on Wednesday, and he was asked to be here, what, 2 weeks ago, Mr. Chairman?

Mr. MICA. Yes, 2 weeks ago.

Mr. BURTON. Two weeks ago and he didn't talk to you until Wednesday about being here, so we didn't get your testimony until this morning.

Mr. NELSON. Yes, sir. We were notified—the date of the letter is September 13th. I believe it was received in the Department on or about the 17th.

Mr. BURTON. You were orally notified, though, I think, 2 weeks ago.

Mr. NELSON. I can't comment—I am not aware of it.

Mr. BURTON. The correspondence that your associate just brought up there, the Assistant Secretary was notified 2 weeks ago. I just want to convey to him that we don't take these hearings lightly. If an Assistant Secretary can't be here for some reason, I think it's improper for him to wait until just a few days before the hearing and then pick somebody else who has to prepare themselves in a very short period of time to appear before the committee because we like to have that testimony at least a couple of days ahead of time so we can take a look at it.

So you can convey that to the Assistant Secretary; will you?

Mr. NELSON. Yes, sir.

Mr. BURTON. You said in your statement in personnel security investigations, drug issues rarely appear in isolation. They are frequently associated with other significant issues such as criminal conduct, alcohol abuse and financial difficulties. So that would lead one to believe, from your experience, that people who use drugs, there's other things, ancillary problems that occur because of that drug usage?

Mr. NELSON. Yes, sir, at least in some, many of the cases that we see, that appears to be the case.

Mr. BURTON. According to, I think, the National Prosecutors Association, 70 percent of all crime in the United States of America is drug related; 7 out of 10 crimes are drug related. It's a very, very big problem as far as the criminal—the expansion of crime in this country. So it's not just the use of drugs that's a big problem and people being not able to handle their affairs, but that it relates to having—to prostitution, for people to go out and to steal things to pay for their habits, and so forth. So it's a big problem.

The reason I say that is when you are talking about people in places like the executive branch of the United States, who have a current history or a relatively current history of using drugs, they could be a real threat to national security or create other problems in the White House, in the executive branch. And that's why this is not just an issue that can be passed off by saying, well, you know, an awful lot of people do it, and a lot of people in DOD, and the Secret Service, and in the FBI have done it in the past; and we have programs to try to make sure that, if they are a good person today, we can hire them.

When you are talking about the White House and people who have used it in the not too distant past, you are talking about a real possible problem. That's why it was very disconcerting to me to know that FBI background checks were put off for a long, long period of time. Then, of course, we found out that a lot of the people over there were using drugs or have used drugs in the not too distant past or were currently using them.

Let me just say that I think your testimony has been very illuminating. I won't ask a lot of questions. I would like to say to the chairman and to my Democratic colleagues that we ought to set an example in the Congress by being drug tested. We ought to try to push for random drug testing in our offices.

I would say that I think the President of the United States, Bill Clinton, and Senator Robert Dole, candidate for the Presidency on the Republican ticket, should also set an example by being drug tested immediately and let those drug tests be known to the American people.

I think, if Bill Clinton is drug tested and Bob Dole is drug tested, it would send a very strong message to the young people of this country that we think drugs are bad. And if they are willing to show to this country that they aren't using drugs and haven't used them in the past, that young people shouldn't as well.

The drug usage in this country, as I said earlier, has more than doubled in many cases as far as cocaine is concerned, as far as marijuana is concerned and other hallucinogenic drugs in just the last 2 to 3 years. So the example that we have set by our legislative agenda, by our Executive orders, and so forth, has not set the right tone for this country.

So I would like to just say one more time, Mr. Chairman, before I leave, and I do have to leave and I apologize for that, that I think the President and Senator Dole should set an example by having a drug test, doing it in front of the media and let the people know how serious they are about the drug problem.

Mr. Chairman, I want to thank you very much for holding this hearing, and I will be happy to participate right along with them. I yield back the balance of my time.

Mr. MICA. I thank the gentleman. We have been joined by the ranking member of the subcommittee, Mr. Moran.

Welcome and you are recognized.

Mr. MORAN. Well, I thank you, Mr. Chairman. I am sure this wasn't for me, but in listening to Mr. Burton's suggestion, do you really want the President and your Presidential candidate to do a drug test in front of all of the media?

Mr. BURTON. Would the gentleman yield?

Mr. MORAN. Well, yes. I was wondering if——

Mr. BURTON. Would the gentleman yield real quick? You can get a much more accurate drug test for 90 days by just giving a hair sample.

Mr. MORAN. Oh, I see. OK. Well, I think that would be a little——

Mr. BURTON. I will be glad to give him a pair of scissors. I will give him and Senator Dole a pair of scissors.

Mr. MORAN. All right. Well, whatever media event we want to put on is certainly OK. I am sure it would be with President Clinton.

But, Mr. Chairman, I am sorry to be late. I was at an anti-smoking event at the high school in my district, which frankly I consider a little more important than this, because 3,000 young people start smoking every day and 1,000 of them are going to die horrible deaths. It can be avoided. The way to avoid it is to recognize tobacco as a drug. I think that we ought to criminalize all drugs. Certainly, making, selling or using something that is deliberately addictive should be a criminal act, and we ought to be consistent about that.

The fact is that tobacco is more addictive, and causes more death than any other drug. Yet I don't see this panel getting particularly concerned about that fact. The Members that are the most righteous, in fact, are the least supportive of any initiative on tobacco. And I don't mean that Jesse Helms and the David Funderburks of the world but all of those folks that get tobacco money are very reluctant to say anything about tobacco. And yet they are the first ones to jump on the bandwagon to raise these unfounded allegations with regard to people who may have experimented with drugs before being hired.

I am very disappointed that we are having this hearing today. We knew that the media was going to be present, but we also knew that most of the Members of Congress were not going to be present. I have to believe that this hearing is being driven more by political considerations than any effort to objectively evaluate the White House's drug policy, because this is drug week for the Dole campaign.

After finding that his tax cut proposals have fallen flat, the Republican Presidential candidate is trying to win votes by claiming that the Clinton White House is too permissive on drug use. This is the next attempt to get Senator Dole off the bottom on his poll numbers. So they are going to raise this up a flag pole and see whether this generates any interest, regardless of the merits.

The Dole campaign obviously is free to focus on whatever issues it wants. But that doesn't mean that this subcommittee or this committee or even this Congress should be deputized as a cam-

paign surrogate. This subcommittee wasn't empaneled to reinforce President Dole's campaign or anybody else's campaign. The Congress was not created to be a sounding board for Presidential campaigns, and that's what we have seen it become in the last few weeks.

Bob Dole has a very talented and a very large staff. He has received almost $65 million in Federal funds to run his campaign. He should use those resources rather than the resources of this subcommittee to promote his Presidential campaign. Every dark cloud has a silver lining, however, and that's what I suppose we ought to focus on. By holding this hearing, we are giving the White House an opportunity to talk about their drug policy, which is actually a very strong one.

The truth is that this White House has the same drug policy as the Bush White House and the Reagan White House, but it is enforcing it more strenuously. That policy is zero tolerance. If an applicant tests positive for drugs, he or she is denied employment. There are no exceptions and no deviations.

Fortunately, the White House has rarely had to invoke this strict policy. Of the nearly 3,000 White House employees hired during the Clinton administration, three have failed their drug tests. Imagine, 3 out of 3,000. And all three of them were denied employment. It made no difference about their other qualifications. And that was a proper policy.

The White House has also strict monitoring policies. Every year 12 percent of the White House staff is subjected to random drug tests. If an employee tests positive for drug use, he is fired. There are no exceptions, no deviations. Fortunately, this policy has rarely had to be invoked. Of the more than 800 random drug tests done during the Clinton administration, there have been only 2 employees who tested positive.

Let me repeat that, actually. Of the more than 800 random drug tests during the Clinton administration, there have only been 2 who tested positive, and both of them were Bush appointees. Both were immediately dismissed.

The White House has also adopted a policy to monitor employees who have used drugs either recently or frequently in the past. This is the special monitoring program that subjects these employees to random drug tests twice a year. If an employee in this program fails a drug test, they are fired. Again, no exceptions, and no deviations. No matter who they know, how important they are, they get fired. Since President Clinton was inaugurated in 1993, there have been 21 employees placed in this special monitoring program. There are eight current employees in this monitoring program. None of the employees have ever failed a drug test.

These are the facts, Mr. Chairman. The White House has a stringent policy, the most stringent policy that any White House has ever employed. It's more stringent than most other Federal agencies. It's more stringent than the Congress, certainly a lot more stringent than the Congress. And if we are going to cast stones, we first ought to look at the Congress. And it's more stringent than most private employers.

There is no drug problem at the White House. There is no tolerance for drug use. I appreciate you giving us an opportunity to make that point. It's about time it was said.

Thank you, Mr. Chairman.

Mr. MICA. Did the gentleman want to ask a question?

Mr. MORAN. Yes, I sure do.

Mr. MICA. Go ahead.

Mr. MORAN. Thank you for giving me the opportunity.

Mr. MICA. Now that you have pontificated, we will give you a minute more.

Mr. MORAN. All right.

Mr. MICA. The witnesses are DOD, Secret Service and FBI. The question is what standards the White House should have as far as employment of individuals with recent drug history? That's the question.

Mr. MORAN. I understand that, Mr. Chairman.

Mr. MICA. What their standards are?

Mr. MORAN. But I have to say, and we have a good relationship here, but I think I have made clear and there's no question in my mind, this really is not for the purpose of finding out what these Federal agencies are doing. I really think it is for the purpose, and certainly Mr. Burton's line of questioning bore that out, of trying to embarrass the White House. There is a clear political intent to this. If we were really concerned about drug use, we would come up with facts to show—in other agencies, we would come up with facts to show that it was a legitimate concern. I don't see that it is.

But let me ask, are the Department of Defense's civilian employees subject to the same zero tolerance policy as are other members of the uniformed services?

Mr. NELSON. Well, sir, unfortunately, the organization that I represent does not—is not involved in those kinds of policies. I know, for example, I can tell you that on the OSD staff I am in a position, a drug testing position, and am subject to random testing. Clearly it is my understanding that, if I get tested and tested positive, I would not only be subject to losing my security clearance but perhaps my employment as well.

Mr. MORAN. I understand that.

Now, what happens if somebody had any kind of a history, no matter how limited, of drug use in the past? Let's say if they were in the Department of Defense or the Secret Service or FBI, do we have consistent policies across the board?

Ms. VEZERIS. Me?

Mr. MORAN. Yes.

Ms. VEZERIS. I can only speak to what the Secret Service does so I can respond to it in the context of an applicant coming to the Service. I believe we do have very stringent guidelines and policies. The caliber of the individual that applies for a position is so high that we can be very selective, and we are.

Mr. MORAN. And now, do you have any policy, any written policy, with regard to past, any past drug use?

Ms. VEZERIS. We do not have a written formula, if you will. It's not a black and white issue. It's really on a case-by-case basis. We review the entire file. So, as I said earlier regarding a very limited

usage of marijuana, with everything else being appropriate as far as how long ago the individual used the drug and all of that, the person may be hired.

With respect to other drugs, the likelihood is, practically speaking, the individual would not be hired.

Mr. MORAN. Does the FBI have the same policy, Mr. Coyle?

Mr. COYLE. No. There are some differences and our drug standards are published, and we have provided a copy of those to this committee. We use them as standards. We use them as screening mechanisms. We use them as guidelines in making our employment decisions and decisions in terms of access to classified material.

So I think there is genuine uniformity amongst the law enforcement community, but there are distinctions. There are differences. There are ad hoc applications, case-by-case analyses, as probably there should be, in making those determinations.

Mr. MORAN. Do you do random drug testing?

Mr. COYLE. Yes, we do.

Mr. MORAN. And the Secret Service does?

Ms. VEZERIS. Yes we do.

Mr. MORAN. And DOD?

Mr. NELSON. Yes, sir.

Mr. MORAN. Can you think of anything that you could do that you haven't done, or any situation that has arisen that has indicated any deficiency in this policy of ensuring that no one's functioning is impaired through drug use?

Ms. VEZERIS. I think the Secret Service feels fairly comfortable with our current program. As an indication of that, I think the random drug testing program has been very positive in that since its inception, which is 1988. We have had nine positive, confirmed positive, results of employees. And the vast majority of that—of those numbers really occurred in the first few years. So I think that we feel that it is a very successful program, and I think we are satisfied with both the caliber of individual that we are hiring, as well as the on-board employee.

Mr. MORAN. Let me just ask one further question. Do all three of you have employee assistance programs for people who may have a problem who want to address that problem, get over it and still be able to contribute in a constructive way to the agency's mission? Do you have an EAP program?

Mr. COYLE. Yes, we do.

Ms. VEZERIS. Yes.

Mr. NELSON. Yes.

Mr. MORAN. You all three do.

OK. Thank you, Mr. Chairman.

Mr. MICA. Without objection, your prepared statement will be inserted into the record.

[The prepared statement of Hon. James P. Moran follows:]

Statement of Representative James P. Moran
on Drug Free Workplace: White House Standards
Subcommittee on Civil Service
September 20, 1996

Mr. Chairman:

I am disappointed that we are having this hearing today and I can't help but believe that this hearing is being driven more by political considerations than an effort to objectively evaluate the White House's drug policy.

This is "Drug Week" for the Dole Campaign. After finding that his tax cut proposals have fallen flat, the Republican presidential candidate is trying to win votes by claiming the Clinton White House is too permissive of drug use. Regardless of the merits, his campaign is free to focus on whatever issues it wants.

But that does not mean this Subcommittee should be deputized as a campaign surrogate. This Subcommittee was not impaneled to reinforce his campaign. This Congress was not created to be a sounding board for the Presidential campaigns. Bob Dole has a very talented and very large staff. He has received more than $75 million to run his campaign. He should use those resources, rather than this Subcommittee, to promote his Presidential campaign.

As in every dark cloud, however, there is a silver lining to this hearing. By holding this hearing, we are giving the White House the opportunity to discuss the truth about their drug policy.

The truth is that this White House has the same drug policy as the Bush White House and the Reagan White House. That policy is zero tolerance. If an applicant tests positive for drugs, he is denied employment. There are no exceptions and no deviations. Fortunately, the White House rarely has to evoke this strict policy. Of the nearly 3,000 White House employees hired during the Clinton Administration, 3 failed their drug tests. Each was denied employment.

The White House also has strict monitoring policies. Every year, 12% of the White House staff is subjected to random drug tests. If an employee tests positive for drug use, he is fired. There are no exceptions to this policy and no deviations. Again,

this policy has been rarely invoked. Of the more than 800 random drug tests done during the Clinton Administration, there have been only 2 employees who tested positive. Both of these were Bush appointees. Both were immediately dismissed.

The White House also has adopted a policy to monitor employees who have used drugs either recently or frequently in the past. This is the special monitoring program that subjects these employees to random drug tests twice a year. If an employee in this program fails a drug test, they are fired. Again, there are no exceptions and no deviations. Since President Clinton was inaugurated in 1993, there have been 21 employees placed on this special monitoring program. There are 8 current employees in this program. None of the employees has ever failed a drug test.

These are the facts, Mr. Chairman. The White House has a stringent policy. It is more stringent than most other federal agencies. It is also more stringent than the Congress and most private employers. There is no drug problem at the White House. There is no tolerance for drug use.

Thank you again Mr. Chairman.

Mr. MICA. Thank you. And just to set the record straight, I would like to have the record reflect that the very first statement I made and press release we sent from this committee, when I took over chairmanship of this subcommittee, was that I would conduct a hearing on drugs in the workplace. Furthermore, that when we held the hearings and heard the Secret Service testimony as they did, and also from the FBI about the problems in the hiring of individuals with recent drug histories, I announced then that I would conduct these hearings.

I have done my level best to work with the other side of the aisle to accommodate some of their wishes for some of the needs that we have for our Federal employees, and tried to take those requirements on an as-needed basis. I think the record will also reflect that we have held a record number of hearings in this subcommittee, and the minority has been consulted on all occasions in trying to work with them.

The purpose of this hearing, in fact, is to find out the practices of these agencies, the standards they set. As I said in my opening statement, if we have problems also at the White House, the very highest level charged with national security, national defense, we need to know what those standards are, if we need legislation, corrective legislation, to institute that.

I do have a couple of questions as we try to wrap up this panel. First of all, I have, and I will give you a copy of this, and I am sorry some of the witnesses that were sent don't have the answers, but we will also give you an opportunity to provide information for the record. But to our Secret Service and FBI witnesses, if you could provide them with a copy of this document dated June 10th, it is also an exhibit I obtained from some of the information given to us by the White House.

I am not sure of its source, but it says "assignment from Bill Kennedy and Craig Livingstone, question regarding law or regulations on drug use in the White House or Executive Office of the President. If one admits, 1., present, or 2., prior—3 months ago? 6 months ago? 5 years ago—drug use to the United States Secret Service or the FBI during the screening BI process, what are the legal and/or regulatory rights, duties and responsibilities of the President with respect to that individual and the knowledge the President now possesses about that individual's violation of law? Does the President have the authority to, 1., refuse employment; 2., hire on conditions; send the individual to a health care professional to assess the individual's suitability/risk as a pre-condition of employment? 3., hire without any conditions?" And then the comment, "Focus: We are dealing with individuals who serve at the pleasure of the President, not career civil servants? Does that matter? How so?"

You may or may not know the source of this or what the response to this was, but I would appreciate, if either of you know anything about this, to comment now or provide us, the subcommittee, for the record, both the source and the response, if possible?

Are you aware of this, Mr. Coyle?

Mr. COYLE. No, sir, I am not.

Mr. MICA. Are you aware of it?

Ms. VEZERIS. I have never seen it before today.

Mr. MICA. Well, if you could, I would appreciate that, because again it asks some questions and questions that I also asked to you.

Now, the other thing I said is we put in charge of the White House Personnel Security Office an individual who had admitted, I guess, in testimony or depositions to this committee, drug use, I guess, in 1985. He was in the White House in 1993.

Mr. Coyle, would that be an acceptable standard for hiring—I guess it's 8 years' previous use—for employment with the FBI?

Mr. COYLE. The drug usage occurred, again, in 1985?

Mr. MICA. Yes. He was employed in 1993. Is 8 years—I mean, we talked about standards that were set.

Mr. COYLE. Yes, a guideline.

Mr. MICA. Yes.

Mr. COYLE. Our guideline, our general guideline, for experimental use, depending on the type of drug involved, would be either 3 years or 10 years, depending on the type of drug and the terms and conditions under which that was used, at what age, when the drug was used, what was the position or what was the employment of the person. A lot of factors, other than just straight time, are involved.

Mr. MICA. According to your testimony, the, "experimental use of drugs is defined as use of cannabis (marijuana) 15 times or less, and the use of any other drugs as a combined total of five times or less within the following time constraints: 10 years for drugs other than cannabis and 3 years for cannabis."

Is that correct?

Mr. COYLE. Yes, sir.

Mr. MICA. And that would be the standard that the FBI has.

I might ask the Secret Service, do the same drug use standards apply to agents assigned to the White House duties as to other Secret Service employees?

Ms. VEZERIS. Yes, they do.

Mr. MICA. They do.

And would the same standard apply that we employed, to the Director of White House Personnel Security—employed in 1993, admitted drug use of 1985; is that acceptable?

Ms. VEZERIS. I don't think I have enough information to really give you an opinion. It would depend on——

Mr. MICA. It would depend on what kind of use?

Ms. VEZERIS. Exactly, what kind of drug and the circumstances and a lot of other factors.

Mr. MICA. And the frequency?

Ms. VEZERIS. Correct.

Mr. MICA. I also want to ask if either of you are familiar with the White House special drug testing program that was referred to. Are you familiar with it?

Ms. VEZERIS. No, sir.

Mr. MICA. Are you familiar?

Mr. COYLE. No, sir, I am not.

Mr. MICA. You are not familiar?

Mr. NELSON. No, sir.

Mr. MICA. Do any of you know the level of positions held by any of the people in the program or their duties or responsibility? Have any of you heard about that?

Ms. VEZERIS. No.

Mr. NELSON. No.

Mr. COYLE. No.

Mr. MICA. And this standard that you are adopting, this policy that will be announced, I guess in the next—in the near future—I don't know if it will be in a couple of weeks. Hopefully. I won't say that, but will that apply to the White House? Are they participating?

Mr. NELSON. The National Security Council is the promulgating authority, and certainly it will be reviewed by and approved by the folks in the White House staff. I am not aware, at this time, whether that would apply to them. It emanates from a Presidential Executive order.

Mr. MICA. Are they participating in the development of the policy, the national security folks or someone—is the White House? Again, we are setting a standard dealing with classified information.

Mr. NELSON. Right, correct.

Mr. MICA. Prior drug use histories. This is the policy that is going to be announced. We have had some problems in the White House. Is the White House participating?

Mr. NELSON. Essentially, the Security Policy Board, which was established by the White House on Presidential Decision Directive 29, is charged with the responsibility of developing and coordinating these kinds of policies, and this has been accomplished, using the expertise of security professionals from throughout the Government. It has resulted in the guidelines that are now over there and are being reviewed by the staff.

Mr. MICA. But we don't know if, in fact, they will be subject to this?

Mr. NELSON. I am not sure of that, sir.

Mr. MICA. Just a final question: Did any of you participate in meetings to coordinate today's testimony? Mr. Coyle.

Mr. COYLE. Yes, sir, I did.

Mr. MICA. You did?

Ms. VEZERIS. Yes, I did.

Mr. MICA. Did you?

Mr. NELSON. Yes, sir.

Mr. MICA. If so, who called the meeting? Could you tell me, Mr. Coyle?

Mr. COYLE. Yes, sir. I called the meeting.

Ms. VEZERIS. Same.

Mr. NELSON. The meeting I was in, basically, was my boss and myself, so we——

Mr. MICA. You didn't participate in the meeting that he called, to coordinate your testimony?

Mr. NELSON. Oh, no, sir, no.

Mr. MICA. Did anyone from the White House ever participate in meetings or contact you on behalf of the proceedings of this subcommittee?

Mr. COYLE. No, sir.

Ms. VEZERIS. No.

Mr. NELSON. I can only say I spoke briefly with the NSC person with whom we have been working over the past few months on developing these guidelines and who currently has them now, but that was a very brief conversation.

Mr. MICA. Your testimony, as you testified earlier, was only approved at higher channels within DOD, no other agency or individuals?

Mr. NELSON. Yes, sir. That's right.

Mr. MICA. Was yours just within the agency?

Ms. VEZERIS. The meeting I was referring to was a meeting of staff just to review policies.

Mr. MICA. Mr. Coyle? The same? Within your agency?

Mr. COYLE. Yes, and the Department of Justice, yes.

Mr. MICA. OK. And none of you discussed the testimony with the White House, anyone in the White House staff?

Mr. COYLE. No, sir.

Ms. VEZERIS. No.

Mr. NELSON. No.

Mr. MICA. OK. I would like to note that some of the witnesses who have been sent today to testify are not able to answer some of the questions that we wanted to get into as far as relationships and activities dealing with the White House personnel, the security, and the national security issues. As is customary, we will leave the record open. We will be submitting additional questions in writing to you and also to others in your agencies, for response.

Did you have any other questions, Mr. Kanjorski?

[The followup questions and responses follow:]

DEPARTMENT OF THE TREASURY
UNITED STATES SECRET SERVICE

NOV 18 1996

The Honorable John L. Mica
Chairman
Subcommittee on Civil Service
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of October 3, 1996, on behalf of the Civil Service Subcommittee, which included written follow up questions.

Enclosed please find written responses to your request.

If I can be of further assistance to you in this matter, please do not hesitate to contact me at 202/435-5676.

Sincerely,

William H. Pickle
Executive Assistant
to the Director
(Congressional Affairs)

Enclosure

Record of Recent Drug Usage

1. Does your agency have record of any background investigations of people working at the White House that revealed occasional use of any illegal drugs within one year before hiring?

   Answer

   Yes. The Secret Service receives a copy of the FBI Background Investigation Summary. There have been cases in which the FBI Background Investigation Summary indicates use of illegal drugs within one year prior to employment at the White House.

2. If you did become aware of such information, what actions would be required under your agency procedures?

   Answer

   In certain cases in which recent drug usage is disclosed by the FBI Background Investigation Summary, factors such as the type of illegal drug involved and frequency of usage are considered to assess any potential threat to a Secret Service protectee. When certain derogatory information in the FBI Background Investigation Summary indicates that a prospective passholder may pose a potential security threat, a White House Division supervisory Special Agent will discuss Secret Service security concerns with appropriate White House staff. Historically, Secret Service security concerns have been mitigated in one or more of the following ways:

   1) Additional background information is acquired from the FBI addressing the derogatory information which alleviates the security concerns regarding the employee;

   2) A limited access pass is issued to the employee;

   3) The employee participates in the White House "special testing" program.

Criteria for Leaving the Special Testing Program

The White House testified that the number of persons enrolled in the "special testing" program has declined to eight. The Subcommittee seeks additional information about this "special testing" program.

1. Are there any provisions in the "special testing" program that would enable an employee, say after three years of testing, to be excused from the program?

2. Who is responsible for making any such determination?

3. Would the Secret Service participate in such a decision? If so, how?

Answers 1 through 3.

The White House "special testing" program is solely administered by the White House. The Secret Service has not been advised that participants in the "special testing" program can be excused from the program.

White House Never Overruled Secret Service?

The White House testified, "This Administration has never overruled the Secret Service's recommendation on the issuance of a pass."

1. Were there any instances where the Secret Service decided that the conditions associated with the special testing program were not sufficient, and still recommended against a pass? If yes, please describe the number of persons rejected and the extent of drug use that was involved.

Answer

There have been no cases to date in which the Secret Service found the conditions of the White House "special testing" program insufficient.

2. Were there any instances where individuals refused to comply with these requirements, and therefore resigned from the White House staff? If yes, please indicate the number of such incidents.

Answer

The Secret Service is aware of no cases where a White House permanent passholder resigned in connection with refusing to continue to participate in the White House "special testing" program. However, in two cases, temporary passholders refused to initially submit to the White House "special testing" program and consequently the Secret Service declined to issue permanent passes.

Concern About Drug Criteria for Employment

During the hearing, you were asked to review a document that was provided to the Committee. It is dated June 10, 1993, and entitled "ASSIGNMENT FROM BILL KENNEDY & CRAIG LIVINGSTONE."

The memo was written when many White House employees were being issued temporary passes, which were renewed repeatedly.

1. The Subcommittee would appreciate any information that your agency might have about the development of answers to these questions. In particular, were any personnel in your agency consulted in the process of developing a response?

   Answer

   We have no information indicating that the Secret Service played any role in developing a response to the questions posed by this internal White House memorandum.

2. The memo envisions the possibility of hiring individuals who serve at the pleasure of the President even though they might admit current drug use. How were questions about particular applicants resolved before the "special testing" program was implemented?

   Answer

   As noted above, the Secret Service played no role in developing a response to the "hiring" questions posed by the White House memorandum. The Secret Service is not aware of any instance where passes were issued to employees admitting "current drug use."

3. Would it make any difference to the Secret Service in the adjudication of background investigations for White House personnel if the position was career civil service rather than "at the pleasure of the President"?

   Answer

   The security factors which are considered during the review of FBI Background Investigation Summaries and the issuance of access passes are the same regardless of a prospective permanent passholder's career or political status.

Delays in Background Investigations

Our hearing reiterated information developed previously that several White House employees who served at the start of the Administration were able to serve for extended periods without having background investigations completed. Please respond to the following questions based on your agency's information.

1. How long could an employee have worked in a sensitive position -- for example, one involving national security duties -- without a background investigation?

   Answer

   The Secret Service plays no role in the issuance of security clearances or assignments to any "sensitive position." The Secret Service issues passes for access to the White House Complex.

2. How many employees who have worked in the White House for longer than a month since January of 1993 never completed a background investigation?

   Answer

   The Secret Service does not administer the background investigation process for White House employees. Consequently, the agency does not maintain data that would document those employees who worked in the White House under a temporary access pass and never eventually completed an FBI Background Investigation.

Special Drug Testing Program

1. Does your agency play any role in deciding whether the White House would retain or hire an individual when there is derogatory information in the background file?

   Does your agency make any recommendation under these circumstances to the White House?

   To your knowledge, has anyone from this White House ever asked the Secret Service to make a recommendation concerning employment? If asked, would the Secret Service make one?

   If yes, what were the circumstances?

   Answer

   The Secret Service plays no role in the White House's determination of the suitability of any individual for employment. Nor does the Secret Service make any recommendation regarding suitability for employment in light of derogatory information appearing in an individual's FBI Background Investigation File. The Secret Service

solely determines whether any security concerns are raised by an individual's FBI Background Investigation that may impact upon the acceptability of issuing a White House access pass to such an individual.

Future Legislation

One of the purposes of holding this hearing was to determine whether further legislative action is necessary on the subject of drug abuse.

1. Are there any impediments in current civil service laws or regulations that prevent you from dealing more forthrightly with drug abuse in the federal workplace?

   Answer

   The Secret Service can offer no specific recommendations at this time concerning further legislative action regarding drug abuse in the federal workplace.

Mr. KANJORSKI. I believe we can note for the record, and I think the panel will agree, to the best of your information, the drug policies within the Executive Office of the President and in your individual agencies surpass that of the standards within the Congress of the United States, is that correct?

Mr. NELSON. Well, sir, to the extent that we have drug testing and apparently the Congress does not, I would imagine that would be a difference.

Ms. VEZERIS. I would agree as far as the Secret Service is concerned, correct.

Mr. KANJORSKI. And Mr. Coyle?

Mr. COYLE. Yes, I would agree, too, although I am not specifically familiar with what the standards, the policies of Congress are.

Mr. KANJORSKI. So then perhaps we should get our house in order. Thank you.

Mr. MORAN. Well, let's just go on——

Mr. MICA. I will recognize the——

Mr. MORAN. Let's just go on to the next panel.

Mr. MICA. I thank the panelists for their participation today. As I said, we will be submitting additional questions to you, and we appreciate your being with us. Thank you. You are excused.

Mr. MICA. And I would like to call our next panel. We had invited a representative from the White House, Jack Quinn, counsel to the President, or Charles Easely, the director of personnel security at the White House, and neither of them were willing to testify. But we have Franklin Reeder, director of the Office of Administration of the Executive Office of the President.

Welcome, Mr. Reeder. It is the custom of this committee to swear in our witnesses. If you would stand, please, and raise your right hand.

[Witness sworn.]

Mr. MICA. We thank you for your participation. And as is the custom of our subcommittee, we will recognize you for a 5 minute summary of your testimony. Since you are the only witness on this panel, you can take a little bit longer. If you have additional statements, they will be made a part of the record. Thank you. You are recognized.

STATEMENT OF FRANKLIN S. REEDER, DIRECTOR, OFFICE OF ADMINISTRATION, EXECUTIVE OFFICE OF THE PRESIDENT

Mr. REEDER. Thank you, Mr. Chairman and members of the subcommittee. I want to thank you for the opportunity to be here today to testify on behalf of the administration to discuss our drug testing program at the White House and more generally our Drug-Free Workplace Program.

The reason I am here, Mr. Chairman, is that my responsibility as the Director of Office of Administration, a freestanding agency within the Executive Office of the President, but included among my responsibilities are the Executive Office of the President's personnel security program, our Drug-Free Workplace Program, including, of course, the drug testing program, which is an important component of our Drug-Free Workplace Program.

I certainly take at face value, and was pleased to hear your reassurances in your opening statement, and also the comments of Con-

gressmen Moran and Kanjorski, that we are here to address and get the facts about the Drug-Free Workplace Program and drug testing at the White House, and I certainly hope that in the course of my testimony I can address and dispel concerns that you and others have raised about that.

The EOP Drug-Free Workplace Program, and in particular the special testing program about which you inquired, are issues on which we have regularly reported to the Congress over the last 3 years through testimony, questions for the record, semiannual reports to the Department of Health and Human Services, and annual reports to the Congress. The implication that this has somehow been a clandestine effort is simply not borne out by the facts.

Before addressing the details of these programs, I want to make three facts clear.

Every employee in the White House is subject to pre-employment testing and is not employed if the test comes back positive.

Second, every employee in the White House is in a testing-designated position, which means that he or she is, therefore, subject to random or surprise testing on any date without advance notice.

Third, and this is a departure from what you have heard from the other agencies, and we all operate under the same general principles, the Chief of Staff has said, unlike the provisions of the order under which we operate, we will not allow a second chance if an individual in the White House tests positive. If an appointee of this administration in the White House tests positive, he or she will no longer be employed. And in point of fact, no appointee of this administration has ever tested positive.

The EOP Drug-Free Workplace Program was established pursuant to a Reagan administration Executive order that mandated a comprehensive drug-free workplace program and testing in Federal and executive branch agencies. In 1987, to regularize that program and out of concern of confidentiality of information, the Congress responded to the order by mandating that all Drug-Free Workplace Programs and testing facilities be certified by the Department of Health and Human Services, among other requirements.

The EOP essentially adopted, initially in 1988 the model Federal plan that had been developed by the Department of Health and Human Services which provides for pre-employment testing, random testing and the like.

Each of the agencies of the EOP determines which positions within that agency will be designated as drug testing positions. As of last Friday—I come armed with numbers, Mr. Chairman—98.5 percent of the staff in the Executive Office of the President and 100 percent of the staff in the White House are in testing-designated positions. The only exceptions, I anticipate that question, sir, are members of the President's Foreign Intelligence Advisory Board, who are Presidential appointees who are part-time employees—and certain students in the Office of Management and Budget whose duties limit their movements to the New Executive Office Building, who do not have access to sensitive information.

The testing program we conduct is based on a urinalysis, which is the method mandated by the Department of Health and Human Services and its mandatory guidelines for Federal workplace drug testing programs.

You asked in your letter to Mr. Quinn, Mr. Chairman, whether we had considered hair testing in lieu of urinalysis. We have not. We defer to the experts in these matters and certainly if those guidelines change, we would comport with those guidelines. But currently, the HHS or Health and Human Services approved program is based on urine testing.

The specimens are collected by a private laboratory, again, certified by the Department of Health and Human Services, under contract with the EOP, and the actual testing is done by the U.S. Navy laboratory.

All individuals occupying testing-designated positions are in the random testing pool. That means that all White House office employees are in the pool and subject to random testing. Twelve percent, again, according to our plan, of the individuals subject to random testing must be tested each year, which means that over the course of the year we conduct a series of unannounced tests and by the end of the year have tested a minimum of 12 percent. In point of fact, we have concluded testing for this fiscal year, and we have tested 14.5 percent of the employees in the Executive Office of the President who are in testing-designated positions.

The random testing program is administered by career civil service staff within the Office of Administration. About 6 times a year they draw a random sample. Under standards mandated by President Reagan's order and by the EOP Drug-Free Workplace Plan, the confidentiality of test results and test information is carefully guarded, with a limited number of people who have access to this information, and we observe very careful restrictions on a need-to-know basis.

For that reason, data concerning who is tested and the results of those tests are treated with the utmost confidentiality. There are only a limited number of individuals, career employees in the Office of Administration Human Resources Management Division, who deal with parts of this information. All records are maintained in a safe in the Human Resources Management Division under the custody of career employees.

With that as background, sir, let me turn to the subject of apparent interest of the committee, special testing that is conducted with regard to a handful of employees within the Executive Office of the President. Again, I would reiterate, we have reported to the Congress on these special testing procedures several times since their inception, initially almost immediately after their inception in the spring of 1994. And I welcome the opportunity, sir, to provide this subcommittee with up-to-date information on the conduct of this effort.

To understand how special testing came to be established, it's important, as an initial matter, to understand the role played by the Secret Service, which was described in part by the witnesses on the previous panel. The Secret Service is charged with a central task of protecting the President, the Vice President and their families. As part of their duties, they control access to the White House complex through the issuance of passes.

In order for a White House employee to have access to the East and West Wing, he or she must have a blue pass issued by the Secret Service with a white W on it. That distinguishes individuals

who can enter the White House unescorted other than, I would add, Members of Congress, who I don't believe are required to carry passes, and who are granted similar privileges.

The Secret Service makes the recommendation on whether to issue a pass based on information in the employee's security file. This administration has never overruled a recommendation of the Secret Service on the issuance of a pass. The Secret Service itself has acknowledged this fact to the General Accounting Office, which included its findings in an October 1995 report to the Congress, and if I may quote, "According to the White House and Secret Service officials, the White House never directed the Secret Service to issue a pass in circumstances that it was otherwise reluctant to do so."

The special testing process was established in the spring of 1994 to address Secret Service concerns regarding a small handful of individuals. At that time, the Secret Service agreed that its concern about issuing passes to these individuals would be satisfied if those individuals agreed to be subject to special testing that required more frequent testing than other Executive Office of the President employees.

In May 1994, 11 individuals agreed to be subject to being tested at least two times a year. And the reason I say at least two times, Mr. Chairman, is that while these individuals are called as part of the surprise or random testing at least 2 times, they may be called at other times during the year. That is, they may have concluded their second test and on another random pool, since they are in testing-designated positions, they may be called. Again, every White House employee comes to work every day not knowing whether he or she will be called that day, with no more than a few hours' notice, to be tested.

The special testing employees are then treated just like every other employee selected for testing that day. They are sent notices in the morning asking them to report that day to the outside clinic where the samples are collected. They provide their samples under the same secure conditions as the other employees and the samples are processed in precisely the same way. The only difference between the employees in the EOP random testing pool and employees subject to special testing is that the employees subject to special testing are tested more frequently and in all events twice a year.

Since January 20, 1993, and I believe Mr. Moran already mentioned this, 3,000 individuals have worked in the Executive Office of the President. The reason that number is rather large is that much like congressional staff, we have a fair amount of turnover. So even though there are only approximately 1,700 employees in the Executive Office of the President, we have a significant number of people who come through.

Out of that 3,000, only 21 have been subject to special testing. That is a total of 21. And as you were told in earlier testimony, at no time have more than 15 been subject to special testing, and at this time there are currently only 8 subject to testing and no one has been added in the last 15 months, the period of which I am aware.

You inquired about the total cost of testing. The cost of testing these individuals is approximately $1,500, and that's the actual cost of the tests over the life of the special testing process.

Again, and this point has been made before but I don't want it to be lost in this discussion, no one who is subject to special testing has ever tested positive. These individuals did not test positive in their pre-employment tests and in the testing to which they have been subject since they were employed in the Executive Office. They have never tested positive.

You have asked for assurance that no one has been—who has been subject to special testing, that is, who is or has been, is—and I quote the words from your letter to Mr. Clinton, Mr. Chairman—is "involved in issues affecting national security, law enforcement, budgeting, drug policy and/or selection of personnel."

If I may digress for a moment and I am not trying to dodge your question, you base your request on a premise essentially that these are positions of trust, and the public needs assurances that they are not held by people whose experiences you believe will influence their policy views. In fact, it's our belief that all employees in the White House and EOP occupy positions of trust, and would not hold those jobs if they had not been judged to be worthy of the trust that we put in them and determined by the Secret Service to be eligible to receive a pass and, therefore, had the access that having a pass confers.

That being said, I can tell you, based on conversations with those who have access to the list of names, and those are limited, that no one who is or who has ever been subject to special testing holds or has held a policymaking position involving issues involving national security, law enforcement, budgeting, drug policy and/or selection of personnel.

It bears emphasizing that the White House established special testing to address Secret Service concerns, and that this administration has never asked the Secret Service to issue a pass to someone against the Secret Service's wishes.

Since the establishment of special testing in 1994, we have reported on it frequently. The first time was in the spring of 1994, and I have already alluded to that. A year later in 1995, while appearing before the Senate Appropriations Committee, my predecessor reported again on the status of the program, and I believe that a quote from that appearance was read into the record earlier by Mr. Burton.

In short, the White House has regularly informed the Congress about the existence of special testing since the program was first instituted in May 1994, and this effort to keep the Congress informed we believe is emblematic of our commitment to maintaining a workplace that is free from drugs and drug use and as free as any workplace in the country.

In conclusion, I want to thank you, Mr. Chairman, for the opportunity to provide these facts to you and for the opportunity to address the concerns that you or others might have about our Drug-Free Workplace Program.

With that, I will be happy to answer your questions.

[The prepared statement of Mr. Reeder follows:]

FOR RELEASE UPON DELIVERY

STATEMENT OF

FRANKLIN S. REEDER

DIRECTOR, OFFICE OF ADMINISTRATION
EXECUTIVE OFFICE OF THE PRESIDENT

BEFORE THE

CIVIL SERVICE SUBCOMMITTEE

OF THE

HOUSE GOVERNMENT REFORM AND OVERSIGHT COMMITTEE

SEPTEMBER 20, 1996

Mr. Chairman, members of the Subcommittee, I want to thank you for the opportunity to appear before you today on behalf of the Administration to discuss drug testing at the Executive Office of the President (EOP) and the EOP's Drug-Free Workplace Plan.

The EOP Drug-Free Workplace Program and, in particular, the special drug testing about which you have inquired, are issues on which we have regularly reported to the Congress over the last three years through testimony, questions for the record, semi-annual reports to the Department of Health and Human Services and annual reports to Congress.

Before addressing the details of these programs, I want to be clear on three facts:

1. Every employee of the White House Office is subject to pre-employment testing, and is not employed if the test comes back positive.

2. Every employee of the White House Office is in a testing designated position, and therefore subject to random testing -- on any day, and without advance notice.

3. The Chief of Staff has clearly articulated the White House policy of zero tolerance for illegal drug use. No one with a positive drug test result would be retained by the White House Office. I repeat, if any White House Office employee were to test positive for illegal drugs, they would no longer be working at the White House.

Drug Testing at the Executive Office of the President

The EOP Drug-Free Workplace Plan was established pursuant to Executive Order 12564, which was signed by President Reagan on September 15, 1986. This Executive Order mandated comprehensive drug-free workplace programs and drug testing in Federal executive branch agencies. In 1987, Congress responded to President Reagan's executive order by mandating that all drug plans and drug testing facilities be certified by the Department

of Health and Human Services (HHS), among other requirements. See Pub. Law 100-71.

The EOP essentially adopted the model federal plan, which was prepared by HHS and which provides for pre-employment and random testing, as well as voluntary testing, testing as a result of an accident or unsafe practice, reasonable suspicion testing, and follow-up testing. Each agency of the EOP determines which positions will be testing designated. For the White House Office, 100% of all positions are designated for testing. For the EOP as a whole, more than 95% of all positions are testing designated.

The tests are based on a urinalysis, which is the method mandated by HHS for all federal agencies in its "Mandatory Guidelines for Federal Workplace Drug Testing Programs," 59 Fed. Reg. 29909 (revised 1994). The specimens are collected by a private laboratory which is certified by HHS and under contract with the EOP. The analysis is performed by a United States Navy laboratory facility and results are reported directly to a physician who serves as the medical review officer for the EOP.

All individuals occupying testing designated positions are part of the random testing pool. This means that all White House Office employees are in the random pool and subject to random testing. Twelve percent of individuals occupying testing

designated positions are tested randomly each fiscal year. Every White House employee comes to work each day knowing that he or she may be called to appear for a drug test that day.

The random testing program is administered by career civil service staff within the Office of Administration. Approximately six times a year, an automated random selection procedure is processed against the random testing pool to identify individuals to be tested. Those selected are given written notice that they have been selected for testing and that they are required to report to provide a sample for testing before the end of the day.

Under standards mandated by President Reagan's executive order, by Public Law 100-71, and by the EOP Drug-Free Workplace Plan, the confidentiality of test results and test information is carefully guarded. As Congress and this and previous Administrations have recognized, the improper release of test information or information about an employee's participation in an Employee Assistance Program could cause significant harm to an employee and would be a grievous violation of individual privacy.

For that reason, data concerning who is tested and the results of those tests are treated with strict confidentiality. There are only a limited number of individuals within the Office of Administration's Human Resources Management Division who deal with parts of this information, and an even smaller number who

have access to all of the data on drug testing. All records are maintained in a safe in the Human Resources Management Division, under the custody of career employees.

Special Testing at the EOP

With that as background, I would now like to turn to a subject of apparent interest to the Subcommittee -- the special testing that is conducted with regard to a small handful of employees within the Executive Office of the President. We have reported to Congress on this special testing several times over the last two years, and I welcome the opportunity today to provide this Subcommittee with up-to-date information on the program.

To understand how special testing came to be established, it is important as an initial matter to understand the role played by the Secret Service in the pass clearance process on the White House Complex. The Secret Service is charged with the essential task of protecting the President, the Vice President and their families. As part of their duties, they control access to the White House Complex through the issuance of passes. In order for a White House employee to have access to the East and West Wings, he or she must have a blue "W" pass issued by the Secret Service. The Secret Service makes the recommendation whether to issue a pass based on the information in the employee's security file. This Administration has never overruled the Secret Service's

recommendation on the issuance of a pass. The Secret Service has itself acknowledged this fact to the General Accounting Office, which included its findings in an October 1995 report to Congress titled "Pass and Security Clearance Data for the Executive Office of the President" (GAO/NSIAD-96-20). At page 18 of that report, GAO states: "According to White House and Secret Service officials, the White House never directed the Secret Service to issue a pass in circumstances that it was otherwise reluctant to do."

Special testing was established in Spring 1994 to address Secret Service concerns regarding a small handful of individuals. At that time, the Secret Service agreed that its concerns about issuing passes to these individuals would be satisfied if the individuals were subject to special testing that required more frequent testing than other EOP employees.

In May 1994, eleven individuals agreed to be subject to special testing, whereby they agreed to be tested two times per year on a surprise basis. The testing has been coordinated by the Office of Administration, which as noted above administers the EOP Drug Free Workplace Plan and its random testing program. Each time OA holds a random drug test -- approximately six times per year -- a few of the individuals in the special testing program are added to the list randomly generated by the computer.

The special testing employees are then treated just like the other employees selected for random testing that day. They are sent notices in the morning asking them to report that day to the off-site clinic where the samples are collected. They provide their samples under the same secure conditions as the other employees, and their samples are processed in the same way. The only difference in treatment between employees in the EOP random testing pool and employees in the special testing program is that the employees subject to special testing are tested more frequently, and in all events twice per year.

Since January 20, 1993, approximately 3,000 individuals have worked in the Executive Office of the President. Out of that 3,000, only 21 have been subject to special testing, and there currently are 8. You have inquired about the total cost of testing these individuals under special testing; that cost is approximately $1450 since the inception of special testing.

There has never been a positive test result under special testing, and no one has been added to this program within the last year. Lest the point be lost, none of these individuals has ever tested positive on our pre-employment or surprise tests.

You have asked for assurances that no one who is or has been subject to special testing is "involved in issues affecting national security, law enforcement, budgeting, drug policy,

and/or the selection of personnel." You base your request on the premise, essentially, that these are positions of trust and that the public needs assurances that they are not held by people whose experiences you believe will influence their policy views. In fact, all of those employed in the White House and EOP occupy positions of trust and would not hold the jobs they have if they had not been judged worthy of holding a pass issued by the Secret Service. That being said, I can tell you, based on information supplied to me, that no one who is or has ever been subject to special testing holds or has held a policy-making position involving issues affecting national security, law enforcement, budgeting, drug policy and/or the selection of personnel.

It bears emphasizing that while the White House established the special testing to address Secret Service concerns, this Administration has never ordered the Secret Service to issue a pass to an individual against the Secret Service's wishes, as the GAO has stated in the report cited above.

Since the establishment of special testing in 1994, we have reported on it frequently to the Congress. Indeed, we have reported frequently on special testing to Congress.

The first time was in the Spring of 1994, just as the program was being implemented. In written answers to questions for the record from Congressman Frank Wolf of the Subcommittee on

Treasury, Postal Service and General Government Appropriations, we described the program in detail. We stated there that "[a]pproximately 1% of the 1044 employees in the Executive Office of the President, including senior staff, have been requested to be part of an individual drug testing program." We went on to explain that "[t]he employees are tested under the same conditions as the program for routine drug testing in the Executive Office of the President," and that "[i]f an individual tests positive pursuant to an individual drug testing program, the Secret Service is notified, and the individual is subject to immediate dismissal." (These answers are printed as part of the record of the House Subcommittee on the Treasury, Postal Service, and General Government Appropriations Committee hearings for Fiscal Year 1995, at page 675).

One year later, in March 1995, while appearing before the Senate Subcommittee on Treasury, Postal Service and General Government Appropriations, my predecessor as Director of the Office of Administration again discussed the special testing, following up her remarks with a written statement for the record. In that statement, which is printed in the hearing record of that subcommittee for March 27, 1995, my predecessor explained that there were at that time 15 individuals in the EOP who were subject to special drug testing. The statement continued:

> "As the existence of the special drug testing program itself demonstrates, this Administration is second to none in its commitment to maintain a drug free workplace. Every member of the White House staff is

> drug tested as a condition of his or her initial employment. In addition, all White House staff are subject to random drug testing. The special testing program is a precaution we take above and beyond these mandatory procedures. It applies only to a very limited pool of individuals whose drug use prior to joining the Administration, in the judgment of the Secret Service, warrants these additional measures. Needless to say, none of the individuals who are subject to such a program has ever tested positive."

(Hearing before the Senate Subcommittee on Treasury, Postal Service and General Government Appropriations, March 27, 1995, p. 350).

In addition, the EOP provides the House and Senate Appropriations Committees with an annual report on our overall drug testing program.

In short, the White House has regularly informed the Congress about the existence of special testing since the program was first instituted in May 1994. This effort to keep the Congress informed is emblematic of this Administration's commitment to maintaining a workplace that is as free from drugs and drug use as any in the country.

In conclusion, I wish to reiterate my appreciation for the opportunity to provide these facts to you today. Let me close by emphasizing three points I made earlier:

1) the Secret Service has acknowledged that it has not, in this Administration, been directed to issue a pass when it was reluctant to do so;

2) no employee subject to special testing has ever tested positive for drug use in our tests; and

3) under the White House's zero tolerance policy, any appointee who does test positive will be dismissed immediately.

I will be happy to answer your questions.

Mr. MICA. Thank you, Mr. Reeder, and I do have some questions. First, with this ongoing directive, which is to prepare guidelines for determining eligibility for access to classified information. The Security Policy Board is putting these guidelines together. We heard DOD talk about this.

Mr. REEDER. Yes, sir.

Mr. MICA. Is the White House participating in those discussions?

Mr. REEDER. Is the White House participating? Not to my knowledge, directly. I believe the Defense witness testified, and it would typically be the case in matters of this sort, as it has been in previous administrations, that the National Security Council, as the entity in the Executive Office of the President responsible for national security policy, would participate in those guidelines.

May I elaborate, sir, because I think——

Mr. MICA. Sure.

Mr. REEDER. This is an area that I think is terribly important, and I think has a bearing on your concern about suitability and particularly the question of access to classified information.

In the past it had been the practice of all administrations—and lest I suggest that I am making invidious comparisons with Republican administrations, in Democratic as well as Republican administrations—that everyone in the White House was presumed to be authorized to have access to classified information. In fact, the presumption was made that if you carried a premanent blue pass, you could have access to information at the highest level of classification.

One of the requirements of the Executive order to which the Defense witness referred, that we are implementing and taking quite seriously in the White House, is that henceforth access to classified information will only be granted to individuals, even in the White House, who have a clearance. So for the first time White House employees, even though they may be determined to be suitable for employment in the White House, they may be determined by the Secret Service to be appropriate to be issued a pass, will not be presumed to be suitable for access to classified information unless an independent judgment is made, based on a review of the background and the duties of the position to which they are appointed, that they need access and are qualified for access to classified information.

That process is in the process of being concluded. We began it in October of last year, and once the guidelines that the gentleman from the Defense Department referred to are in place, those certainly will apply to White House employees on the same basis as they apply to every other employee in the executive branch.

Mr. MICA. Now, did you say that once these are developed it's going to apply to everyone, these guidelines?

Mr. REEDER. The guidelines certainly will apply once they are issued. In the interim, they are—based on the more general guidelines that are being employed within the Executive Office of the President by the Executive Office of the President Personnel Security Office, we are making judgments on whether individuals should be given clearances.

Mr. MICA. So right now that's not in place; you are making your own judgments?

Mr. REEDER. We are, like every other agency, applying the general adjudication standards, yes, sir.

Mr. MICA. Do you have a written policy?

Mr. REEDER. Do we have a written policy?

Mr. MICA. Yes. Is this policy you are talking about written, that sets out the standards?

Mr. REEDER. We essentially adhere to the same standards that the witnesses on the previous panel described.

Mr. MICA. Do you have a written policy? Is there something I can—can you provide this subcommittee, me, with a copy of your written policy that sets out——

Mr. REEDER. We have documents announcing and describing this policy. I will be happy to provide them, sir. Yes, sir.

Mr. MICA. And you can provide that to the committee?

Mr. REEDER. Yes, sir.

[The information referred to follows:]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
Washington, D.C. 20503

October 18, 1996

The Honorable John L. Mica
Chairman
Civil Service Subcommittee
Committee on Government Reform
and Oversight
U.S. House of Representatives
B371C Rayburn House Office Building
Washington, DC 20515

Dear Chairman Mica:

During my testimony before the Subcommittee on Civil Service on September 20, 1996, you requested copies of documents relating to our policy for issuing security clearances for access to classified information. Enclosed are copies of documents responsive to your request.

Sincerely,

Franklin S. Reeder
Director

Encl.

cc: The Honorable James Moran
Ranking Member

THE WHITE HOUSE

WASHINGTON

September 9, 1996

MEMORANDUM FOR ASSISTANTS TO THE PRESIDENT

FROM: JODIE R. TORKELSON
ASSISTANT TO THE PRESIDENT FOR
MANAGEMENT AND ADMINISTRATION

SUBJECT: Security Clearances for White House Staff

Until October of 1995, anyone with a permanent White House pass was presumed to be cleared for access to classified information up to TOP SECRET, assuming a need to know existed. As part of the Administration's efforts to reduce the number of individuals who handle classified material, and in accordance with E.O. 12968, effective in October, we began granting clearances on a case-by-case basis. All permanent pass-holders continue to be subject to a thorough security check and background investigation but are no longer routinely granted clearances to classified information.

As a result, each time the security review process has been completed on a new employee and he/she is issued a permanent pass, you will receive a memo from the EOP Security Office that asks you to authorize the level of clearance (SECRET or TOP SECRET or none)[1] that the individual will need. Copies of sample memos that you will receive and the reply form are attached.

You should make the determination for each individual based on the level of information that the individual will need in the course of doing his/her job. You should NOT routinely authorize a clearance to everyone on the off chance that it may be needed at some time in the future. While much of the information we handle is very sensitive for a variety of reasons, very little of it is classified for national security reasons and requires a clearance. A clearance can be granted very quickly by calling the EOP Security Office should the need arise.

If you have any questions about this process or what clearances your current staff have, call the EOP Security Office at X5-6206.

Reminder: Possessing the ***proper clearance*** does not convey the right to have access to classified material. In each instance, the employee must also have a ***need to know*** the particular information.

Attachments

---

[1] Other specialized clearances, such as for access to intelligence or nuclear information are granted by the agencies concerned. For assistance, call the EOP Security Office.

Date

MEMORANDUM FOR THE ASSISTANT TO THE PRESIDENT

FROM: CHARLES C. EASLEY
EOP SECURITY OFFICER

SUBJECT: Security Clearance

The FBI background investigation has been completed, and favorable adjudicated on ( ), a member of your staff.

Your office is responsible for identifying the level of security clearance, if any, required for staff members to perform their official duties within the Executive Office of the President.

Please complete the attached form at your earliest convenience, and return it to the EOP Security Office, Room 4026, New Executive Office Building.

Thank you.

Attachment

Date

MEMORANDUM FOR THE EOP SECURITY OFFICER

FROM: _____
ASSISTANT TO THE PRESIDENT FOR

SUBJECT: Access to Classified Information

I have determined that ( ), an employee in the office ( ) will require access to classified information the (SECRET) (TOP SECRET) (NO CLEARANCE REQUIRED) level.

I understand that if a security clearance is required the EOP Security Officer will:

1. Have the individual complete an SF-312 (Non-Disclosure Agreement).

2. Provide appropriate security indoctrination to insure the individual is knowledgeable of procedures for handling and storage of classified documents.

3. Provide my office with the date and level of the security clearance granted.

EXECUTIVE ORDER

- 12968 -

ACCESS TO CLASSIFIED INFORMATION

The national interest requires that certain information be maintained in confidence through a system of classification in order to protect our citizens, our democratic institutions, and our participation within the community of nations. The unauthorized disclosure of information classified in the national interest can cause irreparable damage to the national security and loss of human life.

Security policies designed to protect classified information must ensure consistent, cost effective, and efficient protection of our Nation's classified information, while providing fair and equitable treatment to those Americans upon whom we rely to guard our national security.

This order establishes a uniform Federal personnel security program for employees who will be considered for initial or continued access to classified information.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

PART 1 DEFINITIONS, ACCESS TO CLASSIFIED INFORMATION, FINANCIAL DISCLOSURE, AND OTHER ITEMS

Section 1.1. Definitions. For the purposes of this order: (a) "Agency" means any "Executive agency," as defined in 5 U.S.C. 105, the "military departments," as defined in 5 U.S.C. 102, and any other entity within the executive branch that comes into the possession of classified information, including the Defense Intelligence Agency, National Security Agency, and the National Reconnaissance Office.

(b) "Applicant" means a person other than an employee who has received an authorized conditional offer of employment for a position that requires access to classified information.

(c) "Authorized investigative agency" means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigation of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

(d) "Classified information" means information that has been determined pursuant to Executive Order No. 12958, or any successor order, Executive Order No. 12951, or any successor order, or the Atomic Energy Act of 1954 (42 U.S.C. 2011), to require protection against unauthorized disclosure.

(e) "Employee" means a person, other than the President and Vice President, employed by, detailed or assigned to, an agency, including members of the Armed Forces; an expert or consultant to an agency; an industrial or commercial contractor, licensee, certificate holder, or grantee of an agency, including all subcontractors; a personal services contractor; or any other category of person who acts for or on behalf of an agency as determined by the appropriate agency head.

(f) "Foreign power" and "agent of a foreign power" have the meaning provided in 50 U.S.C. 1801.

(g) "Need for access" means a determination that an employee requires access to a particular level of classified information in order to perform or assist in a lawful and authorized governmental function.

(h) "Need-to-know" means a determination made by an authorized holder of classified information that a prospective recipient requires access to specific classified information in order to perform or assist in a lawful and authorized governmental function.

(i) "Overseas Security Policy Board" means the Board established by the President to consider, develop, coordinate and promote policies, standards and agreements on overseas

security operations, programs and projects that affect all United States Government agencies under the authority of a Chief of Mission.

(j) "Security Policy Board" means the Board established by the President to consider, coordinate, and recommend policy directives for U.S. security policies, procedures, and practices.

(k) "Special access program" has the meaning provided in section 4.1 of Executive Order No. 12958, or any successor order.

Sec. 1.2. Access to Classified Information. (a) No employee shall be granted access to classified information unless that employee has been determined to be eligible in accordance with this order and to possess a need-to-know.

(b) Agency heads shall be responsible for establishing and maintaining an effective program to ensure that access to classified information by each employee is clearly consistent with the interests of the national security.

(c) Employees shall not be granted access to classified information unless they:

(1) have been determined to be eligible for access under section 3.1 of this order by agency heads or designated officials based upon a favorable adjudication of an appropriate investigation of the employee's background;

(2) have a demonstrated need-to-know; and

(3) have signed an approved nondisclosure agreement.

(d) All employees shall be subject to investigation by an appropriate government authority prior to being granted access to classified information and at any time during the period of access to ascertain whether they continue to meet the requirements for access.

(e)(1) All employees granted access to classified information shall be required as a condition of such access

to provide to the employing agency written consent permitting access by an authorized investigative agency, for such time as access to classified information is maintained and for a period of 3 years thereafter, to:

(A) relevant financial records that are maintained by a financial institution as defined in 31 U.S.C. 5312(a) or by a holding company as defined in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401);

(B) consumer reports pertaining to the employee under the Fair Credit Reporting Act (15 U.S.C. 1681a); and

(C) records maintained by commercial entities within the United States pertaining to any travel by the employee outside the United States.

(2) Information may be requested pursuant to employee consent under this section where:

(A) there are reasonable grounds to believe, based on credible information, that the employee or former employee is, or may be, disclosing classified information in an unauthorized manner to a foreign power or agent of a foreign power;

(B) information the employing agency deems credible indicates the employee or former employee has incurred excessive indebtedness or has acquired a level of affluence that cannot be explained by other information; or

(C) circumstances indicate the employee or former employee had the capability and opportunity to disclose classified information that is known to have been lost or compromised to a foreign power or an agent of a foreign power.

(3) Nothing in this section shall be construed to affect the authority of an investigating agency to

obtain information pursuant to the Right to Financial Privacy Act, the Fair Credit Reporting Act or any other applicable law.

Sec. 1.3. Financial Disclosure. (a) Not later than 180 days after the effective date of this order, the head of each agency that originates, handles, transmits, or possesses classified information shall designate each employee, by position or category where possible, who has a regular need for access to classified information that, in the discretion of the agency head, would reveal:

(1) the identity of covert agents as defined in the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421);

(2) technical or specialized national intelligence collection and processing systems that, if disclosed in an unauthorized manner, would substantially negate or impair the effectiveness of the system;

(3) the details of:

(A) the nature, contents, algorithm, preparation, or use of any code, cipher, or cryptographic system or;

(B) the design, construction, functioning, maintenance, or repair of any cryptographic equipment; but not including information concerning the use of cryptographic equipment and services;

(4) particularly sensitive special access programs, the disclosure of which would substantially negate or impair the effectiveness of the information or activity involved; or

(5) especially sensitive nuclear weapons design information (but only for those positions that have been certified as being of a high degree of importance or sensitivity, as described in section 145(f) of the Atomic Energy Act of 1954, as amended).

(b) An employee may not be granted access, or hold a position designated as requiring access, to information described in subsection (a) unless, as a condition of access to such information, the employee:

(1) files with the head of the agency a financial disclosure report, including information with respect to the spouse and dependent children of the employee, as part of all background investigations or reinvestigations;

(2) is subject to annual financial disclosure requirements, if selected by the agency head; and

(3) files relevant information concerning foreign travel, as determined by the Security Policy Board.

(c) Not later than 180 days after the effective date of this order, the Security Policy Board shall develop procedures for the implementation of this section, including a standard financial disclosure form for use by employees under subsection (b) of this section, and agency heads shall identify certain employees, by position or category, who are subject to annual financial disclosure.

Sec. 1.4. Use of Automated Financial Record Data Bases. As part of all investigations and reinvestigations described in section 1.2(d) of this order, agencies may request the Department of the Treasury, under terms and conditions prescribed by the Secretary of the Treasury, to search automated data bases consisting of reports of currency transactions by financial institutions, international transportation of currency or monetary instruments, foreign bank and financial accounts, transactions under $10,000 that are reported as possible money laundering violations, and records of foreign travel.

Sec. 1.5. Employee Education and Assistance. The head of each agency that grants access to classified information shall establish a program for employees with access to classified

information to: (a) educate employees about individual responsibilities under this order; and

(b) inform employees about guidance and assistance available concerning issues that may affect their eligibility for access to classified information, including sources of assistance for employees who have questions or concerns about financial matters, mental health, or substance abuse.

PART 2 ACCESS ELIGIBILITY POLICY AND PROCEDURE

Sec. 2.1. Eligibility Determinations. (a) Determinations of eligibility for access to classified information shall be based on criteria established under this order. Such determinations are separate from suitability determinations with respect to the hiring or retention of persons for employment by the government or any other personnel actions.

(b) The number of employees that each agency determines are eligible for access to classified information shall be kept to the minimum required for the conduct of agency functions.

(1) Eligibility for access to classified information shall not be requested or granted solely to permit entry to, or ease of movement within, controlled areas when the employee has no need for access and access to classified information may reasonably be prevented. Where circumstances indicate employees may be inadvertently exposed to classified information in the course of their duties, agencies are authorized to grant or deny, in their discretion, facility access approvals to such employees based on an appropriate level of investigation as determined by each agency.

(2) Except in agencies where eligibility for access is a mandatory condition of employment, eligibility for access to classified information shall only be requested or granted based on a demonstrated,

foreseeable need for access. Requesting or approving eligibility in excess of actual requirements is prohibited.

(3) Eligibility for access to classified information may be granted where there is a temporary need for access, such as one-time participation in a classified project, provided the investigative standards established under this order have been satisfied. In such cases, a fixed date or event for expiration shall be identified and access to classified information shall be limited to information related to the particular project or assignment.

(4) Access to classified information shall be terminated when an employee no longer has a need for access.

Sec. 2.2. Level of Access Approval. (a) The level at which an access approval is granted for an employee shall be limited, and relate directly, to the level of classified information for which there is a need for access. Eligibility for access to a higher level of classified information includes eligibility for access to information classified at a lower level.

(b) Access to classified information relating to a special access program shall be granted in accordance with procedures established by the head of the agency that created the program or, for programs pertaining to intelligence activities (including special activities but not including military operational, strategic, and tactical programs) or intelligence sources and methods, by the Director of Central Intelligence. To the extent possible and consistent with the national security interests of the United States, such procedures shall be consistent with the standards and procedures established by and under this order.

Sec. 2.3 Temporary Access to Higher Levels. (a) An employee who has been determined to be eligible for access to classified information based on favorable adjudication of a completed investigation may be granted temporary access to a higher level where security personnel authorized by the agency head to make access eligibility determinations find that such access:

(1) is necessary to meet operational or contractual exigencies not expected to be of a recurring nature;

(2) will not exceed 180 days; and

(3) is limited to specific, identifiable information that is made the subject of a written access record.

(b) Where the access granted under subsection (a) of this section involves another agency's classified information, that agency must concur before access to its information is granted.

Sec. 2.4. Reciprocal Acceptance of Access Eligibility Determinations. (a) Except when an agency has substantial information indicating that an employee may not satisfy the standards in section 3.1 of this order, background investigations and eligibility determinations conducted under this order shall be mutually and reciprocally accepted by all agencies.

(b) Except where there is substantial information indicating that the employee may not satisfy the standards in section 3.1 of this order, an employee with existing access to a special access program shall not be denied eligibility for access to another special access program at the same sensitivity level as determined personally by the agency head or deputy agency head, or have an existing access eligibility readjudicated, so long as the employee has a need for access to the information involved.

(c) This section shall not preclude agency heads from establishing additional, but not duplicative, investigative or adjudicative procedures for a special access program or for

candidates for detail or assignment to their agencies, where such procedures are required in exceptional circumstances to protect the national security.

(d) Where temporary eligibility for access is granted under sections 2.3 or 3.3 of this order or where the determination of eligibility for access is conditional, the fact of such temporary or conditional access shall be conveyed to any other agency that considers affording the employee access to its information.

Sec. 2.5. Specific Access Requirement. (a) Employees who have been determined to be eligible for access to classified information shall be given access to classified information only where there is a need-to-know that information.

(b) It is the responsibility of employees who are authorized holders of classified information to verify that a prospective recipient's eligibility for access has been granted by an authorized agency official and to ensure that a need-to-know exists prior to allowing such access, and to challenge requests for access that do not appear well-founded.

Sec. 2.6. Access by Non-United States Citizens. (a) Where there are compelling reasons in furtherance of an agency mission, immigrant alien and foreign national employees who possess a special expertise may, in the discretion of the agency, be granted limited access to classified information only for specific programs, projects, contracts, licenses, certificates, or grants for which there is a need for access. Such individuals shall not be eligible for access to any greater level of classified information than the United States Government has determined may be releasable to the country of which the subject is currently a citizen, and such limited access may be approved only if the prior 10 years of the subject's life can be appropriately investigated. If there are any doubts concerning granting access, additional lawful investigative procedures shall be fully pursued.

(b) Exceptions to these requirements may be permitted only by the agency head or the senior agency official designated under section 6.1 of this order to further substantial national security interests.

PART 3 ACCESS ELIGIBILITY STANDARDS

Sec. 3.1. Standards. (a) No employee shall be deemed to be eligible for access to classified information merely by reason of Federal service or contracting, licensee, certificate holder, or grantee status, or as a matter of right or privilege, or as a result of any particular title, rank, position, or affiliation.

(b) Except as provided in sections 2.6 and 3.3 of this order, eligibility for access to classified information shall be granted only to employees who are United States citizens for whom an appropriate investigation has been completed and whose personal and professional history affirmatively indicates loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion, and sound judgment, as well as freedom from conflicting allegiances and potential for coercion, and willingness and ability to abide by regulations governing the use, handling, and protection of classified information. A determination of eligibility for access to such information is a discretionary security decision based on judgments by appropriately trained adjudicative personnel. Eligibility shall be granted only where facts and circumstances indicate access to classified information is clearly consistent with the national security interests of the United States, and any doubt shall be resolved in favor of the national security.

(c) The United States Government does not discriminate on the basis of race, color, religion, sex, national origin, disability, or sexual orientation in granting access to classified information.

(d) In determining eligibility for access under this order, agencies may investigate and consider any matter that relates to the determination of whether access is clearly consistent with the interests of national security. No inference concerning the standards in this section may be raised solely on the basis of the sexual orientation of the employee.

(e) No negative inference concerning the standards in this section may be raised solely on the basis of mental health counseling. Such counseling can be a positive factor in eligibility determinations. However, mental health counseling, where relevant to the adjudication of access to classified information, may justify further inquiry to determine whether the standards of subsection (b) of this section are satisfied, and mental health may be considered where it directly relates to those standards.

(f) Not later than 180 days after the effective date of this order, the Security Policy Board shall develop a common set of adjudicative guidelines for determining eligibility for access to classified information, including access to special access programs.

Sec. 3.2. Basis for Eligibility Approval.

(a) Eligibility determinations for access to classified information shall be based on information concerning the applicant or employee that is acquired through the investigation conducted pursuant to this order or otherwise available to security officials and shall be made part of the applicant's or employee's security record. Applicants or employees shall be required to provide relevant information pertaining to their background and character for use in investigating and adjudicating their eligibility for access.

(b) Not later than 180 days after the effective date of this order, the Security Policy Board shall develop a common set

of investigative standards for background investigations for access to classified information. These standards may vary for the various levels of access.

(c) Nothing in this order shall prohibit an agency from utilizing any lawful investigative procedure in addition to the investigative requirements set forth in this order and its implementing regulations to resolve issues that may arise during the course of a background investigation or reinvestigation.

Sec. 3.3. Special Circumstances. (a) In exceptional circumstances where official functions must be performed prior to the completion of the investigative and adjudication process, temporary eligibility for access to classified information may be granted to an employee while the initial investigation is underway. When such eligibility is granted, the initial investigation shall be expedited.

(1) Temporary eligibility for access under this section shall include a justification, and the employee must be notified in writing that further access is expressly conditioned on the favorable completion of the investigation and issuance of an access eligibility approval. Access will be immediately terminated, along with any assignment requiring an access eligibility approval, if such approval is not granted.

(2) Temporary eligibility for access may be granted only by security personnel authorized by the agency head to make access eligibility determinations and shall be based on minimum investigative standards developed by the Security Policy Board not later than 180 days after the effective date of this order.

(3) Temporary eligibility for access may be granted only to particular, identified categories of classified information necessary to perform the lawful and authorized functions that are the basis for the granting of temporary access.

(b) Nothing in subsection (a) shall be construed as altering the authority of an agency head to waive requirements for granting access to classified information pursuant to statutory authority.

(c) Where access has been terminated under section 2.1(b)(4) of this order and a new need for access arises, access eligibility up to the same level shall be reapproved without further investigation as to employees who were determined to be eligible based on a favorable adjudication of an investigation completed within the prior 5 years, provided they have remained employed by the same employer during the period in question, the employee certifies in writing that there has been no change in the relevant information provided by the employee for the last background investigation, and there is no information that would tend to indicate the employee may no longer satisfy the standards established by this order for access to classified information.

(d) Access eligibility shall be reapproved for individuals who were determined to be eligible based on a favorable adjudication of an investigation completed within the prior 5 years and who have been retired or otherwise separated from United States Government employment for not more than 2 years; provided there is no indication the individual may no longer satisfy the standards of this order, the individual certifies in writing that there has been no change in the relevant information provided by the individual for the last background investigation, and an appropriate record check reveals no unfavorable information.

Sec. 3.4. Reinvestigation Requirements. (a) Because circumstances and characteristics may change dramatically over time and thereby alter the eligibility of employees for continued access to classified information, reinvestigations shall be conducted with the same priority and care as initial investigations.

(b) Employees who are eligible for access to classified information shall be the subject of periodic reinvestigations and may also be reinvestigated if, at any time, there is reason to believe that they may no longer meet the standards for access established in this order.

(c) Not later than 180 days after the effective date of this order, the Security Policy Board shall develop a common set of reinvestigative standards, including the frequency of reinvestigations.

PART 4 INVESTIGATIONS FOR FOREIGN GOVERNMENTS

Sec. 4. Authority. Agencies that conduct background investigations, including the Federal Bureau of Investigation and the Department of State, are authorized to conduct personnel security investigations in the United States when requested by a foreign government as part of its own personnel security program and with the consent of the individual.

PART 5 REVIEW OF ACCESS DETERMINATIONS

Sec. 5.1. Determinations of Need for Access. A determination under section 2.1(b)(4) of this order that an employee does not have, or no longer has, a need for access is a discretionary determination and shall be conclusive.

Sec. 5.2. Review Proceedings for Denials or Revocations of Eligibility for Access. (a) Applicants and employees who are determined to not meet the standards for access to classified information established in section 3.1 of this order shall be:

(1) provided as comprehensive and detailed a written explanation of the basis for that conclusion as the national security interests of the United States and other applicable law permit;

(2) provided within 30 days, upon request and to the extent the documents would be provided if requested under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act (3 U.S.C. 552a), as applicable, any documents, records, and reports upon which a denial or revocation is based;

(3) informed of their right to be represented by counsel or other representative at their own expense; to request any documents, records, and reports as described in section 5.2(a)(2) upon which a denial or revocation is based; and to request the entire investigative file, as permitted by the national security and other applicable law, which, if requested, shall be promptly provided prior to the time set for a written reply;

(4) provided a reasonable opportunity to reply in writing to, and to request a review of, the determination;

(5) provided written notice of and reasons for the results of the review, the identity of the deciding authority, and written notice of the right to appeal;

(6) provided an opportunity to appeal in writing to a high level panel, appointed by the agency head, which shall be comprised of at least three members, two of whom shall be selected from outside the security field. Decisions of the panel shall be in writing, and final except as provided in subsection (b) of this section; and

(7) provided an opportunity to appear personally and to present relevant documents, materials, and information at some point in the process before an adjudicative or other authority, other than the investigating entity, as determined by the agency head. A written summary or recording of such appearance shall be made part of the applicant's or employee's security record, unless such appearance occurs in the presence of the appeals panel described in subsection (a)(6) of this section.

(b) Nothing in this section shall prohibit an agency head from personally exercising the appeal authority in

subsection (a)(6) of this section based upon recommendations from an appeals panel. In such case, the decision of the agency head shall be final.

(c) Agency heads shall promulgate regulations to implement this section and, at their sole discretion and as resources and national security considerations permit, may provide additional review proceedings beyond those required by subsection (a) of this section. This section does not require additional proceedings, however, and creates no procedural or substantive rights.

(d) When the head of an agency or principal deputy personally certifies that a procedure set forth in this section cannot be made available in a particular case without damaging the national security interests of the United States by revealing classified information, the particular procedure shall not be made available. This certification shall be conclusive.

(e) This section shall not be deemed to limit or affect the responsibility and power of an agency head pursuant to any law or other Executive order to deny or terminate access to classified information in the interests of national security. The power and responsibility to deny or terminate access to classified information pursuant to any law or other Executive order may be exercised only where the agency head determines that the procedures prescribed in subsection (a) of this section cannot be invoked in a manner that is consistent with national security. This determination shall be conclusive.

(f)(1) This section shall not be deemed to limit or affect the responsibility and power of an agency head to make determinations of suitability for employment.

(2) Nothing in this section shall require that an agency provide the procedures prescribed in subsection (a) of this section to an applicant where a conditional offer of employment is withdrawn for

reasons of suitability or any other reason other than denial of eligibility for access to classified information.

(3) A suitability determination shall not be used for the purpose of denying an applicant or employee the review proceedings of this section where there has been a denial or revocation of eligibility for access to classified information.

PART 6 IMPLEMENTATION

Sec. 6.1. Agency Implementing Responsibilities. Heads of agencies that grant employees access to classified information shall: (a) designate a senior agency official to direct and administer the agency's personnel security program established by this order. All such programs shall include active oversight and continuing security education and awareness programs to ensure effective implementation of this order;

(b) cooperate, under the guidance of the Security Policy Board, with other agencies to achieve practical, consistent, and effective adjudicative training and guidelines; and

(c) conduct periodic evaluations of the agency's implementation and administration of this order, including the implementation of section 1.3(a) of this order. Copies of each report shall be provided to the Security Policy Board.

Sec. 6.2. Employee Responsibilities. (a) Employees who are granted eligibility for access to classified information shall:

(1) protect classified information in their custody from unauthorized disclosure;

(2) report all contacts with persons, including foreign nationals, who seek in any way to obtain unauthorized access to classified information;

(3) report all violations of security regulations to the appropriate security officials; and

(4) comply with all other security requirements set forth in this order and its implementing regulations.

(b) Employees are encouraged and expected to report any information that raises doubts as to whether another employee's continued eligibility for access to classified information is clearly consistent with the national security.

Sec. 6.3. Security Policy Board Responsibilities and Implementation. (a) With respect to actions taken by the Security Policy Board pursuant to sections 1.3(c), 3.1(f), 3.2(b), 3.3(a)(2), and 3.4(c) of this order, the Security Policy Board shall make recommendations to the President through the Assistant to the President for National Security Affairs for implementation.

(b) Any guidelines, standards, or procedures developed by the Security Policy Board pursuant to this order shall be consistent with those guidelines issued by the Federal Bureau of Investigation in March 1994 on Background Investigations Policy/Guidelines Regarding Sexual Orientation.

(c) In carrying out its responsibilities under this order, the Security Policy Board shall consult where appropriate with the Overseas Security Policy Board. In carrying out its responsibilities under section 1.3(c) of this order, the Security Policy Board shall obtain the concurrence of the Director of the Office of Management and Budget.

Sec. 6.4. Sanctions. Employees shall be subject to appropriate sanctions if they knowingly and willfully grant eligibility for, or allow access to, classified information in violation of this order or its implementing regulations. Sanctions may include reprimand, suspension without pay, removal, and other actions in accordance with applicable law and agency regulations.

PART 7 GENERAL PROVISIONS

Sec. 7.1. Classified Information Procedures Act. Nothing in this order is intended to alter the procedures established under the Classified Information Procedures Act (18 U.S.C. App. 1).

Sec. 7.2. General. (a) Information obtained by an agency under sections 1.2(e) or 1.3 of this order may not be disseminated outside the agency, except to:

(1) the agency employing the employee who is the subject of the records or information;

(2) the Department of Justice for law enforcement or counterintelligence purposes; or

(3) any agency if such information is clearly relevant to the authorized responsibilities of such agency.

(b) The Attorney General, at the request of the head of an agency, shall render an interpretation of this order with respect to any question arising in the course of its administration.

(c) No prior Executive orders are repealed by this order. To the extent that this order is inconsistent with any provision of any prior Executive order, this order shall control, except that this order shall not diminish or otherwise affect the requirements of Executive Order No. 10450, the denial and revocation procedures provided to individuals covered by Executive Order No. 10865, as amended, or access by historical researchers and former presidential appointees under Executive Order No. 12958 or any successor order.

(d) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order shall not be affected.

(e) This Executive order is intended only to improve the internal management of the executive branch and is not intended

to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

(f) This order is effective immediately.

William J. Clinton

THE WHITE HOUSE,

August 2, 1995.

Mr. MICA. Now you talked also about a new policy that you have adopted. Is that a written policy, and is that also available?

Mr. REEDER. That's the policy I am referring to. The policy prior to the current policy, sir, was one that had been in place as far back as any of us and some of us who have been in the complex a terribly long time can remember, was the presumption that anyone who had been issued a permanent pass was entitled to access to classified information. The new policy to which I refer was written and issued subsequent to the issuance of the President's Executive order, and prescribes that there will be an independent determination on access to classified information.

Mr. MICA. Now the special drug testing program that was instituted by the White House was really a deal struck between the Secret Service and the White House, because the Secret Service was concerned about what they saw as a pattern of folks coming into employment in the White House. Is that correct?

Mr. REEDER. I am not sure I can confirm your statement about pattern of folks coming in. The process——

Mr. MICA. They had expressed concern about the histories, and these histories included recent drug use or abuse, enough to cause concern that some policy be developed. So in response, this White House developed this special drug testing program.

Mr. REEDER. It is my understanding, and I believe the words I heard used earlier were consistent with my understanding, that this was an arrangement mutually agreed to between the Secret Service and the White House in 1994 to address concerns that the Secret Service had, and I believe it was—the phrase I have heard used and the criteria which are the Secret Service's criteria, not ours, were concerns either about frequency or recency of use, that would be addressed if the individual agreed to participate voluntarily in additional testing beyond the random testing to which everybody is subject.

Mr. MICA. Let me direct your attention to the guidelines provided in the FBI's testimony. It provides among other criteria that, and this is a quote, "an applicant who used any drugs while employed in a position which carries with it a high level of responsibility or public trust will be found unsuitable for employment." That's the end of the quote. It also establishes that an applicant who is discovered to have deliberately misrepresented a drug history, sold illegal drugs or used marijuana within the past 3 years will be found to be unsuitable for employment.

Can you assure this subcommittee that the White House at least matches the FBI standard for its current employees?

Mr. REEDER. I can give you that assurance with a proviso that I think is terribly important. You have, and I think this was a confusion in the conversation you had with the FBI witness, used interchangeably the terms standard and guideline. I believe what the FBI testified to and what I will be happy to testify to is that our standards are at least as stringent, but those standards need to be understood in context.

I think all of the witnesses on the previous panel told you that they make judgments on a case-by-case basis, considering the merits; that each case has to stand alone; and that what they take into account, whether we are looking at a history of alcohol abuse or in-

debtedness or drug use or other potential problems that go to an individual's suitability, is the recency of those occurrences, the severity of those occurrences, the circumstances surrounding those occurrences, and actions taken by the individual to address those concerns and—and I think again all of the witnesses on the previous panel said similar things, sir—the truthfulness and the candor of the applicant in being forthcoming about that problem.

They have noted, and we would as well, that in those instances when we learned of these things we invariably learned of them from the applicant him or herself, not through some investigation.

Mr. MICA. My final question, sir, is: Given the history that we have of the former Director of White House Personnel Security, if he were an applicant today and had the same history that he has, this is his, again, his form from the Secret Service——

Mr. REEDER. Yes.

Mr. MICA [continuing]. Could or would Craig Livingstone be employed again?

Mr. REEDER. Well, I don't mean to be cute, sir, but literally all I know about Mr. Livingstone's personal background is what I have read.

Mr. MICA. That's not just Mr. Livingstone.

Mr. REEDER. OK.

Mr. MICA. If someone had admitted to, I guess 8 years is the testimony that he gave in deposition, within 8 years, could they still occupy this position of Director of White House Personnel Security?

Mr. REEDER. Well, I can only answer that as we are currently operating that function, pursuant to the Chief of Staff's directive, and the Chief of Staff has directed that that function now be under the supervision of a career professional of longstanding.

Mr. MICA. So he would not be eligible?

Mr. REEDER. He could not fill the position.

Mr. MICA. An individual with a record or history of that nature would not be eligible?

Mr. REEDER. As the office is currently constituted as a career position requiring a person with credentials of longstanding, we would be looking in a different direction.

Mr. MICA. I thank you, and I yield to the ranking member, Mr. Moran. Thank you.

Mr. MORAN. Thank you, Mr. Chairman. I heard your response to my statement, but, again, I don't accuse you personally. I do think, though, that there has been some pressure from the Republican leadership and the Dole campaign to conduct this hearing. And since this hearing has far more to do with Senator Dole's campaign than congressional oversight, I think it's instructive to put into the record some statements from Senator Dole.

When he was arguing for the nomination of the director of the Office of Thrift Supervision in 1990, and addressed the use of marijuana and cocaine by that Republican nominee, he said that if we held them up to that standard of zero tolerance, we are going to wipe out a generation of men and women who are about that age, who may have experimented one time or another with some type of drug, keeping in mind that in an earlier generation it may have been some other vice. In a future generation it may be something else.

Then in 1991, when Senator Dole defended Judge Clarence Thomas' use of marijuana, he said that it would not impact on his confirmation process.

Then when Senator Dole defended Supreme Court Justice Ginsburg's drug use, which was experimental when he was young but then he used it as well in the late 1970's. In 1987, Senator Dole said that that in itself would probably not be enough to derail the nomination. And we have got several more quotes from Senator Dole.

And I think that actually Senator Dole was correct, and I applaud Senator Dole for his judgment that we want to look at the whole person, and while people may have made mistakes, that what matters is whether they learn from their mistakes and are going to repeat them.

Now, I think it is also important to underscore for the record that of the approximately 3,000 White House employees who have been hired during the Clinton administration, only 3 failed their drug tests and all of them were denied employment; that we have random drug tests of 12 percent of the White House staff and of those, more than 800 random drug tests done during the Clinton administration, there have only been 2 employees who tested positive and both of them were appointees of President Bush. And both were immediately dismissed.

And last, in terms of what needs to be underscored on the record of this hearing, the Clinton White House has the same basic policy that the Bush White House and the Reagan White House had, and that is zero tolerance. I can see no justification for anyone suggesting anything other than zero tolerance.

Now, I appreciate your testimony, Mr. Reeder. It is comprehensive and conclusive.

Are you aware of any situation whatsoever where the ability of White House personnel to fully perform their duties or, in fact, any personnel hired by the White House or even hired by this administration, whose ability to function has in any way been compromised by drug use, even in the most distant past, or any variation from the zero tolerance policy that the Clinton administration announced and, in fact, has enforced?

Mr. REEDER. No, sir, I am not. And if I may amplify on two points: I think it is terribly important, as you have suggested, to point out that we do not mean to suggest, by virtue of claiming that we have a tough policy on drugs, any invidious comparisons with any previous administration. We are following the same processes. The only subtle difference is that for very good reasons, the Reagan Executive order specifically provides for a second chance in some instances. And as the witnesses on the previous panel indicated, even they permit, in their agencies, mitigating circumstances and enrollment in an employee assistance program to be used as a way of keeping—of giving someone a second chance.

In the case of the White House, because of the concern about public trust and perceptions, there is zero tolerance. But the answer to your question is, I am aware of none. I am in a position to know that no one's performance in this administration has ever been compromised by the use of an illegal substance.

Mr. MORAN. Thank you, Mr. Reeder. I have only one final question, because some people have charged that the Clinton administration has, in fact, been too tough on drug testing and, in fact, a Federal judge, Judge Richey, on July 24th ruled that mandatory testing of all employees with entry passes to the Old Executive Office Building, which as you know is right next to the White House, cannot be justified by security or safety arguments.

Can you tell us, No. 1, what was the reaction of the White House when they got that court ruling? And second, what, in fact, did precipitate that court ruling?

Mr. REEDER. What precipitated the ruling, if I may flip the sequence of your questions, Congressman——

Mr. MORAN. All right.

Mr. REEDER [continuing]. Was an action brought by two employees of the Executive Office of the President, or actually an employee in which a second employee joined, who had been called for random testing, that is an individual in a testing-designated position, seeking to restrain us from administering the test. And Judge Richey initially issued a temporary restraining order, and then on the merits ruled that the criteria that the Executive Office of the President was using for determining who was in a testing-designated position were overly broad and that there was not a sufficient nexus between access to the Executive Office complex and drug use to warrant random testing those individuals.

We strongly disagree with that; fought vigorously but obviously unsuccessfully at the district court level, and the Justice Department has appealed that action and, in fact, has sought and been granted expedited review of that appeal, so that it is my understanding that briefs are scheduled to be filed in early October, and we are anxious for early disposition of that.

We will, and the Justice Department obviously, on behalf of the Government, will argue vigorously that the standards that we and, I would point out, previous administrations have applied to determine who is in a sensitive position and therefore should be subject to random testing, are appropriate and warranted.

So—and as I said, we are hoping for a speedy outcome on that.

Mr. MORAN. Thank you, Mr. Reeder.

Mr. CLINGER [presiding]. Mr. Kanjorski.

Mr. KANJORSKI. Mr. Chairman, I assumed you were going to go back to your questions, but that's perfectly all right.

Mr. CLINGER. Go ahead.

Mr. KANJORSKI. Mr. Reeder, first of all, just as an observation. I am impressed with your testimony, and I just want to delve into some of the understanding I have.

You are holding this position now in the Clinton administration?

Mr. REEDER. That's correct.

Mr. KANJORSKI. You have held a professional position in prior administrations in the White House, is that correct?

Mr. REEDER. I was, until June of last year, a career civil servant, serving the bulk of my career, although not all of it, in the Executive Office of the President, and fortunately have had many opportunities to work with this committee in policy, as well as management rules. In June of last year I was appointed by the President

to my current position, in which I serve at the pleasure of the President.

Mr. KANJORSKI. So that the record is clear, though, what other Presidential administrations did you serve in?

Mr. REEDER. I have served in the Executive Office of the President in every administration since and including the Nixon administration.

Mr. KANJORSKI. All right. Now, to your knowledge, has this administration maintained at least as strict, if not a stricter, drug policy compared to any other administration?

Mr. REEDER. From the perspective of one who has been both the subject of that policy as occupying a testing-designated position, and now as one who is responsible for administering it, absolutely, yes. Again, I don't mean to suggest in any way that the previous administrations have been in any way lax, but the signals are clear and unequivocal to the point of the Chief of Staff's declaration, Chief of Staff Panetta's declaration in 1994, that in the case of White House Office employees, that any positive test constituted a basis for immediate dismissal and that given the sensitivity of the White House, that would be required.

I want to, again, address a concern that was implicit in the chairman's questions, and Mr. Burton's, and I know that you and Mr. Moran share as well. We take the trustworthiness and reliability of the people who work in the White House terribly seriously, and for two simple and obvious reasons. First, we cannot operate effectively in any administration unless we have people of judgment and character in positions of trust in the White House. And second, the American people can't trust the White House unless they are convinced that people of trust and character work in the White House.

Mr. KANJORSKI. I appreciate that and I will tell you quite frankly, the impressions, when you hear drug use, drug abuse and tying in names, even though there is no supportive evidence, people start to wonder whether there's a problem. And I think by innuendo or by suggestion there has been this attempt, whether it's politically motivated or not, over the last several months to create an appearance that there's something wrong.

But as I gather from your testimony, as a professional who has served in every administration since the Nixon administration, that there, one, is a nonproblem in the White House with drugs. Two, there is at least as stringent if not a more stringent adherence to a strong drug-free policy at the White House, and three, that the American people can rest assured tonight that under the leadership of President Clinton, we do not have a problem in the White House, is that correct?

Mr. REEDER. Absolutely, on all three counts, yes, sir.

Mr. KANJORSKI. Thank you, Mr. Chairman.

Mr. CLINGER. Thank you, Mr. Kanjorski.

And, Mr. Reeder, thank you for your appearance here today. I have an opening statement for which I would ask unanimous consent that it might be submitted for the record at this time.

[The prepared statement of Hon. William F. Clinger, Jr., follows:]

Opening Statement of the Honorable William F. Clinger, Jr.
Chairman, Government Reform and Oversight Committee
At the Hearing on "Drug Free Workplace: White House Standards"
September 20, 1996

I would like to thank the Chairman of the Subcommittee on Civil Service for holding this important hearing today on the compliance of the White House with Drug Free Workplace standards.

When President Clinton campaigned for office, he promised that things would be different if he were elected. He even asserted, "President Bush hasn't fought a real war on crime and drugs . . . . [and] I will." (March 23, 1993, *New York Times)* From the evidence, it would appear that President Clinton's idea of a real war on drugs is merely a strategy of declaring victory and deserting the field of battle. Leadership by example has not been this President's forte.

The tragic results of failed leadership are making themselves known in the dramatic rise in drug use and acceptance over the past four years, especially among our nation's children.

Our concern today is that the White House itself has not exhibited a tough zero-tolerance attitude or policy towards drug use both inside and outside the White House.

I want to focus my attention on a White House document, dated June 10, 1993, that requests information on laws and regulations about drug use from the White House Counsel's office, which I ask be made part of the hearing record. The request or "assignment" is from Bill Kennedy and Craig Livingstone, and it asks, "If one admits (1) present, or (2) prior -- 3 months ago? 6 months ago? 5 years ago? -- drug use to the USSS or the FBI during the screening BI process, **what are the legal and/or regulatory rights, duties and responsibilities of the**

President with respect to that individual and the knowledge the President now possesses about the individual's violation of the law? Does the President have the authority to (1) refuse employment, (2) hire on conditions . . . (3) hire without any conditions?"

The request goes on to state that, **"We're dealing with individuals who serve at the pleasure of the President, not career civil servants? Does that matter? How so?"**

Although the document has a due date of Thursday, June 17, 1993, the Committee has no record of a response to that assignment. Two things concern me about this request: (1) the author is open to the possibility that the President might be able to employ, without conditions, someone who presently or recently engaged in illegal use of drugs; and (2) the request makes no distinction between employees with access to sensitive information and those who don't.

I find this lowest-common-denominator-employment standard totally inappropriate for the Executive Office of the President. Given that the White House is THE center of our government, where national security concerns require it to be one of the most secure facilities in this country, the White House and Executive Office of the President should have the HIGHEST standards for employment and access.

In a September 6 letter to Chairman Mica regarding White House employment policies, White House counsel Quinn asserts that, "[T]he suitability and trustworthiness of employees of the EOP are verified through a stringent process that is unparalleled anywhere else in the federal government. . . ." I think that, when compared to the requirements of <u>any</u> of our national security or law enforcement organizations, it will become apparent that this White House has allowed numerous individuals into positions of public trust who could not have qualified for appointment to responsible positions in these other agencies, and that different standard troubles me.

Mr. CLINGER. Let me just start by indicating that I would reject the characterization that this hearing is politically inspired. Actually, this hearing has been scheduled for some period of time, and I think it is reasonable to think that given some of the allegations that have come forward, that this was a reasonable hearing, to conduct oversight. That's our job in this committee, is to conduct oversight.

Obviously anything that goes on 7 weeks before a national election has political overtones, but I can assure you that it is not this chairman's intention to hold these hearings for purely political motives. We are really trying to do the job which we are assigned to do, which is to conduct oversight and make recommendations of how things might be improved or how procedures, processes, these kinds of activities, can be improved.

So your testimony is helpful, and I think that the hearing itself has provided some very helpful information for the committee.

A few questions: You testified that only 21 persons have been involved in the so-called special testing program. During the first year, however, many of the employees, at least we have learned from other avenues that we have been investigating, many employees worked in the White House without benefit of background investigations. There was, in fact, an enormous backlog, which resulted in the fact that we had a lot of employees in the White House for long periods of time who had not completed their background investigations.

How long could an employee have worked in a sensitive position, for example, one involving national security duties, without a background investigation?

Mr. REEDER. Unfortunately, I didn't come prepared with the facts and figures on that, Mr. Chairman.

Mr. CLINGER. Could you provide that for the record?

Mr. REEDER. Absolutely. And I believe there was an audit conducted at the behest of this committee. In fact, I have it, and while I am sure it is in the files of the committee, I will be happy to provide another copy of an audit done by the General Accounting Office, looking at the very issue of the pass and security clearance process and the promptness with which that was done at the beginning of this administration.

[The information referred to follows:]

The General Accounting Office report referred to in the testimony, *Personnel Security: Pass and Security Clearance Data for the Executive Office of the President,* October 1995 (NSIAD–96–20), which was prepared at the behest of Chairman Clinger and Reps. Frank Wolf and Porter Goss, provides detailed statistics that respond to this question. Pages 20 to 27 of the report discuss in detail the length of time in 1993 and 1994 that elapsed between an employee's entry on duty and the issuance of a permanent pass.

Mr. REEDER. As in every transition, there is a serious administrative problem in the first several months as a new administration takes office and seeks to get its appointees in place and move in the direction that it believes the electorate has mandated that it go, and at the same time assuring that those individuals are drug tested and subjected to all of the usual clearance processes.

The comparisons that we have been able to do, at least with respect to the drug testing issue that I prepped here today to address, suggest that this administration moved with somewhat

greater speed than did the previous administration, that is, the Bush administration, in the first 12 months to assure that everyone had been tested. I will be happy to provide those data for the record, as well.

[The information referred to follows:]

The Chairman's question about the possible causes of the delay in the onset of the Bush Administration's applicant testing program caused us to review our records in the matter.

The documents in fact reveal that the Bush Administration deliberately delayed conducting applicant tests on its employees for over ten months. In January 1989, the then-Director of the Office of Administration informed the then-Chief of Staff that "all elements are in place to commence the testing of applicants, i.e. selectees/appointees, beginning January 9, 1989," but recommended a delay in implementation in order not to delay hiring. The Chief of Staff approved the recommended delay. It was not until September 1989 that the successor Chief of Staff approved the start of applicant drug testing for Bush Administration appointees, and not until November 1989 -- ten months into the new Administration -- that the testing began to be conducted.

As a result of this delay, the bulk of the testing for the Bush Administration's new "transition staff" was conducted from December 1989 through March 1990 (781 applicant tests conducted, 546 of those more than a year after the transition began).

By contrast, the Clinton Administration began applicant testing new staff even before January 20, 1993. The bulk of the testing of Clinton Administration "transition staff" was concluded by April 1993 -- within four months of the start of the Administration (658 applicant tests conducted during the first four months of the Administration).

Mr. REEDER. Again, I do not mean to suggest that the Bush administration didn't take maintaining a drug-free workplace seriously. But they did move quickly and, in fact, everyone had been tested, I believe, by mid-summer. But I will be happy to provide the numbers, both with respect to drug testing of the new Clinton administration appointees in 1993 and with respect to the conduct of background investigations and the issuance of permanent passes.

I can tell you, to elaborate, that once that initial backlog was worked down, every White House employee is tested before—is drug tested before he or she comes to work. Every White House employee completes, in addition to a preliminary questionnaire, completes the standard, and I trust you have seen it, somewhat burdensome security questionnaire used by all investigative agencies within 30 days of coming on board, and by statute we are required and we adhere 100 percent to a proviso that we complete and make a recommendation with respect to a background investigation and a permanent pass within 180 days. And we have done that without exception.

Mr. CLINGER. I am advised by staff that perhaps one explanation for the slowness, in terms of the Bush administration, was that the Bush administration was, in fact, setting up the program. They were really initiating the program. Were they?

Mr. REEDER. I am not sure what all the explanations are. The program, in fact, was set up in 1986. And there may be other explanations. Again, I do not mean to imply, and at the risk I may be belaboring the point, I do not mean to imply at all an invidious comparison with the previous administration, but only to suggest that that's indicative of the fact that in order for any new administration to get rolling, it needs to get its people on board and, therefore, they then in the ensuing months need to play catch-up in going through various administrative processes that one would normally go through prior to someone's employment at a later stage in the administration.

Mr. CLINGER. I think the program was initiated in 1988, not in 1986.

Mr. REEDER. You are correct, and I beg your pardon. I stand corrected. The order was an 1986 order, but you are correct, sir.

Mr. CLINGER. How many of the 3,000 employees who have worked in the White House since January 1993, in other words, since the inception of this administration—and this, again, you may have to provide for the record—never completed a background investigation?

Mr. REEDER. I will have to provide that for the record. I mean, it is my understanding the last time I looked at the issue, and it has been some time, no one then on the White House rolls or on the Executive Office of the President's rolls had failed to complete his or her background investigation or was within the 180 days that is permitted by the law.

I cannot tell you, but I will be happy to see whether I can get for the record, whether anybody could have come and gone before a background investigation was completed.

Mr. CLINGER. If you could provide that for the record, it would be helpful.

Mr. REEDER. Absolutely.

Mr. CLINGER. Let me direct your attention to another document that was provided to the committee, and I think you have a copy of it. It is dated June 10, 1993, and entitled "Assignment from Bill Kennedy and Craig Livingstone."

Do you have that?

[The information referred to follows:]

June 10, 1993

ASSIGNMENT FROM BILL KENNEDY & CRAIG LIVINGSTONE:

Question regarding law or regulations on drug use in the White House or EOP. If one admits (1) present, or (2) prior -- 3 months ago? 6 months ago? 5 years ago? -- drug use to the USSS or the FBI during the screening BI process, **what are the legal and/or regulatory rights, duties and responsibilities of the President with respect to that individual and the knowledge the President now possesses about the individual's violations of law?** Does the President have the authority to (1) refuse employment, (2) hire on conditions: send the individual to a health care professional to assess the individual's suitability/risk as a pre-condition of employment? (3) hire without any conditions?

FOCUS: **We're dealing with individuals who serve at the pleasure of the President, not career civil servants? Does that matter? How so?**

DUE DATE: Thursday, June 17, 1993

Mr. REEDER. I am looking at it for the first time, yes, sir.

Mr. CLINGER. It is dated June 10, 1993. The memo was written when many White House employees were being issued temporary passes. This was during that first 6-month period of the administration. And those temporary passes were renewed repeatedly, as we understood it, during the period of time. The assignment, to me, and perhaps there's another spin on this, but it sounds like staff is trying to find a way around a restriction on employment of drug users.

To whom was this assignment addressed? There is no indication on it. It says "Assignment from Bill Kennedy and Craig Livingstone" but it doesn't indicate to whom it was addressed.

Mr. REEDER. I do not know, Mr. Chairman.

Mr. CLINGER. If you could provide it—if you could find out, it would be helpful.

Mr. REEDER. I will certainly attempt to, yes, sir.

Mr. CLINGER. And was any response to this assignment ever completed, do you know? Again, if you don't know who was assigned to it, you don't know whether any response was ever completed.

Mr. REEDER. Sure.

Mr. CLINGER. The memo envisions the possibility of hiring officials who serve at the pleasure of the President even though they might admit current drug use. I mean, I think that at least is raised as a possibility by this assignment.

How were questions about particular applicants resolved before, prior to the time the special testing program was implemented?

Mr. REEDER. Well, the process is the same, sir, and it is a relatively straightforward one. Individuals——

Mr. CLINGER. And the process was the same both before and after?

Mr. REEDER. Before and after. And that is upon completion of all of the requisite reviews, which include a pre-employment test, which again must be negative, we interview the applicant. We ask people, before we put them through a background investigation, whether that investigation will reveal information that's likely to be disqualifying. It turns out to be a service to the applicant, because if he or she believes that there's information and understands that information in his or her background would be disqualifying, the process can stop at that point. We then do a name check and ask people to fill out the longer security questionnaire.

After the background investigation is returned by the Federal Bureau of Investigation and, as the FBI witness testified, with a summary of pertinent information, not with a recommendation, we review that information.

We also do appropriate credit checks and other things, because security goes not simply to a question of loyalty or substance abuse. Security can be compromised by excessive indebtedness or gambling addiction or other indications of financial irresponsibility that might make a person susceptible to coercion or distort his or her judgment.

All of that information is compiled. We then make a judgment, that is, the security professionals examine the file in consultation with the employing office, as to whether there is any information

in that file that would raise questions about the person's suitability.

If the determination is that there are none, the matter is referred to the Secret Service for the issuance of a permanent pass.

At that point, the Secret Service looks at the issue from its perspective and, again, as the Secret Service witness earlier testified, deals specifically with questions of whether any information revealed in the material provided to them raises concerns with regard to the Secret Service's responsibility for protecting the President and, therefore, the environs in which the President operates.

Mr. CLINGER. Have there been instances where, in fact, the Secret Service has indicated that they had serious problems with a particular applicant, and what was the disposition of those?

Mr. REEDER. There are—as all of the previous witnesses have indicated, the question of—the suitability questions are ultimately matters of judgment that are dealt with on a case-by-case basis. There have been, doubtless, instances in which there have been discussions between the Secret Service and the employing agency and our security office regarding information that was raised, in part because we will not send a file forward unless we believe that the person is appropriate to have a pass issued.

As the GAO reported in the very same report on pass issuance, in no instance has the White House, during this administration—and, again, I do not know about previous administrations, so I cannot—I am not implying that they have directed the Secret Service to issue a pass in an instance when they were reluctant to do so.

Mr. CLINGER. OK. What difference would it make in the adjudication of background investigations for White House personnel if the position under consideration was a career civil service rather than, "at the pleasure of the President?" Would there be any different disposition?

Mr. REEDER. There is—certainly not with respect to the disposition. I mean, we certainly would not apply a lower standard to political appointees than to Title V employees. They are all subject to the same rigorous review.

There is a subtle difference at the pre-employment process and, again, I think my predecessor has testified to this. And that is, that drug testing results have to come back for Title V employees before they are employed. In the case of White House employees, we don't get the drug testing results back until, in some instances, after the individual is employed.

And the reason for that is very simple. The President does not have to have grounds for dismissing someone who serves at his pleasure. A Title V employee would be subject to certain other requirements if one were to choose to dismiss a person after he or she were employed.

Mr. CLINGER. I just have a couple more questions. We have received testimony before this committee that many White House employees served—as I have indicated earlier—for long periods of time on so-called temporary passes, which were then renewed periodically, and were renewed sometimes for long periods of time either because they hadn't submitted background investigation forms—and I think there were, at least initially, there was lack of cooperation, or for whatever reasons there were times when it was

difficult to get the background, the forms back—or because those investigations were incomplete.

We have also learned that some so-called "special employees," contractors and consultants, have over the period of time worked very closely with the President, even if there had been no background investigation conducted on them. And that seems to be the sort of individuals who might fall through the cracks; I mean, people who were there as consultants or as advisors, who have definite access to the President, have definite contact with him.

What requirements would you have for checking the backgrounds of consultants or contractors providing services to the White House? Is there any?

Mr. REEDER. Absolutely. And your question really takes—goes in two directions, Mr. Chairman. First, any employee—any individual who is issued a pass is subject to the same requirements with respect to background: initial FBI name checks, background investigations, and ultimately a determination by the Secret Service that he or she meets the criteria that the Secret Service witness testified to regarding their responsibility for protecting the President.

Mr. CLINGER. It would be a little different standard, wouldn't it, for a temporary—in other words, for a consultant who is only going to be there not on a regular basis?

Mr. REEDER. Well, there's a practical difference because anybody who is on the complex less than 180 days may not have a completed background investigation. So all we can do is do the preliminary. We do the preliminary security screening, and the Secret Service—and we do a name check. So we—there is a preliminary check that can be done, that is the same that is done for anybody else who would be in the complex less than 180 days. Now, there's another aspect——

Mr. CLINGER. So you are saying that an employee could provide services without a full background investigation within 180 days? Anything over that would require the full background investigation?

Mr. REEDER. An employee—an individual who—but those individuals would be subject to the same preliminary clearance as would any other individual who had been in the complex less than 180 days.

There's another aspect to your question, sir, that I want to make sure that is in the record, and that is that any individual who would be determined to be a "special government employee" and participate in that context would be subject to the requirements of law applicable to "special government employees," including financial disclosures and other requirements. So there is both the security—there are both security and integrity considerations that we apply.

With respect to contractors, contractors who work on the premises are subject to precisely the same restrictions—requirements as are individuals who are employees of the Executive Office of the President with respect to pre-employment, in this case pre-employment being prior to coming onto the complex, not with their primary employer, and with respect to the completion of the background investigation before a permanent pass is issued. It makes

it terribly expensive, for example, when we have physical work that's done, that is, work done on the physical plant, because every one of those individuals, whoever he or she is, who hasn't been subject to all of those kinds of exhaustive clearances, has to be escorted by somebody who has.

So that often, as your colleagues on Appropriations would probably tell you, drives up the cost of projects, because we apply the same standards to individuals who work for us under contract as we would to individuals who are on the payroll.

Mr. CLINGER. However, aren't there some problems with some consultants who do not ever get passes, if they are only on an access list? Do you have those problems?

Mr. REEDER. This is, at the risk of dissolving into cliches, a rock and a hard place problem. Earlier in this administration, under an edict of the previous Chief of Staff, those individuals were issued hard passes, and when they were issued hard passes, they were subject to the same security scrutiny as was anyone else who had a hard pass. There was considerable criticism of the White House for allowing those individuals unescorted access to the White House because they were, in fact, consultants or informal associates of the President.

The problem is that the White House is the President's house, and whereas you may have a friend or a confidant who comes to visit you, everybody who comes to the White House has to be cleared in, and so if they want frequent access to the White House, they have to be issued a pass.

Because of those criticisms, Chief of Staff Panetta reversed that policy and said those people won't be given hard permanent passes. Therefore, there's no basis for subjecting them to the normal scrutiny that the hard pass process implies. Now, they then have to be cleared either on a case-by-case basis or placed on an access list, but in both instances that means that they don't have the same level of access to the White House as would individuals who have hard passes.

So, yes, you are correct, there are individuals who are confidants of the President or individuals with whom he wishes to consult from time to time, who are cleared into the White House for appointments with him. They don't have hard passes, and because they don't have hard passes, they are not subject to the same security review as they would be if they were employed.

Mr. CLINGER. Would they be accompanied when they were on the premises?

Mr. REEDER. Yes, sir.

Mr. CLINGER. Going back, you mentioned the "special government employee," and Congress, and this committee, are considering creating such a category in the Presidential and Executive Office Accountability Act that would, in effect, strengthen oversight of such consultants, as a—strengthen procedure and really define somewhat what is a "special government employee," because there has been some confusion about what that involves.

Mr. REEDER. Yes, sir.

Mr. CLINGER. Is there any way, short of legislation, to make such persons accountable, in your view?

Mr. REEDER. Well, we believe, Mr. Chairman, that the policies that are currently in effect at the White House ensure that those individuals are accountable, and that individuals who would by anyone's definition qualify as "special government employees" are already subject to disclosure. But as I testified before Mr. Horn in another subcommittee, the administration would certainly support the language in the reported version of H.R. 3452 with respect to "special government employees," to clarify any ambiguity that might exist with respect to those individuals.

Mr. CLINGER. Just one final question. I think Mr. Mica indicated earlier that we were really looking for assurances in this hearing that any security problems that may have existed have been resolved. And in that regard, are you aware that the Secret Service did, in fact, initially reject some passes in late 1993, prior to the individual drug testing program, and that those, I believe, were ultimately approved? Were you aware that that actually transpired?

Mr. REEDER. What I am aware of is that the Secret Service—the GAO found, and the Secret Service did not disagree, that in no instance had the White House insisted that the Secret Service issue the pass.

Mr. CLINGER. Even over their objections?

Mr. REEDER. In which they are—I think the phraseology in the GAO report indicates that in no case where the Secret Service was reluctant to do so.

Mr. CLINGER. Even reluctant. But I mean without a hard, fast sort of reluctance that would result in a——

Mr. REEDER. Yes, sir. And that language again is in the report. I will be happy to provide it and leave that.

Mr. CLINGER. Very good.

Mr. Moran.

Mr. MORAN. Thank you, Mr. Chairman. I am glad you raised that last point, because the information on White House employees came to light because executive branch employees are subjected to random drug tests and, of course, the White House acted properly and quickly and I think in a pretty strict fashion with regard to those employees and every other employee.

In contrast, Mr. Chairman, congressional drug testing policy is left solely to the discretion of individual Members. I think anyone who has raised these questions about the White House and executive branch's policy ought to tell us what their policy is. I know that the chairmen of our committees and of our subcommittees would not want to be hypocritical.

I would be curious, do you drug test your own staff, Mr. Chairman?

Mr. CLINGER. I am taking it under very serious consideration. I have been advised by Mr. Barton that this is something we should all consider, and I think it is very worthy of consideration.

Mr. MORAN. You don't do it now?

Mr. CLINGER. Not at the present time.

Mr. MORAN. And I do not think Mr.——

Mr. CLINGER. Do you?

Mr. MORAN. No, no. But I am not the one who has raised it. I have been content with the policy, and I haven't hypocritically been accusing the White House of not doing its job.

Mr. CLINGER. Are you suggesting that we should not be testing? Is that your position, that we should not be doing testing?

Mr. MORAN. No. My position is that we ought not hold hearings for purposes that are not relevant nor in any way necessary. What we have determined here is that we have a very strict zero tolerance policy. The White House, in fact, does random drug testing on 12 percent of its workforce.

We don't do that in the Congress. We don't do any random drug testing. I do not know of Members that do. Maybe there is a Member, and that Member certainly would properly be asking questions of the White House whether they—the White House is as tough on drug use as they are. But I have yet to find such a Member who would be able to posture themselves in such a way that it would not be hypocritical.

But the reality is that the Congress does not. The Congress doesn't do anywhere near what the White House or even any of the executive agencies do. And as I mentioned before, Mr. Chairman, and probably if you were aware of that we might not have had these hearings, that of those random tests they have only uncovered 2 people and, of course, those were former Bush appointees, and they were fired immediately.

I am not sure that even if we were doing drug testing and we found some people that had used drugs some time in the past or maybe even now, although I am not aware of any congressional staff that use drugs now, but if we found them I do not know that we would be as tough as the Clinton administration, having absolute zero tolerance.

But I do think that that's a relevant point to make, that if we hold a hearing trying to find some way to accuse the White House of not being completely hard line on this matter of any drug use whatsoever, we have found that they are hard line, that they allow no exceptions, and I just can't help but observe that in the Congress we are not; that the people asking the questions do not even drug test, perhaps do not even ask such questions on applications, whether their employees have ever used drugs in the past.

I think that people in glass houses ought not throw stones. But nevertheless, having said that, I do appreciate the fact that we have been able to have this hearing, because everything that has come out of this hearing shows that the Clinton administration has taken a great deal of initiative, has built upon the zero tolerance policy of the Bush administration and the Reagan administration; has implemented it to a much tougher standard than any administration has ever applied to any of its employees. And I think the results show that they simply are not finding people who are using, experimenting with drugs or, in fact, very few people who have even used drugs in the past.

And that should give the American people greater confidence that the people who are serving them, that they are relying upon, are people that do, in fact, perform to a very high standard that, in fact, is appropriate for our Federal Government.

So with that, Mr. Chairman, although I did not think that I would have such reason to appreciate this hearing, I think both the Clinton White House and the Democratic Members appreciate the hearing for the truth that has come out of it. Thank you.

Mr. CLINGER. I think we all appreciate the hearings, perhaps for somewhat different reasons, but we all do appreciate the hearing.

Mr. Kanjorski.

Mr. KANJORSKI. Mr. Chairman, I do want to make a point. In listening to this hearing today, I see a distinct difference between what the reason for putting into place a drug testing program would be, and perhaps there's a difference. As I gather, current drug testing of employees and people who have access to the President is based on security, that they would not want to put the President in a position of someone who was presently under drug conditions and that that would be an immediate risk to his person.

But always, in the context of what we are discussing, we have the majority that goes back to prior use, even experimental use in college. And there seems to be an attempt to relate that if an individual in their lifetime ever experienced the use of drugs, even experimentally, for all time they wear the scarlet letter, as opposed to those people who are now in a job site and have a responsibility to the taxpayers and importance of security for the President, that we would want to, in some way, stop that type of individual.

And as I understand the testimony today, in the course of the entire Clinton administration, no employee that was hired or came under the Clinton administration has ever been dismissed because of drugs, and never tested drug positive while on the job in that secure complex of the White House. Only on two occasions were employees ever dismissed in the random sample that does 14 percent a year in testing, and both of those employees had been appointed by the previous Bush administration. That takes care of the security problem.

But I always hear my friends on the other side, Mr. Burton and even the chairman of this subcommittee, suggest that there is a record of disclosure by employees that may be working in the past or at the present at the White House, that sometime in prior conditions of life they had experimented with drugs, and the implication being there that should disqualify them, that scarlet letter should be applied. And what I understand from the testimony of the first panel, Mr. Reeder, that, no, everything is looked at in context.

Is there a security risk to the President? Is there drug use on the job? Does that cause a conflict or a risk of security? And then whether or not there's a punishment factor out there because of any one singular time in your life you may have experimented with drugs, that that does not for all time bar you from working in the White House?

I think that is the right measure. I take that standard on a case-by-case method. And I may say, Mr. Chairman, that to the best of my recollection a good portion of the House of Representatives, a good portion of the U.S. Senate, and I know for certain by admission on national television the Speaker of this House, if we use the criteria that experimentation of drugs at any time in your life would disqualify you from public service of the highest order, they would not be here.

And I think it's very important to send a message now that these very important people in the executive branch of this Government and the highest office of the President, that this Congress now has examined into this issue. We discover that we have in place one of

the most comprehensive programs for drug testing, and that the security of the President is not at risk nor is the national security of the President at risk, by all evidence that's on the record.

And that, yes, they examine into and recognize that there are factors in life where someone may have experimented with drugs at a very early portion of life, but these people are no different than the Speaker of the House, the Members of the House of Representatives, the Members of the Senate and the members of the Supreme Court that sit today. And that we, as an enlightened society, recognize that we have cast out the scarlet letter and it should remain out of Government in the future, so that competent people can have had a mistake in their past but still rise to the level of public service because of their incredible abilities and their proven security and their contribution to this government.

Thank you.

Mr. CLINGER. I thank the gentleman.

Let me just note for the record that it has been characterized that these were experimental use in someone's youth or in college days, and that should not permanently disbar you from service in the Federal Government, and I would agree with that. I think that should not be a permanent bar.

But we have been advised by the Secret Service that the people who were involved in this particular program, the White House program, 21 individuals, have had a record of using drugs within 1 to 2 years of their application for service in the White House, before starting at the White House. So that is not long distance, long past usage, the follies of one's youth. I mean, that was fairly contemporaneous usage that was being identified, and that's why the program was started.

I would note that given that kind of usage within 1 to 2 years would not qualify any of those individuals for employment in the FBI or in the Secret Service. So I think there is a differentiation here in what we are talking about.

Mr. Reeder, we want to express our appreciation to you for your testimony here today. We hope that you will be able to provide us some of the information that we requested for the record.

Mr. REEDER. We will do.

Mr. CLINGER. And with that, the subcommittee stands adjourned.

Mr. REEDER. Thank you.

[Whereupon, at 11:55 a.m., the subcommittee was adjourned.]

○