



U.S. Department of Justice

Office of the Inspector General

February 24, 2005

The Honorable Charles E. Schumer
United States Senate
313 Hart Senate Office Building
Washington, D.C. 20510-3201

Dear Senator Schumer:

Enclosed is a copy of the Office of the Inspector General (OIG) report entitled, "*A Review of ICITAP's Screening Procedures for Contractors Sent to Iraq as Correctional Advisors.*" The OIG completed this report in response to your June 2004 letter to me requesting that the OIG investigate and report on the decision by the Department of Justice Criminal Division's International Criminal Investigative Training Assistance Program (ICITAP) to employ certain individuals as corrections advisors in Iraq.

Please contact me or Deputy Inspector General Paul Martin if you have questions about this report or any other issue.

Sincerely,

A handwritten signature in cursive script, reading "Glenn A. Fine", is positioned above the printed name.

Glenn A. Fine
Inspector General

Enclosure

A Review of ICITAP's Screening Procedures for Contractors Sent to Iraq as Correctional Advisors



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I. INTRODUCTION

The International Criminal Investigative Training Assistance Program (ICITAP) is an office within the Criminal Division of the Department of Justice (DOJ) that provides training for foreign law enforcement agencies in new and emerging democracies and assists in the development of police forces relating to international peacekeeping operations. Since its creation in 1986, ICITAP has conducted training programs in numerous countries throughout the world, including Haiti, Bosnia, and Kosovo. In 2003, after the fall of Saddam Hussein, ICITAP, at the behest of the Department of Defense's Office of Reconstruction and Humanitarian Assistance, established a program through which it provided subcontractor advisors and trainers to assist with the reconstruction and development of the Iraqi police and prison systems. The program was paid for with funds supplied by the Department of State.

Following public reports of allegations of prisoner abuse by military personnel at the Abu Ghraib prison in Iraq, Senator Charles Schumer wrote a letter to the Office of the Inspector General (OIG), dated June 2, 2004, in which he raised concerns that four of the corrections advisors ICITAP had sent to Iraq – Lane McCotter, Terry Stewart, Gary DeLand, and John Armstrong – were unqualified because of allegations of serious misconduct when they served as high-level, state corrections officials in the United States. In particular, Senator Schumer noted that allegations had been made against the men in several civil lawsuits relating to the treatment of prisoners or their management of prison systems during their U.S. corrections careers. Senator Schumer requested that the OIG investigate and report on “the criteria used to select [these individuals as corrections advisors in Iraq], the vetting process to which they were subjected, the identities of the officials who selected them, the extent to which concerns about their backgrounds were known by the officials who vetted and selected them, and the reasons such concerns were disregarded when these individuals were appointed.” The DOJ joined in Senator Schumer's request that the OIG examine the matter.

In response to these requests, we reviewed the recruitment, screening, and selection of the four ICITAP corrections advisors identified by Senator Schumer, as well as the four other corrections advisors who served with them in Iraq. In addition, we examined the policies and procedures for conducting background investigations on ICITAP subcontractors.

This report details the results of the OIG's review. During this review, the OIG interviewed more than 25 individuals, including McCotter, Stewart,

DeLand, and Armstrong, as well as their four fellow corrections advisors. In addition, we reviewed hundreds of pages of documents provided by ICITAP, the Criminal Division's Office of Administration (Office of Administration), and the subcontractors themselves regarding these individuals and the clearance process.

In sum, our review concluded that although ICITAP conducted limited background checks on these individuals prior to their deployment to Iraq, these checks were not designed to and did not reveal information about the civil lawsuits cited in Senator Schumer's letter. Accordingly, because ICITAP was unaware of the allegations made in these lawsuits, it did not consider them when making the decision to hire these individuals as advisors. We also determined, however, that even had ICITAP been aware of these lawsuits prior to retaining the advisors, it would not have viewed them as sufficient to disqualify any of the men from serving in Iraq. We also reviewed whether any of these advisors were connected to abuse of prisoners housed at the Abu Ghraib prison and found no evidence to suggest that they played any role in the abuses. Finally, our review found broader problems related to the policies and procedures for conducting background investigations on ICITAP subcontractors. While ICITAP has made various improvements to its clearance process since our review was initiated, we make several recommendations to improve the process further.

II. BACKGROUND

Although ICITAP is part of the DOJ, ICITAP programs may be instituted at the request of the National Security Council and the Department of State (State). ICITAP does not appear as a "line item" in the DOJ budget. Rather, the majority of ICITAP funds come from project-specific funding provided by State and the U.S. Agency for International Development.

ICITAP describes its mission as supporting "U.S. criminal justice and foreign policy goals by assisting foreign government[s] in developing the capacity to provide professional law enforcement services based on democratic principles and respect for human rights."¹ ICITAP accomplishes this mission through a combination of DOJ employees and subcontractors. Most ICITAP subcontractors act as advisors and instructors in the various foreign countries in which ICITAP is operating programs. ICITAP employees oversee the subcontractors' work, both from ICITAP headquarters in Washington, D.C. and as Program Managers in the field. Many ICITAP subcontractors, as well as many ICITAP managers, are former federal, state, and local law enforcement officials.

¹ www.usdoj.gov/criminal/icitap (December 2004).

At the time ICITAP's Iraq program began, ICITAP retained subcontractors through a contract with Science Applications International Corporation (SAIC).² Although the subcontractors are ostensibly SAIC employees, many, including the Iraq corrections advisors at issue here, are recruited directly by ICITAP. ICITAP has final approval over all hiring decisions.³

In order to hire a subcontractor for one of its programs, ICITAP completes a document called a Statement of Work. The Statement of Work details the work activities, term of employment, travel itinerary, and travel and allowance expenses for a subcontractor position. It also identifies by name the individual ICITAP has chosen to fill the position. In order for a Statement of Work to be valid, it must be signed by the Contracting Officer Technical Representative (COTR) for the ICITAP/SAIC contract.⁴ The signed Statement of Work, together with a delivery order, is provided to SAIC and authorizes SAIC to hire and pay the specified individual.

Pursuant to Criminal Division policy, all ICITAP subcontractors must undergo a pre-employment background check. The nature and extent of the background check required depends upon the risk level that is assigned to the position the subcontractor will fill. The policy identifies three risk levels – high, moderate, and low – and places the initial responsibility for designating the risk level associated with a particular position on ICITAP. The actual background checks themselves are performed by Personnel Security Specialists (Security Specialists). The Security Specialists are employed by the Criminal Division Security Program Staff (SPS), which is part of the Office of Administration. As discussed in more detail below, historically ICITAP has designated virtually all its subcontractor positions as low risk. This was the designation assigned to the subcontractor positions for the Iraq program.

The Criminal Division also trains prosecutors and judges in foreign countries through its Overseas Prosecutorial Development, Assistance and Training (OPDAT) programs. In contrast to ICITAP, OPDAT programs employ few subcontractors, relying primarily on federal prosecutors who are detailed for particular assignments.

² The SAIC contract is scheduled to expire in March 2005. Bids for the new contract were submitted in November 2004, and the DOJ is in the process of reviewing them.

³ In general, ICITAP fills subcontractor positions by identifying at least three candidates and then writing a letter of justification for the individual it considers to be the best qualified.

⁴ The COTR is not an ICITAP employee. Rather, he is part of the International Training and Financial Management Section of the Office of Administration.

ICITAP and OPDAT programs are managed by the Chief of International Development and Training. Serving under the Chief is a Director of each program. Under the ICITAP Director are a Deputy Director and five Assistant Directors, four of whom share responsibility for particular geographic areas of the world and one of whom oversees operations support. Program managers and program analysts work under the direction of the Assistant Directors.⁵

During the relevant time period, Joseph Jones served both as the Chief of International Development and Training and as the Acting Director of ICITAP. At the inception of the Iraq program, Richard Mayer was the Acting Deputy Director of ICITAP. When Mayer retired in February 2004, Gary Barr became the Acting Deputy Director while continuing to serve as the Assistant Director for Asia programs. Because the Iraq program was part of the Asia portfolio, it fell within Barr's area of responsibility.

Two program analysts at ICITAP headquarters were assigned to the Iraq program and worked under Barr's direction: one a long-time employee and one a subcontractor who was hired specifically for the Iraq program. These analysts had primary responsibility for compiling the paperwork necessary to perform background checks on subcontractors and for ensuring that this paperwork was delivered to the SPS. In addition, the program analysts were also responsible for preparing the Statements of Work and for providing them to the COTR for his signature. Both the security paperwork and the Statements of Work were also reviewed and signed by an ICITAP manager.

At the SPS, one Security Specialist had primary responsibility for conducting the background checks on ICITAP subcontractors. She was hired in May 2002, and until approximately January 2004, was supervised by Rob Haufe, Chief of Security Programs Staff. Haufe's supervisor was Linda Cantilena, Assistant Director for Security, Procurement & Property Management. From January 2004 to May 2004, Cantilena acted as the Security Specialist's direct supervisor until Gary Llewellyn was hired to replace Haufe. Overall management of the Office of Administration, including the SPS staff, is entrusted to the Executive Officer. Sandra Bright was the Executive Officer until she retired in August 2003. In September 2003, Steven Parent became the Executive Officer.⁶

⁵ Deputy Assistant Directors work under each of the Assistant Directors except for the Assistant Director for Operations. Deputy Assistant Directors act as lead program analysts and provide guidance to other program analysts, but do not have supervisory authority.

⁶ For organization charts of ICITAP and the Office of Administration, see Exhibit 1.

III. THE ORIGIN OF THE ICITAP IRAQ PROGRAM

On January 20, 2003, a post-war planning office for Iraq was established in the Department of Defense called the Office of Reconstruction and Humanitarian Assistance (ORHA). ORHA was staffed by officials detailed from departments and agencies throughout the federal government, including DOJ and State.

Both ICITAP and OPDAT sent representatives to ORHA. Richard Mayer was the ICITAP representative, while OPDAT was represented by William Lantz. Mayer and Lantz reported to ORHA on or about January 28, 2003.

Mayer told the OIG that upon their arrival at ORHA, he and Lantz began drafting plans for a post-war system of justice in Iraq, including police, courts, and corrections. He said that he took primary responsibility for police planning, while Lantz focused on the courts. According to Mayer, prison planning was initially assigned to Clifford Aims, a State Department representative to the ORHA.

In March 2003, ORHA officials decided that a multidiscipline team should be assembled and sent to Iraq to assess and make recommendations regarding the Iraqi police, corrections, and judicial systems (the Assessment Team). The Assessment Team, which traveled to Iraq in May 2003, ultimately numbered 25 individuals and included police and corrections advisors, judges, prosecutors, and a court clerk. ICITAP was given responsibility for staffing both the police and corrections positions on the Assessment Team. In addition, although the exact number of positions and amount of funding that would be available was not known at that time, it also was understood that following the departure of the Assessment Team from Iraq, ICITAP would continue to recruit and hire police and corrections advisors for the Iraq program via the SAIC contract.

Although the task of assembling the needed police expertise was familiar to ICITAP from its previous overseas programs, it had limited experience in staffing corrections programs. Accordingly, neither ICITAP nor SAIC had an existing pool of qualified corrections candidates from which to staff the Assessment Team. Nor could ICITAP managers – whose prior experience was primarily in policing – draw on their usual contacts for recommendations. ICITAP therefore undertook a search to locate qualified individuals for the corrections positions.

After conducting a search, which is described in greater detail below, ICITAP selected four former state and federal corrections officials to serve as corrections advisors on the Assessment Team: Lane McCotter, Terry Stewart, Larry DuBois, and Gary DeLand. McCotter, Stewart, and DuBois traveled to Iraq with the other members of the Assessment Team in May 2003. DeLand,

whose departure was delayed due to difficulties in securing his passport and visa, arrived in Iraq on or about June 25. For ease of reference, we will refer to this group of men as the "McCotter Team." By September 3, 2003, all four members of the McCotter Team had left Iraq.⁷

After the members of the McCotter Team had left Iraq, ICITAP deployed four new corrections advisors to Iraq: John Armstrong, Charles Ryan, Joseph (Terry) Bartlett, and Richard Billings. We will refer to this group of men as the "Bartlett Team." Like the McCotter Team, all the men on the Bartlett Team were former, high-level corrections officials. Bartlett, Ryan, and Armstrong arrived in Iraq on September 10, 2003. Billings joined them on October 15. Billings left Iraq to return to the United States on April 18. Armstrong soon followed, arriving back in the United States on May 4. Ryan and Bartlett continued to serve as ICITAP subcontractors in Iraq until December 2004.

Following placement of the Bartlett Team in Iraq, ICITAP, with help from SAIC, continued to recruit and retain under the SAIC contract both police and corrections subcontractors for the Iraq program. As of January 1, 2005, there were 275 ICITAP subcontractors in Iraq and Jordan: 151 police trainers in Iraq, 54 corrections advisers and trainers in Iraq, and 70 police trainers at the ICITAP-founded Jordan International Police Training College, which exclusively trains Iraqi law enforcement personnel.

IV. THE SELECTION OF THE MCCOTTER TEAM

As noted above, while Mayer and Lantz were focused on police and court planning at ORHA, State Department representative Clifford Aims had begun to address Iraqi prison needs. Accordingly, on or about April 1, 2003, Gary Barr contacted Aims regarding staffing the corrections positions on the Assessment Team. In response, Aims sent to Barr, via electronic mail (e-mail), a two-page list of potential candidates (the Aims List). According to Aims's e-mail to Barr, the Aims List had been compiled at his request by officials of the Federal Bureau of Prisons (BOP) and the American Correctional Association (ACA).⁸ The first page of the Aims List contained the names of ten individuals recommended by the BOP, including McCotter, DuBois, and Armstrong. The second page contained the names of eight others recommended by the ACA.

⁷ Another individual, who also traveled to Iraq as part of the Assessment Team, is described in some ICITAP documents as a corrections consultant. However, this individual's background was in city management and public administration, not corrections, and in Iraq his role was limited to administration and logistics.

⁸ The ACA was founded in 1870 and is the oldest association for the correctional profession. The ACA publishes guidelines for corrections, provides certifications and professional development opportunities, conducts research, and hosts annual conferences.

In his e-mail, Aims stated that he had "no preferences" among the candidates and considered them all to be "top recommendations."⁹

Because he was about to depart on a business trip, Barr gave the list to William Baker, then the ICITAP Assistant Director for Latin America and the Caribbean, and asked Baker to begin recruiting both police and corrections candidates for the Assessment Team. Baker told the OIG that upon reviewing the Aims List, he immediately focused on the name Larry DuBois. Baker explained that he and DuBois had worked together in Massachusetts in the 1990s – Baker as the Massachusetts Commissioner of Public Safety and DuBois as the Director of Corrections. Baker said he called DuBois and inquired whether he would be interested in serving on the Assessment Team. Baker said he also asked DuBois to help recruit other qualified candidates.

DuBois told the OIG that he called Baker back the next day and told him he was interested in joining the Assessment Team and that he would assist Baker in recruiting additional candidates. Baker therefore sent to DuBois via facsimile a copy of the Aims List on April 2, 2003.

DuBois told the OIG that he knew many of the people on the Aims List and that he selected several of them to contact. He said he also contacted other individuals whose names were not on the Aims List but whom he knew either from his professional associations or were recommended to him by other individuals. DuBois said that he contacted about ten people in total.

Among the individuals DuBois contacted who were willing and able to go to Iraq were McCotter, DeLand, and Stewart. As noted above, McCotter and Armstrong had been recommended by the BOP. Neither Stewart nor DeLand were on the Aims List. DuBois told the OIG that DeLand was recommended to him by McCotter, and Stewart was recommended by George Camp, Executive Director of the Association of State Correctional Administrators, and one of the individuals named on the BOP portion of the Aims List. Like DuBois, who in addition to his six years of service as the Director in Massachusetts had worked for the BOP for 26 years serving as both a warden and a Regional Director, McCotter, Stewart, and DeLand all were former, high-level corrections officials, with significant experience in the corrections field.

McCotter began his corrections career in the military, where he served for three years as the Colonel-Commandant of the United States Disciplinary Barracks at Fort Leavenworth, Kansas. After leaving the military, he served as director of three different state corrections departments: Texas from June 1985 – March 1987; New Mexico from March 1987 – December 1990; and Utah from January 1992 – July 1997. Following his retirement from the Utah system in 1997, McCotter worked briefly with DeLand in DeLand's corrections

⁹ E-mail from Clifford Aims to Gary Barr, April 1, 2003.

consulting business. McCotter thereafter accepted a position as Director of Business Development for Management and Training Corporation (MTC), a private company that manages and operates juvenile and adult correctional facilities for federal, state, and local governments. He was employed at the MTC at the time he was retained by ICITAP.

Stewart was employed by the Arizona Department of Corrections for 17 years. During his career, he served as Assistant Director, Deputy Director, and finally, from December 1995 until his retirement in November of 2002, as Director of the Department. After Stewart left the Arizona Department of Corrections, he established Advanced Correctional Management, a consulting and prison management firm. In addition, following his return from Iraq, Stewart served as a correctional advisor in Haiti for the Department of State.

DeLand was employed by the Salt Lake County Sheriff's Office for more than 20 years, 7 of which he spent as the administrator of the County's jail. From 1985 to 1992, he served as the Executive Director of the Utah Department of Corrections. Since leaving the Utah Department, DeLand has continued to run a corrections consulting business he began early in his career. He has served as a litigation consultant or expert witness in more than 100 prison litigation cases.

According to DuBois, McCotter, DeLand, and Stewart all agreed to be considered for the Assessment Team, and he therefore forwarded their resumes, together with his own, to Baker at ICITAP. DuBois said that during this period he also spoke to Armstrong, who was interested but not available at that time due to other commitments. Armstrong did, however, forward his resume to ICITAP for future consideration and ultimately was chosen to be part of the Bartlett Team.

Shortly after Baker began to identify possible candidates for the corrections positions, the newly hired ICITAP Program Manager arrived at ICITAP headquarters in Washington, D.C. Prior to his selection as the Iraq Program Manager, he had been working as the Chief of Staff for the Kosovo Police Service School. He left the Iraq program in September 2003 and served as the ICITAP Senior Technical Advisor in the Phillippines until November 2004.

The Program Manager told the OIG that when he arrived at headquarters, Baker briefed him on his recruitment efforts for the Assessment Team. Baker told the OIG that he provided the Program Manager with two stacks of resumes, one for police candidates and one for corrections candidates. Included in the corrections stack were the resumes of McCotter, Stewart, DuBois, and DeLand.

The Program Manager told the OIG that based on his conversations with Baker, he believed that ICITAP had already essentially selected McCotter, Stewart, and DuBois for the corrections team by the time he became involved in the hiring process. He said that he nevertheless called all three men and spoke with them about their backgrounds and experience. Then, after conferring with Baker and Mayer, he confirmed their selection for the Assessment Team.

Although the Program Manager did not recall DeLand as part of this "pre-selected" group, according to Baker, DeLand's resume was among those he provided to the Program Manager. Moreover, DeLand recalled being contacted by someone at ICITAP about the Assessment Team during this period. In any event, DeLand also was selected to become part of the Assessment Team, but he was unable to leave in May with the others due to a delay in obtaining his passport and visa.

On April 23, 2003, McCotter, Stewart, and DuBois attended an orientation session at ICITAP headquarters. There they met in person the Program Manager and Mayer and were given additional information about the Iraq assignment. On or about May 4, the three men traveled together with the other members of the Assessment Team to Fort Bliss in El Paso, Texas, where they received training, equipment, and medical clearance. They departed for Iraq, by way of Kuwait, on Sunday, May 11, and after several days of travel, arrived in Baghdad on May 15. As noted above, DeLand joined them in Iraq on June 25, 2003.

DuBois left Iraq to return to the United States on June 27, 2003. Stewart soon followed, leaving Iraq on July 3. DeLand and McCotter stayed in Iraq until September 2 and 3 respectively. McCotter returned to the United States temporarily for about a two-week period starting July 27 to attend a family funeral. Before returning to Iraq on or about August 12, McCotter attended an ACA meeting in Nashville, Tennessee, where he made a presentation regarding the ICITAP Iraq program and actively recruited replacements for himself and the other members of the McCotter Team.

V. THE SELECTION OF THE BARTLETT TEAM

Several days after the last member of the McCotter Team left Iraq, Bartlett, Ryan, and Armstrong arrived in Baghdad. Billings joined them in October. As previously mentioned, the members of the Bartlett Team were former corrections officials with many years of corrections experience.

During his 20-year military career, Bartlett served in several managerial positions in military prisons, including as the Deputy Commandant for the United States Disciplinary Barracks at Fort Leavenworth, Kansas. Following retirement from the military, he served as the Deputy Director and the Director

of Operations for the Utah Department of Corrections for almost four years. After leaving the Utah Department of Corrections, Bartlett was employed by the MTC as an Accreditation Manager, and later as a Senior Warden for a medium security prison. In 2000, Bartlett left the MTC and began his own consulting company.

Armstrong was employed by the Connecticut Department of Corrections for over 26 years, where he rose through the ranks from corrections officer to Commissioner. After serving two four-year terms as Commissioner, he retired from the Connecticut Department in April 2003.

Billings began his career as a correctional officer for the Utah Department of Corrections in 1974. At the time of his retirement in 1998, he was the Special Operations Unit Commander for the Department, a position he had held for nine years. Since his retirement, he has been employed by the Salt Lake County Sheriff's Office.

Ryan was employed by the Arizona Department of Corrections for over 25 years. He served as the Deputy Director of Prison Operations for seven years and then as the Acting Director of the Department for the six months prior to his retirement in June 2003.

Armstrong first came to ICITAP's attention as one of the individuals recommended by the BOP on the Aims List. DuBois had contacted Armstrong in April 2003, and although he was not available to go to Iraq at that time, he sent his resume to ICITAP for later consideration. Bartlett and Ryan became candidates for the Iraq program after being recruited by McCotter at the ACA conference in August 2003.

Although it is not entirely clear who at ICITAP officially made the decision to select Bartlett, Ryan, and Armstrong, Ryan told the OIG that he recalled speaking with Mayer shortly after returning from the ACA conference and accepting the Iraq assignment from Mayer. Armstrong also told the OIG that he recalled speaking with Mayer and believed that Mayer was involved in the decision to select him.

Ryan, Bartlett, and Armstrong reported to ICITAP headquarters on September 3, 2003, for an orientation session. McCotter told the OIG that he stopped in Washington, D.C. on his way home from Iraq to attend this session and to brief the three men on the situation in Iraq and on the efforts he and the others had made during their time there. Following this orientation session, Ryan, Bartlett, and Armstrong spent about a week at Fort Belvoir, Virginia, and then traveled to Iraq, arriving in Baghdad on September 15, 2003. Armstrong returned to the United States on May 4, 2004, ending his association with ICITAP at that time. Bartlett and Ryan continued to serve in Iraq until December 2004.

Billings told the OIG that he was first contacted about the possibility of going to Iraq on behalf of ICITAP by DeLand in April 2003. Billings and DeLand had known each other for many years and had worked together in Utah. Billings said he told DeLand he was interested in being considered and that DeLand said he would have someone from ICITAP contact him. Billings said that for reasons unknown to him, no one from ICITAP contacted him for months. It was not until October 2003 that Billings was placed under contract with SAIC to work on the ICITAP Iraq program. On October 4, he attended an orientation session at ICITAP's headquarters, where he was briefed by McCotter. Billings arrived in Baghdad on October 14, 2003, and left Iraq on April 18, 2004.

VI. BACKGROUND CHECKS FOR THE MCCOTTER AND BARTLETT TEAMS

As noted above, DOJ Criminal Division policy requires that all subcontractor candidates undergo a pre-employment background check commensurate with the level of risk associated with the position in which they will serve. In accordance with this policy, some form of background check was performed on seven of the eight members of the McCotter and Bartlett Teams prior to their deployment to Iraq. The exception was Billings who, either because ICITAP never submitted his file to the SPS or because the file was misplaced by the SPS, did not undergo any pre-deployment background check. ICITAP conducted further research into the backgrounds of all eight men in May and June 2004, after Senator Schumer raised concerns about the qualifications of some of them.

Below we first discuss the Criminal Division policy regarding background checks for subcontractors and how it was applied to the McCotter and Bartlett Teams prior to their deployment to Iraq. We then discuss the post-deployment checks ICITAP conducted.

A. Pre-Deployment Checks

1. Criminal Division Policy Relating to Subcontractor Background Checks

At the time the McCotter and Bartlett Teams were hired, Criminal Division policy regarding subcontractor background checks was contained in a July 2002 policy memorandum, *Criminal Division Administrative Policy Memorandum No. 60-3* (Policy 60-3) (July 29, 2002) (Exhibit 2). In short, Policy 60-3 requires that all subcontractors who will not require access to classified information in the performance of their duties be subject to a background check commensurate with the level of risk associated with the position they will fill. The policy places the responsibility for determining that risk level on the hiring section. In making this assessment, the hiring section is supposed to consider "the damage that an untrustworthy contractor could cause to the

efficiency or the integrity of Criminal Division operations” and compare “the contractor’s duties, responsibility, and access with those of Department employees in similar positions.”

Policy 60-3 identifies three levels of risk for subcontractor positions – high, moderate, and low – and defines these risk levels as follows:

High Risk: Those sensitive positions with the potential for exceptionally serious impact involving duties especially critical to the mission of the Criminal Division with broad scope of policy or program authority, such as policy development or implementation; higher-level management assignments; independent spokespersons or non-management positions with authority for independent action; law enforcement, or significant fiduciary and procurement authority and responsibilities.

Moderate Risk: Those sensitive positions that have the potential for moderate to serious impact involving duties very important to the mission of the Criminal Division with significant program responsibilities and delivery of customer services to the public, such as an assistant to policy development and implementation; mid-level management assignments; non-management positions with authority for independent or semi-independent action; or delivery of service positions that demand public confidence or trust.

Low Risk: Those non-sensitive positions that do not fall into any of the above categories.

Policy 60-3 also spells out the background checks required for each level of risk. Subcontractor candidates identified as high risk are required to undergo a limited background investigation, which includes a personal subject interview, national agency check with inquiries (NACI),¹⁰ credit check, written inquiries, record searches, and personal interviews covering specific areas, plus vouchering of their previous two employers or their employers for the last two years, whichever is greater. Candidates for positions identified as moderate risk are required to undergo an NACI and the same vouchering done for those designated high risk. Candidates for positions identified as low risk are required to undergo a Federal Bureau of Investigation (FBI) name and

¹⁰ An NACI includes searches of government investigative databases and written inquiries to current and past employers, schools attended, references, and local law enforcement authorities.

fingerprint check. For the name check, the FBI reviews its investigative files to see if the individual is named in other FBI investigations. For the fingerprint check, the FBI Criminal Justice Information Service checks its files to ensure that the individual does not have a prior arrest history.

To facilitate the hiring of subcontractors, Policy 60-3 provides that the hiring section may request authority to hire a subcontractor pending the completion of the full background check. This process, which is referred to as a waiver, may be requested in "unusual or emergency circumstances" and "will not be considered if the security papers [concerning the subcontractor] contain unresolved derogatory information." To seek a waiver, the hiring section completes Form USA 237, "Request for Waiver of Preappointment Investigation Requirements of the U.S. Department of Justice Personnel Security Regulations" (Waiver Form). The Waiver Form is to be signed by the Section Security Officer or senior-level management official for the hiring section and "must include a detailed explanation why [the section] cannot wait for completed investigation."

As with full background checks, Policy 60-3 sets forth different waiver requirements depending upon the risk level assigned to the position. For high-risk positions, a waiver may be granted upon completion of an FBI fingerprint check, vouchering of previous employers, and a favorable review of security paperwork, including a credit check. Moderate-risk positions require either an FBI fingerprint check or National Crime Information Center (NCIC) check, and a favorable review of security paperwork, including a credit check.¹¹ Finally, a waiver may be granted for low-risk positions upon completion of an NCIC check.

2. ICITAP Procedures for Clearing Subcontractors

In this section, we describe the general process ICITAP used for obtaining clearances for subcontractors at the time that the McCotter and Bartlett Teams were retained.

Once ICITAP selected a candidate for a program, the responsible program analyst, or in some cases SAIC personnel, would send the candidate a packet of paperwork to be completed and returned. The forms sent to the candidate included the following:

¹¹ NCIC is a computerized index of criminal justice information (such as criminal record history information, fugitives, stolen properties, missing persons) run by the FBI. It is available to federal, state, and local law enforcement and other criminal justice agencies and is operational 24 hours a day, 365 days a year.

- Questionnaire for Public Trust Positions, SF-85 P (Questionnaire);
- Supplemental Questionnaire for Selected Positions, SF-85 S (Supplemental Questionnaire); and
- Two FBI fingerprint cards.

A copy of each of these forms is attached as Exhibit 3.

On the Questionnaire, the candidate was asked to provide basic identifying information (e.g., name, address, height, weight), as well as information about previous addresses, educational background, marital status, relatives, employment activities, references, military history, foreign countries visited, police record, use of illegal drugs, and financial history. On the Supplemental Questionnaire, the candidate was asked to provide information regarding use of illegal drugs and drug activity, use of alcohol, and mental health. On the fingerprint cards, the candidate was asked to supply the prints necessary to run the FBI fingerprint check.

In addition to handling the candidate paperwork described above, the ICITAP program analyst also would prepare the internal forms necessary to secure the background check. These included a memorandum requesting clearance (Request for Clearance), a copy of the Statement of Work, and in some cases, a Waiver Form.

The Request for Clearance is a standardized form that, according to the SPS's Assistant Director for Security, Procurement & Property Management, Linda Cantilena, was prepared by the SPS for ICITAP's use. Cantilena told the OIG that the form was created approximately six or seven years ago, prior to the issuance of Policy 60-3 in 2002, and was not updated to reflect the Policy's guidance regarding classification of risk until June 2004. A copy of the version of the form that was in use at the time the Iraq program commenced is attached as Exhibit 4.

On the Request for Clearance, ICITAP provided basic identifying information about the candidate and requested that the SPS "process" the candidate "in accordance with agreed upon standards." The form contained signature blocks for both the ICITAP Deputy Director and a Program Manager. In addition, it contained a series of statements to which ICITAP was to respond true or false. These questions were:

- This individual will not have access to National Security Information.
- This individual will not have access to Sensitive Information.
- This individual will not require unescorted access to the U.S. Embassy.
- This individual will not interact with senior U.S. Embassy officials in the course of routine work assignments.

If ICITAP indicated "true" in response to all four statements, the position would be labeled low risk and the SPS would process the candidate accordingly.

As discussed above, Policy 60-3 allows a hiring section to request a waiver of the full background check. Under this policy, such requests were supposed to be the exception rather than the rule and made in writing. ICITAP program analysts sometimes completed and sent to the SPS the Waiver Form. However, both ICITAP and SPS employees told the OIG that whether or not a Waiver Form was included in a particular security packet, the SPS assumed that ICITAP wanted to deploy candidates overseas as soon as possible and therefore processed all packets received from ICITAP as if a written waiver request had been made.

Once the ICITAP program analysts collected and completed all of the necessary paperwork, they would create a "security packet" for each candidate. This packet would then be delivered to the SPS, either directly by the program analyst who had prepared it or through interoffice mail, so that the SPS could conduct the necessary background check. ICITAP generally did not maintain a copy of the security packets it delivered to the SPS or a log of which packets were delivered.

Policy 60-3 assigns certain responsibilities regarding subcontractor background checks, including reviewing the paperwork submitted by candidates for completeness, to Section Security Officers or their designees. During the relevant period, ICITAP assigned Section Security Officer duties to one employee on a collateral basis. There was, however, frequent turnover in the position. Moreover, the position description for the ICITAP Section Security Officer did not include among its duties any responsibility for the subcontractor clearance process. Indeed, the ICITAP employee who served as the Section Security Officer during the relevant period told the OIG that he viewed the clearance process as

primarily the responsibility of the program analysts. Nevertheless, as discussed in more detail below, the SPS clearly treated the ICITAP Section Security Officer as its primary contact regarding subcontractor clearances, and he was therefore inevitably drawn into the process.

3. Subcontractor Clearance Procedures in the SPS

During the relevant period, one Security Specialist processed virtually all security packets received by the SPS from ICITAP. The Security Specialist told the OIG she would first review the Questionnaire and Supplemental Questionnaire for completeness. If information was missing, she would notify the ICITAP Section Security Officer. It would then be ICITAP's responsibility to see that the missing information was supplied, and processing would not proceed until it had done so.

If a packet was complete, the Security Specialist would determine the level of background investigation required by referring to the Request for Clearance. Specifically, she would turn to ICITAP's responses to the true/false statements on the form. She explained that ICITAP routinely marked all four statements as true, and that she therefore processed virtually all ICITAP subcontractor candidates at the low risk level. She said that until May 2004, when Gary Llewellyn became the Chief of Security Programs Staff, neither she nor, to her knowledge, anyone else at the SPS ever questioned the designation of virtually all ICITAP subcontractor positions as low risk.

The Security Specialist also told the OIG that whether or not a Waiver Form was included in the security packet, she processed all ICITAP subcontractor candidates as if a waiver had been requested. The practical effect of this was that virtually all ICITAP subcontractors were cleared for hire based solely on an NCIC check.

The Security Specialist said that at the time the Iraq program commenced, it was her general practice to complete promptly the full background check on all ICITAP subcontractors who had been granted a waiver. Under Policy 60-3, this entailed requesting that the FBI run a name and fingerprint check on the candidate. The Security Specialist indicated that this practice changed, however, in March 2004 as the Iraq program grew and the number of clearance requests she was receiving increased. She said that at that time she was instructed not to process clearance requests beyond the waiver stage. In other words, she was to complete the NCIC check and grant the waiver if the check was clear, but she was not to request the FBI name and fingerprint check necessary to complete the full check. She said the decision not to perform full background checks was made by her superiors at the SPS and was an effort to free up more of her time to process waivers for ICITAP subcontractor candidates. According to Gary Llewellyn, the SPS returned to performing full background checks on all candidates in August 2004 and also

has gone back and completed full checks on all subcontractors who were previously cleared solely on the basis of a waiver.

The Security Specialist told the OIG that if the NCIC check turned up no derogatory information on a subcontractor candidate, she would notify ICITAP that a waiver had been granted. She said that at the time the Iraq program commenced, she notified ICITAP either verbally or by e-mail. Generally, she sent e-mail notification to the ICITAP Section Security Officer, sometimes with a copy to the program analysts from whom she had received the packet. The Security Specialist said she did not keep a log of security packets delivered by ICITAP or of the waivers or full clearances she granted.

4. Application of ICITAP and SPS Background Check Procedures to the McCotter and Bartlett Teams

The SPS provided the OIG with a copy of the security packet for each member of the McCotter and Bartlett Teams except for Billings. These files contained the security paperwork completed by the team members, the internal forms generated by the ICITAP program analysts, as well as the paperwork generated by the Security Specialist in connection with the background checks she performed. The discussion below is based on the OIG's review of these files and our interviews of the Security Specialist and Iraq program analysts concerning these documents.

a. The McCotter Team

On May 8, 2003, the Security Specialist performed NCIC checks on all four members of the McCotter Team. Because all four checks were clear, the Security Specialist granted waivers on each of the men. There is no indication in the file of how or if the waiver determination was communicated to ICITAP. The Security Specialist could not locate an e-mail notification and did not specifically recall notifying ICITAP orally.

The files also indicate that on the same date, the Security Specialist requested an FBI fingerprint check on each of the team members and that the FBI performed the checks and responded to the Security Specialist on May 9. The FBI checks revealed no disqualifying information.

Finally, the files for all four team members contain a memorandum dated May 23, 2003, from the Security Specialist to the FBI requesting a name check. However, the files do not contain any response from the FBI to the SPS inquiry. The Security Specialist told the OIG that it was not unusual for the FBI to take many weeks to respond to a name check request, but she had no specific explanation for why these files did not contain a response. Based on our review, it does not appear that FBI name checks were performed on the team members in response to the SPS requests.

In sum, the records show that the SPS granted all four team members a waiver on the basis of a clear NCIC check prior to the dates on which they were deployed to Iraq as ICITAP subcontractors (May 10 for McCotter, DuBois, and Stewart, and June 25 for DeLand). However, because the men traveled to Fort Bliss on May 2, it appears that they were placed on the SAIC payroll before the SPS officially granted the waivers. This appears to be inconsistent with the requirement in Policy 60-3 that all subcontractors receive appropriate clearance prior to being retained by ICITAP. With regard to the full background checks required by Policy 60-3 for low risk subcontractors, the records show that the SPS requested both the required name and fingerprint checks from the FBI, but that only the fingerprint checks appear to actually have been performed by the FBI in response to the SPS requests.

b. The Bartlett Team

The SPS provided the OIG with security packets for all members of the Bartlett Team except Billings. Neither the SPS nor ICITAP could locate a security packet for Billings. Moreover, the Security Specialist told the OIG that her records indicate that the SPS never conducted an NCIC check on Billings. Accordingly, it appears that Billings was deployed to Iraq without any pre-deployment background check. Because the SPS has no record of having conducted an NCIC on Billings, we believe the most likely explanation for this lapse was that the SPS never received a security packet for Billings from ICITAP. As discussed in more detail below, ICITAP requested and the FBI performed a name check on Billings after he had returned from Iraq, but it does not appear that either an NCIC or fingerprint check were ever conducted on Billings.

With regard to the other three members of the Bartlett Team, the files indicate that the Security Specialist performed an NCIC check on each individual on September 2, 2003. The checks were clear for two of the men and revealed a "hit" on one involving 30-year-old criminal charges. The Security Specialist told the OIG that she consulted with her supervisors regarding the criminal charges, and that they determined that the charges were not disqualifying based on Office of Personnel Management guidance that instructs agencies to consider the nature, extent, and seriousness of a charge, as well as the individual's age and maturity at the time it was committed. Therefore, the SPS granted waivers to all three team members. As with the McCotter Team, the SPS's files contain no indication regarding how or if the Security Specialist notified ICITAP that the waivers had been granted.

In addition, there is no indication in the files of Bartlett, Ryan, or Armstrong that the Security Specialist requested that the FBI run a fingerprint check on them. Moreover, although the Ryan and Armstrong files contain copies of memoranda from the Security Specialist to the FBI requesting name

checks on the men, no similar memorandum was contained in the Bartlett file. There is no indication in the files that the FBI replied to the Ryan and Armstrong name check requests. As a result, based on our review it does not appear that FBI fingerprint checks or name checks were performed on any of the team members as a result of requests by the SPS.

Finally, the files indicate that although employment vouchering was not required for the team members because they were designated "low-risk," ICITAP staff members contacted previous employers of Bartlett, Ryan, and Armstrong and confirmed their employment. They indicated they had performed this vouchering on the Waiver Forms they provided to the SPS.

Thus, the records concerning the Bartlett Team indicate that prior to their deployment to Iraq, the SPS granted three members of the team – Bartlett, Ryan, and Armstrong – a waiver in accordance with Policy 60-3, but did not complete all the steps necessary for a full background check on the men. Specifically, no fingerprint checks were requested on any of the men, and a name check was requested but apparently not conducted on two of the three. With regard to Billings, no pre-deployment background checks were done at all.

B. Post-Deployment Checks

Prompted by Senator Schumer's concerns, ICITAP conducted further research into the backgrounds of the members of the McCotter and Bartlett Teams in May and June 2004. Specifically, ICITAP, SAIC, and Office of Administration personnel conducted name searches in three electronic databases – Google, LexisNexis, and PACER. In addition, the DOJ Civil Rights Division (CRD) searched its records for any indication that the men had been the subject of a federal civil rights investigation. The FBI also ran a name check on each of the men. With the exception of the FBI name check, which was part of the standard background check required under Policy 60-3 to be performed on all low-risk subcontractor candidates, all of these post-deployment checks exceeded what was required at the time by Criminal Division policy. Below we discuss these checks and their results.

1. FBI Name Checks

ICITAP requested that the FBI run name checks on all eight members of the Bartlett and McCotter Teams. Although ICITAP personnel were not aware of this at the time they requested the checks, the SPS had already requested the checks be run on six of the men because FBI name checks are a standard part of the background check for subcontractors designated as "low risk."¹²

¹² As discussed above, the SPS did not request FBI name checks on Billings or Bartlett.

There is no indication, however, that the FBI actually completed the checks until they were requested by ICITAP for the second time. In any event, the checks revealed that the FBI had no information in its files regarding any of the eight men.

2. CRD Checks

ICITAP requested that the CRD check its records for any indication that the men had been the subject of a federal civil rights investigation. CRD had no information to report to ICITAP regarding Armstrong, Bartlett, Billings, or DuBois.

With regard to McCotter, the CRD informed ICITAP that in March 2003 it had issued a findings letter listing deficiencies in one adult detention facility run by MTC, the private company with which McCotter was employed at the time he was retained by ICITAP.¹³ The CRD stated, however, that to its knowledge McCotter was not involved in the operation of the facility and had no direct responsibility for its management. The CRD's information on DeLand was limited to the fact that he had served as an outside expert for opposing counsel in two cases prosecuted by the CRD. CRD did not indicate that it viewed DeLand's participation in these cases as reflecting negatively on his commitment to civil rights.

With regard to Stewart, the CRD informed ICITAP that in 1997 it had sued the Arizona Department of Corrections for allegedly failing to prevent sexual misconduct by correctional officers and staff toward female inmates. According to the CRD, the investigation that led to the lawsuit had begun while Stewart was employed by the Arizona Department of Corrections, but before he became its Director. The CRD indicated that the case was settled after Stewart became Director, that no pattern or practice of misconduct by the Arizona Department of Corrections had been established, and that Stewart was active in implementing the settlement agreement. With regard to Ryan, the CRD said only that it had deposed him in connection with its suit against the Arizona Department of Corrections. CRD did not indicate that any derogatory information about Ryan was obtained as a result of this deposition.

¹³ A findings letter notifies the jurisdiction of the results of a CRD investigation. Findings letters, including the one concerning the MTC facility, are available online at: <http://www.usdoj.gov/crt/split/findsettle.htm#FindingsLetters>.

3. Google Searches

ICITAP, with help from SAIC, ran Google searches on all eight men. The searches produced references to news articles reporting on Senator Schumer's allegations. Some of these articles suggested a possible link between the men and the abuses at Abu Ghraib. The searches also produced articles that referenced some of the controversies and lawsuits involving the men that are discussed in Senator Schumer's letter to the OIG.

4. LexisNexis and PACER Searches

ICITAP and Office of Administrative personnel conducted name searches in three different LexisNexis databases: law enforcement records; lawsuit records; and news articles. The law enforcement search produced primarily generic information such as addresses, the names of associates and neighbors, vehicles owned, and similar information. In addition, it produced some information regarding small claims judgments.¹⁴ The news article checks produced information similar to that retrieved by the Google searches.

The lawsuit records check disclosed information regarding various lawsuits that had been filed against some of the team members during their tenures as prison administrators, including the suits discussed by Senator Schumer. The information regarding these lawsuits was printed out in hard copy and later reviewed by ICITAP managers, including Acting Director Jones, who holds a law degree.

In addition to the LexisNexis searches, ICITAP and SAIC also conducted PACER searches. PACER is an electronic public access service that allows users to obtain case and docket information for federal court cases. Accordingly, the PACER searches produced information similar to that retrieved by the LexisNexis case searches – information regarding civil suits in which the team members had been named as parties. As with the LexisNexis searches, the personnel conducting the searches printed out hard copies of each case that listed one of the team members as a defendant. These results were then reviewed by ICITAP management.

Although the PACER and LexisNexis searches enabled ICITAP to locate civil lawsuits in which the men had been named, because of the limited nature of the information contained in the databases it was not always possible to ascertain the exact nature of the suits or their outcome. Nevertheless, based on the information gleaned from the searches and on additional inquiries made both by ICITAP and the OIG, several facts are clear. First, the men were named

¹⁴ For example, the search relating to one team member revealed that a judgment for \$54 had been entered against him in 2002.

as defendants in many of the cases because of the high-level positions they held and not because of their personal conduct. Many of the suits were *habeas corpus* actions filed by inmates challenging the validity of their convictions. Prison administrators are often named in such suits simply because they have physical custody of the inmate. Second, many of the cases had been dismissed or otherwise resolved in favor of the defendants, while others had been settled with no admission of liability. Third, out of the hundreds of cases reviewed, only a small handful alleged there had been serious or systematic problems regarding the treatment of inmates during the men's tenures, and none of these had resulted in a finding of liability against any of the men.

3. Analysis of the Information Revealed as a Result of the Post-Deployment Checks

As discussed above, the post-deployment checks produced two types of information that may have raised questions regarding the men's qualifications to serve as corrections advisors in Iraq. First, they revealed that seven of the eight men had been named as defendants in civil lawsuits stemming from their tenures as high-level prison administrators. Second, they revealed that some of these lawsuits questioned management decisions the men had made or the conditions of confinement in the institutions which they had run or helped run.

The OIG asked ICITAP Acting Director Jones whether ICITAP would have acted differently in its selection of the members of the McCotter and Bartlett Teams had it been aware of this information at the time it selected them for the Iraq assignment. Jones told the OIG that, in his view, none of this information would have caused ICITAP to forego retaining the men. He pointed out that the FBI and CRD checks revealed no derogatory information about any of the men. He also said that he did not believe it would have been appropriate to disqualify the men from ICITAP service simply based on the fact that they have been the subject of lawsuits and related controversies. Rather, in his view, one must consider the nature of the allegations made, the level of the individual's personal involvement, and how the matters were ultimately resolved. Jones told the OIG that he believes that taking these considerations into account, none of the information revealed by the post-deployment searches would have been disqualifying.

The OIG agrees that in judging the team members' qualifications it is important to consider the factors cited by Acting Director Jones. Accordingly, we examine below the information revealed by the post-deployment searches involving McCotter, Stewart, Armstrong, and DeLand.

a. McCotter

The most serious allegation concerning McCotter focused on his culpability for an inmate death that occurred during his tenure as the Director of the Utah Department of Corrections. The inmate in question died as the result of a blood clot that formed after he was confined to a restraint chair for many hours. The inmate's family later sued the Utah Department of Corrections for the death, naming McCotter as a defendant. The suit was eventually settled by the State with no admission of liability. Some news stories reported that McCotter's resignation from the Utah Director's post resulted from pressure generated by the inmate's death. In addition to the Utah incident, McCotter's qualifications also were questioned on the basis of the CRD investigation of the MTC-run facility discussed above.

The OIG spoke with the former Utah Assistant Attorney General who defended the State in the lawsuit stemming from the inmate's death. He told the OIG that he had successfully defended the State in an earlier lawsuit challenging the State's use of restraint boards, and that the restraint chair in which the deceased inmate had been placed was generally viewed as a less onerous alternative to the board.¹⁵ As to the suit stemming from the inmate's death, he said it had been settled by McCotter's successor with no admission of liability. The former Utah Assistant Attorney General also told the OIG that the inmate had been confined to the restraint chair at the direction of a prison medical doctor and in conformity with the regulations in effect at the time. He said that McCotter was not involved in the decision to use the chair and did not know the inmate had been placed in the chair until he was notified of the death.

When interviewed by the OIG, McCotter said that he had no input into the decision to place the inmate in the restraint chair and was unaware of it until after the death occurred. He said that the decision was made in accordance with prison policy by a medical doctor and that the prisoner had been monitored in accordance with that policy. McCotter also denied that his resignation from the Director's post had any connection to the inmate's death. He said that his decision to resign was wholly voluntary and motivated by a desire to take a position in the private sector after many years of government service.

In short, even if the restraint device was not used appropriately in the inmate's case – a judgment ICITAP would not be in a position to make given the outcome of the litigation – there is no indication that McCotter was involved in

¹⁵ We understand that both the BOP and the United States Marshals Service use similar devices in some circumstances.

the decision to use it in this case. Similarly, as discussed above, McCotter was not involved in the management of the MTC-run facility cited by the CRD.

b. Stewart

The focus of the criticism regarding ICITAP's selection of Stewart was on the CRD lawsuit discussed above and on several other lawsuits in which inmates had alleged improper conduct by the Arizona Department of Corrections and named Stewart as a defendant. Two lawsuits alleged that inmates had been made to stand outside for long periods of time without proper sanitation, drinking water, or protection from the elements. Another lawsuit alleged that the Arizona Department of Corrections had failed to use protective custody to shield certain at-risk inmates from harm.

As noted above, the CRD lawsuit was filed based on events that occurred prior to Stewart's term as head of the Arizona Department of Corrections. Moreover, the case was settled during Stewart's tenure, and the CRD stated that there was no evidence of a pattern or practice of misconduct by the Arizona Department of Corrections.

With regard to the lawsuits alleging inhumane conditions, the incidents that formed the basis for one of the suits also occurred before Stewart became Director and, for the other, a matter of days after Stewart became Director. Moreover, the lawsuits were ultimately tried before a federal district court judge and decided in favor of the defendants.¹⁶

Finally, the lawsuit concerning protective custody also originated with a policy imposed by Stewart's predecessor and was ultimately settled during Stewart's tenure as Director through the collaborative efforts of the Arizona Department of Corrections and the plaintiffs' counsel. According to a law review article written by two of the plaintiffs' counsel, an Arizona Assistant Attorney General who represented the State, the court-appointed monitor in the case, and a Department of Corrections administrator, as result of reforms undertaken during Stewart's tenure, Arizona now has a protective custody system "that is among the most enlightened in the nation."¹⁷

¹⁶ *Johnson v. Lewis, et al.*, Civ. No. 96-463 (Feb. 11, 2003).

¹⁷ Hill, Hammond, Skolnik, Martin, & Clement, *Effective Post-PLRA Settlement Models: A Case Study of Arizona's Protective Segregation Lawsuit*, 23 Pace Law Review 749 (2004).

c. Armstrong

The information regarding Armstrong focused on two different controversies arising from his tenure as Director of the Connecticut Department of Corrections. First, several female employees alleged that sexual harassment was pervasive at the Connecticut Department of Corrections. Second, the Connecticut Department of Corrections transferred some Connecticut inmates to a Virginia state prison, where two of the inmates later died. There were allegations that the transferred inmates were mistreated, and the inmates' deaths led to two lawsuits against the Connecticut Department of Corrections alleging liability based on the transfers.

The Connecticut Commission on Human Rights and Opportunity (Commission) investigated the allegations of pervasive sexual harassment of female employees at the Department of Corrections, and in July 2002 held a public fact-finding hearing at which Armstrong testified. On March 6, 2003, the Commission released a report containing its findings.¹⁸ The Commission found that sexual harassment of female employees was a problem at the Connecticut Department of Corrections and made recommendations designed to improve the Department's complaint process, but it made no specific findings against Armstrong or any other individual.

In addition to the Commission investigation, two lawsuits currently are pending in federal court that allege that sexual harassment at the Connecticut Department of Corrections was widespread and that Armstrong and other members of management failed to take appropriate steps to prevent it. Armstrong is named as a defendant in the suits along with dozens of other Department managers. The allegations against Armstrong pertain primarily to his management of the Department of Corrections' system for collecting and investigating sexual harassment complaints and do not assert that Armstrong himself sexually harassed any employee.¹⁹

¹⁸ *Fact Finding Report into Allegations of Sexual Harassment within the Department of Correction* (March 2003), available at www.state.ct.us/chro/metapages/whatsnew.htm.

¹⁹ The complaint in one of the lawsuits contains several paragraphs that restate charges made in a complaint filed with the Commission in 2000 by a former Deputy Commissioner who was fired by Armstrong. The pending lawsuit describes the Deputy Commissioner's complaint as having charged Armstrong himself with making inappropriate comments of a sexual nature at senior-level staff meetings. The OIG reviewed a copy of the Deputy Commissioner's 2000 complaint and determined that the current complaint mischaracterizes its allegations regarding Armstrong. Although the Deputy Commissioner's complaint alleges that inappropriate comments were made at some meetings, it does not attribute those comments to Armstrong. According to the Connecticut Assistant Attorney General who handled the Deputy Commissioner's complaint and is defending the current suits, the Deputy Commissioner's complaint was settled with no admission of liability, and she is not a party to the current suit.

The Commission also investigated and issued a report concerning the transfer of inmates to Virginia.²⁰ As discussed in the Commission report, the majority of the transferred inmates were minorities from urban areas, and the Virginia prison to which they were sent was located in a rural, predominantly white community. The Commission reported a number of incidents of racial harassment against some transferred inmates and recommended that the State of Connecticut not renew the contract to house inmates at the Virginia prison. The lawsuits stemming from the deaths of two of the transferred prisoners were settled with no findings against Armstrong or the State of Connecticut.

d. DeLand

The charges surrounding DeLand were somewhat vague, and focused primarily on statements made to the media by the Mayor of Salt Lake City, who had formerly represented inmates in lawsuits filed against the Utah Department of Corrections. After the controversy regarding the ICITAP contractors arose in June 2004, the Mayor alleged to the media that DeLand had run the Utah prisons in a "sadistic" manner. DeLand denied this allegation and told the OIG that he and the Mayor had often clashed during the time that DeLand served as head of the Utah Department of Corrections and the Mayor represented inmate plaintiffs. He also pointed out that although he had been named in inmate lawsuits in his capacity as Director of the Utah prison system, there are no court judgments against him for violating the rights of any inmate.

In sum, had ICITAP checked public databases for information about the members of the McCotter and Bartlett Teams prior to hiring the men it would have found that some of them had been named in lawsuits related to their work as high-level state corrections officials. However, many of the lawsuits were standard complaints filed by inmates against correctional officials, and none of the lawsuits we identified resulted in findings of misconduct against the individual corrections officials. When we asked the ICITAP Acting Director whether ICITAP would have acted differently in its selection of these subcontractors had it been aware at the time of this information, he said that none of the information would have caused ICITAP to forego retaining the men. In light of the facts we have described above, we cannot conclude that such a position was unreasonable.

²⁰ *Report on the Connecticut Department of Correction Inmate Transfer to Virginia* (February 2001).

VII. THE MCCOTTER AND BARTLETT TEAMS ROLES AT ABU GHRAIB

As noted above, several news articles have suggested that the members of the McCotter and Bartlett Teams were somehow involved in or shared responsibility for the abuse of Iraqi prisoners at Abu Ghraib. Accordingly, the OIG attempted to assess whether evidence supported such a view.

With regard to the McCotter Team, all four members had left Iraq before inmates were placed in the Abu Ghraib cell blocks where the abuse took place. Moreover, the services they performed in Iraq were limited to conducting and writing an assessment of the state of Iraqi prisons, overseeing the renovation of a limited number of prison facilities, and recruiting, training, and advising a small number of Iraqis who would eventually serve as staff in the newly re-opened prisons. The men had no role in or responsibility for training or supervising the military personnel who worked at Abu Ghraib and who perpetrated abuse.

Similarly, while in Iraq the members of the Bartlett Team continued to oversee the renovation of Iraqi prisons and to train and advise the Iraqi staff and management of those prisons. They too did not supervise or train the military personnel stationed at Abu Ghraib. Moreover, although the members of the Bartlett Team were in Iraq and visited Abu Ghraib during the period the abuse occurred, their visits were sporadic and took place during daylight hours, and their access to the portion of the prison in which the abuse took place was greatly restricted.

A. The McCotter Team

As discussed above, McCotter, DuBois, and Stewart arrived in Iraq in May 2003 to conduct an assessment of the Iraqi prison system. All three men told the OIG that soon after their arrival they met with officials from the Coalition Provisional Authority, under whose authority they operated while in Iraq. They said that these officials told them that the majority of Iraqi prisons had been heavily damaged and looted, and that therefore there was a severe shortage of space in which to place the growing number of civilians being arrested for looting and other crimes. Accordingly, in addition to conducting the planned assessment, the men were asked to identify facilities that were suitable for immediate renovation and to begin those renovations with the goal of re-opening the facilities as soon as possible.

The men told the OIG that they thereafter divided into teams, with McCotter and Stewart taking responsibility for the immediate Baghdad area, and DuBois and a Canadian advisor for other parts of the country. They said that they traveled in their teams to former Iraqi prison sites in their respective areas of jurisdiction with the dual purpose of preparing the assessment report

and identifying possible sites for renovation. On June 15, 2003, they produced a report entitled *Prisons and Detention Centers in Iraq: An Assessment and Recommendations for Prisons in a Free Society* (Report). In the Report, they described 21 facilities they had visited and divided those facilities into 4 categories based on how soon each could be renovated. Among the facilities identified as suitable for immediate renovation was Abu Ghraib.

Because Abu Ghraib was located near Baghdad, it fell within McCotter's and Stewart's jurisdiction. Both men told the OIG that they visited the facility soon after their arrival in Iraq and described it as having been heavily damaged. They said that when they first visited the site, no prisoners were being held there, but that within a few weeks of their arrival the military had erected tents on the site and was housing some prisoners in these tents. They both said that they did not tour the tent facility or view the prisoners inside. DuBois told the OIG that he too visited the site early on in his stay, and confirmed McCotter's and Stewart's description of it.

In the Report, McCotter and Stewart described Abu Ghraib as having consisted of 4 separate and distinct compounds, each of which had housed approximately 7,000 to 8,000 prisoners during Saddam Hussein's regime. They wrote that two of the compounds had been almost totally destroyed, one was repairable with "extensive work," and one was "structurally sound." They further stated that two cellblocks in the structurally sound compound were suitable for immediate renovation, and noted that as of the date of the Report, \$172,000 had been approved for the project and renovations had begun.

McCotter told the OIG that he personally oversaw the renovation of the two Abu Ghraib cell blocks. He said that he prepared the funding request, shepherded it through the Coalition Provisional Authority, and hired the engineers and construction workers who performed the construction work. DeLand told the OIG that when he arrived in Iraq in June, the renovation efforts already had begun. He said that he focused on the task of locating and training Iraqis who could staff and manage the facility when it opened.

According to McCotter and DeLand, the renovation of the two cell blocks at Abu Ghraib was completed in late August, and they arranged and held a dedication ceremony for the facility shortly before they left Iraq. McCotter provided the OIG with photographs of Abu Ghraib, including "before" and "after" shots of the renovated cell blocks. Two of these photographs are attached as Exhibit 5. McCotter and DeLand said that when they left Iraq in early September, no prisoners had yet been placed in the newly renovated cell blocks.

Richard Mayer told the OIG that he traveled to Iraq in July 2003 and that he visited Abu Ghraib during this trip. He confirmed that at that time renovations were ongoing and that there were no prisoners in the cell blocks.

B. The Bartlett Team

Bartlett, Armstrong, and Ryan told the OIG that when they first arrived in Iraq in September 2003, prisoners were just beginning to be transferred into the newly renovated cell blocks at Abu Ghraib. They recalled first visiting the facility toward the end of the month and finding some prisoners housed there at that time. They said that during this visit, they discovered that the control of the cell blocks, and thus of the prisoners being housed there, had been divided between the military and civilian authorities. As they described it, one cell block and part of the second was being used to house civilian prisoners and the newly trained Iraqi guards and managers were stationed in these areas. However, according to the men, the military had taken exclusive control of the remainder of the second cell block, cordoning it off from the rest of the facility with temporary walls and plywood over the windows. All three men reported that civilian access to the military's section of the cell block was severely restricted.

Bartlett said that in December 2003, the military increased the area of the prison under its exclusive control to encompass the remainder of the second cell block. Once again, physical barriers were erected and civilians were not permitted unescorted access. According to Bartlett, the military did not vacate the Abu Ghraib cells until June 2004.

Bartlett, Armstrong, and Ryan told the OIG that they acted as advisors to the Iraqi staff stationed at Abu Ghraib, and that in this role they visited the civilian-controlled area of the prison several times between September and December 2003. The men said that travel in Iraq was extremely difficult and dangerous and that they therefore traveled in pairs, with military escort, and during daylight hours. They also said that it was not until January 2004, when additional ICITAP correctional advisors arrived in Iraq, that they were able to station advisors at Abu Ghraib and other prison facilities on a more regular basis.

Bartlett, Armstrong, and Ryan told the OIG that during their visits to Abu Ghraib, they generally steered clear of the portion of the prison that was under exclusive military control. They said that because they were not responsible for either the prisoners housed there or the military staff guarding them, they were not involved with that section of the facility. All three men denied witnessing any acts of abuse at Abu Ghraib and said they were unaware of the abuse until it became public. They also said that had they witnessed any such abuse, they immediately would have reported it to the Coalition Provisional Authority and ICITAP managers. They pointed out that throughout this period they were sending reports to ICITAP managers on a regular basis regarding the Iraq corrections program.

Billings told the OIG that he also visited Abu Ghraib several times after he arrived in Iraq in October 2003. Like the others, he described a facility that had been divided into military and civilian sectors. Billings said that he had been permitted access into the military side of the prison on several occasions, but always in the presence of military personnel. He denied witnessing any mistreatment of prisoners or knowing about the abuse until it became public. He also said he would have reported the abuse had he been aware of it.

All four members of the Bartlett Team told the OIG that they had no role in or responsibility for training or supervising the military personnel who staffed the section of the prison under military control. Rather, their role was limited to training and advising the Iraqi managers and staff stationed there.

Mayer told the OIG that he visited Iraq in September 2003 and that he met with Bartlett, Ryan, and Armstrong at that time. He said that none of the three reported witnessing or being aware of any allegations of prisoner abuse at Abu Ghraib. He also said that he believed the men would have told him about abuse allegations had they been aware of them.

VIII. OIG CONCLUSIONS

As detailed above, ICITAP recruited the members of the McCotter and Bartlett Teams by relying on recommendations provided by the BOP and the ACA, and on recommendations received in turn from individuals who had been recommended by those organizations. ICITAP managers then selected from among this group eight individuals with extensive, high-level corrections experience who were willing and available to go to Iraq on relatively short notice. Before instructing SAIC to hire these individuals, ICITAP reviewed the candidates' resumes, spoke with them by phone, and eventually met with all of them in person during orientation sessions held at ICITAP headquarters.

In addition, in accordance with Criminal Division policy in effect at the time, ICITAP submitted the names of seven of the eight team members to the SPS for the required pre-deployment background check. As it routinely did with all of its subcontractor positions, ICITAP labeled the positions the men would be filling as "low risk" because they would not have access to sensitive information or to a government embassy while overseas. Accordingly, the SPS conducted an NCIC search on the seven men and granted each a waiver based on the results of that check. As discussed above, the only member of the two teams who did not undergo any of the required pre-deployment checks was Billings. The most likely explanation for this oversight was that ICITAP failed to submit Billings' paperwork to the SPS. However, because a post-deployment FBI name check on Billings revealed no disqualifying information, he too likely would have received a pre-deployment waiver.

These pre-deployment background checks did not, and were not designed to, reveal information such as the allegations contained in the civil lawsuits discussed above. Accordingly, ICITAP managers were not aware of this information prior to the men's deployment to Iraq and therefore did not take it into account when considering hiring the men for the Iraq program.

However, it also is unlikely that ICITAP managers would have learned of the civil lawsuits even if ICITAP had assigned a higher risk level to the men's positions. Because of time constraints, all subcontractors for the Iraq program likely would have been cleared on the basis of a waiver. And, under the Criminal Division policy in effect at the time, a waiver could be granted even for high-risk positions upon completion of an FBI fingerprint check, employment vouchering, a favorable review of security paperwork, and a credit check, none of which was likely to reveal the civil lawsuits.

In May and June 2004, after Senator Schumer raised concerns about certain of these individuals, ICITAP conducted a series of post-deployment checks on all eight members of the McCotter and Bartlett Teams. Although these searches revealed that many of the men had been the subject of civil lawsuits resulting from their high-level and long-time service as prison administrators, they did not produce information that ICITAP believes was sufficient to conclude that any of the men were not qualified to serve as subcontractors in Iraq.

The OIG's review uncovered no connection between any of the men and the abuses at Abu Ghraib. Four of the men were not present in the country when the abuse took place. And, although the other four visited Abu Ghraib periodically during the period the abuse occurred, their visits were sporadic, occurred during daylight hours, and were confined primarily to the part of the prison under civilian, rather than military, control. None of the men had any role in or responsibility for training or supervising the military personnel who allegedly perpetrated the abuse.

Finally, our review found broader weaknesses in the way ICITAP conducted background checks on its subcontractors. For example, during the course of our review, the OIG learned that ICITAP's failure to subject Billings to the required pre-deployment clearance was not an isolated incident. An internal ICITAP review, undertaken during the course of the OIG's review, revealed that during the period September 2003 through June 2004, ICITAP hired and placed under contract with SAIC for the Iraq program dozens of subcontractors who did not have the required clearances. Twenty-two of these subcontractors were actually deployed to Iraq without clearances. When the OIG learned of this problem, we expanded our review to include a broader examination of the ICITAP subcontractor clearance process. In the following section, we discuss our findings regarding weaknesses in that process.

A. ICITAP Failed to Adequately Train Its Employees Regarding the Subcontractor Clearance Process

As discussed above, a number of ICITAP employees played prominent roles in the subcontractor clearance process. ICITAP program analysts had primary responsibility for ensuring that the security paperwork was completed and provided to the SPS. In addition, they also made the initial determination regarding subcontractor risk levels. ICITAP managers were charged with overseeing the analysts' work, and all Requests for Clearances required managers' signatures. Although ICITAP did not formally assign responsibility for the subcontractor clearance process to its Section Security Officer, both Policy 60-3 and SPS practice gave the Section Security Officer a role in the process.

Despite the vital role played by ICITAP employees in the clearance process, neither ICITAP nor the SPS had a formal program in place to train ICITAP employees regarding their roles and responsibilities. Instead, new program analysts were trained on the job by co-workers who themselves had never received formal training. For example, the program analyst hired in May 2003 for the Iraq program told the OIG that the only instruction he received regarding the clearance process came in the form of on-the-job training from his fellow analysts. Several other ICITAP program analysts we spoke to confirmed that they too had received no formal training regarding subcontractor background checks.

Similarly, ICITAP employees who were assigned the collateral duty of Section Security Officer also were expected to learn on the job. The individual who served as ICITAP Section Security Officer during much of the Iraq program told the OIG that when he began the position in October 2003, he was handed a briefing packet that made no mention of subcontractor clearances and had a short conversation with his predecessor regarding her understanding of the Section Security Officer duties.

The lack of training also meant that ICITAP employees generally were unfamiliar with Policy 60-3 and unaware of its guidance regarding how to assess the risk associated with subcontractor positions. Both Iraq program analysts and the ICITAP Section Security Officer told the OIG that they were unaware of Policy 60-3 until June 2004, when the SPS held a briefing on the policy for all ICITAP staff. Consequently, ICITAP inappropriately relied solely on the Request for Clearance to make risk determinations. But because the form only asked about the access the subcontractor would have to national security information and to embassies, it did not result in an adequate consideration of the risk associated with ICITAP subcontractor positions. For example, ICITAP did not consider the level of authority and responsibility the corrections subcontractors would be exercising in Iraq. Had it done so, we

believe that ICITAP would have concluded that the risk level associated with many subcontractor positions – such as those filled by the McCotter and Bartlett Teams – was more than minimal. We believe that the subcontractors should not have been universally labeled “low risk,” but instead should have received a risk assessment commensurate with their duties.

We also fault the SPS for not updating the Request for Clearance when Policy 60-3 was issued in 2002. Its failure to do so left users of the form with the mistaken impression that the factors listed in it were the only ones relevant to proper risk determination. We also believe that given their familiarity with Policy 60-3, SPS managers should have questioned ICITAP’s universal low-risk designation for all its subcontractors much earlier.

Finally, we also believe that the practice of allowing universal waivers for all ICITAP subcontractors without written requests or justification from ICITAP was inconsistent with Policy 60-3. We understand that the nature of ICITAP’s operations may require that waivers frequently be granted in order to ensure that overseas programs are staffed on a timely basis. Nevertheless, we believe that in such circumstances, ICITAP should be required to submit written justification in accordance with the requirements of 60-3.

B. ICITAP Lacked Written Standard Operating Procedures For the Clearance Process

Compounding the lack of training was an absence of standard written procedures regarding the background check process. Without written guidance, each ICITAP program analyst was left to develop his or her own processes and procedures for handling security packets; for delivering the packets to the SPS; and for communicating with the SPS about the status of the packets, with no standardization among the various ICITAP programs. Thus, some ICITAP analysts carefully handled and tracked the security packets of the subcontractor candidates for their programs, while others were less diligent about the process.

The lack of written procedures also meant there was nothing in writing instructing the analysts not to deploy subcontractors unless and until they had received affirmative clearance from the SPS. In the absence of such a written instruction, some analysts incorrectly concluded that once they delivered a security packet to the SPS, their responsibility for the clearance process was complete. These analysts operated under the view that no news was good news and, if they did not hear from the SPS regarding a particular subcontractor, they assumed clearance had been granted and therefore allowed the individual to be deployed. Because, as discussed below, the recordkeeping and communication practices between ICITAP and the SPS were deficient, this assumption inevitably led to the deployment of subcontractors whom the SPS had not cleared.

Indeed, in January 2004, the COTR for the SAIC contract recognized that ICITAP was apparently allowing subcontractors to deploy without the appropriate clearances and sent a series of e-mails to over 30 ICITAP program analysts and managers reminding them of ICITAP's responsibility to ensure that all subcontractors were cleared by the SPS prior to deployment. In one of these e-mails, the COTR explicitly stated that "the [subcontractors] must be cleared by our security BEFORE they begin their travel/work – just turning the paperwork in is not sufficient. This means you need affirmative confirmation from security of the individual's clearance before sending them out and before they engage in any work activity for us." The COTR's message was reiterated in a follow-up e-mail from Steven Parent, the Criminal Division's Executive Officer, who wrote "I cannot overstate how important it is to have all security clearances in place before subcontractors undertake any work for us. I am asking all involved to ensure strict adherence to this requirement."

Unfortunately, despite these e-mails, subcontractors without proper clearances once again were deployed to Iraq in the spring of 2004. Consequently, on May 28, 2004, the COTR again e-mailed ICITAP analysts and managers, this time imposing a requirement he hoped would prevent further improper deployments. He wrote: "To install a single check point for ensuring subcontractors are fully cleared before beginning work, COTR approval now requires [Statements of Work]/Delivery Orders be submitted with physical documentation from security indicating the individual designated in the [Statement of Work] has been cleared at the sensitivity level required for tasks associated with that [Statement of Work]. This documentation must be an attachment to each [Delivery Order] package when submitted to the COTR in order for it to be a complete package and can not be processed for SAIC action without [it]."

The OIG asked the COTR about his May 2004 e-mail and the requirement it imposed that written proof of clearance accompany each Statement of Work. He said that he believed the procedure was working to prevent further improper deployments but also indicated that he viewed it as an interim measure that should be followed by the adoption of a more formal procedure. As of the date of this report, ICITAP has yet to incorporate this requirement into any formal procedure.

C. Both ICITAP and the SPS Failed to Maintain Adequate Records Regarding Subcontractor Clearances

Because Policy 60-3 divides responsibility for subcontractor background checks between the SPS and ICITAP, a certain amount of communication between the two entities is required. ICITAP must deliver security packets to the SPS for each candidate; the SPS must then perform the required check and

notify ICITAP of the results. The OIG's review revealed that recordkeeping regarding these transfers and communications in both ICITAP and the SPS were deficient.

ICITAP program analysts and the Security Specialist told the OIG that large numbers of security packets often were delivered to the SPS at one time. The Security Specialist said that at times she would return to her office to find stacks of security packets sitting on her desk. In one e-mail, she jokingly told a co-worker that she thought one ICITAP analyst had "been crawling through the overhead pipes and dropping [files] on [her] desk when [she was] not looking." On more than one occasion we saw e-mail traffic between ICITAP program analysts and the Security Specialist indicating that the analysts believed that packets had been delivered to the SPS (and that therefore clearances were being processed) when the Security Specialist had no knowledge or record of having received the packets.

Moreover, ICITAP program analysts often would deliver to the SPS security packets just before the subcontractors to whom the packets pertained were scheduled to deploy overseas and would request that the Security Specialist conduct the necessary checks very quickly. For example, on January 7, 2004, an ICITAP program analyst notified the Security Specialist via e-mail that he was about to deliver to her 19 security packets for subcontractor candidates ICITAP intended to deploy in less than a week. Similarly, in March 2004, the Security Specialist sent an e-mail to her supervisor stating that ICITAP analysts had delivered over 40 packets for a deployment date that was to occur in less than a week, and expected her to be able to process the packets in no more than 2 days. The Security Specialist told her supervisor that she believed it was "imperative that ICITAP be informed of the proper procedures and expected turnaround time" for such a large number of packets. Such requests not only ensured that there would rarely if ever be time for full background checks to be completed before candidates were deployed overseas, but also placed pressure on the Security Specialist to work quickly and increased the likelihood that mistakes and miscommunications would occur.

Despite the constant exchange of information between the two offices and the obvious need to keep track of the status of individual files, neither ICITAP nor the SPS maintained logs tracking packet delivery or clearance status. Accordingly, there was no reliable way to track the transfer of security packets between the two offices or to check the status of clearance requests.

Further compounding the problem was the lack of a concrete procedure in the SPS for notifying ICITAP when a particular candidate had been cleared. As discussed above, the Security Specialist said at the time the Iraq program commenced, she notified the ICITAP Section Security Officer of clearances either verbally and by e-mail. But even when she began to regularly send

e-mail notifications in May 2004, there did not appear to be a consistent policy regarding the personnel to whom the e-mail notification was sent. Sometimes notification was sent only to the Section Security Officer, who in turn would have to notify the responsible program analyst. Other times, the Security Specialist would include the responsible program analyst on her communication to ICITAP. Some ICITAP program analysts attempted to make up for the uncertainty regarding when and whether they would be notified by the SPS by repeatedly e-mailing or otherwise contacting the Security Specialist about the status of particular candidates. The need to respond to the regular stream of such inquiries often diverted the Security Specialist from the task of conducting background checks and further slowed the process.

D. Steps Taken by ICITAP and the SPS to Improve the Subcontractor Clearance Process

As noted above, during the course of the OIG's review, ICITAP learned that dozens of subcontractors without the proper clearances had been hired for the Iraq program. Following this discovery, ICITAP and SPS managers focused their full attention on the subcontractor clearance process and began to implement and plan procedures intended to address the weaknesses discussed above. In addition, to improve the recruitment and oversight process in the corrections area specifically, ICITAP has retained the services of three former BOP officials – a former general counsel and a former Assistant Director of the Correctional Programs Division, both of whom were hired in the fall of 2004, and a former warden, who has been working at ICITAP since February 2004. These individuals are currently working at ICITAP headquarters and were hired to provide ICITAP with the corrections expertise it lacked at the inception of the Iraq program.

Below we discuss ICITAP's and the SPS's actions and plans. We then provide our own recommendations for further improvements.

1. Focus on Policy 60-3

In June 2004, the SPS re-drafted the Request for Clearance to reflect Policy 60-3's full guidance regarding evaluation of risk, including a recitation of the applicable considerations for distinguishing between low-, moderate-, and high-risk positions. A copy of the revised form is attached as Exhibit 6. In addition, on June 15, 2004, the SPS held a briefing session at ICITAP on Policy 60-3 and the associated procedures for obtaining subcontractor clearances. More than 30 ICITAP managers and staff attended this session.

As a result of the focus on Policy 60-3 and the ensuing discussions between ICITAP and SPS managers, ICITAP is now considering the full panoply of criteria contained in Policy 60-3 when making risk determinations for subcontractor positions. Consequently, corrections positions generally are

being designated as "moderate risk," while police positions receive either a moderate- or low-risk designation, depending upon the responsibilities involved.²¹

2. New Procedures within ICITAP

ICITAP has converted the Section Security Officer position into a full-time job with formal responsibility for the subcontractor clearance process and has hired an individual for the position who has a background in both military and civilian security operations. He began work on February 7, 2005.

ICITAP recently has taken steps to ensure better tracking and record-keeping with regard to the status of clearance requests. All ICITAP programs are now using some type of computerized database to track clearance requests sent to the SPS and to record the SPS's response. Most ICITAP programs are entering data into a new tracking database that was developed specifically for this function and that is described in more detail below. The Iraq program had been keeping its data in a separate database, but now that a full-time Section Security Officer has been hired, ICITAP plans to consolidate all programs into one tracking system, which the Section Security Officer will be responsible for maintaining.

At ICITAP's request, SAIC modified the questionnaire it requires all subcontractor candidates to complete to include an inquiry regarding civil lawsuits. Candidates are now asked "Have you ever had a civil suit brought against you or been party to any civil rights litigation?" and, if they respond affirmatively, to provide information regarding the circumstances, dates, and results of the litigation.

ICITAP personnel also are conducting Google searches on all subcontractor candidates. Any "hits" are printed out and reviewed by ICITAP managers for a determination as to whether the information should be considered disqualifying. It is anticipated that responsibility for conducting these Google searches will be shifted to the contractor once a new contract is in place. ICITAP also requests that the CRD check its records for any pertinent information regarding corrections candidates.

ICITAP also has drafted a set of Standard Operating Procedures for the subcontractor clearance process. The new Standard Operating Procedures contain an explicit statement that no subcontractor may be deployed without affirmative clearance from the SPS. The Standard Operating Procedures also clearly delineate the role of ICITAP staff in ensuring that appropriate clearances

²¹ Generally, police classroom trainers who will have no managerial, fiscal, or field mentoring responsibilities are receiving low-risk designations.

are obtained. We summarize the new Standard Operating Procedures in the paragraphs below.

According to the Standard Operating Procedures, all security paperwork completed by a subcontractor candidate (i.e., the Questionnaire, Supplemental Questionnaire, and fingerprint cards) will be sent directly to the ICITAP Section Security Officer. The Section Security Officer will verify that the security packet is complete, assign it a tracking number, and enter it into the computerized tracking system. If the paperwork is complete, the Section Security Officer will e-mail the program analyst responsible for coordinating the subcontractor's deployment. If it is not complete, the Section Security Officer will notify the contractor by memorandum that the packet will not be processed until the missing information has been supplied.

Once the program analyst has been notified by the Section Security Officer that the candidate's paperwork is complete, the program analyst will prepare a Request for Clearance and a draft Statement of Work, and provide both documents to the Section Security Officer. The Section Security Officer will log the receipt of the documents into the tracking system, and route them, with the completed security paperwork, to the appropriate Deputy Assistant Director or Assistant Director for approval. That individual will review the security packet, sign the Request for Clearance, and return the packet to the Section Security Officer.

After confirming that the packet is complete, the Section Security Officer will update the tracking system, prepare a transmittal memo, and deliver the packet to the SPS. SPS personnel will sign the transmittal memo, maintain a copy, and return the original to the Section Security Officer.

If the necessary background checks are satisfactory, the SPS will send an e-mail to the ICITAP Section Security Officer stating that the subcontractor has been cleared for deployment. The Section Security Officer then will forward a copy of that e-mail to the appropriate program analyst and Deputy Assistant Director or Assistant Director, log the date of the e-mail into the tracking system, and retain a printed copy. The analyst then will prepare for the subcontractor's deployment.

If, however, the SPS discovers information that prevents the granting of a clearance, it will notify the Section Security Officer of the issue and inform the Section Security Officer whether the issue can be resolved and, if so, what information is necessary to resolve it. If the SPS determines that an issue cannot be resolved with additional information, clearance will not be granted and the process will end there. In either case, the Section Security Officer will log the information received from the SPS into the tracking system and notify the appropriate Assistant Director of the problem.

For potentially resolvable issues, the Section Security Officer will attempt to obtain the required information from the candidate and will share the information received with the relevant Assistant Director. If the Assistant Director believes the additional information adequately resolves the issue and wishes to proceed with the clearance and hiring process, the Section Security Officer will prepare a letter of support for the Assistant Director's signature, and transmit it to the SPS for review. The SPS then makes a determination to either grant or deny clearance, and notifies the Section Security Officer, who in turn notifies the Assistant Director. If clearance is denied, ICITAP will look for a new candidate for the position.

3. New Procedures in the SPS

The SPS has also instituted new procedures pursuant to which it now records in a written log all security packets delivered by ICITAP. In addition, in October 2004, the SPS's staff was expanded to include two new Personal Security Assistants who are employed on a contract basis, paid for with ICITAP funds, and dedicated to working on ICITAP clearance requests. Along with performing the background checks required by Policy 60-3, the Personal Security Assistants also are running searches on all subcontractor candidates in the LexisNexis case and news databases, as well as conducting PACER searches on one in every 50 candidates.²² In addition, on a test basis, the SPS is conducting searches using a new LexisNexis product called Accurint. According to Accurint's website, this database provides users with access to information concerning bankruptcy, criminal records, and civil court cases. According to Gary Llewellyn, a decision may be made to replace the other LexisNexis and the PACER searches with this tool, depending on how it performs. As with the Google searches mentioned above, the SPS expects to shift the burden of performing these searches to the new contractor.

Finally, like ICITAP, the SPS has developed a computerized database to track clearance requests.²³ The database fields include basic demographic information such as name, date of birth, and social security number, as well as the clearance access level, employee type (contractor or federal), company, and country of assignment. The database also tracks the type of investigation conducted (e.g., NCIC, name, fingerprint) and the dates on which clearance requests are initiated and completed.

²² SPS personnel told the OIG that PACER searches are not be conducted on all candidates because the information the searches produce is highly duplicative of that produced by the LexisNexis case searches. The periodic searches are being done as a check on the LexisNexis process.

²³ Before the new database was up and running, the SPS began tracking clearance requests using an Excel spreadsheet. Gary Llewellyn told the OIG that for the time being, he has instructed the Personal Security Assistants to continue to enter data regarding security packets on the spreadsheet as a backup to the new database.

VIII. OIG RECOMMENDATIONS

While we trust that the new processes and procedures discussed above will help improve the ICITAP subcontractor clearance process, we believe ICITAP should take additional steps regarding its clearance process.

1. In consultation with SPS, develop and implement a training program on the clearance process for all newly hired analysts and managers.
2. In consultation with the SPS, provide annual, mandatory briefings for current staff similar to the June 2004 SPS presentation.
3. In consultation with the SPS, develop and distribute to ICITAP managers periodic reports on security packet processing, including status and time for completion, as well as percentage incomplete, accepted, and rejected.
4. Ensure that all requests for waivers are made in writing and include the reasons justifying the request. In addition, amend the newly adopted Standard Operating Procedures to include this requirement.
5. Incorporate the current SAIC inquiry regarding civil lawsuits into an ICITAP-required form or otherwise take adequate steps to ensure that the question is asked of all candidates, whether they are recruited by the contractor or by ICITAP directly, and that the inquiry continues to be part of the process once a new contract is awarded.
6. Require the new contractor to develop a web page for subcontractor candidates that details the risk assessment and security approval process and makes available for downloading the required security paperwork.
7. Formalize the requirement that written documentation of clearance status accompany all Statements of Work submitted for the COTR's signature and ensure that this requirement is referenced and explained in the new Standard Operating Procedures.
8. In cooperation with the SPS, track and review for a 6-month period the type of information that is being produced as a result of the Google, LexisNexis, PACER, and Accurint searches, and thereafter conduct a cost-benefit analysis of continuing to conduct the various searches. As part of this assessment, ICITAP should consider

whether distinctions should be made among candidates based both on their backgrounds and on the type of position they will fill. For example, it may be appropriate to more closely scrutinize the backgrounds of candidates who are being considered for high-profile or longer-term assignments like those undertaken by the members of the McCotter and Bartlett Teams, as well as those candidates who have served as high-level administrators during their careers.

9. Ensure that all candidates are informed about which searches will be performed as part of the background clearance process.
10. Draft and adopt clear guidance regarding how the searches are to be performed and what types of information will be considered disqualifying.
11. In order to create a pool of readily available candidates for ICITAP programs and to simplify the clearance process, create and maintain, or require the contractor to create and maintain, a database of subcontractors who have received security clearances.

Exhibit 1a: ICITAP Organizational Chart

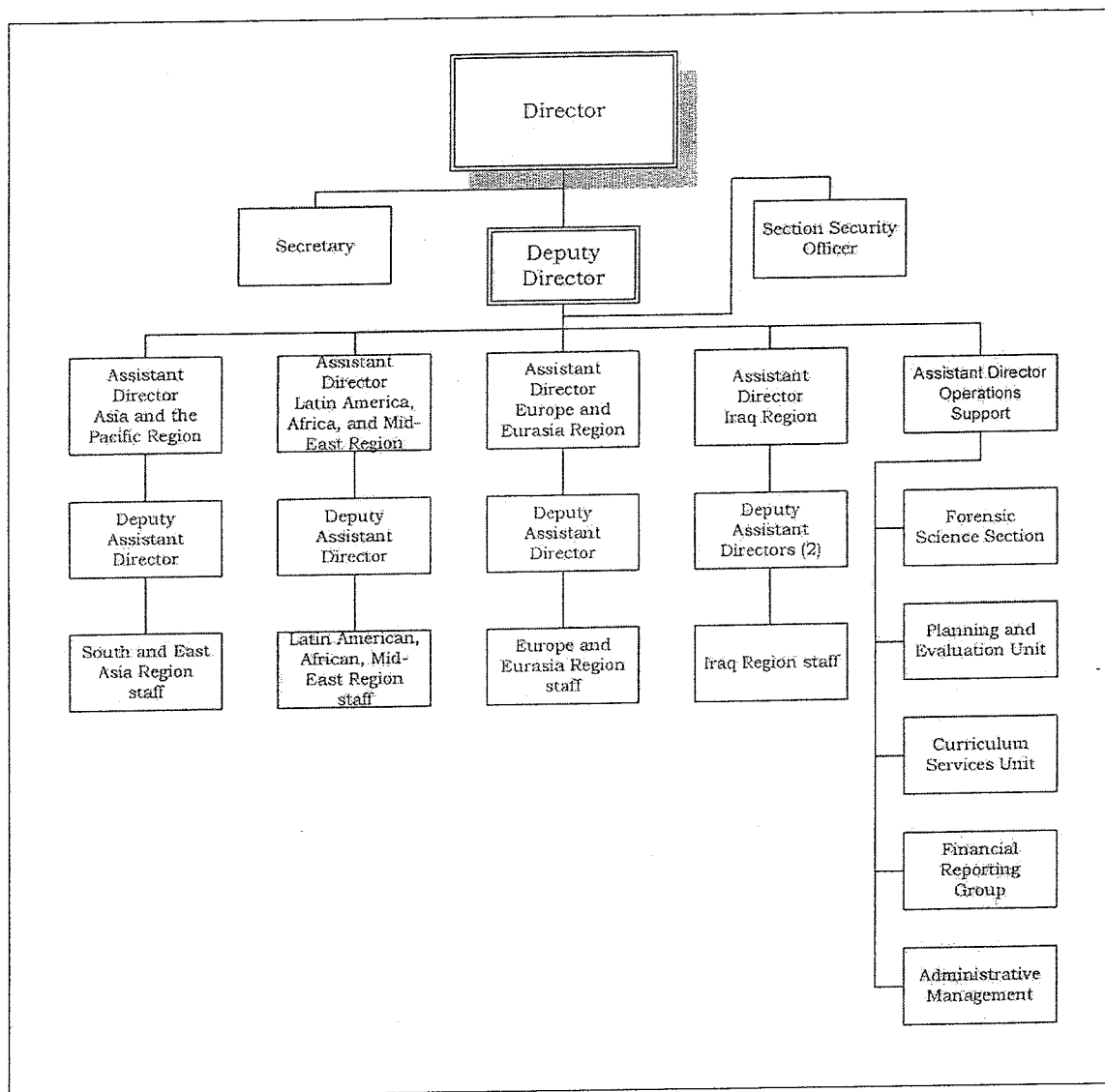


Exhibit 1b: Office of Administration Organizational Chart

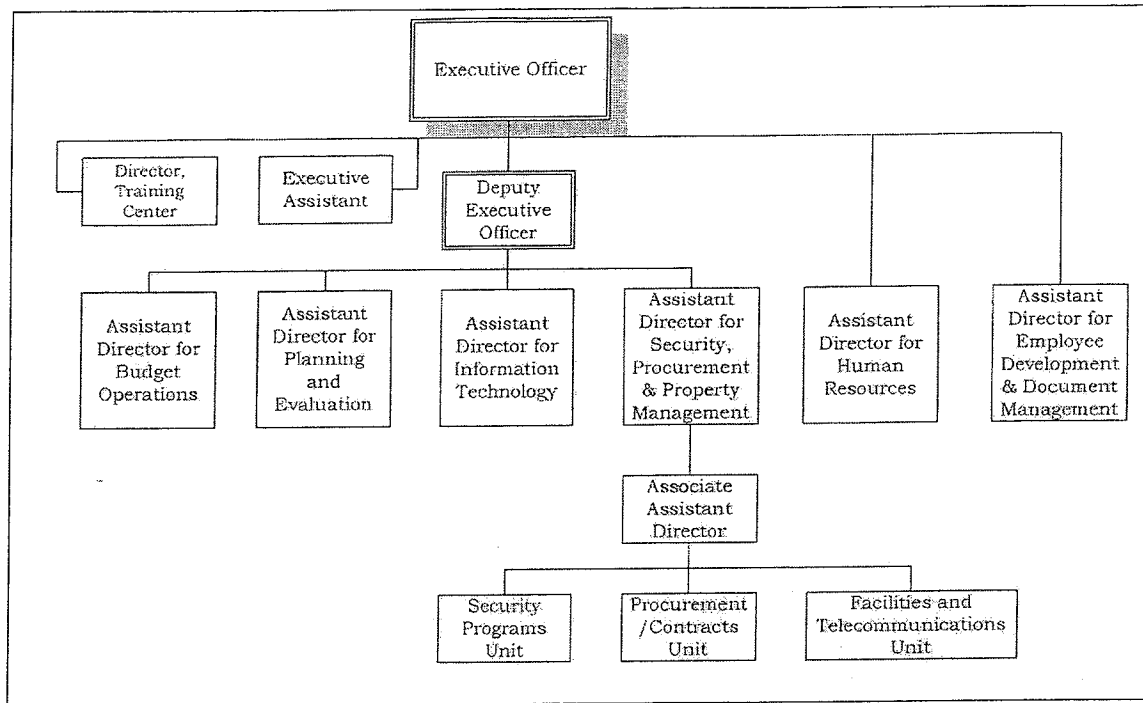


Exhibit 2: Criminal Division Administrative Policy Memorandum 60-3



U.S. Department of Justice

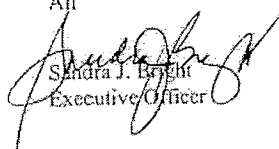
Criminal Division

Washington, D.C. 20530

JUL 29 2002

CRIMINAL DIVISION
ADMINISTRATIVE POLICY MEMORANDUM NO. 60-3

TO: All

FROM: 
Sandra J. Bright
Executive Officer

SUBJECT: Contractor Security Guidance

Discussion

As you may know, the Criminal Division, Security Programs Staff, has been delegated the authority for managing the contractor security program. Please review the attached Contractor Security Guide which has been revised to include detailed instructions for contractor security processing.

The revised guidance replaces Memorandum No. 44, sets forth policy and provides detailed definitions of various investigations, requires Sections/Offices to provide justification for waiver requests, and explains the adjudication criteria used in making suitability/security determinations. Adjudication guidance used for determining eligibility for access to classified National Security Information is included for reference.

The Contractor Security Guide, copy attached, is provided to assist you in the proper management of the contractor security program in your Section/Office.

Policy

Contractors in Department of Justice facilities or with access to sensitive information must receive an appropriate investigation, the scope and coverage of which must be determined by each Section after consideration of the risk level and costs associated with the investigation. The investigations can range from a Federal Bureau of Investigation (FBI) name and fingerprint check to a Background Investigation (BI) conducted by the Office of Personnel Management (OPM).

If you require additional information, please contact the Security Programs Staff on
(202) 616-0610.

Attachment

United States Department of Justice

Criminal Division



Contractor Security Guide

July 29, 2002

Attachment to 60-3

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CONTRACTOR SECURITY GUIDELINES

These guidelines are designed to assist the Criminal Division in establishing Contractor Personnel Security Programs for unclassified contracts. *These guidelines do not apply to contractors who will require access to classified national security information in the performance of their duties.*

RISK ASSESSMENT: Each Section should determine the risk level for each contractor position. The risk level must be based on an overall assessment of the damage that an untrustworthy contractor could cause to the efficiency or the integrity of Criminal Division operations. When determining risk levels, the Section should compare the contractor's duties, responsibilities, and access with those of Department employees in similar positions. Risk level for each contractor can be determined by using the following criteria:

High Risk: Those sensitive positions with the potential for exceptionally serious impact involving duties especially critical to the mission of the Criminal Division with broad scope of policy or program authority, such as policy development or implementation; higher-level management assignments; independent spokespersons or non-management positions with authority for independent action; law enforcement, or significant fiduciary and procurement authority and responsibilities.

Moderate Risk: Those sensitive positions that have the potential for moderate to serious impact involving duties very important to the mission of the Criminal Division with significant program responsibilities and delivery of customer services to the public, such as an assistant to policy development and implementation; mid-level management assignments; non-management positions with authority for independent or semi-independent action; or delivery of service positions that demand public confidence or trust.

Low Risk: Those non-sensitive positions that do not fall into any of the above categories.

Contractors in Department of Justice (DOJ) facilities or with access to sensitive information should receive an appropriate investigation, the scope and coverage of which must be determined by each Section after consideration of the risk level and attendant costs associated with the investigation. Sections are advised to be prudent when requesting higher level investigations because of the higher costs involved. The investigations can range from a Federal Bureau of Investigation (FBI) name and fingerprint check to a Background Investigation (BI) conducted by the Office of Personnel Management (OPM).

Contractor personnel such as janitors, maintenance staff, and movers, should be monitored while in Criminal Division space and their access should be limited to normal business hours.

The Justice Management Division (JMD), Justice Protective Service Operations Group (JPSOG), Security and Emergency Planning Staff (SEPS), is responsible for granting escorted or unescorted access to those contractors providing services within DOJ facilities in the Washington, D.C. Metropolitan area who will not have access to DOJ information and/or computers.

As a result of the events of September 11, 2001, and enhanced security posture by the Department, Sections should consider only United States citizens and Legal Permanent Residents for contractor employment. This will also further safeguard our interests and help protect access to potentially sensitive information and systems.

The DOJ residency requirement mandates for three of the five years immediately prior to applying for a position, an individual must: 1) have resided in the United States, 2) have worked for the United States overseas in a Federal or military capacity, or 3) be a dependent of a Federal or military employee serving overseas.

Work on a DOJ contract by any Foreign National may only be approved by the Department Security Officer on a case by case basis taking into consideration all relevant factors, including country of origin and the nature and location of the work being requested.

The Section will ensure the contractor conducts pre-screening and investigative requirements and the contractor maintains appropriate investigative, security and application records. The Section must establish procedures to ensure the validity of contractor fingerprint cards. A chart containing minimum investigative requirements for each risk level is included (see page 4). Sections should refer to this chart to tailor their respective contractor personnel security requirements.

ADJUDICATION CRITERIA: The Section Security Officer (SSO) or designee should carefully review the Questionnaire for Public Trust Positions (SF-85P), Supplemental Questionnaire for Selected Positions (SF 85P-S) and other security or application documentation submitted. Issues which may cause concern should be immediately addressed using the adjudication criteria below. If an investigation reveals derogatory or potentially disqualifying information, the SSO will be notified by the SPS. These guidelines are not all inclusive. The adjudication criteria for National Security positions are in the Appendix and may also be consulted for additional guidance. Issues which are not covered in this guide should be addressed to the SPS.

To be considered when there is questionable or derogatory information:

- Misconduct or negligence in prior employment which would have a bearing on efficient service in the position in question or would interfere with or prevent effective accomplishment by the employing agency of its duties and responsibilities.
- Criminal or dishonest conduct related to the duties to be assigned.
- Intentional false statement or deception or fraud in examination or appointment.
- Alcohol abuse of a nature and duration which suggests the applicant would be prevented from performing the duties of the position in question or would constitute a direct threat to the property or safety of others.
- Illegal use of narcotics, drugs, or other controlled substances, without evidence of substantial rehabilitation.

- Knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force.
- Any statutory or regulatory bar or debarment which prevents the lawful employment of the person involved in the position in question.
- Failure to pay just financial obligations.

Mitigating Factors

- The nature and seriousness of the conduct.
- The circumstances surrounding the conduct.
- The recency of the conduct.
- The age of the person at the time of the conduct.
- Contributing social conditions.
- The absence or presence of rehabilitation or efforts toward rehabilitation.
- Repayment of just financial obligations.
- For further reference, offices may review OPM established suitability guidelines in 5 C.F.R. Part 731 or the standards of conduct for federal employees for suitability determinations 5 C.F.R. § 2635.809.

SECURITY APPROVAL REQUESTS

Each Section must determine risk level and investigation required for each contractor. **The contractor risk level and description of duties to be performed should be clearly identified in a memo to the SPS, and must be accompanied by all required paperwork.** The investigation required should be part of the initial contract security requirements. The minimum investigation for a Division contractor is a favorable FBI name and fingerprint check.

The chart and definitions below should help you determine the investigations required for contractor positions, the processing involved, and the criteria to request a waiver pending completion of the background investigation. A waiver to bring contract employees on board in the Division without a completed security investigation should only be requested in unusual or emergency circumstances.

Please note the cost of OPM investigations vary depending on the type and expedience of the investigation conducted. OPM investigations are priced for 35, 75, or 120 day service (See Appendix).

CONTRACT EMPLOYEES - PRE-APPOINTMENT BACKGROUND INVESTIGATION CHART			
RISK LEVELS	SECURITY FORMS REQUIRED	MINIMUM BACKGROUND INVESTIGATION REQUIRED	WAIVER OF PREAPPOINTMENT BACKGROUND INVESTIGATION
HIGH RISK (Level 6)	SF 85P SF 85P-S 2 FD-258* DOJ 555 OBD 236 Confidentiality Agreement	LBI (3 yrs) Voucher of previous two employers or last two years, whichever is greater	FBI Fingerprint Check Voucher of previous 2 employers or last 2 years (whichever is greater) Favorable review of forms (includes credit check)
MODERATE RISK (Level 5)	SF 85P SF 85P-S 2 FD-258* DOJ 555 OBD 236 Confidentiality Agreement	NACI Voucher of previous two employers or last two years, whichever is greater	Fingerprint Check or NCIC Check Favorable review of forms (includes credit check)
LOW RISK (Level 1)	SF 85P SF 85P-S 2 FD-258* Confidentiality Agreement	FBI Name and Fingerprint Check	NCIC Check
* To order the FD 258 fingerprint cards, contact the FBI print shop at (304) 625-3983, fax (304) 625-3984. Please specify ORI number DCDOJ0600.			

DEFINITIONS:**OPM Investigations:**

- **Background Investigation (BI):** Includes a personal subject interview, national agency check (NAC), credit check, personal interviews of references and developed sources, written inquiries, and record searches covering specific areas of the subject's background during the most recent five years. (Is not usually used for contract employees.)
- **Limited Background Investigation (LBI):** Includes a personal subject interview, NAC, credit check, written inquiries, record searches, and personal interviews covering specific areas during the most recent three years. (Minimum investigation for high risk contract employees.)
- **Minimum Background Investigation (MBI):** Includes a personal subject interview, NAC, credit check, written inquiries, record searches covering specific areas for the past five years. (May be used for moderate risk contract employees with justification for an upgraded investigation.)

- **National Agency Check with Law and Credit (NACLC):** Includes law enforcement records check for the past five years and a credit check of the national credit bureaus for the past seven years. (May be used for moderate risk contract employees with justification for an upgraded investigation.)
- **National Agency Check With Inquiries (NACI):** Includes written inquiries and record searches for the past five years. (To be used for moderate risk contract employees.)

Additional Investigative Checks: The checks listed below may be used as supplemental checks if the SSO determines they are appropriate for the contractor's duties or responsibilities:

- **FBI Fingerprint Check:** Checks of FBI Criminal Justice Information Services files to ensure the individual does not have a prior arrest history.
- **FBI Name Check:** Checks of FBI Headquarters investigative files to see if the individual is named in other investigations (i.e., prior FBI background investigation or criminal investigation).
- **NCIC (National Crime Information Center) Check:** Check from a nationwide computerized information system containing local, federal and state criminal information.
- **Credit check:** A credit check of one of the three nationwide credit reporting bureaus (Equifax, Experian (formerly TRW) and Trans Union) will be conducted by the SPS and will reveal the contractor's credit records and payment history. Also contains a public records section showing liens, bankruptcy records and judgments.
- Additional employer and personal reference checks.

Waivers: A waiver of the required pre-employment background investigation may be requested in unusual or emergency situations, if the contract employee must begin working pending completion of a background investigation. Waivers will not be considered if the security papers contain unresolved derogatory information.

INVESTIGATION PROCEDURES

The detailed instructions below explain how the SPS will process contractor security forms. The SPS recommends security questionnaires and fingerprint cards be typed.

Fingerprint Check Requests:

Fingerprint cards must have an ORI (Originating Agency Identifier) number. The ORI number assigned to the Criminal Division is **DCDOJ0600**. (See Sample)

The FBI will only accept the blue FD258 fingerprint card which may be requested from the FBI Print Shop, (304) 625-3983, or fax, (304) 625-3983. The form **MUST BE COMPLETED** in its entirety with the exception of the blocks entitled Your No.; FBI No.; Armed Forces No.; and Miscellaneous No. which may be left blank. The SSN block **must be** completed. Annotate "perform criminal justice functions - Contractor" as the reason fingerprinted (FBI does not charge for criminal justice checks). Submit two FD258 fingerprint cards in the event the first card is unclassifiable.

Name Check: The SPS will send name check requests (completed by the Section) to the FBI Executive Agencies Dissemination Unit with the individual's name, SSN, date/place of birth, aliases and other names used. If there was a prior government investigation during previous federal, military, or contract employment, include this information as well. The Section must include the contract company's name, address and, indicate the individual is a contractor. (See Sample)

Contractor name check requests **must be typed**. Please include the name and phone/fax number of a point of contact in your Section.

NCIC (National Crime Information Center) Check: The SPS will enter the following personal identifying information; Name, SSN, DOB, POB, and any aliases. The following areas will be checked; "Wanted" and "Criminal History." A copy of each record will be printed and included in the contractor file.

Credit Check: Contract employees **must** sign a Disclosure and Authorization Pertaining to Consumer Reports Pursuant to the Fair Credit Reporting Act (DOJ 555) before a credit check is conducted. If a credit check reveals delinquent accounts, the contractor should provide proof the debts have been satisfied or a payment plan has been established and payments have begun.

Waiver: If a waiver is required the Section should use the "Request for Waiver of Preappointment Investigation Requirements of the U.S. Department of Justice Personnel Security Regulations" (Form USA 237). The waiver request must be signed by the SSO or senior level management official, and must include a detailed explanation why you cannot wait for completed investigation. The risk level designation and investigation required should be clearly documented in the waiver request. (See Sample)

- **High Risk Position Waiver:** Upon receipt of the completed contractor package, the Section forwards the results to SPS with a waiver request. The SPS will not consider waivers if the SF85P/SF 85P-S contain unresolved derogatory information or if the FBI fingerprint check is unfavorable.
- **Moderate Risk Position Waiver:** Upon receipt of the completed contractor package, the Section forwards the results to the SPS with a waiver request. The SPS must conduct a fingerprint check or NCIC check. The SPS will not consider waivers if the SF-85P/SF 85P-S or other materials contain unresolved derogatory information or if the NCIC check is unfavorable.

Voucher: At a minimum, voucher the most recent two employers or last two years of employment, whichever is greater using the "Inquiry Regarding Suitability of Applicant" (Form OBD 236), for a waiver for high risk positions. If there is only one past employer, use a personal reference as well. Family members should not be vouchered. All vouchering should be completed by the Contracting Office Technical Representative (COTR) or designee. (See Sample)

Confidentiality Agreement for Contractor and Subcontractor Employee: This form is provided to inform the contractor of his/her responsibilities with regard to disclosure of any DOJ/Government information derived as a result of their contract. (See Sample)

Office of Personnel Management Investigations: OPM requires the "Questionnaire for Public Trust Positions" (SF 85P), and "Supplemental Questionnaire for Selected Positions", (SF 85P-S) be used for all contractor investigations.

Each Section must ensure all questions on the security forms are completed or OPM will return the forms as "unacceptable." If an item/question does not apply, the contractor should write "Non-Applicable (N/A)" in the appropriate block. *All changes on the form* including white outs, *must be initialed* by the subject.

Please do not forward partial or incomplete contractor packages to the SPS for processing. Partial paperwork cannot be processed and may be returned to the originator.

Exhibit 3: Questionnaire for Public Trust Positions

Standard Form 85P
Revised September 1995
U.S. Office of Personnel Management
5 CFR Parts 731, 732, and 736

Form approved:
OMB No. 3208-0191
NSN 7540-01-317-7372
85-1602

Questionnaire for Public Trust Positions

Follow instructions fully or we cannot process your form. Be sure to sign and date the certification statement on Page 7 and the release on Page 8. *If you have any questions, call the office that gave you the form.*

Purpose of this Form

The U.S. Government conducts background investigations and reinvestigations to establish that applicants or incumbents either employed by the Government or working for the Government under contract, are suitable for the job and/or eligible for a public trust or sensitive position. Information from this form is used primarily as the basis for this investigation. Complete this form only after a conditional offer of employment has been made.

Giving us the information we ask for is voluntary. However, we may not be able to complete your investigation, or complete it in a timely manner, if you don't give us each item of information we request. This may affect your placement or employment prospects.

Authority to Request this Information

The U.S. Government is authorized to ask for this information under Executive Orders 10450 and 10577, sections 3301 and 3302 of title 5, U.S. Code, and parts 5, 731, 732, and 736 of Title 5, Code of Federal Regulations.

Your Social Security number is needed to keep records accurate, because other people may have the same name and birth date. Executive Order 9397 also asks Federal agencies to use this number to help identify individuals in agency records.

The Investigative Process

Background investigations are conducted using your responses on this form and on your Declaration for Federal Employment (OF 306) to develop information to show whether you are reliable, trustworthy, of good conduct and character, and loyal to the United States. The information that you provide on this form is confirmed during the investigation. Your current employer must be contacted as part of the investigation, even if you have previously indicated on applications or other forms that you do not want this.

In addition to the questions on this form, inquiry also is made about a person's adherence to security requirements, honesty and integrity, vulnerability to exploitation or coercion, falsification, misrepresentation, and any other behavior, activities, or associations that tend to show the person is not reliable, trustworthy, or loyal.

Your Personal Interview

Some investigations will include an interview with you as a normal part of the investigative process. This provides you the opportunity to update, clarify, and explain information on your form more completely, which often helps to complete your investigation faster. It is important that the interview be conducted as soon as possible after you are contacted. Postponements will delay the processing of your investigation, and declining to be interviewed may result in your investigation being delayed or canceled.

You will be asked to bring identification with your picture on it, such as a valid State driver's license, to the interview. There are other documents you may be asked to bring to verify your identity as well.

These include documentation of any legal name change, Social Security card, and/or birth certificate.

You may also be asked to bring documents about information you provided on the form or other matters requiring specific attention. These matters include alien registration, delinquent loans or taxes, bankruptcy, judgments, liens, or other financial obligations, agreements involving child custody or support, alimony or property settlements, arrests, convictions, probation, and/or parole.

Instructions for Completing this Form

1. Follow the instructions given to you by the person who gave you the form and any other clarifying instructions furnished by that person to assist you in completion of the form. Find out how many copies of the form you are to turn in. You must sign and date, in black ink, the original and each copy you submit.
2. Type or legibly print your answers in black ink (if your form is not legible, it will not be accepted). You may also be asked to submit your form in an approved electronic format.
3. All questions on this form must be answered. If no response is necessary or applicable, indicate this on the form (for example, enter "None" or "N/A"). If you find that you cannot report an exact date, approximate or estimate the date to the best of your ability and indicate this by marking "APPROX." or "EST."
4. Any changes that you make to this form after you sign it must be initialed and dated by you. Under certain limited circumstances, agencies may modify the form consistent with your intent.
5. You must use the State codes (abbreviations) listed on the back of this page when you fill out this form. Do not abbreviate the names of cities or foreign countries.
6. The 5-digit postal ZIP codes are needed to speed the processing of your investigation. The office that provided the form will assist you in completing the ZIP codes.
7. All telephone numbers must include area codes.
8. All dates provided on this form must be in Month/Day/Year or Month/Year format. Use numbers (1-12) to indicate months. For example, June 10, 1978, should be shown as 6/10/78.
9. Whenever "City (Country)" is shown in an address block, also provide in that block the name of the country when the address is outside the United States.
10. If you need additional space to list your residences or employments/self-employments/unemployments or education, you should use a continuation sheet, SF 86A. If additional space is needed to answer other items, use a blank piece of paper. Each blank piece of paper you use must contain **your name and Social Security Number at the top of the page.**

Final Determination on Your Eligibility

Final determination on your eligibility for a public trust or sensitive position and your being granted a security clearance is the responsibility of the Office of Personnel Management or the Federal agency that requested your investigation. You may be provided the opportunity personally to explain, refute, or clarify any information before a final decision is made.

Penalties for Inaccurate or False Statements

The U.S. Criminal Code (title 18, section 1001) provides that knowingly falsifying or concealing a material fact is a felony which may result in fines of up to \$10,000, and/or 5 years imprisonment, or both. In addition, Federal agencies generally fire, do not grant a security clearance, or disqualify individuals who have materially and deliberately falsified these forms, and this remains a part of the permanent record for future placements. Because the position for which you are being considered is one of public trust or is sensitive, your trustworthiness is a very important consideration in deciding your suitability for placement or retention in the position.

Your prospects of placement are better if you answer all questions truthfully and completely. You will have adequate opportunity to explain any information you give us on the form and to make your comments part of the record.

Disclosure of Information

The information you give us is for the purpose of investigating you for a position; we will protect it from unauthorized disclosure. The collection, maintenance, and disclosure of background investigative information is governed by the Privacy Act. The agency which requested the investigation and the agency which conducted the investigation have published notices in the Federal Register describing the system of records in which your records will be maintained. You may obtain copies of the relevant notices from the person who gave you this form. The information on this form, and information we collect during an investigation may be disclosed without your consent as permitted by the Privacy Act (5 USC 552a(b)) and as follows:

PRIVACY ACT ROUTINE USES

1. To the Department of Justice when: (a) the agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.
2. To a court or adjudicative body in a proceeding when: (a) the agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States Government is a party to litigation or has interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.
3. Except as noted in Question 21, when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, particular program statute, regulation, rule, or order issued pursuant thereto, the relevant records may be disclosed to the appropriate Federal, foreign, State, local, tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order.
4. To any source or potential source from which information is requested in the course of an investigation concerning the hiring or retention of an employee or other personnel action, or the issuing or retention of a security clearance, contract, grant, license, or other benefit, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.
5. To a Federal, State, local, foreign, tribal, or other public authority the fact that this system of records contains information relevant to the retention of an employee, or the retention of a security clearance, contract, license, grant, or other benefit. The other agency or licensing organization may then make a request supported by written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.
6. To contractors, grantees, experts, consultants, or volunteers when necessary to perform a function or service related to this record for which they have been engaged. Such recipients shall be required to comply with the Privacy Act of 1974, as amended.
7. To the news media or the general public, factual information the disclosure of which would be in the public interest and which would not constitute an unwarranted invasion of personal privacy.
8. To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.
9. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.
10. To the National Archives and Records Administration for records management inspections conducted under 44 USC 2904 and 2906.
11. To the Office of Management and Budget when necessary to the review of private relief legislation.

STATE CODES (ABBREVIATIONS)

Alabama	AL	Hawaii	HI	Massachusetts	MA	New Mexico	NM	South Dakota	SD
Alaska	AK	Idaho	ID	Michigan	MI	New York	NY	Tennessee	TN
Arizona	AZ	Illinois	IL	Minnesota	MN	North Carolina	NC	Texas	TX
Arkansas	AR	Indiana	IN	Mississippi	MS	North Dakota	ND	Utah	UT
California	CA	Iowa	IA	Missouri	MO	Ohio	OH	Vermont	VT
Colorado	CO	Kansas	KS	Montana	MT	Oklahoma	OK	Virginia	VA
Connecticut	CT	Kentucky	KY	Nebraska	NE	Oregon	OR	Washington	WA
Delaware	DE	Louisiana	LA	Nevada	NV	Pennsylvania	PA	West Virginia	WV
Florida	FL	Maine	ME	New Hampshire	NH	Rhode Island	RI	Wisconsin	WI
Georgia	GA	Maryland	MD	New Jersey	NJ	South Carolina	SC	Wyoming	WY
American Samoa	AS	District of Columbia	DC	Guam	GU	Northern Marianas	CM	Puerto Rico	PR
Trust Territory	TT	Virgin Islands	VI						

PUBLIC BURDEN INFORMATION

Public burden reporting for this collection of information is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Reports and Forms Management Officer, U.S. Office of Personnel Management, 1900 E Street, N.W., Room CHP-500, Washington, D.C. 20415. Do not send your completed form to this address.

QUESTIONNAIRE FOR
PUBLIC TRUST POSITIONS

Form approved:
OMB No. 3206-0181
NSN 7540-01-317-7372
85-1602

OPM
USE
ONLY

Codes

Case Number

Agency Use Only (Complete items A through P using instructions provided by USOPM)

A Type of Investigation	B Extra Coverage	C Sensitivity/Risk Level	D Compul. ADP	E Nature of Action Code	F Date of Action	Month	Day	Year
G Geographic Location	H Position Code	I Position Title						
J SON	K Location of Official Personnel Folder	None NPRC At SON	Other Address				ZIP Code	
L SOI	M Location of Security Folder	None At SOI NPI	Other Address				ZIP Code	
NOPAC-ALC Number	O Accounting Data and/or Agency Case Number							
P Requesting Official	Name and Title		Signature		Telephone Number		Date	

Persons completing this form should begin with the questions below.

1 FULL NAME • If you have only initials in your name, use them and state (IO). • If you have no middle name, enter "NMN". Last Name First Name Middle Name Jr., II, etc.		2 DATE OF BIRTH Month Day Year
3 PLACE OF BIRTH - Use the two letter code for the State. City County State Country (if not in the United States)		4 SOCIAL SECURITY NUMBER
5 OTHER NAMES USED #1 Name Month/Year To Month/Year #2 Name Month/Year To Month/Year #3 Name Month/Year To Month/Year #4 Name Month/Year To Month/Year		
6 OTHER IDENTIFYING INFORMATION Height (feet and inches) Weight (pounds) Hair Color Eye Color Sex (Mark one box) Female Male		
7 TELEPHONE NUMBERS Work (include Area Code and extension) Day Night Home (include Area Code) Day Night		
8 CITIZENSHIP a Mark the box at the right that reflects your current citizenship status, and follow its instructions. <input type="checkbox"/> I am a U.S. citizen or national by birth in the U.S. or U.S. territory/possession. Answer items b and d. <input type="checkbox"/> I am a U.S. citizen, but I was NOT born in the U.S. Answer items b, c and d. <input type="checkbox"/> I am not a U.S. citizen. Answer items b and e. b Your Mother's Maiden Name c UNITED STATES CITIZENSHIP If you are a U.S. Citizen, but were not born in the U.S., provide information about one or more of the following proofs of your citizenship. Naturalization Certificate (Where were you naturalized?) Court City State Certificate Number Month/Day/Year issued Citizenship Certificate (Where was the certificate issued?) City State Certificate Number Month/Day/Year issued State Department Form 240 - Report of Birth Abroad of a Citizen of the United States Give the date the form was prepared and give an explanation if needed. Month/Day/Year Explanation U.S. Passport This may be either a current or previous U.S. Passport Passport Number Month/Day/Year issued		
d DUAL CITIZENSHIP If you are (or were) a dual citizen of the United States and another country, provide the name of that country in the space to the right. Country		
e ALIEN If you are an alien, provide the following information: Place You Entered the United States: City State Date You Entered U.S. Month Day Year Alien Registration Number Country(ies) of Citizenship		

9 WHERE YOU HAVE LIVED

List the places where you have lived, beginning with the most recent (#1) and working back 7 years. All periods must be accounted for in your list. Be sure to indicate the actual physical location of your residence: do not use a post office box as an address, do not list a permanent address when you were actually living at a school address, etc. Be sure to specify your location as closely as possible: for example, do not list only your base or ship, list your barracks number or home port. You may omit temporary military duty locations under 60 days (list your permanent address instead), and you should use your APO/FPO address if you lived overseas.

For any address in the last 5 years, list a person who knew you at that address, and who preferably still lives in that area (do not list people for residences completely outside this 5-year period, and do not list your spouse, former spouses, or other relatives). Also for addresses in the last 5 years, if the address is "General Delivery," a Rural or Star Route, or may be difficult to locate, provide directions for locating the residence on an attached continuation sheet.

Month/Year #1	Month/Year To	Month/Year Present	Street Address	Apt. #	City (Country)	State	ZIP Code
Name of Person Who Knows You			Street Address	Apt. #	City (Country)	State	ZIP Code
Telephone Number ()							
Month/Year #2	Month/Year To	Month/Year Present	Street Address	Apt. #	City (Country)	State	ZIP Code
Name of Person Who Knew You			Street Address	Apt. #	City (Country)	State	ZIP Code
Telephone Number ()							
Month/Year #3	Month/Year To	Month/Year Present	Street Address	Apt. #	City (Country)	State	ZIP Code
Name of Person Who Knew You			Street Address	Apt. #	City (Country)	State	ZIP Code
Telephone Number ()							
Month/Year #4	Month/Year To	Month/Year Present	Street Address	Apt. #	City (Country)	State	ZIP Code
Name of Person Who Knew You			Street Address	Apt. #	City (Country)	State	ZIP Code
Telephone Number ()							
Month/Year #5	Month/Year To	Month/Year Present	Street Address	Apt. #	City (Country)	State	ZIP Code
Name of Person Who Knew You			Street Address	Apt. #	City (Country)	State	ZIP Code
Telephone Number ()							

10 WHERE YOU WENT TO SCHOOL

List the schools you have attended, beyond Junior High School, beginning with the most recent (#1) and working back 7 years. List all College or University degrees and the dates they were received. If all of your education occurred more than 7 years ago, list your most recent education beyond high school, no matter when that education occurred.

Use one of the following codes in the "Code" block:

1 - High School

2 - College/University/Military College

3 - Vocational/Technical/Trade School

For schools you attended in the past 3 years, list a person who knew you at school (an instructor, student, etc.). Do not list people for education completely outside this 3-year period.

For correspondence schools and extension classes, provide the address where the records are maintained.

Month/Year #1	Month/Year To	Code	Name of School	Degree/Diploma/Other	Month/Year Awarded
Street Address and City (Country) of School			State	ZIP Code	
Name of Person Who Knew You		Street Address	Apt. #	City (Country)	State
Telephone Number ()		ZIP Code			
Month/Year #2	Month/Year To	Code	Name of School	Degree/Diploma/Other	Month/Year Awarded
Street Address and City (Country) of School			State	ZIP Code	
Name of Person Who Knew You		Street Address	Apt. #	City (Country)	State
Telephone Number ()		ZIP Code			
Month/Year #3	Month/Year To	Code	Name of School	Degree/Diploma/Other	Month/Year Awarded
Street Address and City (Country) of School			State	ZIP Code	
Name of Person Who Knew You		Street Address	Apt. #	City (Country)	State
Telephone Number ()		ZIP Code			

Enter your Social Security Number before going to the next page →

11 YOUR EMPLOYMENT ACTIVITIES

List your employment activities, beginning with the present (#1) and working back 7 years. You should list all full-time work, part-time work, military service, temporary military duty locations over 90 days, self-employment, other paid work, and all periods of unemployment. The entire 7-year period must be accounted for without breaks, but you need not list employments before your 16th birthday.

- Code. Use one of the codes listed below to identify the type of employment:

- | | | | |
|-----------------------------------|---|--|-----------|
| 1 - Active military duty stations | 5 - State Government (Non-Federal employment) | 7 - Unemployment (Include name of person who can verify) | 9 - Other |
| 2 - National Guard/Reserve | 6 - Self-employment (Include business and/or name of person who can verify) | 8 - Federal Contractor (List Contractor, not Federal agency) | |
| 3 - U.S.P.H.S. Commissioned Corps | | | |
| 4 - Other Federal employment | | | |

- Employer/Verifier Name. List the business name of your employer or the name of the person who can verify your self-employment or unemployment in this block. If military service is being listed, include your duty location or home port here as well as your branch of service. You should provide separate listings to reflect changes in your military duty locations or home ports.

- Previous Periods of Activity. Complete these lines if you worked for an employer on more than one occasion at the same location. After entering the most recent period of employment in the initial numbered block, provide previous periods of employment at the same location on the additional lines provided. For example, if you worked at XY Plumbing in Denver, CO, during 3 separate periods of time, you would enter dates and information concerning the most recent period of employment first, and provide dates, position titles, and supervisors for the two previous periods of employment on the lines below that information.

Month/Year #1 To	Month/Year Present	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank		
Employer's/Verifier's Street Address			City (Country)	State	ZIP Code	Telephone Number ()
Street Address of Job Location (if different than Employer's Address)			City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)			City (Country)	State	ZIP Code	Telephone Number ()
PREVIOUS PERIODS OF ACTIVITY (Block #1)	Month/Year To	Month/Year	Position Title	Supervisor		
	Month/Year To	Month/Year	Position Title	Supervisor		
	Month/Year To	Month/Year	Position Title	Supervisor		
	Month/Year To	Month/Year	Position Title	Supervisor		
Month/Year #2 To	Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank		
Employer's/Verifier's Street Address			City (Country)	State	ZIP Code	Telephone Number ()
Street Address of Job Location (if different than Employer's Address)			City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)			City (Country)	State	ZIP Code	Telephone Number ()
PREVIOUS PERIODS OF ACTIVITY (Block #2)	Month/Year To	Month/Year	Position Title	Supervisor		
	Month/Year To	Month/Year	Position Title	Supervisor		
	Month/Year To	Month/Year	Position Title	Supervisor		
	Month/Year To	Month/Year	Position Title	Supervisor		
Month/Year #3 To	Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank		
Employer's/Verifier's Street Address			City (Country)	State	ZIP Code	Telephone Number ()
Street Address of Job Location (if different than Employer's Address)			City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)			City (Country)	State	ZIP Code	Telephone Number ()
PREVIOUS PERIODS OF ACTIVITY (Block #3)	Month/Year To	Month/Year	Position Title	Supervisor		
	Month/Year To	Month/Year	Position Title	Supervisor		
	Month/Year To	Month/Year	Position Title	Supervisor		
	Month/Year To	Month/Year	Position Title	Supervisor		

Enter your Social Security Number before going to the next page →

YOUR EMPLOYMENT ACTIVITIES (CONTINUED)

Month/Year		Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank		
To							
Employer's/Verifier's Street Address				City (Country)	State	ZIP Code	Telephone Number ()
Street Address of Job Location (if different than Employer's Address)				City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)				City (Country)	State	ZIP Code	Telephone Number ()
PREVIOUS PERIODS OF ACTIVITY (Block #4)	Month/Year	Month/Year	Position Title		Supervisor		
	To						
	Month/Year	Month/Year	Position Title		Supervisor		
	To						

Month/Year		Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank		
To							
Employer's/Verifier's Street Address				City (Country)	State	ZIP Code	Telephone Number ()
Street Address of Job Location (if different than Employer's Address)				City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)				City (Country)	State	ZIP Code	Telephone Number ()
PREVIOUS PERIODS OF ACTIVITY (Block #5)	Month/Year	Month/Year	Position Title		Supervisor		
	To						
	Month/Year	Month/Year	Position Title		Supervisor		
	To						

Month/Year		Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank		
To							
Employer's/Verifier's Street Address				City (Country)	State	ZIP Code	Telephone Number ()
Street Address of Job Location (if different than Employer's Address)				City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)				City (Country)	State	ZIP Code	Telephone Number ()
PREVIOUS PERIODS OF ACTIVITY (Block #6)	Month/Year	Month/Year	Position Title		Supervisor		
	To						
	Month/Year	Month/Year	Position Title		Supervisor		
	To						

12 YOUR EMPLOYMENT RECORD

Has any of the following happened to you in the last 7 years? If "Yes," begin with the most recent occurrence and go backward, providing date fired, quit, or left, and other information requested.

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Use the following codes and explain the reason your employment was ended:

- | | | |
|--|--|--|
| 1 - Fired from a job | 3 - Left a job by mutual agreement following allegations of misconduct | 5 - Left a job for other reasons under unfavorable circumstances |
| 2 - Quit a job after being told you'd be fired | 4 - Left a job by mutual agreement following allegations of unsatisfactory performance | |

Month/Year	Code	Specify Reason	Employer's Name and Address (Include city/Country if outside U.S.)	State	ZIP Code

Enter your Social Security Number before going to the next page →

List three people who know you well and live in the United States. They should be good friends, peers, colleagues, college roommates, etc., whose combined association with you covers as well as possible the last 7 years. Do not list your spouse, former spouses, or other relatives, and try not to list anyone who is listed elsewhere on this form.

14 YOUR MARITAL STATUS

Mark one of the following boxes to show your current marital status:

Current Spouse Complete the following about your current spouse

15 YOUR RELATIVES

Give the full name, correct code, and other requested information for each of your relatives, living or dead, specified below.

- [illegible]

Page 5

16 YOUR MILITARY HISTORY**a** Have you served in the United States military?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

b Have you served in the United States Merchant Marine?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

List all of your military service below, including service in Reserve, National Guard, and U.S. Merchant Marine. Start with the most recent period of service (#1) and work backward. If you had a break in service, each separate period should be listed.

*Code. Use one of the codes listed below to identify your branch of service:

1 - Air Force 2 - Army 3 - Navy 4 - Marine Corps 5 - Coast Guard 6 - Merchant Marine 7 - National Guard

*O/E. Mark "O" block for Officer or "E" block for Enlisted.

*Status. "X" the appropriate block for the status of your service during the time that you served. If your service was in the National Guard, do not use an "X"; use the two-letter code for the state to mark the block.

*Country. If your service was with other than the U.S. Armed Forces, identify the country for which you served.

Month/Year	Month/Year	Code	Service/Certificate No.	O	E	Active	Active Reserve	Inactive Reserve	National Guard (State)	Country
To				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
To				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

17 YOUR SELECTIVE SERVICE RECORD**a** Are you a male born after December 31, 1959? If "No," go to 18. If "Yes," go to b.

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

b Have you registered with the Selective Service System? If "Yes," provide your registration number. If "No," show the reason for your legal exemption below.

Registration Number Legal Exemption Explanation

18 YOUR INVESTIGATIONS RECORD

a Has the United States Government ever investigated your background and/or granted you a security clearance? If "Yes," use the codes that follow to provide the requested information below. If "Yes," but you can't recall the investigating agency and/or the security clearance received, enter "Other" agency code or clearance code, as appropriate, and "Don't know" or "Don't recall" under the "Other Agency" heading, below. If your response is "No," or you don't know or can't recall if you were investigated and cleared, check the "No" box.

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Codes for Investigating Agency

1 - Defense Department
2 - State Department
3 - Office of Personnel Management

4 - FBI
5 - Treasury Department
6 - Other (Specify)

Codes for Security Clearance Received

0 - Not Required
1 - Confidential
2 - Secret

3 - Top Secret
4 - Sensitive Compartmented Information
5 - Q

6 - L
7 - Other

Month/Year	Agency Code	Other Agency	Clearance Code	Month/Year	Agency Code	Other Agency	Clearance Code

b To your knowledge, have you ever had a clearance or access authorization denied, suspended, or revoked, or have you ever been debarred from government employment? If "Yes," give date of action and agency. Note: An administrative downgrade or termination of a security clearance is not a revocation.

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Month/Year	Department or Agency Taking Action	Month/Year	Department or Agency Taking Action

19 FOREIGN COUNTRIES YOU HAVE VISITED

List foreign countries you have visited, except on travel under official Government orders, beginning with the most current (#1) and working back 7 years. (Travel as a dependent or contractor must be listed.)

*Use one of these codes to indicate the purpose of your visit: 1 - Business 2 - Pleasure 3 - Education 4 - Other

*Include short trips to Canada or Mexico. If you have lived near a border and have made short (one day or less) trips to the neighboring country, you do not need to list each trip. Instead, provide the time period, the code, the country, and a note ("Many Short Trips").

*Do not repeat travel covered in items 9, 10, or 11.

Month/Year	Month/Year	Code	Country	Month/Year	Month/Year	Code	Country
#1	To			#5	To		
#2	To			#6	To		
#3	To			#7	To		
#4	To			#8	To		

Enter your Social Security Number before going to the next page

20 YOUR POLICE RECORD (Do not include anything that happened before your 16th birthday.)

In the last 7 years, have you been arrested for, charged with, or convicted of any offense(s)? (Leave out traffic fines of less than \$150.)

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

If you answered "Yes," explain your answer(s) in the space provided.

Month/Year	Offense	Action Taken	Law Enforcement Authority or Court (City and county/country if outside the U.S.)	State	ZIP Code

21 ILLEGAL DRUGS

The following questions pertain to the illegal use of drugs or drug activity. You are required to answer the questions fully and truthfully, and your failure to do so could be grounds for an adverse employment decision or action against you, but neither your truthful responses nor information derived from your responses will be used as evidence against you in any subsequent criminal proceeding.

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

a In the last year, have you illegally used any controlled substance, for example, marijuana, cocaine, crack cocaine, hashish, narcotics (opium, morphine, codeine, heroin, etc.), amphetamines, depressants (barbiturates, methaqualone, tranquilizers, etc.), hallucinogenics (LSD, PCP, etc.), or prescription drugs?

b In the last 7 years, have you been involved in the illegal purchase, manufacture, trafficking, production, transfer, shipping, receiving, or sale of any narcotic, depressant, stimulant, hallucinogen, or cannabis, for your own intended profit or that of another?

If you answered "Yes" to "a" above, provide information relating to the types of substance(s), the nature of the activity, and any other details relating to your involvement with illegal drugs. Include any treatment or counseling received.

Month/Year	Month/Year	Controlled Substance/Prescription Drug Used	Number of Times Used
To			
To			
To			

22 YOUR FINANCIAL RECORD

a In the last 7 years, have you, or a company over which you exercised some control, filed for bankruptcy, been declared bankrupt, been subject to a tax lien, or had legal judgment rendered against you for a debt? If you answered "Yes," provide date of initial action and other information requested below.

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Month/Year	Type of Action	Name Action Occurred Under	Name/Address of Court or Agency Handling Case	State	ZIP Code

b Are you now over 180 days delinquent on any loan or financial obligation? Include loans or obligations funded or guaranteed by the Federal Government.

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

If you answered "Yes," provide the information requested below:

Month/Year	Type of Loan or Obligation and Account #	Name/Address of Creditor or Obligor	State	ZIP Code

After completing this form and any attachments, you should review your answers to all questions to make sure the form is complete and accurate, and then sign and date the following certification and sign and date the release on Page 8.

Certification That My Answers Are True

My statements on this form, and any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both. (See section 1001 of title 18, United States Code).

Signature (Sign in ink)

Date

Enter your Social Security Number before going to the next page →

Page 7

UNITED STATES OF AMERICA
AUTHORIZATION FOR RELEASE OF INFORMATION

Carefully read this authorization to release information about you, then sign and date it in ink.

I Authorize any investigator, special agent, or other duly accredited representative of the authorized Federal agency conducting my background investigation, to obtain any information relating to my activities from individuals, schools, residential management agents, employers, criminal justice agencies, credit bureaus, consumer reporting agencies, collection agencies, retail business establishments, or other sources of information. This information may include, but is not limited to, my academic, residential, achievement, performance, attendance, disciplinary, employment history, criminal history record information, and financial and credit information. I authorize the Federal agency conducting my investigation to disclose the record of my background investigation to the requesting agency for the purpose of making a determination of suitability or eligibility for a security clearance.

I Understand that, for financial or lending institutions, medical institutions, hospitals, health care professionals, and other sources of information, a separate specific release will be needed, and I may be contacted for such a release at a later date. Where a separate release is requested for information relating to mental health treatment or counseling, the release will contain a list of the specific questions, relevant to the job description, which the doctor or therapist will be asked.

I Further Authorize any investigator, special agent, or other duly accredited representative of the U.S. Office of Personnel Management, the Federal Bureau of Investigation, the Department of Defense, the Defense Investigative Service, and any other authorized Federal agency, to request criminal record information about me from criminal justice agencies for the purpose of determining my eligibility for assignment to, or retention in a sensitive National Security position, in accordance with 5 U.S.C. 9101. I understand that I may request a copy of such records as may be available to me under the law.

I Authorize custodians of records and other sources of information pertaining to me to release such information upon request of the investigator, special agent, or other duly accredited representative of any Federal agency authorized above regardless of any previous agreement to the contrary.

I Understand that the information released by records custodians and sources of information is for official use by the Federal Government only for the purposes provided in this Standard Form 85P, and that it may be redisclosed by the Government only as authorized by law.

Copies of this authorization that show my signature are as valid as the original release signed by me. This authorization is valid for five (5) years from the date signed or upon the termination of my affiliation with the Federal Government, whichever is sooner.

Signature (Sign in ink)	Full Name (Type or Print Legibly)	Date Signed
Other Names Used		Social Security Number
Current Address (Street, City)	State	ZIP Code
		Home Telephone Number (Include Area Code) ()

UNITED STATES OF AMERICA

AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION

Carefully read this authorization to release information about you, then sign and date it in black ink.

Instructions for Completing this Release

This is a release for the investigator to ask your health practitioner(s) the three questions below concerning your mental health consultations. Your signature will allow the practitioner(s) to answer only these questions.

I am seeking assignment to or retention in a position of public trust with the Federal Government as a(n)

(Investigator instructed to write in position title.)

As part of the investigative process, **I hereby authorize** the investigator, special agent, or duly accredited representative of the authorized Federal agency conducting my background investigation, to obtain the following information relating to my mental health consultations:

Does the person under investigation have a condition or treatment that could impair his/her judgment or reliability?

If so, please describe the nature of the condition and the extent and duration of the impairment or treatment.

What is the prognosis?

I understand that the information released pursuant to this release is for use by the Federal Government only for purposes provided in the Standard Form 85P and that it may be redisclosed by the Government only as authorized by law.

Copies of this authorization that show my signature are as valid as the original release signed by me. This authorization is valid for 1 year from the date signed or upon termination of my affiliation with the Federal Government, whichever is sooner.

Signature (Sign in ink)	Full Name (Type or Print Legibly)	Date Signed
Other Names Used	Social Security Number	
Current Address (Street, City)	State	ZIP Code
		Home Telephone Number (Include Area Code) ()

Supplemental Questionnaire for Selected Positions

Standard Form 85P-S (EG)
Revised September 1995
U.S. Office of Personnel Management
5 CFR Parts 731, 732, and 736

Form approved:
OMB No. 3206-0191
NSN 7540-01-368-7778
65-1700

Supplemental Questionnaire for Selected Positions

INSTRUCTIONS

This form is supplemental to SF 85P, Questionnaire for Public Trust Positions, but is used only after an offer of employment has been made and when the information it requests is job-related and justified by business necessity. Other than this restriction to its use, this form has the same purposes and authorities described on SF 85P. The agency which gave you this form will tell you which questions to answer.

Instructions for completing this form are the same as SF 85P: you must type or legibly print your answers in black ink, use State codes, etc. Be sure to sign and date the certification statement at the bottom of this page.

PUBLIC BURDEN INFORMATION: Public burden reporting for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Reports and Forms Management Officer, U.S. Office of Personnel Management, 1900 E Street, N.W., Room 4HP-500, Washington DC 20415. Do not send your completed form to this address.

IDENTIFICATION INFORMATION

1 FULL NAME Enter your name exactly as it appears on your SF 85P, Questionnaire for Public Trust Positions.				2 SOCIAL SECURITY NUMBER	
Last Name	First Name	Middle Name	Jr., II, etc.		

SUPPLEMENTAL QUESTIONS

3 YOUR USE OF ILLEGAL DRUGS AND DRUG ACTIVITY		Yes	No
The following questions pertain to the illegal use of drugs or drug activity. You are required to answer the questions fully and truthfully, and your failure to do so could be grounds for an adverse employment decision or action against you, but neither your truthful response nor information derived from your response will be used as evidence against you in any subsequent criminal proceeding.			
a Since the age of 16 or in the last 7 years, whichever is shorter, have you <u>illegally</u> used any controlled substance, for example, marijuana, cocaine, crack cocaine, hashish, narcotics (opium, morphine, codeine, heroin, etc.), amphetamines, depressants (barbiturates, methaqualone, tranquilizers, etc.), hallucinogenics (LSD, PCP, etc.), or prescription drugs?		<input type="checkbox"/>	<input type="checkbox"/>
b Have you <u>ever</u> illegally used a controlled substance while employed as a law enforcement officer, prosecutor, or courtroom official; while possessing a security clearance; or while in a position directly and immediately affecting the public safety?		<input type="checkbox"/>	<input type="checkbox"/>

If you answered "Yes" to any question above, provide the date(s), identify the controlled substance(s) and/or prescription drugs used, and the number of times each was used.

Month/Year	Month/Year	Controlled Substance/Prescription Drug Used	Number of Times Used
To			
To			

4 YOUR USE OF ALCOHOL		Yes	No	
In the last 7 years, has your use of alcoholic beverages (such as liquor, beer, wine) resulted in any alcohol-related treatment or counseling (such as for alcohol abuse or alcoholism)?				
If you answered "Yes," provide the dates of treatment and the name and address of the counselor below. Do not repeat information reported in				
Month/Year	Month/Year	Name/Address of Counselor or Doctor	State	ZIP Code
To				
To				

5 YOUR MEDICAL RECORD		Yes	No	
In the last 7 years, have you consulted with a mental health professional (psychiatrist, psychologist, counselor, etc.) or have you consulted with another health care provider about a mental health related condition? You do not have to answer "Yes" if you were only involved in marital, grief, or family counseling not related to violence by you.				
If you answered "Yes," provide the dates of treatment and the name and address of the therapist or doctor below.				
Month/Year	Month/Year	Name/Address of Therapist or Doctor	State	ZIP Code
To				
To				

CERTIFICATION

Certification That My Answers Are True

My statements on this form, and any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both. (See section 1001 of title 18, United States Code).

Signature (Sign in ink)	Date
-------------------------	------

Exception to SF 85, SF 85P, SF 85P-S, SF 86, and SF 86A approved by GSA September, 1995
Designed using Perform Pro, WHS/DIOR, Sep 95

FBI Fingerprint Cards, FD-258

APPLICANT		LEAVE BLANK		TYPE OR PRINT ALL INFORMATION IN BLACK										28		LEAVE BLANK																																																																																																																																																																																																																																																																																																																																																																																																																												
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**FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE
CJS DIVISION/CLARKSBURG, WY 26806**

APPLICANT

1. LOOP

CENTER
OF LOOP

Delta

THE LINES BETWEEN CENTER OF
LOOP AND DELTA MUST SHOW

2. WAVE

DELTA

THESE LINES PLANNING BETWEEN
DELTA MUST BE CLEAR

3. ARCH

ARCHES HAVE NO DELTA

INSTRUCTIONS AND REQUIREMENTS

1. USE ONLY FINGERPRINTS
2. FINGERPRINTS MUST BE CLEARLY VISIBLE
3. FINGERPRINTS MUST BE CLEARLY VISIBLE
4. FINGERPRINTS MUST BE CLEARLY VISIBLE
5. FINGERPRINTS MUST BE CLEARLY VISIBLE
6. FINGERPRINTS MUST BE CLEARLY VISIBLE
7. FINGERPRINTS MUST BE CLEARLY VISIBLE
8. FINGERPRINTS MUST BE CLEARLY VISIBLE
9. FINGERPRINTS MUST BE CLEARLY VISIBLE

THIS CARD FOR USE BY:

LEAVE THIS SPACE BLANK

1. NAME (LAST, FIRST, MIDDLE)
2. ADDRESS (STREET, CITY, STATE, ZIP)
3. PHONE (AREA CODE, NUMBER)
4. DATE (MONTH, DAY, YEAR)
5. SIGNATURE (FULLY WRITTEN)
6. INITIALS (FIRST, LAST)
7. FINGERPRINTS (LEFT, RIGHT)
8. FINGERPRINTS (LEFT, RIGHT)
9. FINGERPRINTS (LEFT, RIGHT)

INSTRUCTIONS:

1. PRINT NAME (LAST, FIRST, MIDDLE) IN CAPITAL LETTERS
2. PRINT ADDRESS (STREET, CITY, STATE, ZIP) IN CAPITAL LETTERS
3. PRINT PHONE (AREA CODE, NUMBER) IN CAPITAL LETTERS
4. PRINT DATE (MONTH, DAY, YEAR) IN CAPITAL LETTERS
5. SIGNATURE (FULLY WRITTEN)
6. INITIALS (FIRST, LAST)
7. FINGERPRINTS (LEFT, RIGHT)
8. FINGERPRINTS (LEFT, RIGHT)
9. FINGERPRINTS (LEFT, RIGHT)

FD-208 (REV. 10-1-76)

Exhibit 4: Request for Subcontractor Clearance (1998)



U. S. Department of Justice
Criminal Division

*International Criminal Investigative Training
Assistance Program (ICITAP)*

Washington, DC 20530

Date _____

MEMORANDUM

TO: Linda Cantilena, Chief
Facilities and Security Programs Staff

FROM: ICITAP/ OPDAT

SUBJECT: Request for Subcontractor Clearance for Access to Nonsensitive Information

Deputy Director: _____ approves and verifies the following:

Program Manager: _____ approves and verifies the following:

The following individual will be employed by ICITAP/ OPDAT as a Subcontractor. Please process in accordance with agreed upon standards.

Full Name/ Citizenship: _____

Date/ Place of Birth: _____

SSN: _____

Driver License #/ State: _____

Position Title (to be filled): _____

Start-End Work Dates/ Location: _____

Support Contractor: _____

Respond to the following statements with True or False:

This individual *will not* have access to National Security Information (information classified as Top Secret, Secret or Confidential by the US Government or comparably classified information by the United Nations or any other nation).

This individual *will not* have access to Sensitive Information (per ICITAP/ OPDAT definition).

This individual *will not* require unescorted access to the US Embassy.

This individual *will not* interact with senior US Embassy officials in the course of routine work assignments? If answered False, please explain.

Exhibit 5a: Photograph of Abu Ghraib Cell Block Prior to Reconstruction

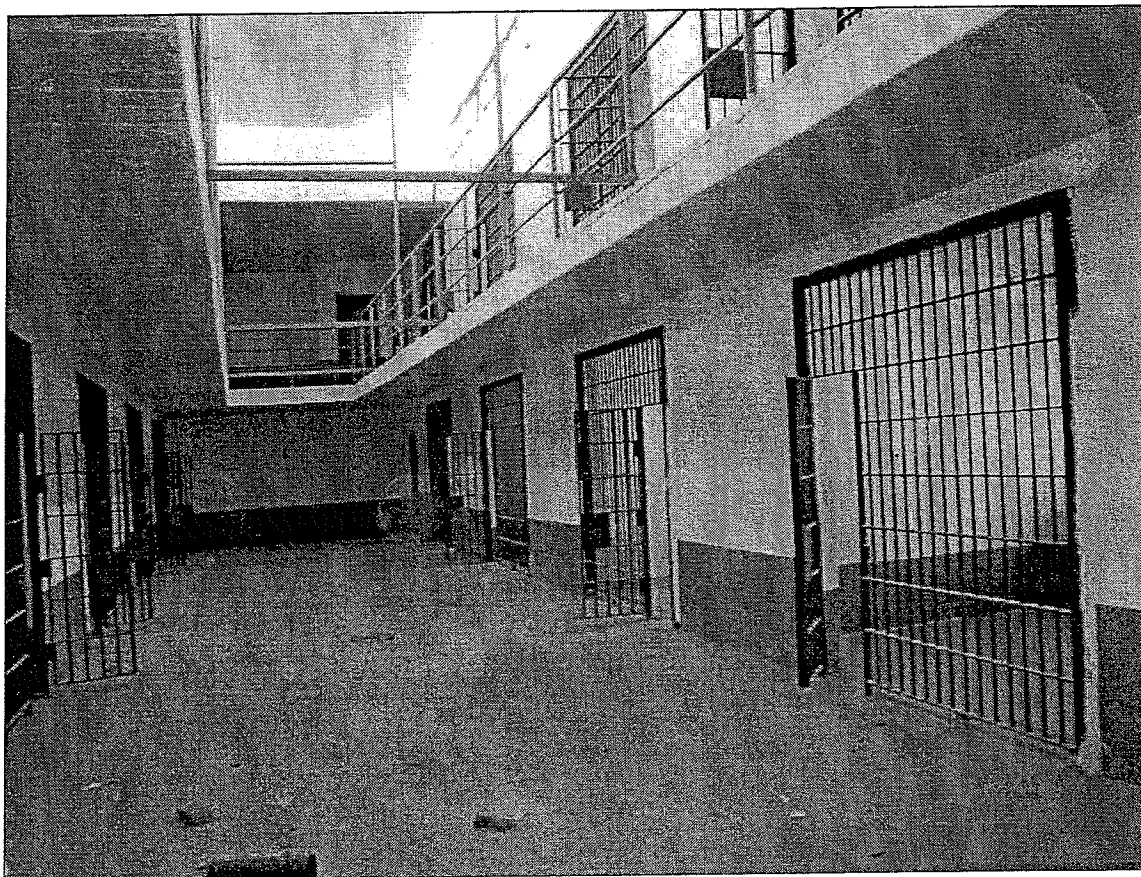


Exhibit 5b: Photograph of Abu Ghraib Cell Block After Reconstruction

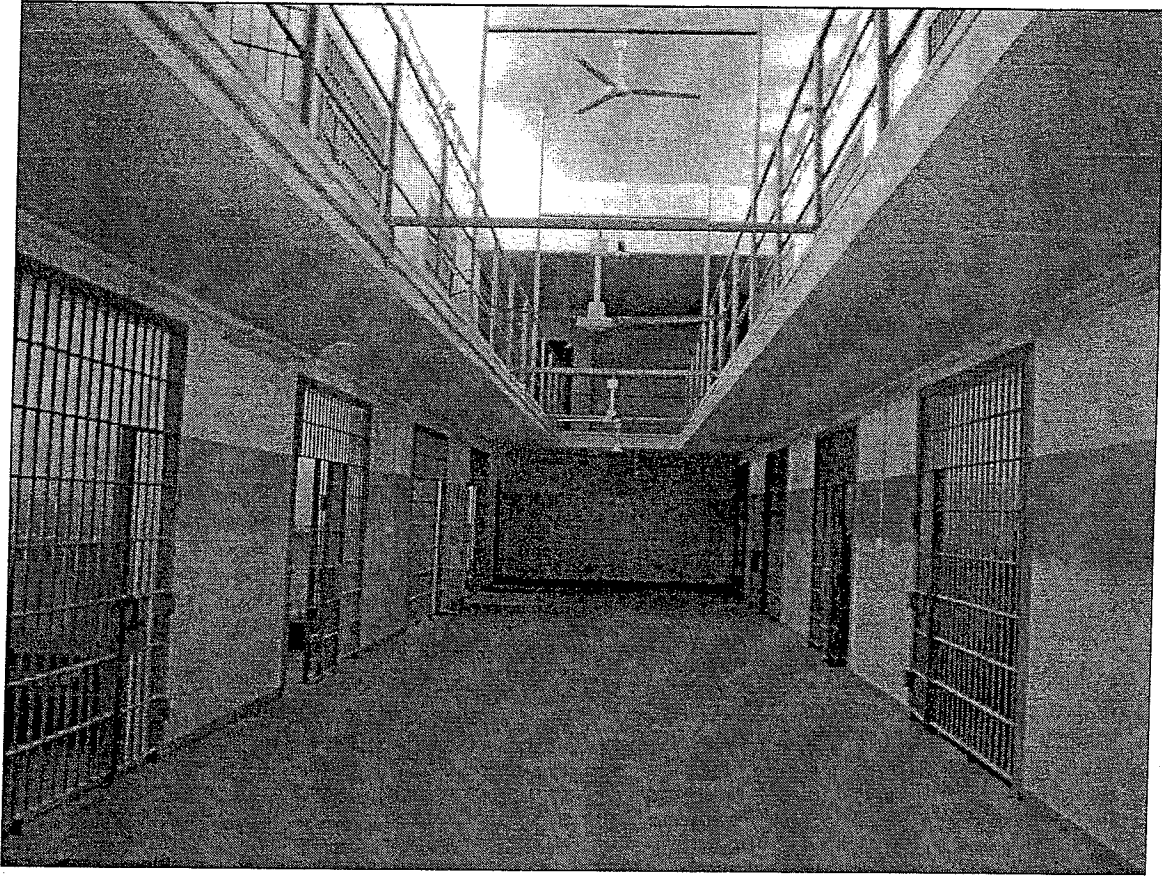


Exhibit 6: Request for Subcontractor Clearance (2004)



U.S. Department of Justice

Criminal Division

Washington, D.C. 20530

Date:

MEMORANDUM

To: Gary Llewellyn
Chief
Security Programs Staff

From: ICITAP/OPDAT

Subject: Request for Subcontractor Clearance

Deputy Assistant Director: _____ approves and verifies the following:

Program Analyst: _____ approves and verifies the following:
(Please Print)

A request is submitted for the following subcontractor to receive security approval for work as an ICITAP/OPDAT subcontractor. Please process in accordance with agreed upon standards. (Please type or print clearly.)

Full Name: _____
A.K.A.: _____
Social Security Number: _____
Date of Birth: _____
Place of Birth: _____
Citizenship: _____
Driver License#/ State: _____
Position Title (to be filled): _____
Start-End Work Dates/ Location: _____
Contract Company: _____
Company Address: _____

This package contains the following:

- ★ Statement of Work _____
- ★ SF-85P & SF-85 P-S _____
- ★ Fingerprint Cards (2) _____
- ★ Vouchering Documents _____ (Required for Moderate Risk or High Risk
Positions Only - Ref: CRM DIV Policy Memo 60-3)
- ★ Confidentiality Agreement _____

Respond to the following statements with True or False:

This individual *will not* have access to National Security Information (information classified as Top Secret, Secret, or Confidential by the US Government or comparably classified information by the United Nations or any other nation). _____

This individual *will not* have access to Sensitive Information (per ICITAP/OPDAT definition). _____

This individual *will not* require unescorted access to the US Embassy. _____

This individual *will not* interact with senior US Embassy officials in the course of routine work assignments. If false, please explain. _____

(*Note: The Security Programs Staff will be unable to process partial paperwork)

Risk Level Assessment:

Please select one of the following.

() **High Risk:** Those sensitive positions with the potential for exceptionally serious impact involving duties especially critical to the mission of the Criminal Division with broad scope of policy or program authority, such as policy development or implementation; higher-level management assignments; independent spokespersons or non-management positions with authority for independent action; law enforcement, or significant fiduciary and procurement authority and responsibilities.

() **Moderate Risk:** Those sensitive positions that have the potential for moderate to serious impact involving duties very important to the mission of the Criminal Division with significant program responsibilities and delivery of customer services to the public, such as an assistant to policy development and implementation; mid-level management assignments; non-management positions with authority for independent or semi-independent action; or delivery of service positions that demand public confidence or trust.

() **Low Risk:** Those non-sensitive positions that do not fall into any of the above categories.

PRIVACY ACT PROTECTED INFORMATION

Revised June 2004