

[H.A.S.C. No. 115-123]

**SECURITY CLEARANCE PROCESSING  
STATUS REPORT**

---

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT  
AND INVESTIGATIONS

OF THE

COMMITTEE ON ARMED SERVICES  
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

---

HEARING HELD  
DECEMBER 12, 2018



---

U.S. GOVERNMENT PUBLISHING OFFICE

34-979

WASHINGTON : 2019

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

VICKY HARTZLER, Missouri, *Chairwoman*

K. MICHAEL CONAWAY, Texas

MATT GAETZ, Florida

JIM BANKS, Indiana

LIZ CHENEY, Wyoming

AUSTIN SCOTT, Georgia

SETH MOULTON, Massachusetts

TOM O'HALLERAN, Arizona

THOMAS R. SUOZZI, New York

JIMMY PANETTA, California

CHRISTOPHER BRIGHT, *Professional Staff Member*

MATT SULLIVAN, *Counsel*

BARRON YOUNGSMITH, *Counsel*

JUSTIN LYNCH, *Clerk*

## CONTENTS

---

	Page
STATEMENTS PRESENTED BY MEMBERS OF CONGRESS	
Gaetz, Hon. Matt, a Representative from Florida, Subcommittee on Oversight and Investigations .....	1
Moulton, Hon. Seth, a Representative from Massachusetts, Ranking Member, Subcommittee on Oversight and Investigations .....	1
WITNESSES	
Payne, Daniel E., Director, Defense Security Service .....	4
Phalen, Charles S., Jr., Director, National Background Investigations Bureau .....	6
Reid, Garry P., Director for Defense Intelligence, Office of the Under Secretary of Defense for Intelligence .....	2
APPENDIX	
PREPARED STATEMENTS:	
Gaetz, Hon. Matt .....	17
Phalen, Charles S., Jr. ....	25
Reid, Garry P., joint with Daniel E. Payne .....	18
DOCUMENTS SUBMITTED FOR THE RECORD:	
[There were no Documents submitted.]	
WITNESS RESPONSES TO QUESTIONS ASKED DURING THE HEARING:	
[There were no Questions submitted during the hearing.]	
QUESTIONS SUBMITTED BY MEMBERS POST HEARING:	
Mrs. Hartzler .....	31



## SECURITY CLEARANCE PROCESSING STATUS REPORT

---

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ARMED SERVICES,  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,  
*Washington, DC, Wednesday, December 12, 2018.*

The subcommittee met, pursuant to call, at 3:30 p.m., in room 2118, Rayburn House Office Building, Hon. Matt Gaetz presiding.

### **OPENING STATEMENT OF HON. MATT GAETZ, A REPRESENTATIVE FROM FLORIDA, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

Mr. GAETZ. Good afternoon. This hearing will come to order. I am chairing today's hearing because, sadly, Chairwoman Vicky Hartzler's father has just passed away. Certainly all of us here are mindful of the sad time for Chairwoman Hartzler and her family, and our thoughts and prayers are with them.

Chairwoman Hartzler was eager that this hearing take place, notwithstanding these sad circumstances, and this is because the Armed Services Committee is deeply interested in the security clearance process. It is essential that a rigorous, fair, and expedient process exist to identify individuals who should be allowed to access classified government data.

Without a sound security system, our Nation's safety is potentially endangered and military readiness harmed. It is the Oversight Subcommittee's fifth event on this topic. Today, we will receive another mandated quarterly briefing on the security clearance process. Among other topics, we will hear about the size of the clearance background—or backlog, I should say, the trends of the backlog, and the management initiatives to address it.

I am also interested in learning about the status of the Department of Defense's assumption of responsibility for background investigations and the transition of the management of that process from the National Background Investigations Bureau.

I now turn to my colleague, Ranking Member Seth Moulton, for his opening remarks.

[The prepared statement of Mr. Gaetz can be found in the Appendix on page 17.]

### **STATEMENT OF HON. SETH MOULTON, A REPRESENTATIVE FROM MASSACHUSETTS, RANKING MEMBER, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

Mr. MOULTON. I thank you, Chairman Gaetz. And I also want to express my sympathies to Vicky Hartzler and her family.

Today marks our subcommittee's fifth discussion on reforms to the Department of Defense's background investigation and security

clearance process. Over the last 6 months, the National Background Investigations Bureau has made some notable improvements by significantly lowering the investigation backlog. However, every day the backlog exists, we are delaying the hiring of qualified national security personnel, which threatens to disrupt U.S. economic growth and military readiness.

In June, the administration formally announced its plan to transfer responsibility of background investigations for all Federal agencies to the Department of Defense. Today, I am looking forward to hearing an update from our witnesses on the personnel conversion process for OPM [Office of Personnel Management] employees and any additional costs incurred or authorities required to keep this transition on track.

While I agree that we need to streamline the background investigation process, I am skeptical of DOD's [Department of Defense's] current ability to absorb such a cumbersome task. Furthermore, I remain concerned about the current strategy as we must ensure that we are not expediting the investigation portion of the security clearance process while unintentionally backlogging the adjudication portion of the process.

I look forward to hearing what efforts the Department is undertaking to ensure clearances will not be delayed in another part of an already laborious system. We must also be careful not to sacrifice thoroughness and accuracy for the sole purpose of achieving efficiency. I am aware that DOD is using continuous evaluation and automated processes to reduce the investigative timeline for periodic reinvestigations, and it appears to be having a positive effect. While there are benefits to using technology to expedite the review of security clearance investigations, there are limits to the role that technology can play. Portions of the investigative process, such as reference interviews, cannot be replaced.

While some progress has been made, I am eager to hear more today about further steps the Department has taken towards resolving these issues. Thank you, and I look forward to your testimony, and with that I yield back.

Mr. GAETZ. Thank you, Ranking Member Moulton.

Our briefers today are Mr. Garry Reid, Director of Defense Intelligence in the Office of the Under Secretary of Defense for Intelligence; Mr. Dan Payne, Director of the Defense Security Service; and Mr. Charles Phalen, the Director of the National Background Investigations Bureau.

Thank you all for being here.

Mr. Reid, will you please begin.

**STATEMENT OF GARRY P. REID, DIRECTOR FOR DEFENSE INTELLIGENCE, OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE**

Mr. REID. Thank you, Congressman Gaetz and Ranking Member Moulton, other members here today, and staff. Thank you for having us over today to update you on where we are with our ongoing work to reform the Federal vetting enterprise, and we will talk about everything you just mentioned in terms of security clearance processing, changes in the system, and progress made today.

Since we were here last, we have continued to collaborate closely from within DOD, the Defense Security Service, and the National Background Investigations Bureau on the planning to prepare for what you just mentioned, Ranking Member Moulton, this upcoming transfer.

I would like to hit on a few key points that have occurred since we were here last. As I already mentioned, in June, the administration announced that the investigative activities currently performed by NBIB [National Background Investigations Bureau] would be consolidated with similar activities mandated to the Department of Defense. This was in light of the previous year's National Defense Authorization Act, which directed us to transfer the DOD portion of that mission to the Department.

Subsequent to that, within the executive branch there was a review and analysis of government efficiencies more broadly and it was assessed that to maintain the greatest degree of efficiency, the full mission would be transferred to DOD. We were very supportive of this decision, frankly. We were working through the process of splitting out of an enterprise, and there was risk associated with that, and this is actually much more streamlined for us from an efficiency standpoint and it has served to increase our collaboration across the board.

We continue to do that planning. We are not executing that just yet, but we soon will be once the final guidance is promulgated and issued by the President. So we are continuing to plan for that.

But we are not staying idle. As you mentioned, Congressman, these interim measures that were announced in June included additional options that would streamline the process, cut out some of the man-hours, and speed things through the investigative cycle. They included the ability to apply continuous evaluation and automated records check as a way of offsetting some of that and, frankly, as a way of not adding new work to NBIB's existing work strain.

We in the Department of Defense implemented that guidance on the last day of July, so about 4 months ago. We have been working very closely with NBIB and our Performance Accountability Council partners to implement these and help reduce the inventory. We are pleased to say that over that period of time, we are near a 20 percent reduction in the overall for the DOD side of the inventory. You know, we are 80 percent of the total anyways, so across the board we are realizing those benefits in the 18 to 22 percent range that were envisioned when these measures were put in place. So in the aggregate, we are down significantly from where we were at the beginning of this year and where we were in the summer.

What is promising to us in the Department about this development is the process that we are now implementing very much mirrors the process we advocated for and the plan we submitted to Congress in 2017 under section 951, which was a shift towards more use of continuous evaluation automated records checking. So we are doing that now. We are realizing the benefits. We have a substantial cost avoidance factor that we have already realized by processing up to—I think we are about 20,000 now over the past few months. So this is the system that we wanted to implement later. We are actually able to implement it now.

The plan we submitted in 2017, we were directed subsequently by Congress to implement by October of 2020. We actually implemented the guts of that plan in July of this year. And it really—as a function of the inventory and the pressure to get that down, it actually helped us speed up something that we were working through and intended to do already. So we think that is a good development. It sets us on the path to what will follow, which is transfer and transition of this process for all the reasons you have already described.

We are working very closely with the committee, with our industry partners, with academia, think tanks, and others across the intellectual and commercial and government space to identify best practices and help guide us through this transition that comes ahead. We have solicited support of mergers and integration experts to help plan this transfer. It is a very large enterprise going from one branch of the government to another, and there are a host of executive orders and laws that apply to these agencies, and we are going through that deliberate planning right now in anticipation of making the transfer.

Throughout that time, we will continue to focus on the daily mission of getting down the inventory for the reasons you have already mentioned, and working with NBIB to help streamline that process as much as possible.

Congressman, you mentioned, and we have heard it often, that there is some skepticism that we are able to do this. I can only tell you that we have the support from the highest levels within our Department, from the Secretary and the Deputy Secretary, and my boss, the Under Secretary, the Chief Management Officer, and many other principals within the Pentagon, our focus on this issue. We have strong support from OMB [Office of Management and Budget], from Ms. Weichert, who is also the acting OPM director, to help this through, from our executive agent offices at the DNI and at OPM. We are all pulling on this rope together. We are all cognizant of the significant challenges ahead, and we are equally cognizant of the necessity to do this mission on a daily basis. And we go into this clear-eyed, but understanding that it is a significant undertaking. It will not happen overnight. This will evolve over a period of months. We will keep the mission going. We will make the improvements, and we will do the transfers, and we will get on with the future construct.

I look forward to addressing your questions and engaging in conversations with you today. Thank you.

Mr. GAETZ. Thank you Mr. Reid.

Mr. Payne.

**STATEMENT OF DANIEL E. PAYNE, DIRECTOR,  
DEFENSE SECURITY SERVICE**

Mr. PAYNE. Congressman Gaetz, Ranking Member Moulton, distinguished members of the committee, it is an honor to appear before you today representing the dedicated men and women of the Defense Security Service as we absorb the background investigation mission from the Office of Personnel Management's National Background and Investigations Bureau.



As you know, we met with you and your staff several times this year on the status of the investigation mission transfer. Today, I want to provide an update on our progress since our last meeting and my philosophy moving forward.

To set the stage, as Mr. Reid just outlined, section 925 of fiscal year 2018 NDAA [National Defense Authorization Act] directed that we transfer only the DOD portion of the background investigation mission, however, commencing no later than 1 October 2020.

DOD background investigations represent approximately roughly 70 percent or so of NBIB's entire investigations workload. Separately, in June of this year, the administration announced a government reform plan which included recommendations for streamlining the Federal Government. One of the recommendations called for a complete transfer of NBIB to DOD. We are awaiting an executive order that will codify the recommendations giving the Secretary of Defense the authority he needs to execute the entirety of the background investigations mission and establish timelines for the NBIB-DOD transfer.

How we conduct the transfer will be critically important. We are expecting that the executive order will allow us to integrate the NBIB structure into DSS [Defense Security Service] in a way that will not reverse or impact the great progress that NBIB has made in drawing down their investigative inventory, while allowing DSS to continue the progress we have made in innovation and transforming the vetting process.

As we continue to innovate and employ new measures mandated by ODNI's [Office of the Director of National Intelligence's] Trusted Workforce 2.0, our structure will change accordingly. To facilitate this transfer, I am working closely with Mr. Phalen to integrate the NBIB senior staff into DSS in order to capitalize on their expertise and experience. We want to ensure we have the best and the brightest minds at the table and that we continue to build on the progress NBIB has made.

Below the senior staff levels, I know that employees of both agencies are concerned about their jobs, their duty locations, their chains of command. I am committed to minimizing the disruption to both field workforces, the people on the ground doing the work in accomplishing our mission. I think our approach will do just that. However, let me be clear, this transfer is incredibly complex. We are integrating two organizations into DSS while simultaneously automating and changing operational processes and procedures. Everyone at this table recognizes these complexities and are resolute in ensuring it is done successfully.

We have worked with NBIB to develop a joint transfer plan which provides a high-level roadmap for the transfer, and we are continuing to develop a detailed step-by-step blueprint that will capture all of the actions necessary to complete the transfer, touching all functional areas. We are also establishing a joint transition team within DSS that will implement these plans and work the myriad of details required for a successful transfer.

While we work these transfer details, DSS is continuing its own innovation efforts. The executive correspondence signed in June by the Director of National Intelligence and the director of OPM allowed us to execute new measures for certain periodic reinvestiga-

tions and enroll them into a continuous evaluation program. This action allowed us to reduce the number of new cases being submitted to NBIB. It also allowed us to focus our attention on high-risk cases and begin to develop a risk-based approach to personnel vetting. While we are continuing to refine our processes and business rules, we are already seeing success in reducing the backlog and focusing our efforts on those elevated risk individuals within our cleared workforce.

The administration's June reform plan stated: Now is the time for bold transformation change in how we vet our workforce. I could not agree more. I think the progress DSS and NBIB have made this year positions us all well for success and will truly lead to a modern risk-based, technology-enabled personnel vetting model.

Finally, I would like to thank the members of the committee for your continued interest in not only the NBIB transfer, but in the important work that DSS does every day in personnel vetting, securing critical technology, and the defense of the industrial base, and conducting counterintelligence in order to preserve our Nation's military and economic competitive advantages.

With that, I am happy to take your questions.

[The joint prepared statement of Mr. Reid and Mr. Payne can be found in the Appendix on page 18.]

Mr. GAETZ. Thank you, Mr. Payne.

Mr. Phalen.

**STATEMENT OF CHARLES S. PHALEN, JR., DIRECTOR,  
NATIONAL BACKGROUND INVESTIGATIONS BUREAU**

Mr. PHALEN. Thank you.

Representative Gaetz, Ranking Member Moulton, members of the subcommittee, thank you for the opportunity to appear before you here today. As you know, NBIB's mission is a critical element of this Nation's efforts to ensure the integrity and the trustworthiness of the Federal workforce. In this role, we are the primary background investigative service provider for the Federal Government.

Each year, this program covers over 2 million individuals that require some type of formal investigation. These individuals work in more than 100 departments and agencies that are made up of civilians, military members, and contractors from the over 15,000 companies governed under the National Industrial Security Program.

Today, I would like to quickly address three main focus areas that are critical to the success of this mission. Number one, our organizational transition from OPM to the Department of Defense, our current inventory and those mitigation efforts, and then a glimpse into the future.

And as Garry and Dan have discussed, the successful transfer of NBIB from OPM to DOD is critical, and we are working closely with them daily, almost hourly, to ensure that this is a seamless transfer. We fully support the intent expressed in the President's Management Agenda to keep this mission intact, and I believe this decision will ultimately be beneficial for the whole of government.

That said, while there is a lot of focus on the future and the transfer and on transforming this mission, we have not been waiting for those final decisions before tackling the challenges that we

face. The future is, it has been now, and addressing this has been foremost in our minds.

Some quick numbers. At its highest level, our inventory reached 725,000 investigative products this past April. Looking at the trending earlier today, I am pretty confident that sometime in the next 24 hours that number will cross below the 600,000 mark, a reduction of over 17 percent in just 6 months.

That number 600,000 gets a lot of attention and is sometimes misconstrued as the number of government and industry employees waiting for a security clearance. That does not accurately portray the number of investigations pending in our inventory for initial national security clearances. That number is 275,000, of which about 110,000 are already at work on an interim clearance. While these numbers are not optimal, they are not as high as the 600,000, and we are working closely with our partner agencies to prioritize their more immediate requirements.

Getting back to the overall inventory, the reduction that we have seen so far is a direct result of the following sort of things: First, since our standup 2 years ago, we have worked to increase our Federal and contractor workforce to recover the investigative capacity we lost in 2014. We have exceeded that goal. At the same time, we introduced and implemented business practices and process improvements to include enhancement of technology that has enabled more efficient use of our workforce. And as a result, we have reduced the pending field work in our inventory by about 45 percent, reducing the workload by more than 2 million hours in a year.

To give you an idea of some of these processes, we are implementing robotic automation, robotic process automation, RPA, and have deployed about 20 bots so far to streamline the existing investigative processes. This effort will automate manual, time-intensive activities to increase productivity and reduce the waste and improve our timeliness. We have also developed and implemented an approach to rapidly assess completed cases based on a predictive model to expedite case closure to all of our customers.

We have leveraged our strong partnerships with our customers to focus investigative capacity around high-density work areas. These hubs have been established around geographic clusters of civilian, military, and industry partners, and through this strategic approach we have more efficiently completed hundreds of thousands of investigative items.

These are just three examples of many we have worked on. The results of our combined effort have increased our monthly production rate by 15 percent, closing just under 60,000 cases every full week for the last quarter. And I expect that trend to continue, actually to increase.

Investigative infrastructure is critical to our success. As we work with our partner agencies, particularly the Department of Defense that has primary responsibility to develop and roll out the National Background Investigation Services, the future end-to-end investigative system, it is imperative that we continue to make efficient use of our current IT systems and maintain the security of those systems and that data until we transition fully into the NBIS. This will enable us to continue working down the inventory, while also preparing and building for that future.

Regarding that future, we are fully supportive and fully engaged with the Trusted Workforce 2.0, the interagency effort led by the executive agents to transform and modernize the personnel security process. Most of the processes we employ today are driven by policy constraints, some of which date back seven decades, and they need to be revamped to match today's environment and challenges. We at NBIB know from experience there is much to be gained through the strategic policy review.

And in closing, while there is great focus on transferring and transforming this mission, there are over 10,000 people in the NBIB workforce, both Federal and contract support, who are focused every day on executing this mission. It is our shared goal that while we work to transfer and transform this mission, our work is uninterrupted and we continue our current path to progress.

Thank you, and I look forward to your questions.

[The prepared statement of Mr. Phalen can be found in the Appendix on page 25.]

Mr. GAETZ. Thank you, Mr. Phalen.

I see Mr. Gallego has joined us, and seek unanimous consent for him to participate as a full member of the subcommittee.

So ordered.

Mr. Reid, as this process goes forward, what will be the metrics that we use to determine whether or not this transfer has been successful? Will it be the duration until a decision has been made? Will it be, you know, some customer satisfaction metric?

You know, in my district, this is a major issue because we have got a number of people who leave military service having very high clearances and then they seek to go into the private sector, and even if they have a short lapse in that time period, it becomes as if they are a person who is tabula rasa to the intelligence community. And so if you could speak to that briefly.

Mr. REID. So I would offer you a two-part answer. And within the government, in terms of efficiency, the transfer of functions, resources, personnel infrastructure, that will currently reside within the Office of Personnel Management, and transferring those to the Department of Defense, we have developed a transfer timeline. The intent of this is to go from the first of the year, from January, and complete those transfers by the beginning of fiscal year 2020, through 30 September next year. So we have a 9-month window to complete those transfers. And we are working the fine details of the incremental transfers of those things.

Then we have a series of plans to go through, such as a human capital, right. You have over 2,000 Federal employees transferring from one agency to another. So as we work through those details, we will establish a series of gates for deliberate transfers of functions and resources. Now, that is really inside the government.

Your question, however, was more about the external facing, what do people see and what is the difference to the customer, right? So that goes to two parts. One is the continued progress that we will make working with the same people that are doing it now but now transferred under a DOD framework to work down the inventory. As the inventory works down, you have more resources to apply to existing cases, so you speed up your timeliness.

Our immediate goal right now is to get into federally mandated timeliness standards, which are 40 days at the secret level, 80 days at the top secret level. We are operating way beyond that right now. But we see no reason why, through normal process, as we get that inventory down and we have these assets working on it, we can inch those numbers back down. But keep in mind, the third part of the answer, is what both my colleagues refer to, is that the executive agents are in the middle of a process now to reexamine the entire system, and this is this Trusted Workforce system. Some of those will be implemented concurrent with everything I just said, and that will establish new efficiencies and new timelines that we have yet to map out. But the good news is for those awaiting a clearance, it will be a faster process. It is already proving to be a faster process. We are very confident we can get down into those guidelines and we can probably go even further.

As we talked about this issue of reinvestigations and using automated records check and continuous evaluation, currently, it is a several—it is upwards of 100 days to longer to get a reinvestigation done. Mr. Phalen said nobody is put out of work while that is happening, but nobody likes to be in limbo, right? As we implement the new process, you will not be waiting on a reinvestigation. That will be a continuous process, so that time component goes away completely. It also allows us to focus on the front end where we do our initial into the government, our initial checks, right.

The fact that we have this continuous evaluation, continuous vetting framework that is now maturing as we go, will make us more able to bring folks through the front end investigative process knowing we are going to enroll them in a CE [continuous evaluation] program, right, so those will all go down.

Mr. GAETZ. Thank you. I can submit the remainder of the majority's questions in writing for response.

Mr. Moulton, we have had votes called, and so I do not know how many members of the minority have questions, but I am certainly happy to proceed under the 5-minute rule and yield to you. But if you would like to utilize any of that time to yield to your colleagues, that would be fine as well.

Mr. Moulton is recognized for 5 minutes.

Mr. MOULTON. Gentlemen, I will just ask one question, and we will start with Mr. Reid. You know, fundamentally, I want to understand what is the audit process for this. We have learned a lot about continuous evaluations. We have learned about automation. I think a lot of these innovations make sense and, ultimately, should improve the process while also making it more efficient.

But we are not talking about, you know, automating a grocery store inventory here where if a few tomatoes fall through the cracks, you just have some lost tomatoes. We cannot let one single mole fall through the cracks here. So how are we protecting that? How are we ensuring that we have some manual cover backup for the automated processes as we are implementing them for the first time?

Mr. REID. Well, there is a couple parts to that as well. First of all, it is very important to point out that human beings are involved in this process every step of the way. There is not a security clearance machine that is grinding in the background sending out

notices saying, you know, you do not have a clearance. We have a vetting center that we have established, that Mr. Payne has established, the director is sitting right behind us here, and she has built up this capability to process.

What we do now and what we will do on scale is we receive alerts through continuous evaluation. We go through a process to validate those alerts, right, is this a valid alert? Is this the right person? Are we associating this alert with this person? Is that correct? Is the identity matching? Is the information credible? Then we go through a process to assess the significance of those alerts and apply to them a framework to make a decision, should this be a change in their status?

That is all monitored and regulated by people. It brings together the adjudicative functions with investigative functions in a new sort of dynamic fashion. That is the way we will evolve in the future. So you will always have trained adjudicators and trained information specialists working together to validate and verify and validate the system that is working properly and that action is being taken. I think to your point on the audit side, what are you doing about this, and are you doing the right thing based on the right information? So we have built that now.

The challenge is to scale up for the full Department. We are in the early months of that, but there is nothing keeping us from extending beyond that. This will be, as we transfer workforce, right, people that are doing things a certain way, as we adopt new processes, then they adopt and they get trained into those methods as well.

Mr. MOULTON. This will be a question that I think will continue to come up as we want to make sure that we understand that not only is the process getting more efficient and the backlog is going down, but it is just as secure or more secure than it has been in the past.

My colleagues are going to submit their questions for the record. I just have one more question for Mr. Payne very quickly.

You mentioned, Mr. Payne, that you are moving to a risk-based approach to personnel vetting. So does that mean we have not had a risk-based approach up until this point?

Mr. PAYNE. Well, I would say that we have covered the board on risk. We have done everybody at periodic—at the same periodic point of reinvestigation, 5 years.

Mr. MOULTON. So everybody has been the same?

Mr. PAYNE. Everybody has been the same.

Mr. MOULTON. So we have not been assessing people based on their risk to the enterprise?

Mr. PAYNE. There has been movements where we have elevated people, like, for example, those who have administrative access, administrator access for IT systems. Some agencies have done that, but by and large, it has been a 5- and a 10-year process, every 5, every 10 years. This gives us the opportunity, actually, to really focus our investigative resources on the areas where we need to focus them. So if we are getting hits from a continuous evaluation standpoint on a particular individual, well, maybe that is the individual we want to focus on for a deeper reinvestigation, as opposed to someone who we are not coming up with anything, they seem

to be leading a pretty clean life. Let's put the resources on those individuals that are the riskiest.

Mr. MOULTON. Thank you.

Gentlemen, thank you.

And, Mr. Chairman, I yield back.

Mr. GAETZ. The gentleman yields back.

Thank you, gentlemen. We will have additional questions we will submit in writing, but this concludes our subcommittee hearing, and the meeting is adjourned.

[Whereupon, at 4:00 p.m., the subcommittee was adjourned.]





---

---

# **A P P E N D I X**

DECEMBER 12, 2018

---

---



---

---

**PREPARED STATEMENTS SUBMITTED FOR THE RECORD**

DECEMBER 12, 2018

---

---



**Rep. Matt Gaetz Opening Statement**  
**Oversight and Investigations Subcommittee Hearing on**  
**“Security Clearance Processing Status Report”**  
**December 12, 2018**

Good afternoon. This hearing will come to order.

I am chairing today’s hearing because, sadly, Chairwoman Vicky Hartzler’s father just passed away. Certainly, all of us here are mindful of this sad time for Chairwoman Hartzler and her family.

Chairwoman Hartzler was eager that this hearing took place notwithstanding these very sad circumstances. This is because the Armed Services Committee is deeply interested in the security clearance process.

It is essential that a rigorous, fair, and expedient process exist to identify individuals who should be allowed access to classified government data. Without a sound security clearance system, our nation’s safety is potentially endangered and military readiness harmed.

This is the oversight subcommittee’s fifth event on this topic.

Today, we receive another mandated quarterly briefing on the security clearance process. Among other topics, we will hear about the size of the clearance backlog, trends in this backlog, and management initiatives to address it.

I am also interested in learning about the status of the Department of Defense’s assumption of responsibility for background investigations and the transition of the management of that process from the National Backgrounds Investigations Bureau.

I now turn to my colleague, Ranking Member Moulton, for his remarks.

COMBINED STATEMENT FOR THE RECORD

GARRY P. REID  
DIRECTOR FOR DEFENSE INTELLIGENCE  
(COUNTERINTELLIGENCE, LAW ENFORCEMENT, & SECURITY)  
AND  
DANIEL E. PAYNE  
DIRECTOR  
DEFENSE SECURITY SERVICE  
DEPARTMENT OF DEFENSE

Before the  
COMMITTEE ON ARMED SERVICES  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
U.S. HOUSE OF REPRESENTATIVES  
on  
Security Clearance Processing Status  
December 12, 2018

Chairwoman Hartzler, Ranking Member Moulton, and Subcommittee Members, thank you for the invitation to offer testimony on behalf of the Department of Defense (DoD) on the status of security clearance processing and our ongoing work to reform the Federal Vetting Enterprise.

Since our last update on February 27, 2018, the Department has continued to collaborate with our interagency partners to prepare for the transfer of the functions, personnel, and resources of the National Background Investigations Bureau (NBIB) mission to the Defense Security Service. It has been almost a year since Section 925 of the National Defense Authorization Act for Fiscal Year 2018 directed the transfer of responsibility for conducting background investigations for Department of Defense personnel from the Office of Personnel Management (OPM) to the Defense Security Service. At that time, the Department began work with the Office of the Director of National Intelligence (ODNI), OPM and the Office of Management and Budget to execute DoD's detailed implementation strategy required under Section 951 of the

National Defense Authorization Act for Fiscal Year 2017 and submitted to Congress in August 2017.

On June 21, 2018, the Administration announced that activities currently performed by NBIB would be consolidated with similar activities mandated to the Department of Defense. The Department supported the Administration's decision and immediately focused its efforts to collaborate with OPM and its Performance Accountability Council partners to develop a phased transition plan that would minimize impacts to NBIB's investigative capacity and ongoing efforts to reduce the background investigation inventory.

Also in June, the Director of National Intelligence, as the Security Executive Agent, and Director, OPM, as the Suitability and Credentialing Executive Agent, approved a set of measures to reduce the Federal Government's background investigation inventory in fiscal year 2018. These measures included options for increased application of automated records checks and continuous evaluation to offset time and manpower intensive field investigations. On July 31, 2018, the Department of Defense began executing these new measures on our SECRET and TOP SECRET level periodic reinvestigations. Implementation of these measures has reduced the flow of new periodic investigations to NBIB by approximately 40 percent, which has had a direct effect on backlog reduction. Overall, these new measures have helped reduce the inventory of DoD investigations by almost 18 percent over the past four months. Most significantly, the processing of these periodic reinvestigations within DoD represents the first step towards the transfer and transition of NBIB operations to the DSS, 26 months ahead of the statutory requirement to commence the transition by October 2020. We will build on this work in the coming months – continuing to focus on backlog reduction as we develop detailed plans for the transfer and transition.

Our progress to-date would not have been possible without the robust continuous evaluation and automated records checks capabilities built over the past three years, with strong Congressional support. Currently, the Department has 1.1 million personnel enrolled in the Continuous Evaluation program. We are planning to expand enrollment to encompass the entire population

eligible for access to classified information or to hold a sensitive position by fiscal Year 2021. This program has demonstrated clear and compelling benefits of ongoing and more frequent vetting of cleared personnel and, when expanded, will integrate with the DoD's insider threat and physical access programs to create a more comprehensive Continuous Vetting security architecture. These methods, which significantly decrease the risk associated with periodic reinvestigations that have traditionally been conducted every five or ten years, have shown convincing results for early detection of security risks and provide the basis for new approaches to modernize the vetting enterprise.

Another critical enabler are the National Background Investigative Services (NBIS), the end-to-end, enterprise IT shared service solutions for vetting across the U.S. Government. With your support we accelerated fielding of NBIS to align with execution of the new backlog mitigation measures in late July. The NBIS program executive office has fully adopted Agile Development methodology and will continue to deploy NBIS updates in parallel with changes made to the background investigation process. By optimizing our investments and streamlining service delivery, we can achieve significant cost savings and cost avoidance, while more effectively driving system efficiency.

The Defense Security Service has done a remarkable job implementing the new measures while simultaneously posturing for the NBIB mission transfer, all the while maintaining focus on their oversight and execution of the National Industrial Security Program (NISP). The Defense Security Service has established the Defense Vetting Directorate, which consolidates functions of the DoD Insider Threat Management and Analysis Center, the Personnel Security Management Office for Industry, and DoD Continuous Evaluation. Over the summer, the Defense Security Service worked extensively with NBIB to develop a transfer plan to guide our actions realigning NBIB functions, personnel, and resources to the Department of Defense.

The Department of Defense is engaged in detailed planning to restructure the Defense Security Service to accommodate the new mission while safeguarding current core competencies. We



will soon establish a Personnel Vetting Transformation Office (PVTO) to develop detailed transfer plans and facilitate implementation. The PVTO will include personnel from other government agencies, including NBIB and OPM, as we work through the complex tasks to move people, resources, facilities, and infrastructure from one government agency to another. Concurrently, the PVTO will examine additional options for modernization and reform of the vetting enterprise, building on our current success.

With the prospective expansion of the scope of the DoD personnel vetting mission, we intend to look beyond the realm of incremental improvements and take full advantage of today's cutting-edge technology and innovations to alleviate the burdens of costly, time-intensive investigations. We acknowledge the key challenges ahead and are prepared to address any obstacles that arise including logistics, budget, human resources, and cultural issues. By working closely with the Performance Accountability Council and the Executive Agents, we intend to modernize our current vetting processes by integrating and aligning with partner missions such as Insider Threat, Counterintelligence and Human Resources, to improve information sharing and to meet the challenges of the evolving threat landscape and the dynamic changes in our workforce.

We will also continue to work very closely with the Executive Agents to streamline traditional labor-intensive processes that exist today, to continue to identify ways to economize field investigative work, and automate the process wherever possible. Long delays for background investigations can be eliminated by enhancing and largely replacing time intensive field work with the power of big data analytics, artificial intelligence, machine learning and publicly available social media data sources. We will use field investigations to fill gaps, not as the means to collect information that is more readily available through automated processes.

This work will be done hand-in-hand with the Performance Accountability Council as well as the Executive Agents, collaboratively developing alternative vetting procedures that will establish and sustain a Continuous Vetting process that can identify at-risk situations as they occur, and focus investigative and management intervention efforts ahead of a problem. These alternative investigative methodologies will be supplemented with automated prioritization tools and

integration with partner missions such as insider threat and physical security programs. We plan to implement modern alternative processes that are approved and vetted with no adverse impact on reciprocity.

DoD continues to actively engage with Congress, industry, and the think-tank community through security-focused forums and roundtable discussions that have resulted in excellent feedback essential to developing innovative and effective enterprise-wide solutions. We have developed new relationships and reinvigorated long-standing ties to ensure our partnership with industry avails of us the best practices. What we learn from the experience of the private sector helps us examine innovative methods for assessing risk in the workforce and crafting mitigation strategies to protect people, information, and programs from insider and outsider threats.

As we prepare for the phased implementation of our plan, the Department is well-postured to take bold steps, while maintaining cognizance over the risks associated with an endeavor of this magnitude. We are getting the right people on board - recruiting talent, adjusting organizational design, establishing the management structure, completing the IT infrastructure, and most importantly, embracing a new way of doing business. Simultaneously, we will need to keep the critically important National Industrial Security Program mission operating effectively while we adapt the Defense Security Service to its future state.

This is a very ambitious endeavor, but highly necessary in light of all the challenges faced in recent years. We must restore confidence in the background investigation process, eliminate long and costly delays, and fine-tune our vetting protocols to guard against compromises of national security information. Our plan is sound, we are steadily laying the groundwork for execution, and we have solid support across the government and with our industry partners. Thank you again for your interest in this most important topic. We would be happy to discuss these DoD initiatives in more detail and look forward to your questions.

**Garry Reid**  
**Director for Defense Intelligence (Intelligence and Security)**  
**Office of the Under Secretary of Defense for Intelligence**

Garry Reid is currently serving as the Director for Defense Intelligence (Intelligence and Security) (DDI (I&S)), reporting directly to the Under Secretary of Defense for Intelligence (USD(I)). In this capacity he is responsible for the formulation and implementation of policy and resources to conduct HUMINT, counterintelligence, security, sensitive activities, intelligence analysis, intelligence sharing, and partner engagement programs. On behalf of the USD(I), Mr. Reid oversees the activities of DoD intelligence and related elements, coordinates these activities within the US Intelligence community and US interagency, and provides regular reporting of these activities to Congress. Prior to this assignment, Mr. Reid served as a Special Assistant for Mission Integration, advising the USD(I) on issues concerning warfighter support, intelligence and security, technical collection and special programs, and intelligence strategy, programs and resources.

Prior to joining the office of the USD(I), Mr. Reid served nine years in the office of the Under Secretary for Policy (USD(P)), culminating as the Principal Deputy Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. He was the principal advisor to the ASD(SO/LIC) for DoD policies, plans, authorities, and resources related to special operations, low intensity conflict and other activities as specified by the Secretary of Defense.

From April 2009 - June 2012 he served as the Deputy Assistant Secretary of Defense for Special Operations and Combating Terrorism. He advised the ASD (SOLIC/IC), Under Secretary of Defense for Policy, and the Secretary of Defense on DoD policies, plans, authorities, and resources related to special operations and irregular warfare, with special emphasis on counterterrorism, counterinsurgency, unconventional warfare, sensitive special operations, and information operations. He further served as the principal counterterrorism crisis manager for the Office of the ASD(SOLIC/IC).

Mr. Reid joined the Office of the Secretary of Defense in January 2007 after 28 years of military service in Special Operations. A career member of the Senior Executive Service, he has served as the Director for Special Operations Policy, the Director for Counterterrorism Policy, and the Principal Director for Special Operations Capabilities. In these roles, he provided advice and assistance to the Under Secretary of Defense for Policy in the oversight of special operations and irregular warfare activities within the Department of Defense.

**Daniel E. Payne**  
**Director Defense Security Service**

Mr. Daniel E. Payne, a member of the Senior Intelligence Service, was appointed by the Secretary of Defense as Director of the Defense Security Service (DSS), on March 21, 2016.

As the Director of DSS, he leads the agency that has the mission to support national security and the warfighter, secure the nation's technological base, and oversee the protection of U.S. and foreign classified information in the hands of industry. DSS accomplishes this mission by clearing industrial facilities, personnel and associated information systems; collecting, analyzing and providing threat information to industry and government partners; managing foreign ownership, control or influence in cleared industry; providing advice and oversight to industry; delivering security education and training; and providing information technology services that support the industrial security mission of DoD and its partner agencies.

Mr. Payne is a career counterintelligence officer with the Central Intelligence Agency who has spent more than 30 years in the field of counterintelligence. Prior to joining DSS, Mr. Payne served as the Deputy Director of the National Counterintelligence and Security Center. Mr. Payne's previous senior assignments at CIA include Deputy Chief of South Asia Division; Deputy Chief, Counterintelligence Center; Assistant Inspector General for Investigations; Deputy Director, Counterterrorism Center for Counterintelligence; and Deputy Chief, Counterespionage Group.

After his graduation from Ball State University in 1981, Mr. Payne served as a Special Agent for the Defense Investigative Service, Edwards Air Force Base, Calif. Mr. Payne joined CIA's Office of Security in 1984, and became involved in counterespionage work beginning in 1985. Mr. Payne was one of the original officers involved in the hunt for a penetration of CIA which morphed into the investigation of Aldrich Ames. Mr. Payne was the lead investigator in the Ames Investigation. Mr. Payne was also involved in numerous other espionage investigations and founded the use of financial forensic techniques as a means to identify spies in the U.S. Government.

Mr. Payne is the recipient of the National Intelligence Superior Service Medal, National Intelligence Medal of Achievement, CIA's Intelligence Commendation Medal, NCS's Donovan Award, The George Bush Medal for Excellence in Counterterrorism, and the Intelligence Community Seal Medallion.

(February 2017)

STATEMENT OF  
CHARLES S. PHALEN, JR.  
DIRECTOR  
NATIONAL BACKGROUND INVESTIGATIONS BUREAU  
U.S. OFFICE OF PERSONNEL MANAGEMENT  
before the  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
of  
COMMITTEE ON ARMED SERVICES  
UNITED STATES HOUSE OF REPRESENTATIVES

--

December 12, 2018

---

Chairwoman Hartzler, Ranking Member Moulton, and Members of the Subcommittee, I am the Director of the National Background Investigations Bureau (NBIB) at the U.S. Office of Personnel Management (OPM). I appreciate the opportunity to appear before this Subcommittee today in order to update you about where NBIB is in terms of the transition of the Federal background investigation mission from OPM to the Department of Defense (DOD) improving our business processes and reducing the background investigations inventory.

Consistent with the President's Management Agenda and requirements from the FY18 National Defense Authorization Act, NBIB is working closely with its colleagues at the Defense Security Service (DSS) to transition responsibility for conducting background investigations for Department of Defense personnel to the Department of Defense (DoD). While the FY18 NDAA required the transfer of approximately 70 percent of NBIB's background investigation caseload, the Administration concluded that to achieve an efficient, effective, fiscally viable, and secure operation that meets the needs of the Executive Branch, it is necessary for the background investigation program to remain consolidated through a complete transfer of NBIB to DoD. When effectuated, such a transfer will bring together personnel security, vetting and counterintelligence missions into a single agency that will benefit our Federal and industry customers, as well as other stakeholders. NBIB stands ready to work with stakeholders and others as appropriate to accomplish this transition.

NBIB currently handles 95 percent of the background investigations within the Federal government. At its peak in April 2018, NBIB's inventory was at approximately 725,000 investigative products, including simple record checks, suitability and credentialing

investigations, and more labor-intensive national security investigations. Today our inventory is at 605,000 investigative products, a reduction of over 16 percent, and we continue to reduce the “backlog” by an average of 3,000 – 4,000 cases every week. Specifically, while the number of cases we receive have continued to increase over the past few months to approximately 55,000 per week, we not only managed to keep up but have surpassed our case closures at approximately 59,000 per week, enabling the inventory to decrease. We project we will continue to reduce inventory for the foreseeable future at an accelerating rate. It should also be noted that of the current 62,000 investigative products, 190,000 are for initial Secret clearances and 90,000 are for initial Top Secret investigations. As of November 5, 2018, 112,000 of those persons awaiting an initial Secret or Top Secret investigation, approximately 40 percent, have been granted interim clearances by their agencies while NBIB completes the overall investigation.

NBIB has taken a number of steps to achieve these improvements. We have expanded our investigative workforce to nearly 8,800 Federal investigators and contractors – an increase of over 51 percent since October 1, 2016. Overall, our field-investigative capacity has now reached a point higher than we had in 2014. We have also sought to better utilize resources as described below.

In FY2017, NBIB’s Strategy and Business Transformation office examined the entire background investigations process and identified ways to improve operations. Based on this examination, NBIB has worked to integrate information from trusted information providers – agencies and industry – into the process sooner to reduce duplication of efforts and to properly leverage this data. As a result, agents have been able to move on to other requirements more quickly. We have also improved fieldwork logistics by centralizing and prioritizing cases around locations where there are significant numbers of investigations, allowing NBIB to surge resources to a specific area and more efficiently and effectively complete a significant number of investigations. When more complex interviews and reports are required, we are making better use of technology to help collect that information. NBIB has increased digitization and automation of data, records, and information by proactively reaching out to record providers to negotiate direct connections and access to terminals. NBIB has also revised interagency agreements to more quickly facilitate downstream actions, such as case closing and adjudications.

NBIB has continued to build a mature relationship with its 100-plus Federal customers and stakeholders. Through the NBIB Stakeholder Group and the Customer Advisory Board, NBIB is able to hear and discuss concerns from those we serve and take action as appropriate. Going forward, NBIB stands ready to work with customers and stakeholders as appropriate to meet investigative needs, ensure transparency and effectiveness, and improve data collection and evaluation.

NBIB also participates in government-wide reform efforts in the security, suitability, and credentialing space. As part of the Performance Accountability Council (PAC), the interagency

group established pursuant to Executive Order 13467 to oversee reform of the Federal Government's background vetting program, NBIB works with other agencies to develop, implement, and continuously reevaluate and revise outcome-based metrics that measure the effectiveness of the vetting processes (e.g., security, investigative and adjudicative quality, cost, timeliness, reciprocity, customer service, and other performance characteristics). These efforts include:

- launching programs to continuously evaluate personnel with security clearances to determine whether these individuals continue to meet the requirements for eligibility, improving the level of review of cleared individuals while potentially reducing the need for a calendar-driven periodic reinvestigation;
- enhancing information sharing among state, local, and federal law enforcement entities when conducting background investigations; and
- assessing the quality of background investigations using a standard set of rules and an automated tool.

As we work towards the merger of our operations with the Defense Security Service, our mission of building and maintaining a trusted workforce and our efforts to realize process efficiencies, improve timeliness, and reduce our case inventory will continue. NBIB and DoD are using a process, known as a Tollgate, to facilitate regular discussions, develop milestones and deliverables, and mitigate challenges to assist a timely and successful transition. We remain committed to using innovation to meet our customer agencies' needs, leveraging their expertise as part of our decision-making processes, and remaining transparent and accountable to our stakeholders and Congress. We recognize that solutions to reduce the inventory and to maintain the strength of the background investigation program include people, resources, and technology, as well as partnerships with our stakeholder agencies and changes to the overall clearance investigation process.

Thank you for the opportunity to be here today, and I look forward to answering any questions you may have.

**NBIB Director Charles S. Phalen, Jr.**

Charles S. Phalen, Jr. is the Director of the National Background Investigations Bureau, an organizational element of the U.S. Office of Personnel Management. In this role, he leads a government-wide organization providing investigations for national security, suitability, and credentialing determinations for more than 100 federal agencies.

In his previous position, Mr. Phalen was Vice President of Corporate Security for Northrop Grumman Corporation and led the security organization responsible for overseeing the security policies, procedures and processes that protect company employees, information and property worldwide.

Prior to that, Mr. Phalen spent 30 years in the federal service. His most recent government positions include Director of Security for the Central Intelligence Agency; Assistant Director, Security Division, Federal Bureau of Investigation; Chief, Protective Programs Group, CIA Office of Security; Executive Officer, CIA Office of Security; Center Chief, CIA Office of Facilities and Security Services; and Chief, Facilities and Information Security Division, National Reconnaissance Office. Previously, he managed security activities involving investigations, operations support, risk analysis, and facility and asset protection, in the United States and abroad.

Mr. Phalen has a bachelor's degree in law enforcement and criminology from the University of Maryland. He is a member of the American Society for Industrial Security and is active in a number of external security forums.



---

---

**QUESTIONS SUBMITTED BY MEMBERS POST HEARING**

DECEMBER 12, 2018

---

---



#### QUESTIONS SUBMITTED BY MRS. HARTZLER

Mrs. HARTZLER. A recent Wall Street Journal article highlighted the difficulty that some defense contractors have in obtaining and retaining an adequate number of cleared employees. In order to ensure that workers have clearances by the time they join a classified project, some companies are submitting the names of individuals for background investigations while these individuals are still in college. At least one company also conducts its own initial background checks in order to expedite the official process. How might industry help to reduce further the clearance time?

Mr. REID. [The information was not available at the time of printing.]

Mrs. HARTZLER. How is the Department handling any shortcomings associated with databases used to monitor personnel?

Mr. REID. [The information was not available at the time of printing.]

Mrs. HARTZLER. Are there policies or laws that need to change to support the Continuous Vetting program?

Mr. REID. [The information was not available at the time of printing.]

Mrs. HARTZLER. What additional information technology, cybersecurity, and infrastructure costs are expected?

Mr. REID. [The information was not available at the time of printing.]

Mrs. HARTZLER. A recent Wall Street Journal article highlighted the difficulty that some defense contractors have in obtaining and retaining an adequate number of cleared employees. In order to ensure that workers have clearances by the time they join a classified project, some companies are submitting the names of individuals for background investigations while these individuals are still in college. At least one company also conducts its own initial background checks in order to expedite the official process. How might industry help to reduce further the clearance time?

Mr. PAYNE. [The information was not available at the time of printing.]

Mrs. HARTZLER. How is the Department handling any shortcomings associated with databases used to monitor personnel?

Mr. PAYNE. [The information was not available at the time of printing.]

Mrs. HARTZLER. Are there policies or laws that need to change to support the Continuous Vetting program?

Mr. PAYNE. [The information was not available at the time of printing.]

Mrs. HARTZLER. What additional information technology, cybersecurity, and infrastructure costs are expected?

Mr. PAYNE. [The information was not available at the time of printing.]

Mrs. HARTZLER. A recent Wall Street Journal article highlighted the difficulty that some defense contractors have in obtaining and retaining an adequate number of cleared employees. In order to ensure that workers have clearances by the time they join a classified project, some companies are submitting the names of individuals for background investigations while these individuals are still in college. At least one company also conducts its own initial background checks in order to expedite the official process. How might industry help to reduce further the clearance time?

Mr. PHALEN. As the primary investigative service provider to the federal government, the National Background Investigations Bureau (NBIB) believes there are three critical ways where Industry can participate in improving the timeliness of background investigations; however, this participation cannot be done unilaterally. First, clearance sponsoring agencies determine when a company can submit an individual for access and, typically, it is after the candidate has been hired by the company. Programs, such as the one referenced in the Wall Street Journal article, are currently limited in scope. It would be beneficial if sponsoring agencies broaden the use of this approach to allow or encourage industry case submissions earlier in the hiring process. Second, it is NBIB's experience that most companies conduct due diligence checks—often through a certified data provider—prior to employment. NBIB is looking at opportunities to leverage and reuse the data where NBIB can confirm the reliability of the source. Examples are education and previous employment validation. The reuse of previously collected and validated data will reduce du-

plication of effort, allowing for faster investigation completion. Lastly, NBIB, working with government agencies, is utilizing strategic geographic locations that serve as centralized points, or “hubs,” to streamline the field investigative process. These hubs provide opportunities to realize efficiencies through the use of concentrated fieldwork, enhanced accessibility to subjects and sources, and improved schedule coordination. NBIB intends to expand this practice more broadly to include Industry in this model.

Mrs. HARTZLER. How is the Department handling any shortcomings associated with databases used to monitor personnel?

Mr. PHALEN. We defer this question to the Department of Defense.

Mrs. HARTZLER. Are there policies or laws that need to change to support the Continuous Vetting program?

Mr. PHALEN. Executive Order (EO) 13467, as amended by EO 13764, states in Section 2.1 that covered individuals are subject to Continuous Vetting (CV) under standards determined by the Security Executive Agent and Suitability and Credentialing Executive Agent (henceforth referred to as the EAs). This gives the EAs the necessary authority to amend or establish new national policies as needed to improve personnel vetting processes. In spring 2018, the EAs initiated an inter-agency effort to review, transform, and modernize the government’s vetting processes, known as the Trusted Workforce 2.0 (TW 2.0). As an active member of the TW 2.0 Executive Steering Group and the Performance Accountability Council, NBIB provides input into considerations that drive policy, guidance, and standards issued by the EAs that serve to revolutionize the entire personnel security mission space. This includes implementation of a robust CV program within the Executive Branch. NBIB, as the largest investigative service provider to the Executive Branch, supports its customers’ critical need for Continuous Evaluation (CE), an important complement to CV efforts. Since August 2010, NBIB and its predecessor organization, Federal Investigative Services, has offered an optional Special Agreement Check to its customers in support of CE. Additionally, as of October 2018, NBIB provides the Federal Bureau of Investigation (FBI) Rap Back Service to some of its customers. This service allows agencies to subscribe for real-time notifications of changes to an individual’s criminal record. While these services are helpful in a CV program, additional actions are necessary to further develop a more robust and efficient CV program. An important element of a CV program is the timely capture of criminal history record information (CHRI). Presently, there is a lack of automated data to detect biometric and biographic arrest information across the spectrum of agencies, particularly as it pertains to the level of offense. Additionally, there is inconsistency in reporting arrest information based on the level of offense. The FBI’s Next Generation Identification (NGI) System contains fingerprint-based arrest information. Therefore, all federal and state agencies should ideally report all fingerprint-based arrests to the FBI or state central record repository, as appropriate, to establish a fully automated repository of CHRI. The personnel vetting program would greatly benefit from the ability to leverage data from private pre-employment screening providers who perform a series of automated checks for private sector companies under the National Industry Security Program. Such collection from a Trusted Information Provider would greatly reduce duplicative work in the personnel vetting process. However, this commercial vetting process is performed under the Federal Credit Reporting Act (FCRA), which limits timely reuse of this data even with consent from the applicant. Currently, the legal community (private and federal) advises that this efficient process would make the U.S. Government and private sector company liable for damages because the information was provided to a third party. To remedy this concern, an indemnification clause in the FCRA for federal background investigations is necessary to allow this type of efficient solution, whenever consent is provided by the applicant, to eliminate liability in this area.

Mrs. HARTZLER. What additional information technology, cybersecurity, and infrastructure costs are expected?

Mr. PHALEN. Pursuant to Executive Order, the Defense Information Systems Agency (DISA) is responsible for building, developing, maintaining, and protecting all information technology (IT) systems for the National Background Information System (NBIS) that will support the entire background investigations enterprise. Since its inception, NBIB has played an active role in assisting DoD with the development of NBIS to ensure its formation is inclusive of the needs of today and tomorrow. Furthermore, NBIB is a member of the Enterprise Information Technology Shared Service Steering Committee, which manages the NBIS product vision and roadmaps. DoD would be best positioned to provide a cost analysis related to NBIS. However, NBIB would note that while NBIS is being developed and incrementally deployed, the legacy IT systems that currently support NBIB must continue to be maintained and protected. This activity is resourced through the NBIB revolving

fund. Continuous use of technology during the transition period and after the mission is transferred will support the ability to reduce the background investigation inventory in a timely manner and permit NBIB to meet the needs of its customers.

