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**United States Department of State  
and the Broadcasting Board of Governors  
Office of Inspector General**

# Report of Inspection

## **Review of the Bureau of Diplomatic Security's Revocation Process for Security Clearances**

**Report Number ISP-I-06-43, September 2006**

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## KEY JUDGMENTS

- The Bureau of Diplomatic Security (DS) equitably administers the process for the revocation of security clearances, known as the adverse action process. The Office of Inspector General's (OIG) review determined that investigators' and adjudicators' actions appeared free of bias or prejudice and were based upon specified investigative and adjudicative guidelines and upon Executive Orders (E.O.) and Department of State (Department) standards, as published in the Foreign Affairs Manual.
- DS does not have a process to follow up on those cases containing a conditional reinstatement of the security clearance. In six of the 31 closed cases that reinstated an employee's clearance based on the employee meeting certain conditions, DS only followed up on one case to ensure that all conditions of the reinstatement had been met.
- Employees can appeal the proposed revocation of their security clearance to a three-member appeals panel that includes the Under Secretary for Management, the Assistant Secretary for Administration, and the official who is both Director General of the Foreign Service and Director of Human Resources. However, the appeals panel does not have a specified time frame in which to meet. This may further delay the process. After DS transmitted employees' appeals, the appeals panel took from three to 13 months to render the Department's final decisions.



## OBJECTIVES, SCOPE, AND METHODOLOGY

This review was prompted in part because a congressional office had provided OIG with a constituent's allegation that DS does not promptly, efficiently, and fairly investigate and adjudicate security clearance suspensions, resulting in a waste of government resources and placing Department employees' careers and reputations at risk. Additionally, the Concerned Foreign Service Officers, a group of Foreign Service officers that is not affiliated with the Department, complained to OIG of problems with the handling of cases by the DS Adverse Action Division. Specifically, the group's representative asserted, among other charges, that:

- Security clearances are suspended for reasons other than risk to national security;
- Security clearances are suspended arbitrarily and decisions are influenced by bias, prejudice, and ignorance;
- There is improper and unnecessary referral of clearance-suspension cases to other agencies;
- Investigations are lengthy; and
- There is a lack of adjudicative standards.

OIG's review sought to determine whether DS handles adverse action cases impartially and in a timely fashion, and does so without having punitive actions planned in advance. OIG performed this review's fieldwork in the Washington, DC, area between March 21 and May 19, 2006. OIG interviewed officials of DS, the Bureau of Human Resources (HR), and the Office of the Legal Adviser. In addition, OIG discussed a section of the report with staff from the Office of the Under Secretary for Management. OIG met with representatives of the American Foreign Service Association and the Concerned Foreign Service Officers. Furthermore, OIG met with management officials from the Department of Justice, National Security Agency, and Central Intelligence Agency to discuss their organizations' adverse action processes. During the review of the security clearance suspension and revocation process, the team analyzed all 43 adverse action cases that DS closed between January 1, 2000, and December 31, 2005, to determine whether adjudicative guidelines were applied objectively. Of the 43 cases, 31 involved clearances that were reinstated during the review process or by the appeals panel, five involved clearances that were revoked, six involved individuals who resigned, and one case is up for review in early 2007. OIG also reviewed the timelines and processes for 22 open cases.

OIG specifically examined all closed reports of investigations (ROI) to ensure that they did not include investigators' personal judgments. OIG also reviewed adjudicators' summary reports and recommendations, including supportive documentation, to determine whether DS officials reviewed individual cases before a proposed letter of revocation was sent to employees and whether Department employees facing clearance revocation received fair treatment.

Additionally, OIG examined whether Recommendations 2 and 3 from OIG's *Report of Inspection, Bureau of Diplomatic Security, Directorate of Security Infrastructure* (ISP-I-05-45, December 2004) were implemented.

Ruth McIlwain (team leader), Gwendolyn Llewellyn, and Christopher Mack conducted the review in accordance with *Quality Standards for Inspections*, issued by the President's Council on Integrity and Efficiency. A draft of the report was shared with DS and the Under Secretary for Management.

## CONTEXT

DS is responsible for personnel security matters within the Department. The DS Adverse Action Division in the Directorate of Security Infrastructure, Office of Personnel Security and Suitability (DS/SI/PSS), adjudicates sensitive reports of investigations involving misconduct, criminal behavior, or counterintelligence matters concerning Department employees and contractors, as well as other issues that may give rise to a suspension or revocation of a security clearance.

The Department has specific policies and guidelines for the revocation of security clearance eligibility, and they are contained in 12 FAM 230.<sup>1</sup> The Department follows E.O. 12968, which establishes a uniform federal personnel security program for employees who will be considered for initial or continued access to classified information. It also follows E.O. 10450, which establishes security requirements for government employees to ensure they are reliable, trustworthy, of good conduct and character, and loyal to the United States; the Adjudicative Guidelines issued by the National Security Advisor (dated December 29, 2005); and the investigative standards set forth in 12 FAM 221 and 12 FAM 228.

The DS Office of Investigation and Counterintelligence (DS/ICI) initiates an investigation when it receives information in the form of a complaint regarding an employee's continued clearance for access to classified information. It forwards an ROI to DS/SI/PSS for adjudication. The adjudication process usually results in the temporary suspension of the security clearance; in some cases, it results in revocation of the clearance. Most cases involve an appeals process. (See Appendix A for a diagram of this process.)

After receipt of the ROI, DS/SI/PSS begins the revocation process, and the adjudicator must review all documentation within 72 hours. During this review, the employee's clearance may be suspended. However, if the information is not serious enough to warrant a continuation of the suspension or a recommendation to revoke the security clearance, the adjudicator recommends that the employee receive a warning that future similar incidents may result in revocation of the employee's security clearance. The employee's clearance is then reinstated, with or without conditions.

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<sup>1</sup> 12 FAM 230 is under revision.

If the investigation reveals information that may adversely affect national security, the adjudicator recommends revocation of an employee's security clearance. After the adjudicator recommends revocation, there is an eight-level review by DS officials and the Office of the Legal Adviser<sup>2</sup> before the Director of the Diplomatic Security Service signs a letter advising the employee that DS intends to revoke his or her security clearance. After an employee receives notice of the intention to revoke his or her security clearance, the employee has 30 days to respond. The employee may provide additional information that may cause the adjudicator to refer the case back to DS/ICI for further investigation. After considering this additional information, DS decides whether to continue the revocation process.

If DS sustains the proposed revocation, the employee has 30 days to formally appeal the decision. DS is responsible for transmitting the employee's appeal, including the complete case file and DS recommendations, to the Under Secretary for Management. The Under Secretary for Management is responsible for convening the appeals panel, which also includes the Assistant Secretary for Administration and the Director General of the Foreign Service and Director of Human Resources. DS, the Office of the Legal Adviser, and the Office of Medical Services, if appropriate, provide technical guidance to the panel. The panel makes the final decision regarding revocation in accordance with E.O. 12968 and 12 FAM 233.4.d.

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<sup>2</sup> The officials are the chief, Adverse Action Division; assistant to the director and the director, DS/SL/PSS; Office of the Legal Adviser; assistant to the director, Security Infrastructure; director, Security Infrastructure; assistant to the director, Diplomatic Security Service; and director, Diplomatic Security Service.



## CASE ADJUDICATION

OIG reviewed 43 closed cases, including the ROIs, against the standards set forth in 12 FAM 230, the adjudicative guidelines, and Executive Orders. In every closed case:

- Revocation, when recommended, only involved national security reasons,
- The adjudicators' written recommendations contained no evidence of bias or prejudice,
- DS administered the revocation process equitably, and
- DS decisions were based upon specified investigative and adjudicative guidelines, Department standards, and Executive Orders.

However, OIG also determined that the process for reviewing a proposed revocation is lengthy, but concluded that the problem is due to circumstances beyond the control of DS.

## CASE PROCESSING TIME

Although 12 FAM 231.3.b.2 states that "...DS will resolve issues requiring the temporary suspension of clearance as quickly as possible (normally within 90 days)," only two of the cases OIG reviewed met the 90-day timeframe. The rest exceeded the 90-day period because of extenuating circumstances outside the control of DS. On the average, cases took 21 months<sup>3</sup> from the time a case was opened until an employee's security clearance was either reinstated or revoked. The shortest processing time was one and a half months, and the longest was 59 months. Of 43 cases reviewed, five involved employees who had their security clearances revoked and six involved employees who resigned. The introduction of new information, the involvement of outside entities, and scheduling of an appeals panel hearing greatly affect the time for completing an adverse action case.

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<sup>3</sup> The average includes a closed case that the appeals board will review again in 2007 to determine whether the employee's clearance will be reinstated on a provisional basis.

The delay for 11 closed cases<sup>4</sup> was due to the introduction of new information, presented by the employee or by a third party, that had not been previously investigated. If an employee submits additional relevant information after being notified of the Department's intent to revoke the clearance, the sequence of investigative and adjudicative events repeats itself, which delays the process. Meanwhile, the employee's clearance continues to be suspended. OIG informally recommended that the DS memorandum to the employee regarding revocation clearly state that any additional information or incidents arising during the course of an investigation could result in delay of a case while the new information is considered.

In some cases, employees facing clearance revocation engaged in other misconduct (for example, not reporting a foreign contact, using a government credit card for personal use, or being charged with a crime by the local police) while the case was under review by the adjudicator. Whenever any new information is presented in a case, DS/ICI may initiate another investigation. This secondary investigation can delay the time it takes to process a case, especially if the new information affects matters addressed by E.O. 12968. The Adverse Action Division has some open cases dating back to 2003 because new additional allegations were introduced that have yet to be investigated and adjudicated.

A referral to an outside entity can also cause a delay. For example, if an adjudicator encounters a counterintelligence issue during the adjudicative process, the adjudicator forwards this information to DS/ICI for investigation. Depending on the case, DS/ICI may need to coordinate with other agencies such as the Federal Bureau of Investigation, the Central Intelligence Agency, Defense Intelligence Agency, or the Naval Criminal Investigative Service. After DS/ICI completes its investigation, it provides the adjudicator with the investigative results in the form of another ROI. Criminal cases are forwarded to the appropriate assistant United States Attorney. In either situation, once a case is forwarded to these entities, the Department has no control over the length of time it takes for them to complete the investigation. It can take many months before either outside entity makes a decision and reports back to DS.

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<sup>4</sup> The time span for these cases was over two years before decisions were rendered.

## **CASE DOCUMENTATION**

According to the Adjudicative and Investigative Guidelines,<sup>5</sup> investigations must be fair, objective, and impartial, and reports must be accurate and complete. Although the closed cases OIG examined included key information supporting the facts of each case, the files were not properly organized or maintained. For example, DS/ICI sends to the Adverse Action Division a detailed report, signed by a supervisor, which includes background data on the employee in question and summarizes the facts of the case. After analyzing the data, the adjudicator makes a recommendation for action, producing a summary and analysis report. Some of these reports were not dated or did not show the appropriate unit supervisory review and approval, which is needed to establish that the report was complete. E-mails were exchanged during the adjudication process and were included in the case files, but actions resulting from the e-mails were not appropriately documented in the case files. None of the files examined were in chronological order or contained a tracking worksheet, which would show when the case was received by the adjudicator, the adjudicator's name, the status of the case, the weekly review by the chief of the Adverse Action Division, and when the case was closed. Furthermore, closed case files contained multiple copies of documents, which should have been removed after the case was closed. Case files should be maintained so that if a new adjudicator is assigned to a case or a supervisor reviews the case file, he or she may easily determine the status of a case. OIG informally recommended that DS improve the organization and maintenance of its case files.

## **CONDITIONAL SECURITY CLEARANCE**

Six<sup>6</sup> of 31 closed cases in which DS reinstated the employee's security clearance also included conditions that the employees needed to meet during the probationary period; however, there was no documentation in the files indicating that DS followed up to make certain that the conditions were met. DS may choose to conditionally reinstate an employee's security clearance based on the employee meeting certain stipulations during a probationary period, which ranges from 18 months to two years.

**(b) (2) High**-----  
**(b) (2) High**----- The best assurance that no problem arose

<sup>5</sup> 12 FAM 221.7-1 and 7-2; Adjudicative Guidelines, National Security Advisor (December 2005).

<sup>6</sup> The six closed cases that OIG reviewed involved issues of security violations for mishandling classified material and misconduct such as alcohol and drug abuse.

during the probationary period would involve including an updated memorandum or other documentation in the case file when the case is closed. Doing so would verify that no other incidents occurred during the probationary period and that the employee met the condition(s) to have his or her clearance reinstated.

**Recommendation 1:** The Bureau of Diplomatic Security should implement a process to follow up on cases in which the letter of security clearance reinstatement imposes conditions, documenting with a memorandum in the case file whether the employee met the stated conditions. (Action: DS)

**Recommendation 2:** The Bureau of Diplomatic Security should follow up on the six closed cases that have conditional reinstatements to determine whether the employees met the conditions. (Action: DS)

## THE APPEALS PANEL

The Appeals Panel is causing a delay in the revocation process due to the temporary absence of one or more panel members. According to 12 FAM 233.4d, if either the Assistant Secretary for Administration or the Director General is unable to serve on the panel, the Under Secretary for Management must appoint a senior manager from that member's bureau to serve as an alternate. Should the Under Secretary for Management be unable to serve, the Deputy Secretary is to appoint an appropriate substitute.

OIG's review of closed cases found that the appeals panel took anywhere from three to 13 months to render the Department's final decisions. The panel decides when a hearing will be conducted. There is no requirement specifying the period of time that may elapse between when DS notifies the Under Secretary for Management of an employee's notice of appeal and when the actual date of the hearing is scheduled.

**Recommendation 3:** The Under Secretary for Management, in coordination with the Bureaus of Administration and Human Resources, should convene an appeals panel and render a decision within a reasonable time, such as 45 calendar days after receiving from the Bureau of Diplomatic Security a notification of an employee's appeal of a decision to revoke a security clearance. (Action: M, in coordination with A and DGHR)



**STREAMLINING THE PROCESS WITH TECHNOLOGY**

The security clearance revocation process would be easier to manage if adjudicators in DS/SI/PSS and investigators in DS/ICI had electronic access to each other's investigative and case file data. DS/SI/PSS's tracking systems are maintained on the unclassified Department network, but DS/ICI's investigative records are maintained on the classified network. (b) (2)High

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(b) (2)High However, CMS could be joined with DS's current Reports Management System, which DS/SI/PSS uses for reviewing field investigative information on an employee's security clearance. This would allow data sharing between the two systems. ROIs for adverse actions, however, are only available as hard copies because they are generated on the classified system. Enhancing the technology would allow adjudicators and investigators to access a case file and write comments and upload data easily as information is received.

Automation would also eliminate the need to make photocopies of case files. For example, after the Adverse Action Division goes through its necessary approval process for a security clearance revocation, a copy of the case file is made for each of the eight reviewers.<sup>7</sup> This is a time-consuming process because of the number of reports, rebuttals, and addendums included in case files. Finally, automating the documentation would enhance the ability of the Adverse Action Division to compile and analyze historical and statistical data related to case files.

The Adverse Action Division and the DS Office of the Chief Technology Officer are identifying requirements that would provide a more specialized user access for adjudicators so that reports and other unclassified documentation could be uploaded electronically. The DS Office of the Chief Technology Officer said there is no estimated completion date for the necessary enhancements because DS and other

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<sup>7</sup> See footnote 2.

relevant bureaus must change certain information technology policies regarding remote access for this development to begin. OIG informally recommended that DS expedite the policy changes needed to start the development process for system enhancements.



## **DS COMPLIANCE ACTIONS**

OIG reviewed compliance with Recommendations 2 and 3 from its inspection of DS's Directorate of Security Infrastructure.<sup>8</sup> These recommendations called for DS to implement internal controls and to establish procedures to be certain that files are complete and meet federal standards before granting a security clearance.

DS responded to these recommendations on February 8, 2005. In response, OIG closed the recommendations along with others from the report.

DS/SI/PSS has made several improvements by instituting internal controls and establishing a quality assurance process to review investigative and adjudicative files for completeness. Investigators make every effort to meet the investigative requirements of 12 FAM 221.7-1 and 7-2. In those instances when these requirements cannot be met, they document the reasons. For example, if the investigator does not receive information from a regional security officer on time, the investigator makes a risk management decision as to whether or not that information is necessary to complete the case. The investigator documents that decision in the files, which are subject to supervisory review.

A DS analyst randomly selects 20 cases per month and uses a review sheet that mirrors investigative standards to evaluate the case files. According to the analyst, none of the cases reviewed had to be reopened due to incomplete data. The results of the quality assurance review are presented to the director of DS/SI/PSS.

DS initially conducted two in-house training sessions for its investigative and adjudicative staff and has established a formal training class at the DS Training Center that all DS special agent new hires must attend. The training includes investigative/adjudicative standards, office policy, and information about E.O. 12968.

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<sup>8</sup> *Report of Inspection, Bureau of Diplomatic Security, Directorate of Security Infrastructure (ISP-I-05-45), December 2004*



## FORMAL RECOMMENDATIONS

**Recommendation 1:** The Bureau of Diplomatic Security should implement a process to follow up on cases in which the letter of security clearance reinstatement imposes conditions, documenting with a memorandum in the case file whether the employee met the stated conditions. (Action: DS)

**Recommendation 2:** The Bureau of Diplomatic Security should follow up on the six closed cases that have conditional reinstatements to determine whether the employees met the conditions. (Action: DS)

**Recommendation 3:** The Under Secretary for Management, in coordination with the Bureaus of Administration and Human Resources, should convene an appeals panel and render a decision within a reasonable time, such as 45 calendar days after receiving from the Bureau of Diplomatic Security a notification of an employee's appeal of a decision to revoke a security clearance. (Action: M, in coordination with A and DGHR)



## INFORMAL RECOMMENDATIONS

Informal recommendations cover matters not requiring action by organizations outside of the inspected unit and/or the parent regional bureau and are not subject to the OIG compliance process. However, any subsequent OIG inspection or onsite compliance review will assess the progress made in implementing the informal recommendations.

Department employees are not aware that their case will be further delayed each time they submit new information to DS or if they commit another offense during the adverse action process.

**Informal Recommendation 1:** The Bureau of Diplomatic Security should state in the employee's memorandum for revocation that any additional information provided or additional offenses committed during the course of the adverse action process will further delay the employee's case.

Adverse action case files are poorly organized. For example, none of the case files were in chronological order or contained a worksheet showing the disposition of a case. (A worksheet would show the dates of actions, reviews, referrals of the case to another agency, follow-ups to check on the case with that agency, or when the case was closed.) Additionally, duplicative documents had not been removed when a case was closed.

**Informal Recommendation 2:** The Bureau of Diplomatic Security should keep its files in chronological order, ensure that the case files include a worksheet that contains all relevant actions taken while the case was pending, and remove duplicative documents from closed case files

Case files in the Adverse Action Division would be easier to manage if adjudicators and investigators had access to each other's files. This requires DS to make changes to its policy on uploading and downloading data to the Department's OpenNet network before any system development can begin.

**Informal Recommendation 3:** The Bureau of Diplomatic Security should implement the Department's new information technology policy to enable uploading and downloading from certain web-based applications.



## ABBREVIATIONS

CMS	Case Management System
Department	Department of State
DS	Bureau of Diplomatic Security
DS/ICI	DS Office of Investigations and Counterintelligence
DS/SI/PSS	DS Office of Personnel Security and Suitability
E.O.	Executive Order
HR	Bureau of Human Resources
OIG	Office of Inspector General
ROI	Report of investigation





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