

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

UNITED STATES,  
Appellee,  
vs.  
ZACARIAS MOUSSAOUI  
Appellant.

No. 06-4494

Crim No. 01-455-A

FILED

JAN 17 2008

US Court of Appeals  
4th Circuit

UNOPPOSED MOTION FOR LEAVE  
TO FILE SUPPLEMENTAL ADDENDUM MATERIALS  
PURSUANT TO LOCAL RULE 28(b)

Appellant, Zacarias Moussaoui, respectfully requests authorization pursuant to Local Rule 28(b) to file the following materials as a supplement to Appellant's

Addendum:

1. John Ashcroft, U.S. Atty. Gen., News Conference Regarding Zacarias Moussaoui at the Dep't of Justice Conference Ctr. (Dec. 11, 2001), *available at* [http://www.usdoj.gov/archive/ag/speeches/2001/agcrisisremarks12\\_11.htm](http://www.usdoj.gov/archive/ag/speeches/2001/agcrisisremarks12_11.htm) (Ex. A hereto)
2. Press Release, Dep't of Justice, Dep't of Justice Indicts Moussaoui for September 11 Attacks (Dec. 11, 2002), *available at* [http://www.usdoj.gov/opa/pr/2001/December/01\\_ag\\_641.htm](http://www.usdoj.gov/opa/pr/2001/December/01_ag_641.htm) (Ex. B hereto)
3. Office of Personnel Mgmt., *Gen. Questions and Answers about OPM Background Investigations*, *available at* [http://www.opm.gov/Products\\_and\\_Services/Investigations/FAQs.asp](http://www.opm.gov/Products_and_Services/Investigations/FAQs.asp) (Ex. C hereto)

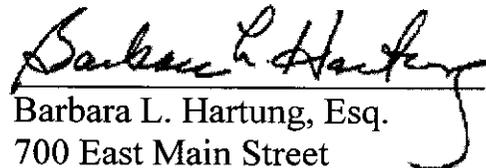
4. Press Briefing by Ari Fleischer, Office of the Press Secretary (Dec. 12, 2001), *available at* <http://www.whitehouse.gov/news/releases/2001/12/20011212-8.html> (Ex. D hereto)
5. Standard Form 86, *Questionnaire for National Security Positions* (Ex. E hereto), *available at* [http://www.opm.gov/forms/pdf\\_fill/SF86.pdf](http://www.opm.gov/forms/pdf_fill/SF86.pdf)
6. *United States v. Hassoun*, No. 04-60001 (S.D. Fla. Mar. 29, 2006) (protective order requiring defense counsel to obtain security clearance) (Ex. F. hereto)

Good cause supports presenting these materials because they will aid this Court's consideration of the issues in the above-captioned case. We submit these materials in this form for the convenience of the Panel.

Pursuant to Local Rule 27(a), on January 17, 2008, undersigned counsel informed counsel for the United States, Assistant United States Attorney David J. Novak about the filing of this Motion. The Government has consented to the relief sought in this Motion.

Respectfully submitted,

  
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*Counsel for Zacarias Moussaoui*

Dated: January 17, 2008

**CERTIFICATE OF FILING AND SERVICE**

I hereby certify that on this 17th day of January, 2008, I filed with the Clerk's Office of the United States Court of Appeals for the Fourth Circuit, via Hand Delivery, the required number of copies of this Motion for Leave to File Supplemental Addendum Materials Pursuant to Local Rule 28(b), and further certify that I served, via First Class U.S. Mail, the required copy of said Motion to the following:

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The necessary filing and service were performed in accordance with the instructions given me by counsel in this case.

  
The LEX Group<sup>VA</sup>  
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**Attorney General Transcript  
News Conference regarding Zacarias Moussaoui  
December 11, 2001  
DOJ Conference Center**

ATTY GEN. ASHCROFT: Today, three months after the assault on our homeland, the United States of America has brought the awesome weight of justice against the terrorists who blithely murdered innocent Americans. The first indictment has been brought against the terrorists of September 11th. Al Qaeda will now meet the justice it abhors and the judgment it fears.

This morning a grand jury in the Eastern District of Virginia charged Zacarias Moussaoui, a native of France of Moroccan ancestry, with conspiring with Osama bin Laden and al Qaeda to murder thousands of innocent people in New York, Virginia and Pennsylvania on September the 11th. The indictment names the following individuals as unindicted co-conspirators:

Osama bin Laden, head of the al Qaeda network;

Ayman al-Zawahiri, head of the Egyptian Islamic Jihad:

Moustaffa Ahmed al-Hawasawi (sp), who is alleged to have provided funding to Moussaoui and some of the 19 hijackers from bank accounts in the United Arab Emirates;

Ramzi Binalshibh, believed to have been a member of the al Qaeda Hamburg cell, who is alleged to have transferred funds to Moussaoui.

Also named as unindicted co-conspirators are: Mohamed Atta, Abdul Alomari, Wail Alshari, Waleed Alshehri and Satam al-Suqami, the hijackers of American Airlines Flight number 11; Marwan al-Shehhi, Fayeze Ahmed, Ahmed Algamdi, Hamza Algamdi and Mohald Alshehri, the hijackers of United Airlines Flight 175; Khalid al-Midhar, Nawaq Alhamzi, Hani Hanjour, Salem Alhamzi and Majed Moqed, the hijackers of American Airlines Flight 77; and Ziad Jarrah, Ahmed Alhaznawi, Saeed Alghamdi, Ahmed Alnami, the hijackers of United Airlines Flight number 93.

For those who continue to doubt al Qaeda's role in the murders of September 11th, our indictment offers 30 pages of chilling allegations of al Qaeda's campaign of terror. It lists four counts against Moussaoui -- pardon me, it lists six counts against Moussaoui, four of which authorize the maximum penalty, upon conviction, of death. The indictment issued today charges that al Qaeda conspired to commit acts of terrorism, conspired to commit aircraft piracy, conspired to destroy aircraft, conspired to use weapons of mass destruction, conspired to murder United States employees, and conspired to destroy property.

As the indictment sets forth, the United States alleges that Moussaoui engaged in the same preparation for murder as the 19 co-conspirators who

carried out the September 11th hijackings. The indictment specifies that Moussaoui, like the 19 hijackers who killed themselves in the name of terror on September the 11th, trained at an al Qaeda-affiliated camp in Afghanistan. It alleges that Moussaoui, like the others, received flight training in the United States. It alleges that Moussaoui, like the others, received funding from sources in Germany and the Middle East. It alleges that Moussaoui, like his co-conspirator, Mohammed Atta, made inquiries with a crop-dusting company and had in his possession a computer disk containing information related to the aerial application of pesticides.

The indictment issued today is a chronicle of evil, a carefully documented year-by-year, month-by-month, day-by-day account of a terrorist conspiracy that gathered both force and intensity in the weeks before September the 11th. Zacarias Moussaoui is alleged to have been an active participant in this conspiracy, alongside the 19 terrorists who carried it out. Moussaoui is charged with undergoing the same training, receiving the same funding, and pledging the same commitment to kill Americans as the hijackers.

The indictment describes how Moussaoui worked in concert with unindicted co-conspirators Moustaffa Ahmed al-Hawasawi (sp) and Ramzi Binalshibh, who are fugitives, to carry about the September 11th attacks.

When Binalshibh was refused entry into the United States, he is alleged to have acted as a financier and facilitator of terrorism, transferring funds to Moussaoui and other terrorists from his position in Hamburg, Germany.

Al-Hawasawi (sp) is alleged to have been another source of funding for the September 11th plot. The indictment charges that al-Hawasawi (sp) moved funds to Binalshibh in Germany who, in turn, wired money to Moussaoui for flight training in the United States. Moussaoui is charged as an active conspirator in the al Qaeda terrorist machine that to this day threatens the civilized world.

The indictment alleges -- it alleges that these terrorists provided training camps and military and intelligence training in Afghanistan, in Pakistan, in Sudan and other areas for use of al Qaeda and its affiliated groups, including the Egyptian Islamic Jihad. The charges also allege that the terrorists gave financial support on behalf of al Qaeda, including purchasing land for training camps, purchasing communications and electronics equipment, and transporting currency and weapons to members of al Qaeda and its associated terrorist organizations.

The acts of war on September 11th were an attack on all of America. In response, we have assembled a team of investigators and prosecutors who are among America's brightest and best. This indictment is the culmination of literally thousands of hours of effort on the part of these dedicated men and women. I commend the men and women of the Federal Bureau of Investigation. Led by Director Bob Mueller, these individuals have worked beyond fatigue; they have worked seven days a week, 24 hours a day, to identify, track down and disrupt terrorist networks.

I congratulate Deputy Attorney General Larry Thompson, and Assistant Attorney General Michael Chertoff, both former U.S. attorneys, distinguished for targeting and bringing down criminal enterprises. I commend them for their equally extraordinary work in this investigation

bringing us to this moment.

Today's indictment is the product of a national prosecution effort undertaken by the Department of Justice September 11 Task Force. Although these charges are brought in the Eastern District of Virginia, prosecutors from the Southern District of New York, together with prosecutors from the Eastern District of Virginia, and the Criminal Division of the Department of Justice here in Washington, have led the September 11th Task Force and will comprise the prosecution team.

I congratulate Paul McNulty, the U.S. attorney for the Eastern District of Virginia, and Mary Jo White, U.S. attorney for the Southern District of New York. Under Mary Jo White's leadership, her office secured the conviction of four al Qaeda terrorists who were sentenced to life in prison without the possibility of parole for their participation in the August 1998 bombing of two American embassies in Africa.

Other terrorism cases are currently pending in the Southern District of New York. Today's indictment is being brought in Virginia in recognition of the fact that we are engaged in a national struggle against terrorism and that we will investigate and prosecute the terrorist networks on multiple legal fronts, and that the September 11th attack struck at one of the most important institutions of government, the United States Pentagon.

For three months now, the families of victims of September 11th have waited for the killers of their loved ones to pay the price for their crimes. We will shortly be making available a website and a 1- 800 number for victims and victims' families to follow the progress of this prosecution.

The indictment of Zacarias Moussaoui is an important step in securing justice for the victims of September 11th.

Today, 7,000 miles from the field of battle in Afghanistan, another victory is taking shape in the war on terrorism. The values of freedom and justice that terrorists hate and sought to extinguish on September 11th have been vindicated as justice is served. America and the civilized world are united in defense of liberty and in the pursuit of justice. The United States will comfort and care for those victimized by terrorism. The United States will pursue and punish those who perpetrate terrorism. We will be relentless and resolute. We will not forget. And we will prevail.

Thank you. Bob.

MR. MUELLER: Thank you, Mr. Attorney General. And good afternoon all. This morning, people across the country and around the world remembered and honored those who lost their lives, those who saved lives, and those whose lives were changed forever by the tragic events of September 11th. The indictment we are announcing today is an important step in the process of bringing justice to those we believe to be connected to these violent and vicious attacks on America.

Zacarias Moussaoui first came to our attention on August 15th when we at the FBI received information about the suspicious circumstances of his flight training. The FBI working with the INS was enabled -- was able to assure that Moussaoui was detained on the following day on visa violation

charges, and he remained in custody since -- and has remained in custody since August 16th.

The FBI continued to investigate Moussaoui after his detention. And as we have uncovered information on the September 11th attacks, and as is alleged in the indictment, Moussaoui followed many of the same patterns and took many of the same steps as the other -- as the 19 hijackers.

As the indictment charges, Moussaoui was present at an al Qaeda- based terrorist training camp in Afghanistan three years ago. He attended flight school and took commercial flight training courses. He purchased flight deck videos from an Ohio flight store, just as Mohammed Atta and the other hijackers had done before him. He purchased knives and protective equipment. He looked into Global Positioning System technology. And like Atta, he also researched crop dusting.

The indictment also alleges that Moussaoui was linked to Ramzi Binalshibh, an associate of Atta who tried unsuccessfully to get into the United States on four separate occasions.

As the indictment charges, at the time of Binalshibh's last failed attempt to enter the United States, Moussaoui was contacting flight schools and making arrangements to have a legitimate presence in the United States.

In February of 2001, Moussaoui arrived in the United States, opened a bank account with \$32,000 in cash and immediately enrolled in a flight school. And as also charged in the indictment, in early August 2001, Moussaoui received \$14,000 from Germany, sent to him by Binalshibh. Lastly, on August 10th, as the indictment alleges, he paid for flight lessons with \$6,300 in cash.

I want to thank all those who contributed to today's indictment, including our partners here in the United States, as well as our partners overseas, whose cooperation and investigative skills were invaluable. And with the help of our partners here in the United States and overseas, we will continue to investigate to ensure that justice is done. Thank you.

ATTY GEN. ASHCROFT: Yes.

Q Mr. Attorney General, is Mr. Moussaoui cooperating? And can you tell us, since he followed the same patterns, but Mr. Mueller has told us that he wasn't the 20th hijacker, do you believe that he was going to be involved in a second wave of attacks and additional hijackings?

ATTY GEN. ASHCROFT: Very frankly, I'm not going to be commenting on the evidence. I'm just -- the indictment is substantial. I believe you have a copy of it, and it speaks for itself. Thank you.

Yes, sir?

Q Will you be seeking the death penalty in this case, sir?

ATTY GEN. ASHCROFT: The Department of Justice has a procedure for evaluating indictments that have been returned by grand juries where there are death-eligible offenses. That procedure involves a program of evaluation and recommendations. That will be conducted expeditiously, but

the procedures will be followed, and a determination will be made subsequent to that procedure having been completed.

Yes, sir?

Q Could you tell us about your decision to bring these prosecutions in Virginia, rather than in New York? The U.S. attorney's office there has been bringing these prosecutions for some years and developed some expertise in these kinds of cases, and of course, most of the victims were in New York. Why did you decide to bring this in Virginia?

ATTY GEN. ASHCROFT: Well, this is first an assault on the United States of America, as well as the entirety of the civilized world. You know dozens and dozens of nations lost lives in the various sites. The crimes here were committed from Maine and Massachusetts to New Jersey, New York, Pennsylvania, Virginia. This is a national matter. We have focused the national investigative effort here in Washington, D.C., under the direction of the FBI, and of course with the deputy attorney general and then Assistant Attorney General Michael Chertoff. We have taken expertise from around the country to assemble the prosecution team, as well as the investigative resources. And it's with that in mind that the proximity to this investigation would make the best sense for us to bring this case, using these resources, here in this setting.

Yes?

Q Mr. Attorney General? Bin Laden and others have been named as unindicted co-conspirators. That doesn't preclude indicting them somewhere down the line in the investigation, does it?

ATTY GEN. ASHCROFT: No, it does not in any way.

Yes? Front row.

Q Where is Moussaoui now?

ATTY GEN. ASHCROFT: He is being detained in the United States -- by the United States of America. And I'm not able to give you a specific address for that detention.

Sir?

Q Mr. Attorney General, the evidence is mounting against Osama bin Laden. We've heard about the tape that has yet to be released, and by your own account the evidence is pretty compelling. Why was he not indicted at this particular point?

ATTY GEN. ASHCROFT: Well, we have indicted the individual that we have in custody at this particular time. And I wouldn't -- other than that, I wouldn't draw any conclusions about the fact that others are unindicted.

Yes, sir?

Q You mentioned he followed the same patterns, but during the time that he was in this country, did he have any contact, direct contact with the other 19 involved?

ATTY GEN. ASHCROFT: I think the indictment lays out the broad outlines of the case very clearly. I would refer you to that, and then indicate that while it does that, there will be substantial and other additional evidence that will be presented at trial, but about which I will not comment at this time.

Q Mr. Attorney General, would you speak about the concern over the use of military tribunals against people -- foreign-born folks arrested in the United States?

ATTY GEN. ASHCROFT: I believe that the idea of having military commissions to try war criminals as a tool for the president of the United States is a good tool for him to have at his disposal.

This case merely indicates that my responsibility is to bring charges against those who commit crimes and are to be tried in the criminal justice system. We have done so in this instance. We believe that the indictment speaks clearly about the nature of this case.

Yes, in the back.

Q Mr. Attorney General, why was the indictment brought today, on the third anniversary?

ATTY GEN. ASHCROFT: We've been working, as I've commended, with these individuals for their outstanding effort and the organizations they represent, day and night to develop this. We believe that when the grand jury voted to bring forth these six counts in this indictment that it would appropriate to carry those counts immediately to the judge and to proceed.

Yes, sir.

Q Why was -- given that this man was in custody before September 11th, why was it not possible to learn enough from him to prevent these attacks?

ATTY GEN. ASHCROFT: I don't -- maybe the director of the FBI wants to make that statement. We learned enough to keep him in custody. And individuals who are uncooperative don't -- frequently don't become very substantial sources of information.

MR. MUELLER: I think, as I've indicated before, he was -- at the point in time after he was arrested on INS charges, we obtained no further information from him. And consequently, while there was some information to follow up on, which we did follow up on, he was not cooperative at that time.

Q Mr. Director, was he the 20th hijacker or not? I mean, there is no information in the indictment that seems to clearly link him to the other 19 apart from his parallel activities.

MR. MUELLER: Well, I think if you parse the indictment you will see that Binalshibh attempted four times to come into the United States and was rejected on those four occasions. Subsequent to that fourth time he was rejected, you will see Mr. Moussaoui attempting to come in the United States. Those are the allegations in the indictment, and the indictment

speaks for itself.

Q He's still not cooperating with you, though.

Q Mr. Director? In terms of the investigation, to follow up on his question, were there any patterns that were missed at the time? Was there a need for a broader investigation to see if other people may have been engaging in this type of training?

MR. MUELLER: Well, at the time the agents looked at his involvement with the flight school, they -- as I've indicated before, the agents in Minneapolis sought to do a FISA wire on a laptop, and the attorneys at the FBI believed there was insufficient probable cause, and he was being investigated -- his activities were being investigated when September 11th occurred.

Now, could we have done something else, perhaps, to avoid it in that investigation? Who can say? All I can tell you is that the agents on the scene attempted to follow up aggressively. The attorneys back at FBI determined that there was insufficient probable cause for a FISA, which appears to be an accurate decision. And September 11th happened.

STAFF: Last question please.

Q Director, is it your intention then to show that Binalshibh was going to come to the United States and hijack a plane with the other hijackers, but when he couldn't, Moussaoui was to take his place and do that? I mean, is that what you intend to prove?

ATTY GEN. ASHCROFT: The indictment is substantial. It alleges a very serious set of facts. There may be additional facts and evidence that are provided at the time of trial, but we will not go beyond the indictment today. The rules relating to statements we make limit us to staying within the indictment.

Yes.

Q Attorney General, last week, when you testified about the tribunals, you talked about you didn't want to see defendants with flamboyant defense attorneys and a long -- and people with, you know, a talk show of their own. Aren't you now going to see a very long, expensive trial, since Moussaoui will be afforded two defense lawyers since he's facing the death penalty?

ATTY GEN. ASHCROFT: We look forward to this trial and the presentation of the evidence, which is -- I think the indictments clearly indicated the direction in which we will move. And to go beyond the indictment now and try and describe the trial, it would not be appropriate for me to do that.

Thank you all very much. Thank you.

END.



# Department of Justice

FOR IMMEDIATE RELEASE  
TUESDAY, DECEMBER 11, 2001  
WWW.USDOJ.GOV

AG  
(202) 616-2777  
TDD (202) 514-1888

## DEPARTMENT OF JUSTICE INDICTS MOUSSAOUI FOR SEPTEMBER 11 ATTACKS

WASHINGTON, D.C. – A grand jury in the Eastern District of Virginia today returned the first terrorist indictment directly related to the events of September 11. Zacarias Moussaoui is charged with conspiring with other unindicted co-conspirators including Usama Bin Ladin, Ayman al-Zawahiri, Mustafa Ahmed, Ramzi Bin al-Shibh, and the 19 hijackers, to murder thousands of people, including Americans in New York, Virginia and Pennsylvania on September 11.

"Al Qaeda stands accused of the brutal attacks of September 11. For those who continue to doubt al Qaeda's role in the murders that occurred three months ago today, this indictment offers 30 pages of chilling allegations of its campaign of terror," said Attorney General John Ashcroft.

The indictment lists six counts against Moussaoui, four of which authorize the maximum penalty, upon conviction, of death. The indictment specifically charges Moussaoui with:

- Conspiracy to Commit Acts of Terrorism Transcending National Boundaries (maximum penalty is death);
- Conspiracy to Commit Aircraft Piracy (maximum penalty is death);
- Conspiracy to Destroy Aircraft (maximum penalty is death);
- Conspiracy to Use Weapons of Mass Destruction (maximum penalty is death);
- Conspiracy to Murder United States Employees (maximum penalty is life in prison); and
- Conspiracy to Destroy Property (maximum penalty is life in prison).

The indictment sets forth that Moussaoui is alleged to have engaged in the same preparation and training for murder as the 19 co-conspirators who carried out the September 11 hijackings. It alleges that Moussaoui, like the 19 hijackers, trained at an al Qaeda affiliated camp in Afghanistan, received flight training in the United States, received funding from sources in Germany and the Middle East, and pledging the same purpose to kill Americans. It also alleges that Moussaoui, like his co-conspirator Mohamed Atta, made inquiries with a crop dusting company, and that he had in his possession a computer disk containing information related to the aerial application of pesticides.

The indictment makes clear the work of Moussaoui in concert with unindicted co-conspirators Mustafah Ahmed al Hawsawi and Ramzi Bin al-Shibh, currently believed to be fugitives in Afghanistan, to carry out the September 11 attacks. When Bin al-Shibh, believed to have been an intended hijacker, was refused entry into the United States, he is alleged to have acted as a financier and transferred money

to Moussaoui and other terrorists, including acting as financier for the September 11 attacks and wiring Moussaoui money for flight training.

Moussaoui is charged with working as part of the al Qaeda network led by Usama Bin Ladin with the purpose of building an infrastructure of terror that continues to threaten the civilized world. The indictment charges that these terrorists have provided training camps and military and intelligence training in Afghanistan, Pakistan, Sudan and other areas for the use of al Qaeda and its affiliated groups. Moussaoui will be arraigned at the federal courthouse in Alexandria, Virginia on January 2, 2002.

The Attorney General today congratulated Paul McNulty from the Eastern District of Virginia, Mary Jo White from the Southern District of New York and prosecutors from the Criminal Division of the Department of Justice, specifically praising the New York U.S. Attorney's office for their valuable work. Today's indictment was brought in the Eastern District of Virginia in recognition of the fact that this is a national struggle against terrorism and that the September 11 attack struck at one of our most important institutions of government, the Pentagon. The prosecution team will be made up of representatives from the Eastern District of Virginia, the Southern District of New York and the Criminal Division of the Department of Justice.

An indictment contains only allegations. The defendant(s) are presumed innocent until proven guilty.

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01-641

This page can be found on the web at the following url:  
[http://www.opm.gov/Products\\_and\\_Services/Investigations/FAQs.asp](http://www.opm.gov/Products_and_Services/Investigations/FAQs.asp)

**U.S. Office of Personnel Management**  
Ensuring the Federal Government has an effective civilian workforce

## **GENERAL QUESTIONS AND ANSWERS ABOUT OPM BACKGROUND INVESTIGATIONS**

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May 2002 INV-020

### **Why does OPM investigate Federal applicants, employees, and contractors?**

The interests of national security require that all persons privileged to be employed in the departments and agencies of the government shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States. This means that the appointment of each civilian employee in any department or agency of the government is subject to investigation. The scope of the investigation will vary, depending on the nature of the position and the degree of harm that an individual in that position could cause.

The requirement to be investigated applies whether or not the position requires a security clearance (in order to have access to classified national security information).

**I am being considered for a Federal job and have been given a personnel security questionnaire. It's very long and asks a lot of personal questions. Do I have to answer all the questions on the form? Much of that information is already on my resume.**

Yes. The resume is part of the application process. The Security Questionnaire is part of the investigation process. All of the security questionnaire questions should be answered fully, accurately, and honestly.

### **What will happen if I refuse to give you some of this personal information?**

The investigation is a job requirement. Providing the information is voluntary, but if you choose not to provide the required information, you will not meet the requirements of the job and will therefore not be considered further. If you are already employed by the Federal government, your appointment will be terminated. The courts have upheld this principle.

### **What should I do if I remember something later, after I've filled out the form and returned it?**

Immediately notify the security officials to whom you submitted the questionnaire.

### **I don't want everybody reading my personal information; who sees this information?**

The only persons authorized to see your personal information are Personnel Security, Suitability, and Investigations professionals who have been investigated at the appropriate level and who have a genuine and demonstrated need for access to the information.

**I'm not a criminal. Why do you want my fingerprints?**

So that we can verify your claim that you're not a criminal by checking the FBI's fingerprint files. Executive Order 10450 requires that all Federal employees be fingerprinted.

**My brother works for one of the largest companies in the world, but he didn't have to go through all this. Why should I?**

Congress, through statutes, the President, through executive orders, and the agencies charged with carrying out these laws and orders have required this process. There is, generally, no requirement for private employers to use the same guidelines as public employers. Of course, if your brother's job with the private employer required him to have access to classified national security information as a contractor to the Federal government, even your brother would have to be investigated.

**Are you going to interview people other than those I name on the questionnaire? If so, why?**

Yes. Background Investigators are required to identify, locate, and interview a sufficient number of people who know you well. We want a balanced and unbiased investigation. It would be a questionable investigative practice to only interview persons whom the individual being investigated identified for us.

**Is it okay if I guess at dates and addresses that I barely remember?**

Providing information that is as complete and accurate as possible will assure that your investigation is completed in an efficient and timely manner. If you are unable to answer a question with precision, provide approximate information, note that you have done so on the questionnaire. If you are interviewed in person, point out the approximated information on the questionnaire to the Investigator.

**Why do you need information about my relatives?**

Relatives sometimes influence the actions of family members. We need to determine if you could be exploited by threats or pressure against your relatives or if they themselves could exert pressure against you.

**Will I get a chance to explain some of the answers I provide?**

Yes. Many types of background investigations involve a personal interview. Moreover, you may submit information on extra pages with your questionnaire if you feel you need to more fully explain details or circumstances of the answers you put on the form.

**How can I see the report you prepare about me? Do I?**

The only persons authorized to see this information are Personnel Security, Suitability, and Investigations professionals who have been investigated and have a demonstrated need to review the information. You may request a copy of your investigation file under provisions of the Privacy Act. For an OPM investigation request, write to OPM-CIS, FOIP, Post Office Box 618, Boyers, PA 16018-0618. You must include your full name, Social Security Number, date and place of birth, and you must sign your request.

**What if you talk to someone who just doesn't like me and they lie about me?**

We talk to as many knowledgeable people as possible to get a balanced, accurate, and comprehensive picture of the person being investigated. Later, you may have an opportunity to refute any misleading or false information that was reported about you.

**I was cited for speeding once. Will that keep me from getting a job or a clearance?**

Not necessarily. Any negative information is evaluated regarding its recency, seriousness, relevance to the position and duties, and in light of, and in relationship to, all other information about you.

**I was arrested for shoplifting 20 years ago. Is that going to be held against me now?**

Not necessarily. Any negative information is evaluated regarding its recency, seriousness, relevance to the position and duties, and in light of, and in relationship to, all other information about you.

**I have a physical disability. Will that hurt my chances for a job?**

No. It is against Federal law to discriminate against an individual based on his or her disability.

**Are you going to tell my supervisor that I'm looking for a job?**

It is a requirement of a background investigation, and actual employment, that your current employer be contacted. We must verify your employment data and make other inquiries concerning your background. If you are a Federal employee or contractor, for example, it may be that your current employer needs you to have a security clearance for the work you do. In other instances, you are asked to complete the investigative form for an investigation and clearance only after a conditional offer of employment has been made for a position requiring a security clearance.

**Who decides if I get the job or a security clearance?**

Adjudications officials at the agency requiring the investigation will evaluate your case and communicate their recommendation to the appropriate personnel or security office.

**Is it true that the investigation will include a credit report about me?**

Yes. A search of the records of commercial credit reporting agencies is an integral part of almost all background investigations.

**Do you ever interview someone's ex-spouse or relatives?**

Yes, although, in many instances, interviewing ex-spouses or relatives is not mandatory.

**Why is detailed information about my education required?**

Educational history is necessary for jobs that require specific education and expertise. Any information supplied by the applicant must be verified.

**I was politically active during the last elections. Will that hurt my chances for a job or a clearance?**

No. It will neither hurt nor help your chances.

### **Do I have to go to a police station to be fingerprinted?**

You may go to a police station to be fingerprinted. In most instances, however, the agency requiring the investigation and clearance will fingerprint you.

### **Doesn't the FBI conduct all Federal background investigations?**

The U.S. Office of Personnel Management, the Department of Defense, and a few other agencies share this responsibility. The FBI mostly conducts investigations on the following: High level Presidential appointees, cabinet officers, agency heads and staff who may work at the White House directly for the President.

### **Many contractors say that a security clearance is needed to apply for their jobs. How can I get a clearance in advance so I can apply for these jobs? Can I pay for it myself?**

The Office of Personnel Management has no procedure for an individual to independently apply for an investigation, positions maintained by contractor, or security clearance. Clearances are based on investigations requested by Federal agencies, appropriate to specific positions and their duties. Until a person is offered such a position, the government will not request or pay for an investigation for a clearance. Once a person has been offered a job (contingent upon satisfactory completion of an investigation), the government will require the person to complete a Standard Form 86, Questionnaire for National Security Positions, initiate the investigation, adjudicate the results, and issue the appropriate clearance.

We know that some Defense Department contractors require applicants to already have a clearance, and they have the right to administer their personnel hiring procedures the way they want as long as they don't discriminate based on prohibited factors (such as race or religion). Persons who already have clearances are those who are already employed by a government contractor (or by the government itself) and are looking for other job opportunities.

### **How long does a background investigation take?**

The timeliness of a background investigation depends on the type of investigation conducted. Depending on the type of background investigation, the scope of the investigation may require coverage for specific items.

The need for a security clearance may affect the time period in which an investigation is completed. Each background investigation requires that certain areas are covered before an investigation is completed.

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## Press Briefing by Ari Fleischer

The James S. Brady Briefing Room

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12:40 P.M. EST

MR. FLEISCHER: Good afternoon. Let me discuss the President's schedule today, and I have a statement about something, and then I'd be happy to take questions.

The President today again hosted a bipartisan meeting of the congressional leadership as part of his effort to work with the Congress to help the Congress to break the logjam that is present in the Senate right now on the economic stimulus. Following the meeting, the President had his regular rounds of briefings from the CIA, from the FBI, and he convened a meeting of the National Security Council to discuss the latest information in the war effort.

Following that meeting, the President convened a meeting of his economic team, including Secretary O'Neill, Secretary Evans, Glenn Hubbard, Larry Lindsey, and others, to discuss the latest information about the state of the economy. The President remains deeply concerned about the number of Americans who are unemployed and the status of the economy and a potential recovery. And this is again why he is working as diligently as he is to help the Senate to figure out a way out of the logjam that they're currently in. And he urges and calls on the Senate again to pass a stimulus to help the economy to grow and recover.

Following that, the President signed into law legislation called the Afghan Women and Children Relief Act of 2001, which will provide health care and educational assistance to the women and children of Afghanistan.

The President this afternoon will have a meeting here at the White House on one of the signature issues of his presidency, and that is improving education particularly for those in public schools. He will meet with the leaders of the education issue in the Congress -- Congressman Boehner, Congressman Miller, Senator Kennedy and Senator Gregg.

And on that point, I want to read a statement by the President about the education conference agreement, which was entered into yesterday. And unless something -- the House is scheduled to vote on this this week; the President believes and hopes that the Senate will also vote so education reform can be passed into law.

The following is a statement by the President: The education of every child in America must always be a top priority. I commend the conferees for agreeing on a series of profound reforms to help provide our children the best education possible.

I also thank the bipartisan leadership of the conference chair, Congressman Boehner, as well as Senators Kennedy, Gregg, and Congressman Miller, for taking major steps toward improving education throughout our country.

The conference agreement will ensure that no child in America is left behind, through historic educational reforms based on real accountability, unprecedented flexibility for states and school districts, greater local control, more options for parents, and more funding for what works. I urge members of the House and Senate to act soon and send me this legislation, so that states and school districts can begin implementing these important reforms.

That is a statement by the President. I read that because I think it is an important reminder of, even in a time of

war, where the President's priorities lie. And he understands the importance of education not only to uplifting people from poverty, in terms of helping improve the future of our economy, but also just as a simple matter of doing what he promised as a candidate and focusing on education. He is very pleased and thankful to the Congress for the actions they have taken this year.

One final point. In a similar spirit, the Senate Finance Committee just moments ago passed, by a bipartisan vote of 18 to 3, trade promotion authority. And the President is very grateful to the leaders of the Senate Finance Committee and the members who voted for this important action. The President thinks this also will help improve the economy long-term, that this is good for America's workers, and is helpful for developing nations around the world.

Finally, when you take a look at what is happening in the Congress on education and trade promotion authority, it's a clear sign that if there is a will there's a way in the Congress. And the President hopes that that same spirit on education, on trade promotion authority, where Congress is getting the people's business done, will be extended to the economic stimulus.

If ever there was an issue that proves that if there's a will, there's a way, it's the economic stimulus. If the will is there in the United States Senate, the votes are there. The President met last night with a group of Democrat and Republican moderates; clearly the votes are there to pass an economic stimulus and to help America's workers. The only question is, is the Senate leadership interested in following the will of the Senate to find a way to pass it. The President hopes so.

Q Ari, on the tape, what are the translators doing now? What seems to be the delay? Can you describe that process? And will it, in fact, be released this afternoon?

MR. FLEISCHER: The tape of Osama bin Laden bragging about the killing in the United States is roughly one hour long. The audio and the video quality are not good. And as a result, to be thorough, to be accurate, before anything is released to the world, the Defense Department has brought in four translators from outside the government to listen to every word and to make certain that there is agreement on what is said on the tape. We're very comfortable with the translation that we already do have, but prior to its release, which we're all hopeful will still take place, the review is underway. So, literally, four translators are listening carefully to it to make certain that every word is an accurate interpretation of the Arabic language.

Q Does today look improbable, then?

MR. FLEISCHER: I have to rely on DOD to inform you about it. The process is that the President has asked for the advice of his advisors about the release of the tape, and the President and his team will make the final decision about whether it should be released or not.

But, clearly, the President hopes that information can be shared with the public. The only thing that would stand in the way is if there is anything from intelligence or security that could be compromised. That's not looking like it's likely, so it really is just a matter of being diligent, thorough and accurate prior to releasing something to the world.

Q Ari, is it just a matter of it's taking so much time for these four translators to go through this, or is there some disagreement among the translators about what they hear on the tape?

MR. FLEISCHER: I have not heard anything about any disagreements. I think you can presume it's the usual conversation you would have with four translators about, do we hear it exactly right, is that syllable exactly right, and they're just going to be thorough and careful.

And we recognize that as soon as the tape is released, you all are going to take it to your translators, too. And I think you'll be, at that point, satisfied that the government diligence in preparing it will match the diligence that you bring to it, too.

Q If I could just follow up on that. The fact that the White House is going to sanction the release of this bin Laden videotape after counseling various and sundry news organizations to be very careful about what they air,

does that lead you to want to be extra careful to make sure you've dotted all the 'i's and crossed all the 't's before you put this out there?

MR. FLEISCHER: No. Because this videotape does not fall in the same category as the prepackaged, prerecorded videotapes that Osama bin Laden, himself, distributed as a way to communicate with the world. Clearly, this was a tape that was left behind in Afghanistan with no intention of being released, and it does not fall into the same category. That's why the White House does, indeed, look at this very differently from the category in which Condoleezza Rice called the networks and asked them to exercise their judgment and discretion.

Q But certainly, you can see the issue there in the inherent appearance, at least, of a contradiction in that.

MR. FLEISCHER: No, I can't, because I see the tapes as totally different. And I think most observers agree with that.

Q Ari, reaction to the violence in the Middle East today?

MR. FLEISCHER: The embassies on the ground are collecting the facts about the most recent violence in the Middle East. It took place shortly before this briefing, in terms of the reports coming in.

The latest violence underscores the need for Chairman Arafat and the Palestinian Authority to take every step possible to reduce the violence and bring an end to the terrorism that is plaguing the region.

Ambassador Zinni, or General Zinni remains in the region, committed to helping the parties find a way to begin the security talks, and the President remains hopeful that the talks can begin.

Q Ari, is there any doubt now that Arafat can't control the violence?

MR. FLEISCHER: Well, I think that this is a process that can't be measured in a day or two, this is a process that will be measured over time. But it is imperative that Chairman Arafat take every step possible to stop the violence, to stop the attacks. It's hard to imagine how a peace process can be fruitful and take hold if there is no peace, if there's killing.

Q Why are we condoning the bombing of his headquarters and police quarters and so forth? I mean, is that helpful to the Palestinians?

MR. FLEISCHER: Helen, as you know, after the series of suicide attacks took place in Jerusalem and Haifa last week, the President has made it clear that he understands Israel has a right to defend herself.

Q They are trying to get Arafat, aren't they? I mean, would that be helpful?

MR. FLEISCHER: The United States has not seen any indication that Israel is trying to get Yasser Arafat.

Q Ari, if I could reclaim my time. On the tape, a couple questions. Is it clear from the tape that bin Laden is aware he is being taped? Or is it the assessment of those who have seen it that he is not aware that he is being taped? And that is the central distinction that goes to what John's question was about, that it's not a propaganda machine, because he doesn't know he's being taped. And secondarily, as the translators go over this, are they debating the meaning of certain words, or is it just very hard to hear the words and it's the difficulty of hearing that's slowing it down?

MR. FLEISCHER: I think you need to ask that to DOD, itself. I did not ask that question to DOD. I know it's a matter of the audio quality, means you really have to play the tape over again, listen to it, listen to it over again to be certain about the words. But that's a DOD.

On the first question again?

Q Is he aware, based on those who have seen it, and does that make it essentially different from something that

he was clearly aware --

MR. FLEISCHER: No, it appears he was aware. It's hard to imagine somebody was in the room without him seeing.

Q Can I just follow up on Helen's question? Does the President believe that the specific response of Israel to the suicide attacks has been helpful, has been productive of a climate in which peace can take hold?

MR. FLEISCHER: I don't think the President looks at things in literally the light that you raise it. I think the President looks at it as a matter that, given what took place in Israel, Israel had a right to defend herself. And the President understands that.

The President is also calling on all the parties to work with General Zinni. General Zinni remains in the area for the express purpose of helping the two, Israel and the Palestinians, to find a way to begin the security dialogue once again that they both still say they are committed to.

Q And is the President looking for Israel to take any steps? Because it may be that it's not just Arafat's inability or refusal to control violence, but that there are other factors which contribute to these attacks -- the crackdown, continued crackdown in Palestinian areas, which many people say sponsors some of the frustration which leads to this.

MR. FLEISCHER: The President understands that the ability of the parties in the conflict to take the next steps first depends on the ability of violence to be reduced. It's very hard to begin a political dialogue when people are still being killed in the streets and wounded in the streets on an almost regular basis. And that's why the President has focused so strongly on calling for Chairman Arafat to reduce the violence, to take responsibility.

And it's also important to recognize for the future of the region that these are attacks on Chairman Arafat's authority, himself. These attacks undermine his ability to be a leader in the Palestinian cause. And that's important to recognize as well.

Q Is the President that American arms are used?

Q Ari, has Arafat taken any steps that you can see as positive?

MR. FLEISCHER: The Chairman has made several statements which are positive statements. The Chairman has arrested individuals, although still there is the issue of after arrests are made, people are frequently returned right to the streets. So it is a difficult situation for one and all, but that does not change the responsibility on a leader of a would-be state to demonstrate that he is capable of demonstrating the leadership required to end the violence.

Q Ari, why wasn't the President able to close the deal on a stimulus during the breakfast he had with congressional leaders this morning?

MR. FLEISCHER: Well, I don't think that when it comes to Congress scheduling a vote, it's something the President controls. The determination of when to schedule a vote is uniquely an issue or a decision made by the Senate leadership.

The President, as he said today, had a very productive meeting with enough senators last night in both parties to put this over the top. So the House of Representatives has shown its ability to pass a stimulus; the President has shown his ability not only to propose a stimulus, but to then subsequently modify it in an effort to break the logjam. The only group left in town that has shown no ability so far to pass a stimulus is the Senate leadership.

There is enough votes to pass it. If there's a will, there's a way. And that's the only question that remains now -- will the Senate show the will to find the way.

Q If I could follow on that, is the President still insisting that speeding up the tax cut passed earlier this year must be part of the stimulus plan?

MR. FLEISCHER: The President feels very strongly that it must be stimulative. And he is heartened to see that there are a majority of senators in both parties who agree. Senator Breaux was eloquent last night on the point of supporting an increase in the acceleration of the marginal income tax rate from 27 percent to 25 percent.

Clearly, the majority of the Senate agrees with the President that we have a need to do two things, stimulate the economy and protect unemployed workers. And the President just cannot imagine that the Senate would leave town without addressing both those important priorities. And there's still time for it to be done, and he hopes that it will be, but much of this is up to the Senate leadership.

Q Ari, what else is the President doing today in and the next day to get this through? Is he making calls today? Is he meeting -- having other meetings?

MR. FLEISCHER: I think the President has brought it to the point where it is very close to getting done. Keep in mind that a stimulus was originally the President's idea. He proposed it during the summer. The House passed it. The President then has worked with the Senate, modified it. I don't know what more a President can do, other than to meet with the leadership as he did this morning, to meet with the bipartisan group as he did last night, the statement the President made this morning again calling on the parties to get together. But at the end of the day, it is still the Senate that governs itself. And this is a real test of the new leadership of the Senate.

You know, I just remind you that it wasn't so long ago that the Senate was led by Senator Lott, with a very close margin. And there still is a very close margin in the Senate. But that doesn't change the responsibility of the leaders of the Senate to, in the end, deliver for the American people.

Q There has been a decline in contributions to Muslim charities in the United States. Do you have any -- does the White House have any reaction to that? I think there's a fear that these charities are somehow fronts for terrorist organizations.

MR. FLEISCHER: Well, the President has addressed this before, when he's called on groups to continue to donate to charities. And the President would hope that donations would continue to all charities that do good works, and that, of course, includes Muslim charities.

And because you've raised it, I would remind people that the President's legislation that is still pending in the Senate for the Armies of Compassion initiative does provide incentives for people to give increased money to charity; that does find a role for Muslim groups, for Islamic groups, for groups of all religious denominations to receive federal funding for their charitable efforts and their social efforts in the way to alleviate poverty. And that would, of course, include Muslim, Islamic groups.

Q Ari, you said this morning that the Pentagon was handling the videotape. You just told us that four independent translators were working on it as an advisory panel. My question is, will the President make the final call whether the tape will be released or not?

MR. FLEISCHER: Yes. Ultimately it is the President's decision. The President will make the decision in concert with his security team.

As I reviewed earlier, the only criteria he is concerned with are, is there any intelligence that would be compromised, or national security implications to releasing the tape? It's fair to say with each passing day there appear to be fewer and fewer things that are imaginable like that. But again, the President will make that final determination, and then if that determination is made, the release will come from the Department of Defense.

Q Can I ask you another question? On the free trade, you said the Senate Finance Committee has approved 18 to 3. When do you expect the whole Senate to vote on it? The House has already approved it.

MR. FLEISCHER: That's a question that can only be addressed to the Senate leadership.

Q Well, do you think you might get it this year?

MR. FLEISCHER: I think the President would be delighted if he could get it this year, because the President

believes very strongly in the power of trade to improve the lots of people around the world, to provide products for the American consumer, and to provide high-paying jobs for American workers.

Q Ari, back on the tape, is there concern about body language, as well, other than the phrasing and the wording of bin Laden? Is there concern about his body language? I mean, you're talking about coding with words, possibly, but what about the body language?

MR. FLEISCHER: In terms of coding, there's nothing that has been brought to my attention on that, April. So, again, that's why I said that with each passing day as it's reviewed, there are fewer and fewer concerns about the security implications of it. In terms of Osama bin Laden's body language, he appears -- if you can believe it -- happy, comfortable, and joyous with the fact that he was able to take lives.

Q So you have seen the tape?

MR. FLEISCHER: I have been briefed on the tape. I will watch it later. And I've read the entire transcript, though.

Q Another question about September 11th, real quick. Apparently, one of the 19 hijackers was stopped in the state of Maryland by a state trooper and was let go because they did not know about the fact that he was on the CIA terrorist watch list. Why is not there an interface system right now in place, and why was there not a system in place at that time, for someone to be a major criminal, or a major threat to the United States, for no other state entity or local government to know? There was a major -- it seems like there was a major mixup or a problem --

MR. FLEISCHER: April, I'm not aware of the facts in the case you're citing, so I'll be happy to take a look at that. But, clearly if a police officer pulls somebody over, it's not as if there's one central computer database for the entire country that runs every highway stop into a system.

Q But do you think there needs to be now, especially since this guy could have been stopped before --

MR. FLEISCHER: Let me take a look at the facts in this particular case. You may also want to address it to DOJ or to the local authorities who may have been involved in this stop. Because I don't have any information on that.

Q Is the White House recommending that they use the --

MR. FLEISCHER: Helen, we'll come back to you.

Q Why did the President consider but then reject the idea of having Moussaoui go before a military tribunal?

MR. FLEISCHER: The President, two days ago, discussed with Attorney General Ashcroft during an Oval Office meeting what the best venue would be to bring Mr. Moussaoui to justice. And as the President said when he created the military tribunals, he wanted to have the option of a military tribunal for those limited number of cases where the national security of the United States or our ability to continue to obtain intelligence information without compromising sources or methods would be achieved as a result of going to a military court as opposed to a civilian court.

So during his meeting with the Attorney General, the President asked a series of questions about civilian versus military trial, and asked if this were to be decided in a civilian court, a civilian criminal court, would national security be in danger, would sources or methods be compromised. The President was satisfied that the answers to those questions were no. The Attorney General recommended that this go to a civilian court; the President concurred. And so, that's what took place.

Q And is that final? Is that a final decision?

MR. FLEISCHER: Well, I should add one caveat, and is it's based on all the information that has been received at this time. If subsequent information were to be received in the course of developing facts and information, the President's options remain open. But you clearly have heard an announcement by the Attorney General, you've received the indictment from the Department of Justice. This case is proceeding in criminal court on the civilian

side.

Q Let me follow up, though. The President also asked whether there's any concerns about security at the courthouse, which is another reason for --

MR. FLEISCHER: Clearly, I don't have every question the President asked, Ron. But I think it's fair to say that if there had been sufficient concerns raised about security, another decision could have been made. No such decision was made.

Q Ari, on the tape, how long have these four interpreters been at work? And how long did it take the administration to produce the transcript? If one exists, it would seem that it wouldn't take as long as it is taking for the new people to review what already is in print. Could you please talk about that?

MR. FLEISCHER: I believe -- and you'd have to check with DOD to be final -- but the interpreters at DOD started working on it yesterday or the day before, one of those two days. And as I said at the top of the briefing, we are comfortable with the translation that we currently have, that it's accurate. The question is, before something is released to the world, and so people can see it and read a translation for themselves, we're dotting every 'i' and crossing every 'T' in the interest of thoroughness. And if it is exactly as I indicated, that there are no intelligence, no security concerns brought up, it's just a matter of time. As soon as they're done with the due diligence. And then the world will have it and the world will form its own judgments. And I think you'll be satisfied that the diligence that we brought to the translation was productive, and that way people can say this is, indeed, authoritative, accurate, and represents what people can view. Because this is Arabic and we want to be careful and accurate.

Q The young Taliban -- American Taliban fighter has apparently been debriefed and is suggesting that he had some knowledge of the next phase in the terrorist attacks against the United States. One, what is he saying to U.S. authorities? And two, how much credibility do you assign to this young guy, who did not seem to be in the senior al Qaeda leadership?

MR. FLEISCHER: Well, it is hard to imagine how somebody who was in a position that he was, how somebody in that position could obtain information that is credible or reliable about a future action. As you know, clearly in the case of the September 11th attacks, that information was extraordinarily limited in the number of people that the al Qaeda or Osama bin Laden informed ahead of time. So that's the answer in terms of the question about Mr. Walker.

It does remain a concern, of course, for the government. This is why you've heard Governor Ridge and others urge vigilance, urge people to maintain the alert status because of the general threats that we have received about anything that may be potential in the future. Risks do remain, unfortunately.

Q On the tape from bin Laden, I gather that he makes clear that not even some of his most senior lieutenants were aware of what was going to unfold on September 11th.

MR. FLEISCHER: That's correct.

Q So, making it even more difficult to believe that some guy in the middle levels or at lower levels of the Taliban --

MR. FLEISCHER: As I indicated, it is hard to imagine how Mr. Walker could be in possession of such specific information or knowledge. But having said that, beyond him, the government does have concerns, and that's why alerts have been made and the nation does need to continue its vigilance.

Q Ari, is the President willing, on ABM, to give Russia until January 1st before formally starting the six-month clock? And secondly, if Russia did jointly withdraw, would that give them a greater role, perhaps at least in terms of consultations when it comes to shaping a missile defense shield?

MR. FLEISCHER: Let me say, in terms of consultations, the consultations with Russia on the topic of missile defense have been strong. And I think you've all seen that with your own eyes in the course of the many

discussions the President has had with President Putin throughout the year. The whole dialogue about a missile defense has taken an interesting turn where, at the beginning of the administration, people reacted and said that this will lead to a resumption of the Cold War, this would be a monumental mistake, said the critics, to a real diminution of those type of arguments now, as the President has quietly and patiently made his case to European leaders and to other leaders.

As for the timing, I'm not in a position to make any predictions. When the President has something to say, he'll say it.

Q I was just wondering if there was any motivation for them to jointly withdraw, because that would give them something to have where they can say, well, now we are a partner in this and we are going to shape or at least be consulted more on missile defense. Or, is it the President's position that he would like to consult with them regardless of whether they withdraw?

MR. FLEISCHER: Bill, I'm not going to make any predictions about what the future will hold, other than to say that that the President has made it abundantly clear throughout the year that he thinks that the best way to preserve peace and to promote it is to move beyond the ABM Treaty.

Q Two follow-ups. First of all, on the tape. Is there any arrangement for people who want to translate it from Arabic to another language to hear the tape, or will they have to take it from the English? And on the ABM Treaty, do you have any indication whether Russia will go along with the abrogation of the treaty?

MR. FLEISCHER: The tape, if and when it is released, will be released in Arabic and with an English translation. And then at that point it will be in the public domain, and translators will be free to translate it.

And I cannot presume to speak for Russia. I would remind you of what President Putin said in Crawford, when he was asked a question by a high school student about if the United States were to unilaterally withdraw from the treaty, what his reaction would be. He said at that time that the United States' relationship with Russia is a very broad one, that there are many constructive avenues that we will continue to pursue in all cases, no matter what the President does or decides to do. But I do not presume to speak for what he would do, given any hypothetical thing that the President would do in the future.

Q Ari, has the President talked to Putin in the last couple days about this, or does he plan to talk to him before he makes any public statement?

MR. FLEISCHER: This is Wednesday; he has not talked to him in the last couple days.

Q A couple of questions on the speech the President gave today at the signing of that Afghan women and children's measure. He said, "We learned our lessons from the past. We will not leave until our mission is complete." What was the reference to there? Is he talking about the Persian Gulf War? Vietnam? What's on his mind when he says that?

MR. FLEISCHER: I think what's on his mind is the previous lesson of Afghanistan, and perhaps elsewhere in the world. And as you know, in recent years the United States has been the number one donor of food to the people of Afghanistan, even before September 11th. The United States will continue to be, even during this war and after the war, the number one provider of food and economic assistance to the people of Afghanistan. The President has always said that we would be engaged in the political future of Afghanistan, helping Afghanistan to find security and also protect, so they don't engage in terrorism.

And it's clear from the actions the President has taken in sending an ambassador to the region, and the discussions that have been held under Secretary Powell's leadership on reconstruction of Afghanistan, that the United States takes its commitment seriously to a future of Afghanistan once the war is won.

Q Are you saying that was not a military reference, "getting the job done"?

MR. FLEISCHER: Oh, no, it's not a military reference. The President

has been crystal-clear on military. Nothing has changed his views that the purpose of the military is to fight and win wars. Having said that, the President understands there are many other things that you can do to help achieve stability once the war is won, through aid and through diplomacy and through politics.

Q He also said that we won't rest until we bring these people to justice. What's the level of concern here about the number of Taliban and al Qaeda leaders who have escaped already, they've gotten away from there?

MR. FLEISCHER: Well, we don't know. We don't know, Secretary Rumsfeld has said, how many people have or may have escaped. No hard way of knowing. But the President's message is clear to the world: Wherever there are people who are engaged in terrorism which would threaten the lives of people in this country, or terrorism that has a global reach, the United States will take whatever action is required on a host of fronts -- on economic fronts, on political fronts, perhaps on military fronts. He's not ruled it out.

Q The House is supposed to be taking up the Ney-Hoyer election reform bill today. Is this legislation that the administration supports? And also, I'd like to know what, if anything, the White House is doing to try and get some election reform enacted before the next elections.

MR. FLEISCHER: The President believes that the Ney-Hoyer election reform legislation is a positive step forward. In July, the President announced a series of principles that he supported for election reform. And if you remember, President Carter, President Ford, came out with a series of principles that they believed needed to be carried forward in order to secure accurate elections. The President met with President Carter in the Oval Office and with a representative of President Ford to discuss those.

Since then, the President's staff has been discussing with the House of Representatives and the Senate, election reform issues. The President's principles remain clear, and this is why I said it's a positive step forward, that the federal government has a responsibility to provide limited, but effective assistance and help to state and local governments in elections; that state, county, local governments remain and must remain the primary method of conducting elections in this country, and their primary role has got to be respected by the federal government. He's pleased with the legislation on that front.

The President wants to make certain that we have a system that respects the rights of everyone to vote, including minorities, including members of the military, and that's why I said this is a positive step forward.

Q Do you want to see something enacted this year?

MR. FLEISCHER: I think if that were doable, the President would be pleased. But realistically now, when you start to take a look at all the various items, I'm not even aware that there's discussion in the Senate that they might be able to do that. But if they could, the President would be pleased.

Q Back on the stimulus, is the President ruling out a payroll tax holiday as a substitute for the accelerated tax cuts?

MR. FLEISCHER: What the President is ruling in are things that can pass. And there obviously is a bipartisan majority that can pass a reduction in income tax rates. Why would anybody pursue something which lacks the votes? There are more than 50 senators who are willing to vote for a reduction in marginal income tax rates on an accelerated basis, from 27 percent to 25 percent.

You heard Senator Breaux and the other Democrats here say that last night. You heard Senator Breaux and some others give some reflections about whether there is the will in the Senate to change the payroll taxes. There are other issues that are presented when you change payroll taxes involving Medicare and Social Security. There are senior groups that have some concerns about that. So the President's focus is on what can pass, not what can hold up a project.

Q Secondly, does the President need Senate approval to withdraw from the ABM Treaty?

MR. FLEISCHER: No.

Q Ari, regarding the Middle East again, General Zinni's plan was, he called now yesterday I believe, for 48 hours of quiet in order to get security talks moving. There were talks Friday and Saturday between some of the parties. And the Israelis responded with these night attacks, targeting Arafat's intelligence and security forces. The head of public security, Uzi Landau, made the statement saying, "They can talk about security all they want, but it's forbidden that these talks will prevent us from taking more action against the terrorism of Arafat. We must strike all the time at the infrastructure of terrorism." Aren't they really thumbing a nose at the efforts of Zinni and others to try and get discussions going on the security precautions?

MR. FLEISCHER: Really, there's nothing I have to change what I said previously on the topic.

Q Tom Daschle said this morning that he was told by the President that the President had actually decided to withdraw from the ABM. We had been told previously that he had been thinking about it, that he thought it was outdated. Can you confirm that that decision has actually been made now?

MR. FLEISCHER: Well, what I can confirm is the President has been saying publicly for a number of years that the United States needs to move beyond the ABM Treaty. Beyond that, the only thing I can offer you is that when the President has something to say publicly, he'll say it.

Q Can you acknowledge Tom Daschle was told that this morning?

MR. FLEISCHER: I can just simply suggest to you once again that when he has something to say publicly, he will.

Q On the technology advisory panel, is the President going to meet with that group today? And what kind of initiatives is the White House putting together to help deploy technology?

MR. FLEISCHER: Let me check on that and try to get back to you on that topic.

Q Ari, in light of Congressman Arney's retirement announcement, would the President prefer a new GOP leader in the House with the conservative credentials of somebody like Arney, or somebody who is more moderate?

MR. FLEISCHER: As you know, internal elections in the House are matters for the House to judge, not for the Executive Branch.

Q If the remaining logjam to the stimulus package is the individual rates -- acceleration of the individual rates, why doesn't the administration offer to remove that from the table? Wouldn't that move the process forward, and wouldn't you end up with a stimulative bill --

MR. FLEISCHER: That's clearly not the logjam. Clearly, there is a bipartisan majority of senators who support the proposal the President has made. The logjam is in the Senate leadership, which needs to schedule a vote rather than obstruct the bipartisan majority of the Senate.

So the will is there. The number of members is there. The question is does the Senate leadership want to find a way to match the will? And the President believes this is a classic issue of where there's a will there's a way, and he is doing everything he can to help the Senate to help itself.

Q But I thought the next step rested in this negotiating -- and to decide on one of these proposals.

MR. FLEISCHER: Well, the discussions are ongoing. People are continuing to talk. But obviously, when you have a bipartisan majority ready to take action, the time has come, either action can be taken or reasons will be found to stop the action from moving forward. But the President is hopeful, as he said, that the Senate will agree and move forward. There will be continued conversations with the Senate about that.

Q Ari, did the President talk to Dick Arney about his decision? And what is his reaction to the retirement?

MR. FLEISCHER: The President will have a statement – I will have a statement out from the President a little later today about it.

Q The Pentagon, Ari, has just confirmed that an Air Force bomber has gone down in the Indian Ocean. This is somewhat of a late-breaking story; I'm not expecting you to be aware of it now. But I was curious if, in fact, you had heard anything coming down here about it. And do you know if in any way the President has been informed? If you don't know, can you promise to get back with us on those details today?

MR. FLEISCHER: We will get back to you on that.

Q Did you know anything about it?

MR. FLEISCHER: No. First I've heard.

Q Back on ABM withdrawal for a moment. Despite the statement that you quoted, that President Putin made in Crawford, the critics of this decision say that it will undermine President Putin and strengthen the hardliners in Moscow, who are very skeptical about his whole policy of improving relations and cooperation with the United States. They also say this is the first time a major nation has ever withdrawn from a major arms control treaty, and that it will open the door on other nations doing the same thing. Could you respond to those criticisms?

MR. FLEISCHER: Well, I think it's fair to say that the President has long believed that the best way to promote and protect the peace is by allowing the United States to develop a missile defense system that can protect itself from accidental or rogue nation launch of an individual or two nuclear weapons. And given the events of September 11th, the President believes in that even more strongly, given the fact that we have seen that our enemies, when they can get their hands on a weapon, do not hesitate to use it.

The President is worried that it is only a matter of time and technology before terrorists or others are able to get their hands on a weapon that they would use. And the President is determined to protect this nation, to protect the people of our country, as well as others, from that eventuality. And so the President believes very strongly in this, and he does so because he believes it protects the peace.

Q Could you respond to the specific criticism that doing this now will undermine Putin and strengthen hardliners –

MR. FLEISCHER: The President does not share that view.

Q Why?

MR. FLEISCHER: Because the President believes that anything that protects the cause of peace protects people around the world who are dedicated to peace.

Q Ari, people say that the opposition forces in Afghanistan are offering a deal to the al Qaeda, surrender Osama bin Laden and go free. Is such a deal acceptable to the President?

MR. FLEISCHER: The President has made it very clear that this is about much more than Osama bin Laden. And this is about the destruction of the al Qaeda in its entirety, so they cannot engage in terrorism anymore, or that they cannot flee Afghanistan to find safe harbor in another nation, to create a new cell that could engage in terrorism once more. This is about protecting America from those who would do us harm.

Q If your initial translation of the tape was good enough to have the Vice President talk about it publicly and then show it to members of the Senate and House Intelligence Committees and have them talk about it publicly, why do you need to go through it one more time? And secondly, if the White House is trying to show that it's not trying to enhance in any way, editorially, this tape, why even provide a translation? Why not just give it to us and have our people go through it?

MR. FLEISCHER: Well, the President -- I mean, the Vice President, of course, was asked about it on a show. The Vice President went on the show to talk about a number of issues, and the topic came up. He responded.

He did not provide a translation of the tape, he gave his impressions of what the tape showed, based on the translation -- which I said, the translation is an accurate one, we're comfortable with it. But again, this is a matter of verbatim, and to be completely thorough before we hand out a verbatim transcript that the world will review. Again, I just think this is really -- this is a matter of time, and --

Q Well, why even provide a transcript? Why help in the editorial process, as opposed to just giving us the raw tape?

MR. FLEISCHER: You are under no obligation, if and when it's released, to accept the translation. I just think the administration's point of view is that it's best to provide information that can be understood, rather than providing something in another language.

Q In that context, does the White House hope that the networks will show the whole thing, the hour-long program, or is there any caveat on the use of the tape once they get it?

MR. FLEISCHER: That's a decision that the networks will make, and other stations will make.

Q So they're free to --

MR. FLEISCHER: Well, they always have been. Again, this is a totally different tape from the one that Dr. Rice called the networks about, a totally different type of tape because of -- it is not the prepackaged, preprogrammed tape that they wanted to get out deliberately, especially the one immediately after the September 11th attack -- or the United States retaliation after the September 11th attack.

You recall in that context, what happened was the United States took action against Osama bin Laden, the military campaign, the bombing began, and low and behold, all of a sudden, a prepackaged tape comes out that could have been viewed -- was viewed, likely -- by many people around the world to see what Osama bin Laden had deliberately wanted to get out to the world in the immediate aftermath of the bombing. I mean, you couldn't have asked for a more prepackaged, repositioned tape. This is not that type of tape.

So it is different. But even in that phone call, these are decisions that news organizations make, not the government. Dr. Rice asked the networks to exercise their discretion. She raised her concerns about what could be on those tapes. But the decision is made by the government.

Q You don't think they were intimidated at all?

MR. FLEISCHER: I know those people. They're hard to intimidate. But they are reasonable, and they do listen to the government's point of view, and then they make their judgments.

Q Very quickly, on al Qaeda leadership escaping Afghanistan, is the administration seeking basing rights in Somalia, particularly in the port of Berbera?

MR. FLEISCHER: You would need to talk to DOD about anything operational.

Q Are they considering any kind of blockade or screening of Somalia?

MR. FLEISCHER: Well, let me just say broadly on the question you're asking, this remains focused on phase one, and I'm not going to get into anything along the lines of speculating about if other phases may take place.

Thank you.

END 1:20 P.M. EST

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**Return to this article at:**

<http://www.whitehouse.gov/news/releases/2001/12/20011212-8.html>

 [CLICK HERE TO PRINT](#)

Standard Form 86  
Revised September 1995  
U.S. Office of Personnel Management  
5 CFR Parts 731, 732, and 736

Form approved:  
OMB No. 3206-0007  
NSN 7540-00-634-4036  
86-111

## Questionnaire for National Security Positions

Follow instructions fully or we cannot process your form. Be sure to sign and date the certification statement on Page 9 and the release on Page 10. *If you have any questions*, call the office that gave you the form.

### Purpose of this Form

The U.S. Government conducts background investigations and reinvestigations to establish that military personnel, applicants for or incumbents in national security positions, either employed by the Government or working for Government contractors, licensees, certificate holders, and grantees, are eligible for a required security clearance. Information from this form is used primarily as the basis for investigation for access to classified information or special nuclear information or material. Complete this form only after a conditional offer of employment has been made for a position requiring a security clearance.

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

### Authority to Request this Information

Depending upon the purpose of your investigation, the U.S. Government is authorized to ask for this information under Executive Orders 10450, 10865, 12333, and 12356; sections 3301 and 9101 of title 5, U.S. Code; sections 2165 and 2201 of title 42, U.S. Code; sections 781 to 887 of title 50, U.S. Code; and parts 5, 732, and 736 of Title 5, Code of Federal Regulations.

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

### The Investigative Process

Background investigations for national security positions are conducted to develop information to show whether you are reliable, trustworthy, of good conduct and character, and loyal to the United States. The information that you provide on this form is confirmed during the investigation. Investigation may extend beyond the time covered by this form when necessary to resolve issues. Your current employer must be contacted as part of the investigation, even if you have previously indicated on applications or other forms that you do not want this.

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

### Your Personal Interview

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

You will be asked to bring identification with your picture on it, such as a valid State driver's license, to the interview. There are other documents you may be asked to bring to verify your identity as well. These include documentation of any legal name change, Social Security card, and/or birth certificate.

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

### Organization of this Form

This form has two parts. Part 1 asks for background information, including where you have lived, gone to school, and worked. Part 2 asks about your activities and such matters as firings from a job, criminal history record, use of illegal drugs, and abuse of alcohol.

In answering all questions on this form, keep in mind that your answers are considered together with the information obtained in the investigation to reach an appropriate adjudication.

### Instructions for Completing this Form

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

**Final Determination on Your Eligibility**

Final determination on your eligibility for access to classified information is the responsibility of the Federal agency that requested your investigation. You may be provided the opportunity personally to explain, refute, or clarify any information before a final decision is made.

**Penalties for Inaccurate or False Statements**

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

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

**Disclosure of Information**

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

**PRIVACY ACT ROUTINE USES**

1. To the Department of Justice when: (a) the agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.
2. To a court or adjudicative body in a proceeding when: (a) the agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.
3. Except as noted in Question 24, when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, particular program statute, regulation, rule, or order issued pursuant thereto, the relevant records may be disclosed to the appropriate Federal, foreign, State, local, tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order.
4. To any source or potential source from which information is requested in the course of an investigation concerning the hiring or retention of an employee or other personnel action, or the issuing or retention of a security clearance, contract, grant, license, or other benefit, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.
5. To a Federal, State, local, foreign, tribal, or other public authority the fact that this system of records contains information relevant to the retention of an employee, or the retention of a security clearance, contract, license, grant, or other benefit. The other agency or licensing organization may then make a request supported by written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.
6. To contractors, grantees, experts, consultants, or volunteers when necessary to perform a function or service related to this record for which they have been engaged. Such recipients shall be required to comply with the Privacy Act of 1974, as amended.
7. To the news media or the general public, factual information the disclosure of which would be in the public interest and which would not constitute an unwarranted invasion of personal privacy.
8. To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.
9. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.
10. To the National Archives and Records Administration for records management inspections conducted under 44 USC 2904 and 2906.
11. To the Office of Management and Budget when necessary to the review of private relief legislation.

**STATE CODES (ABBREVIATIONS)**

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

**PUBLIC BURDEN INFORMATION**

Public burden reporting for this collection of information is estimated to average 90 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Reports and Forms Management Officer, U.S. Office of Personnel Management, 1900 E Street, N.W., Room CHP-500, Washington, D.C. 20415. Do not send your completed form to this address.

Standard Form 86 (EG)  
 Revised September 1995  
 U.S. Office of Personnel Management  
 5 CFR Parts 731, 732, and 736

**QUESTIONNAIRE FOR  
 NATIONAL SECURITY POSITIONS**

Form approved:  
 OMB No. 3206-0007  
 NSN 7540-00-634-4036  
 86-111

<b>Part 1</b>	Investigating Agency Use Only	Codes	Case Number
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*Agency Use Only (Complete items A through P using instructions provided by the Investigating agency).*

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

*Persons completing this form should begin with the questions below.*

<b>1 FULL NAME</b> • If you have only initials in your name, use them and state (IO). • If you have no middle name, enter "NMN". Last Name      First Name      Middle Name      Jr., II, etc.	<b>2 DATE OF BIRTH</b> • If you are a "Jr.," "Sr.," "II," etc., enter this in the box after your middle name. Month    Day    Year
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<b>3 PLACE OF BIRTH</b> - Use the two letter code for the State. City      County      State      Country (if not in the United States)	<b>4 SOCIAL SECURITY</b>
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<b>5 OTHER NAMES USED</b> Give other names you used and the period of time you used them (for example: your maiden name, name(s) by a former marriage, former name(s), alias(es), or nickname(s)). If the other name is your maiden name, put "nee" in front of it.					
#1 Name	Month/Year	To	#3 Name	Month/Year	To
#2 Name	Month/Year	To	#4 Name	Month/Year	To

<b>6 OTHER IDENTIFYING INFORMATION</b>	Height (feet and inches)	Weight (pounds)	Hair Color	Eye Color	Sex (Mark one box) <input type="checkbox"/> Female <input type="checkbox"/> Male
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<b>7 TELEPHONE NUMBERS</b>	Work (Include Area Code and extension) Day ( ) Night ( )	Home (Include Area Code) Day ( ) Night ( )
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<b>8 CITIZENSHIP</b> a Mark the box at the right that reflects your current citizenship status, and follow its instructions. <input type="checkbox"/> I am a U.S. citizen or national by birth in the U.S. or U.S. territory/possession. (Answer items b and d) <input type="checkbox"/> I am a U.S. citizen, but I was NOT born in the U.S. (Answer items b, c and d) <input type="checkbox"/> I am not a U.S. citizen. (Answer items b and e)	<b>b</b> Your Mother's Maiden Name
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<b>c UNITED STATES CITIZENSHIP</b> If you are a U.S. citizen, but were not born in the U.S., provide information about one or more of the following proofs of your citizenship.				
Naturalization Certificate (Where were you naturalized?)				
Court	City	State	Certificate Number	Month/Day/Year Issued
Citizenship Certificate (Where was the certificate issued?)				
City	State	Certificate Number	Month/Day/Year Issued	
State Department Form 240 - Report of Birth Abroad of a Citizen of the United States				
Give the date the form was prepared and give an explanation if needed.	Month/Day/Year	Explanation		
U.S. Passport				
This may be either a current or previous U.S. Passport.			Passport Number	Month/Day/Year Issued

<b>d DUAL CITIZENSHIP</b> If you are (or were) a dual citizen of the United States and another country, provide the name of that country in the space to the right.	Country
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<b>e ALIEN</b> If you are an alien, provide the following information:					
Place You Entered the United States:	City	State	Date You Entered U.S. Month    Day    Year	Alien Registration Number	Country(ies) of Citizenship

**9 WHERE YOU HAVE LIVED**

List the places where you have lived, beginning with the most recent (#1) and working back 7 years. All periods must be accounted for in your list. Be sure to indicate the actual physical location of your residence: do not use a post office box as an address, do not list a permanent address when you were actually living at a school address, etc. Be sure to specify your location as closely as possible: for example, do not list only your base or ship, list your barracks number or home port. You may omit temporary military duty locations under 90 days (list your permanent address instead), and you should use your APO/FPO address if you lived overseas.

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

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

**10 WHERE YOU WENT TO SCHOOL**

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

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

- 1 - High School
- 2 - College/University/Military College
- 3 - Vocational/Technical/Trade School

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

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

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

Enter your Social Security Number before going to the next page

**11**

**YOUR EMPLOYMENT ACTIVITIES**

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

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

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

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

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

<b>#1</b>	Month/Year To	Month/Year Present	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank		
Employer's/Verifier's Street Address				City (Country)	State	ZIP Code	Telephone Number ( )
Street Address of Job Location (if different than Employer's Address)				City (Country)	State	ZIP Code	Telephone Number ( )
Supervisor's Name & Street Address (if different than Job Location)				City (Country)	State	ZIP Code	Telephone Number ( )
<b>PREVIOUS PERIODS OF ACTIVITY (Block #1)</b>	Month/Year To	Month/Year		Position Title	Supervisor		
	Month/Year To	Month/Year		Position Title	Supervisor		
	Month/Year To	Month/Year		Position Title	Supervisor		
<b>#2</b>	Month/Year To	Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank		
Employer's/Verifier's Street Address				City (Country)	State	ZIP Code	Telephone Number ( )
Street Address of Job Location (if different than Employer's Address)				City (Country)	State	ZIP Code	Telephone Number ( )
Supervisor's Name & Street Address (if different than Job Location)				City (Country)	State	ZIP Code	Telephone Number ( )
<b>PREVIOUS PERIODS OF ACTIVITY (Block #2)</b>	Month/Year To	Month/Year		Position Title	Supervisor		
	Month/Year To	Month/Year		Position Title	Supervisor		
	Month/Year To	Month/Year		Position Title	Supervisor		
<b>#3</b>	Month/Year To	Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank		
Employer's/Verifier's Street Address				City (Country)	State	ZIP Code	Telephone Number ( )
Street Address of Job Location (if different than Employer's Address)				City (Country)	State	ZIP Code	Telephone Number ( )
Supervisor's Name & Street Address (if different than Job Location)				City (Country)	State	ZIP Code	Telephone Number ( ) 0.00%
<b>PREVIOUS PERIODS OF ACTIVITY (Block #3)</b>	Month/Year To	Month/Year		Position Title	Supervisor		
	Month/Year To	Month/Year		Position Title	Supervisor		
	Month/Year To	Month/Year		Position Title	Supervisor		

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

**YOUR EMPLOYMENT ACTIVITIES (CONTINUED)**

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

<b>PREVIOUS PERIODS OF ACTIVITY (Block #4)</b>	Month/Year	Month/Year	Position Title	Supervisor
	To			
	Month/Year	Month/Year	Position Title	Supervisor
	To			
Month/Year	Month/Year	Position Title	Supervisor	
	To			

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

<b>PREVIOUS PERIODS OF ACTIVITY (Block #5)</b>	Month/Year	Month/Year	Position Title	Supervisor
	To			
	Month/Year	Month/Year	Position Title	Supervisor
	To			
Month/Year	Month/Year	Position Title	Supervisor	
	To			

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

<b>PREVIOUS PERIODS OF ACTIVITY (Block #6)</b>	Month/Year	Month/Year	Position Title	Supervisor
	To			
	Month/Year	Month/Year	Position Title	Supervisor
	To			
Month/Year	Month/Year	Position Title	Supervisor	
	To			

**12 PEOPLE WHO KNOW YOU WELL**

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

<b>Name #1</b>	Home or Work Address	City (Country)	State	ZIP Code	Dates Known		Telephone Number	
					Month/Year	Month/Year	Day	Night ( )
<b>Name #2</b>	Home or Work Address	City (Country)	State	ZIP Code	Dates Known		Telephone Number	
					Month/Year	Month/Year	Day	Night ( )
<b>Name #3</b>	Home or Work Address	City (Country)	State	ZIP Code	Dates Known		Telephone Number	
					Month/Year	Month/Year	Day	Night ( )

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



**15 CITIZENSHIP OF YOUR RELATIVES AND ASSOCIATES**

If your mother, father, sister, brother, child, or current spouse or person with whom you have a spouse-like relationship is a U.S. citizen by other than birth, or an alien residing in the U.S., provide the nature of the individual's relationship to you (Spouse, Spouse-like, Mother, etc.), and the individual's name and date of birth on the first line (this information is needed to pair it accurately with information in items 13 and 14).

On the second line, provide the individual's naturalization certificate or alien registration number and use one of the document codes below to identify proof of citizenship status. Provide additional information on that line as requested.

- 1 - Naturalization Certificate: Provide the date issued and the location where the person was naturalized (Court, City and State).
- 2 - Citizenship Certificate: Provide the date and location issued (City and State).
- 3 - Alien Registration: Provide the date and place where the person entered the U.S. (City and State).
- 4 - Other: Provide an explanation in the "Additional Information" block.

<b>#1</b> Association	Name		Date of Birth (Month/Day/Year)
Certificate/Registration #	Document Code	Additional Information	
<b>#2</b> Association	Name		Date of Birth (Month/Day/Year)
Certificate/Registration #	Document Code	Additional Information	

**16 YOUR MILITARY HISTORY**

<b>a</b> Have you served in the United States military?	Yes	No
<b>b</b> Have you served in the United States Merchant Marine?		

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

•Code. Use one of the codes listed below to identify your branch of service:  
 1 - Air Force 2 - Army 3 - Navy 4 - Marine Corps 5 - Coast Guard 6 - Merchant Marine 7 - National Guard

•O/E. Mark "O" block for Officer or "E" block for Enlisted.  
 •Status. "X" the appropriate block for the status of your service during the time that you served. If your service was in the National Guard, do not use an "X": use the two-letter code for the state to mark the block.

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

Month/Year	Month/Year	Code	Service/Certificate #	Status				Country
				O	E	Active	Active Reserve	
To								
To								

**17 YOUR FOREIGN ACTIVITIES**

<b>a</b> Do you have any foreign property, business connections, or financial interests?	Yes	No
<b>b</b> Are you now or have you ever been employed by or acted as a consultant for a foreign government, firm, or agency?		
<b>c</b> Have you ever had any contact with a foreign government, its establishments (embassies or consulates), or its representatives, whether inside or outside the U.S., other than on official U.S. Government business? (Does not include routine visa applications and border crossing contacts.)		
<b>d</b> In the last 7 years, have you had an active passport that was issued by a foreign government?		

If you answered "Yes" to a, b, c, or d above, explain in the space below: provide inclusive dates, names of firms and/or governments involved, and an explanation of your involvement.

Month/Year	Month/Year	Firm and/or Government	Explanation
To			
To			

**18 FOREIGN COUNTRIES YOU HAVE VISITED**

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

- Use one of these codes to indicate the purpose of your visit: 1 - Business 2 - Pleasure 3 - Education 4 - Other
- Include short trips to Canada or Mexico. If you have lived near a border and have made short (one day or less) trips to the neighboring country, you do not need to list each trip. Instead, provide the time period, the code, the country, and a note ("Many Short Trips").
- Do not repeat travel covered in items 9, 10, or 11.

Month/Year	Month/Year	Code	Country	Month/Year	Month/Year	Code	Country
#1	To			#3	To		
#2	To			#4	To		

This concludes Part 1 of this form. If you have used Page 9, continuation sheets, or blank sheets to complete any of the questions in Part 1, give the number for those questions in the space to the right:

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



**24 YOUR USE OF ILLEGAL DRUGS AND DRUG ACTIVITY**

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

Yes	No

- a** Since the age of 16 or in the last 7 years, whichever is shorter, have you illegally used any controlled substance, for example, marijuana, cocaine, crack cocaine, hashish, narcotics (opium, morphine, codeine, heroin, etc.), amphetamines, depressants (barbiturates, methaqualone, tranquilizers, etc.), hallucinogenics (LSD, PCP, etc.), or prescription drugs?
- b** Have you ever illegally used a controlled substance while employed as a law enforcement officer, prosecutor, or courtroom official; while possessing a security clearance; or while in a position directly and immediately affecting the public safety?
- c** In the last 7 years, have you been involved in the illegal purchase, manufacture, trafficking, production, transfer, shipping, receiving, or sale of any narcotic, depressant, stimulant, hallucinogen, or cannabis for your own intended profit or that of another?

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

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

**25 YOUR USE OF ALCOHOL**

In the last 7 years, has your use of alcoholic beverages (such as liquor, beer, wine) resulted in any alcohol-related treatment or counseling (such as for alcohol abuse or alcoholism)?

Yes	No

If you answered "Yes," provide the dates of treatment and the name and address of the counselor or doctor below. Do not repeat information reported in response to item 21 above.

Month/Year	Month/Year	Name/Address of Counselor or Doctor	State	ZIP Code
To				
To				

**26 YOUR INVESTIGATIONS RECORD**

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

Yes	No

Codes for Investigating Agency

- 1 - Defense Department
- 2 - State Department
- 3 - Office of Personnel Management
- 4 - FBI
- 5 - Treasury Department
- 6 - Other (Specify)

Codes for Security Clearance Received

- 0 - Not Required
- 1 - Confidential
- 2 - Secret
- 3 - Top Secret
- 4 - Sensitive Compartmented Information
- 5 - Q
- 6 - L
- 7 - Other

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

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

Yes	No

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

**27 YOUR FINANCIAL RECORD**

- a** In the last 7 years, have you filed a petition under any chapter of the bankruptcy code (to include Chapter 13)?
- b** In the last 7 years, have you had your wages garnished or had any property repossessed for any reason?
- c** In the last 7 years, have you had a lien placed against your property for failing to pay taxes or other debts?
- d** In the last 7 years, have you had any judgments against you that have not been paid?

Yes	No

If you answered "Yes" to a, b, c, or d, provide the information requested below:

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

Enter your Social Security Number before going to the next page



Standard Form 86  
 Revised September 1995  
 U.S. Office of Personnel Management  
 5 CFR Parts 731, 732, and 736

Form approved:  
 OMB No. 3206-0007  
 NSN 7540-00-634-4036  
 86-111

**UNITED STATES OF AMERICA**  
**AUTHORIZATION FOR RELEASE OF INFORMATION**

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

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

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

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

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

**I Understand** that the information released by records custodians and sources of information is for official use by the Federal Government only for the purposes provided in this Standard Form 86, and that it may be redisclosed by the Government only as authorized by law.

Copies of this authorization that show my signature are as valid as the original release signed by me. This authorization is valid for five (5) years from the date signed or upon the termination of my affiliation with the Federal Government, whichever is sooner. Read, sign and date the release on the next page if you answered "Yes" to question 21.

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

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 04-60001-CR-COOKE/Brown (s)(s)(s)(s)(s)**

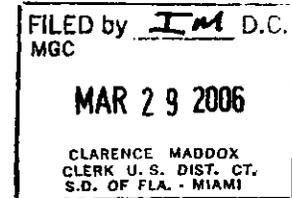
**UNITED STATES OF AMERICA**

v.

**ADHAM AMIN HASSOUN,  
a/k/a "Abu Sayyaf,"  
MOHAMED HESHAM YOUSSEF,  
a/k/a "Abu Turab,"  
KIFAH WAEI JAYYOUSI,  
a/k/a "Abu Mohamed,"  
KASSEM DAHER,  
a/k/a "Abu Zurr," and  
JOSE PADILLA,  
a/k/a "Ibrahim,"  
a/k/a "Abu Abdullah the Puerto Rican,"  
a/k/a "Abu Abdullah Al Mujahir,"**

**Defendants.**

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**PROTECTIVE ORDER**

This matter comes before the Court upon the Government's Motion for Protective Order to prevent the unauthorized use, disclosure or dissemination of classified national security information and documents which will be reviewed by or made available to, or are otherwise in the possession of, defense counsel in this case.

Pursuant to the authority granted under Section 3 of the Classified Information Procedures Act, 18 U.S.C. App. 3 (1994) (CIPA); the Security Procedures Established pursuant to Pub. L. 96-456, 94 Stat. 2025, by the Chief Justice of the United States for the Protection of Classified Information (reprinted following CIPA Section 9); Rules 16(d) and 57 of the Federal Rules of

*Handwritten signature/initials*

Criminal Procedure; the general supervisory authority of the Court; and in order to protect the national security,

IT IS HEREBY ORDERED:

1. The Court finds that this case will involve classified national security information, the storage, handling and control of which, by law or regulation, requires special security precautions, and access to which requires a security clearance and a "need-to-know."

2. The purpose of this Order is to establish the procedures that must be followed by all defense counsel of record, their designated employees, all other counsel involved in this case, translators for the defense, any Court personnel, and all other individuals who receive access to classified information or documents in connection with this case.

3. The procedures set forth in this Protective Order, CIPA, and the Foreign Intelligence Surveillance Act of 1978 (FISA) shall apply to all pre-trial, trial, post-trial, and appellate aspects concerning this case, and may be modified from time to time by further order of the Court acting under Fed. R. Crim. P. 16(d), Sections 3 and 9 of CIPA and FISA, and its inherent supervisory authority to ensure a fair and expeditious trial.

Definitions

4. As used herein, the terms "classified national security information and documents," "classified information" and "classified documents" refer to:

a. Any classified document or information which has been classified by any Executive Branch agency in the interests of national security or pursuant to Executive Order 12958 or its predecessor Orders as "CONFIDENTIAL," "SECRET," OR "TOP SECRET," or additionally

controlled as "SENSITIVE COMPARTMENTED INFORMATION (SCI)," or any information contained in such documents;

b. Any document or information, regardless of its physical form or characteristics, now or formerly in the possession of a private party, which has been derived from United States government information that was classified, regardless whether such document or information has subsequently been classified by the government pursuant to Executive Order 12958 or its predecessor Orders as "CONFIDENTIAL," "SECRET," or "TOP SECRET," or additionally controlled as "SENSITIVE COMPARTMENTED INFORMATION (SCI)";

c. Verbal classified information known to the defense counsel;

d. Any document and information, including verbal information, as to which the defense counsel have been notified orally or in writing that such documents or information contain classified information; or,

e. Any information, regardless of place or origin and including "foreign government information," as that term is defined in Executive Order 12958, that could reasonably be believed to contain classified information, or that refers or relates to national security or intelligence matters; and,

f. Any information including, but not limited to any subject obtained from the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the Department of State, National Security Counsel, the Federal Bureau of Investigation, or similar entity, with the exception of items seized by the Federal Bureau of Investigation during the execution of a duly authorized Rule 41 search warrant, shall be presumed to fall within the meaning of

classified information unless and until the Court Security Officer or an attorney for the government advises otherwise in writing.

5. The words "documents" or "information" shall include, but are not limited to, all written or printed matter of any kind, formal or informal, including originals, conforming copies and non-conforming copies (whether different from the original by reason of notation made on such copies or otherwise), and further include, but are not limited to:

a. Papers, correspondence, memoranda, notes, letters, reports, summaries, photographs, maps, charts and graphs, interoffice and intra-office communications, notations of any sort concerning conversations, meetings, or other communications, bulletins, teletypes, telegrams, and telefacsimiles, invoices, worksheets, and drafts, alterations, modifications, changes and amendments of any kind to the foregoing;

b. Graphic or oral records or representations of any kind, including, but not limited to, photographs, charts, graphs, microfiche, microfilm, videotapes, sound recordings of any kind, and motion pictures;

c. Electronic, mechanical or electric records of any kind, including, but not limited to, tapes, cassettes, disks, recordings, films, typewriter ribbons, word processing or other computer tapes or disks, and all manner of electronic data processing storage; and,

d. Information acquired orally or verbally.

6. All classified documents, and information contained therein, shall remain classified unless the documents bear a clear indication that they have been declassified by the agency or department that is the originating agency of the document or the information contained therein (hereinafter, the "originating agency").

7. Information in the public domain is ordinarily not classified. However, such information may be considered as classified, and therefore subject to the provisions of CIPA, if it is confirmed by any person who has, or has had, access to the classified information, and that confirmation corroborated the information in question. Any attempt by the defendant(s) or defense counsel to have such information confirmed or denied at trial, or in connection with any pretrial or other proceeding in this case, shall be governed by CIPA and all provisions of this Order.

8. "Access to classified information" means having access to, reviewing, reading, learning, or otherwise coming to know in any manner any classified information.

9. "Secure area" shall mean a physical facility accredited for the storage, handling, and control of classified information.

10. Court Security Officer - In accordance with the provisions of CIPA and the Security Procedures, the Court designates James Londergan, Security Specialist as Court Security Officer for this case, for the purpose of providing security arrangements necessary to protect from unauthorized disclosure any classified documents or information to be made available in connection with this case. Defense counsel shall seek guidance from the Court Security Officer with regard to appropriate storage, handling, transmittal, and use of classified documents and information.

11. Government Attorneys - The Court has been advised that the following government attorneys working on this case, Assistant U.S. Attorneys Russell R. Killinger, Brian K. Frazier, and Julia A. Paylor and U.S. Department of Justice Trial Attorneys Stephanie K. Pell and Mark Maldonado, and their respective supervisors, have the requisite security clearances to have access to the classified documents and information that relates to this case. All references to government

attorneys, or attorneys for the government, as used in this Order, refer only to the attorneys listed in this paragraph and their respective supervisors.

12. Protection of Classified Information – The Court finds that, in order to protect the classified information involved in this case, no person, including the defendants and any witness for the defense, except government attorneys, appropriately cleared Department of Justice employees, personnel of the originating agency, defense counsel, employees of defense counsel or translators employed by defense counsel, shall have access to the classified information in this case. No defense counsel, employee of defense counsel or translator shall have access to any classified information in this case unless that person shall first have:

a. Signed the Memorandum of Understanding in the form attached hereto, agreeing to comply with the terms of this Order. The signed Memorandum of Understanding shall be filed with the Court. The substitution, departure, or removal for any reason from this case of counsel for the defendant, or anyone associated with the defense as an employee or otherwise, shall not release that person from the provisions of this Order or the Memorandum of Understanding executed in connection with this Order.

b. Persons other than government attorneys, appropriately cleared Department of Justice employees, and personnel of the originating agency, can only obtain access to classified documents and information after having been granted a security clearance by the Court Security Officer, and with permission of the Court, either through this Order, (for those named in paragraph 13 below), or by a separate Order upon showing of a need to know. Before any person other than government attorneys, appropriately cleared Department of Justice employees, and personnel of the

originating agency, is permitted by the Court to inspect and review classified information, he or she must also sign the Memorandum of Understanding.

13. Defense Counsel - Subject to the provisions of paragraph 12, the following attorneys for the defense, their approved employees and translator (collectively referred to herein as "the defense"), shall be given access to classified documents and information as required by the government's discovery obligations and otherwise as necessary to prepare for proceedings in this case: Kenneth M. Swartz, Jeanne Baker, William W. Swor, Michael Caruso, Anthony J. Natale, Orlando do Campo and Andrew Patel, once each of the listed individuals have obtained security clearances verified by the Court Security Officer, James Londergan .

Any additional person whose assistance the defense reasonably requires may only have access to classified information in this case after obtaining from the Court -- with prior notice to the government -- an approval for access to the appropriate level of classification on a need-to-know basis, and after satisfying the other requirements described in this Order for access to classified information. The substitution, departure, or removal for any reason from this case of defense counsel or anyone associated with the defense as an employee or witness or otherwise, shall not release that person from the provisions of this Order or the Memorandum of Understanding executed in connection with this Order.

14. Unless already holding an appropriate security clearance, and approved for access to classified information in this case, for the purpose of establishing security clearances necessary for access to classified information that may be involved in this case, standard Form 86 ("Security Investigation Data for Sensitive Position"), attached releases, and "major case" fingerprints shall be completed and submitted to the Court Security Officer forthwith by the defense counsel, all persons

whose assistance the defense reasonably requires, and by such Court personnel as the Court requires for its assistance. The Court Security Officer shall take all reasonable steps to process all security clearance applications.

15. Area of Review - The Court Security Officer shall arrange for an appropriately approved secure area for the use by the defense. The Court Security Officer shall establish procedures to assure that the secure area is accessible to the defense during normal business hours and at other times on reasonable request as approved by the Court Security Officer. The secure area shall contain a separate working area for the defense, and will be outfitted with any secure office equipment requested by the defense that is reasonable and necessary to the preparation of the defendants' defense in this case. The Court Security Officer, in consultation with defense counsel, shall establish procedures to assure that the secure area may be maintained and operated in the most efficient manner consistent with the protection of classified information. No documents containing classified information may be removed from this secure area unless authorized by the Court Security Officer. The Court Security Officer shall not reveal to the government the content of any conversations she or he may hear among the defense, nor reveal the nature of documents being reviewed by them, or the work generated by them. In addition, the presence of the Court Security Officer shall not operate as a waiver of, limit, or otherwise render inapplicable, the attorney-client privilege.

16. If, upon the entry of a separate order of the Court, it becomes necessary for defendant(s) to review or discuss classified matters, or otherwise meet with defense counsel, in the Secure Area, this will only occur under appropriate supervision to ensure that the defendant(s) does not escape, attempt to escape, cause physical injury to himself or others, or remove, copy, alter, or

destroy classified information, or obtain access to classified information the defendant(s) is not entitled to review, and to ensure that the defendant(s) does not use the opportunity to review the classified materials to circumvent any applicable security restrictions, including any Special Administrative Measures imposed by the Bureau of Prisons, other prison regulations, and the other orders of this Court governing discovery in this case.

17. Filings with the Court - Until further order of this Court, any pleading or other document filed by the defense, which defense counsel knows, or has reason to know, contains classified information in whole or in part, believes may be classified in whole or in part, or is unsure of the proper classification of the document or pleading, shall be filed under seal with the Court through the Court Security Officer. The time of physical submission to the Court Security Officer shall be considered the date and time of filing. The Court Security Officer shall promptly examine the pleading or documents and, in consultation with representatives of the appropriate agencies, determine whether the pleading or document contains classified information. If the Court Security Officer determines that the pleading or document contains classified information, she or he shall ensure that that portion of the document, and only that portion, is marked with the appropriate classification marking and that the document remains under seal. All portions of any document filed by the defense that does not contain classified information shall immediately be unsealed by the Court Security Officer and placed in the public record. The Court Security Officer shall immediately deliver under seal to the Court and counsel for the government any pleadings or document to be filed by the defense that contains classified information; the Court shall then direct the clerk to enter on the docket sheet the title of the pleading or document, the date it was filed, and the fact that it has been filed under seal with the Court Security Officer. The Court Security Officer shall maintain a

separate sealed record for those materials which are classified. The Court Security Officer shall be responsible for maintaining the secured record for purposes of later proceedings or appeals.

18. Any pleading or other document filed by the government containing classified information shall be filed under seal with the Court through the Court Security Officer. The date and time of physical submission to the Court Security Officer shall be considered the date and time of the filing.

19. Access to Classified Information— Defense counsel, their designated employees and translators, shall have access to classified information only as follows:

a. All classified information produced by the government to the defense, in discovery or otherwise, and all classified information possessed, created, or maintained by the defense, shall be stored, maintained, and used only in the secure area established by the Court Security Officer;

b. The defense shall have free access to the classified information made available to them in the secure area, and shall be allowed to take notes and prepare documents with respect to those materials. However, the defense shall not, except under separate Court order, disclose the classified information, either directly, indirectly or in any manner which would disclose the existence of such, to pursue leads or in the defense of the defendants. Pleadings containing classified information which are filed by any one defendant on behalf of a single defendant or other defendants, can only be disclosed to other defendants and their counsel on authorization by the Court or Court Security Officer.

c. No person, including the defense, shall copy or reproduce any classified information in any form, except with the approval of the Court Security Officer or in accordance with the procedures established by the Court Security Officer for the operation of the secure area;

d. All documents prepared by the defense (including without limitation, pleadings or other documents intended for filing with the Court) that do or may contain classified information, shall be transcribed, recorded, typed, duplicated, copied, or otherwise prepared only by persons who have received an appropriate approval for access to classified information, and in the secure area on approved word processing equipment and in accordance with the procedures approved by the Court Security Officer. All such documents and any associated materials (such as notes, drafts, copies, typewriter ribbons, magnetic recordings, exhibits) containing classified information shall be maintained in the secure area unless and until the Court Security Officer determines that those documents or associated materials are unclassified in their entirety. None of these materials shall be disclosed to counsel for the government;

e. The defense shall discuss classified information only within the secure area or in another area authorized by the Court Security Officer, and shall not discuss or attempt to discuss classified information over any standard commercial telephone instrument or office intercommunication system, such as email;

f. The defense shall not disclose, without prior approval of the Court, the contents of any classified documents or information to any person not authorized pursuant to this Order, including the defendants and defense witnesses, except the Court, Court personnel, and the attorneys for the government, who have been identified by the Court Security Officer as having the appropriate clearances and the need to know that information. Counsel for the government shall be

given an opportunity to be heard in response to any defense request for disclosure to a person not named in this Order. Any person approved by the Court for disclosure under this paragraph shall be required to obtain the appropriate security clearance, to sign and submit to the Court the Memorandum of Understanding appended to this Order, and to comply with all terms and conditions of this Order. If preparation of the defense requires that Classified information be disclosed to persons not named in this Order, then, upon approval by the Court and upon notice to the government, the Court Security Officer shall promptly seek to obtain security clearances for them at the request of defense counsel.

20. Foreign Intelligence Surveillance Act (FISA) - The defendants have rights under the United States Constitution, federal statutes and the Federal Rules of Criminal Procedure to pre-trial discovery. The Government recognizes its obligation to provide such discovery materials to defense counsel in the most expeditious manner possible, consistent with public safety and the confidentiality of sensitive ongoing investigations. Therefore, to the extent that FISA-obtained or derived information is provided to the defense counsel:

a. the parties agree that both the defense and the government shall have access to such FISA information regardless of prior minimization efforts undertaken by the government upon initial review of the materials;

b. any classified draft transcripts or classified summaries of translated electronic and paper materials, shall not be used in any proceeding for any purpose, including cross-examination of any witness except pursuant to CIPA.

21. Procedures for the use or the public disclosure of classified information by the defense shall be those provided in Sections 5 and 6 of CIPA. No classified information may be used or disclosed by the defense except:

a. To the Court, Court personnel, and government attorneys and their agents and employees identified by the Court Security Officer as holding proper approvals for access to classified information;

b. To representatives of the agency or department originating the classified information who have been identified by the Court Security Officer as holding proper security clearances and having the need to know the classified information;

c. In accordance with the procedures of CIPA and the procedures established by the Court Security Officer; and,

d. To persons who have been authorized to have access to classified information pursuant to this Order or to CIPA.

To facilitate the defense filing of notices required under Section 5 of CIPA, the Court Security Officer shall make arrangements with the appropriate agencies for a determination of the classification level, if any, of materials or information either within the possession of the defense or about which the defense has knowledge and which the defense intends to use in any way at any pretrial proceeding, deposition or at trial. Nothing submitted by the defense to the Court Security Officer pursuant to this paragraph shall be made available to counsel for the government unless so ordered by the Court, or so designated by the defense. Any and all items which are classified shall be listed in the defendant's Section 5 notice.

22. Violations of this Order - Any unauthorized use or disclosure of classified information may constitute violations of United States criminal laws. In addition, any violation of the terms of this Order shall be immediately brought to the attention of the Court and may result in a charge of contempt of the Court and possible referral for criminal prosecution. Any breach of this Order will also result in the termination of a person's access to classified information. Persons subject to this Order are advised that direct or indirect unauthorized use, disclosure, retention, or negligent handling of classified documents or information could cause serious damage, and in some cases exceptionally grave damage, to the national security of the United States or may be used to the advantage of a foreign nation against the interests of the United States. This Order is to ensure that those authorized by the Order to receive classified information will never divulge the classified information disclosed to them to anyone who is not now authorized to receive it, or otherwise use the classified information, without prior written authorization from the originating agency and in conformity with this Order.

23. All classified information to which the defense counsel, defense counsel employees and translators has access in this case is now and will remain the property of the government. The defense counsel, defense counsel employee(s) and translators who receive classified information shall return all such classified information in their possession obtained through discovery from the government in this case, or for which they are responsible because of access to classified information, upon demand of the Court Security Officer. The notes, summaries, and other documents prepared by the defense that do or may contain classified information shall remain at all times in the custody of the Court Security Officer for the duration of this case. At the conclusion of

this case, all such notes, summaries, and other documents are to be destroyed by the Court Security Officer in the presence of defense counsel.

24. Declassified Material - Pursuant to Rule 16(d) of the Federal Rules of Criminal Procedure, an Amended Protective Order was signed by this Court on June 21, 2005 to limit dissemination of "sensitive discovery materials" which consist of declassified materials derived from the Foreign Intelligence Surveillance Act of 1978 ("FISA"), 50 U.S.C. §§ 1801 *et seq.*, including declassified telephone, facsimile, and computer communications (whether summarized or verbatim transcribed); immigration court proceedings which were based on, or responsive to, FISA-derived materials; and documents obtained overseas by the United States or foreign governments, not otherwise subject to CIPA. The June 21, 2005 Amended Protective Order is hereby incorporated into this Order. In addition, the "sensitive discovery materials" as defined in the June 21, 2005 Order shall also be governed by the following provision:

The sensitive discovery materials are now and will forever remain the property of the United States Government. Defense counsel will return all sensitive discovery materials to the government at the conclusion of the case.

25. Nothing in this Order shall preclude the government from seeking a further protective order pursuant to Rule 16(d) as to particular items of discovery material.

26. A copy of this Order shall be issued forthwith to counsel for the defendants, who shall be responsible for advising the defendants and defense counsel employees, of the contents of this Order. The defense counsel and defense counsel employees to be provided access to classified information shall execute the Memorandum of Understanding appended to this Order, and defense counsel shall file executed originals with the Court and the Court Security Officer and serve

executed originals of such document upon the government. The execution and filing of the Memorandum of Understanding is a condition precedent for the defense counsel, defense counsel employees, and defense witnesses to have access to classified information.

27. The provisions of this Order also apply to any document or information derived from information protected by this Order.

28. Notwithstanding any other provision of this Order, the disclosure of materials that may be submitted to the Court *in camera* and *ex parte* in connection with any FISA-related litigation, including FISA applications, orders and related materials, shall be governed by FISA.

ORDERED this 28 day of March 2006 at Miami, Florida.



MARCIA G. COOKE  
UNITED STATES DISTRICT JUDGE