

SUMMARY

# Right to answer secret charges may be revoked

## Proposal wipes out appeals when security pass is denied

By Michael J. Sniffen  
Associated Press

WASHINGTON — The Bush administration is weighing a proposed presidential order that would allow security officers to deny clearances — and thus jobs — to applicants for federal and defense industry posts without stating a reason or giving them a right to respond.

The proposed order would eliminate a series of rights accorded government and defense workers and job applicants for 29 years.

A copy of the proposed order was obtained Thursday night by the Associated Press.

David Holliday, spokesman for the Senate intelligence committee, said staff employees had reviewed the draft and told administration representatives in December that

at the staff level "we might have trouble with sections in the due process area."

The 21-page document was circulated for comment to 30 federal agencies Jan. 24. It would authorize security officers to determine whether a worker or applicant "has exploitable vulnerabilities or has engaged in any exploitable conduct or indiscreet behavior" including "criminal or dishonest activity, alcohol or substance abuse, or exploitable sexual conduct."

"Under this order, it's quite conceivable that someone like John Tower could not get a security clearance for a Pentagon job, because he would have no right to learn about, much less respond to, the allegations of alcohol abuse and womanizing that have been

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# Allegations in security cases may stay secret

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made against him," said Allan Adler of the American Civil Liberties Union.

Tower, Bush's nominee to be secretary of defense, has been able to respond to the allegations because they have come during confirmation hearings before the Senate Armed Services Committee.

Under the proposed order, if Tower were merely a new applicant for a Pentagon job requiring a clearance, any such allegations uncovered in a normal unpublicized background check would not have to be relayed to him.

Adler said the document "is offering up a senseless deprivation of individual rights as a substitute for sensible security reforms."

On Thursday, Rep. Don Edwards, D-San Jose, chairman of the House civil and constitutional rights subcommittee, wrote Bush urging him not to sign the order.

"This means that a person denied a clearance on the basis of erroneous information would never be told what the information was and would never have an opportunity to correct it," Edwards wrote. "I do not see how this serves the national security."

### Rights granted in 1960

The order would replace one issued by President Eisenhower in 1960 that guaranteed all workers in private industry whose security clearance was denied or revoked:

- ✓ A written statement of the reasons for the action.
  - ✓ An opportunity to reply in writing.
  - ✓ The right to appear personally with an attorney before the head of the agency to contest the decision.
  - ✓ The right to cross-examine either orally or in writing those who made statements against them.
  - ✓ A written statement of the final decision on each allegation.
- Defense Department regulations have accorded similar rights to the Pentagon's civilian and military workers.

The proposed order would guarantee none of those rights to a job applicant denied an initial clearance or to a current worker denied a higher clearance.

### Rights could be denied

For current workers whose clearance was revoked, the proposed Bush order would provide only:

- ✓ A written explanation of the reasons.
- ✓ An opportunity to respond in writing and request a review of the revocation.
- ✓ Written notice of the results of the review.
- ✓ An opportunity to appeal in writing to a higher official, whose decision would be final.

Even these rights could be denied entirely to employees whose clearances were revoked by an agency head who determines "such procedures would not be consistent with the national security interests of the United States," the order said.

### Millions need clearance

Last October, the House intelligence committee said there were 2.8 million Pentagon workers and 1.1 million defense industry employees whose jobs required security clearances. In addition, all employees of the CIA, FBI and National Security Agency must have clearances, as must numerous employees of the Energy and Treasury departments.

The proposed order, designed to standardize government background investigations, has been in preparation since 1983 by an inter-agency group headquartered at the Justice Department. The FBI, the Treasury, the CIA, the Defense, Energy and State departments and the Office of Personnel Management participated in drafting it.

"Circulation of the proposed executive order is the Bush administration's first opportunity to review the question of access to classified information," said National Security Council spokesman Bob Hall.

Standardization of background checks was called for by two Pentagon studies during the Reagan administration and by the Senate permanent investigations subcommittee in 1985 and the Senate intelligence committee in 1986.

But neither the Pentagon reports nor the two Senate studies criticized the due process rights granted employees when clearances were denied. Mostly the reports criticized the inadequate number of investigators, differing standards and vague criteria used to make such decisions.

Holliday, of the Senate intelligence committee, said the committee would discuss the draft with administration witnesses at a March 2 hearing.