

**The “Clearance and Over-Classification Reform and Reduction Act” or
“CORRECT Act”**

(H.R. ____/S. ____)

FACT SHEET

**As introduced by
Representative Bennie G. Thompson (D-MS) and Senator Ron Wyden (D-OR)
July 29, 2014**

Background:

- An estimated 5.1 million people — which is more than 1.5 percent of the entire U.S. population — held security clearances in Fiscal Year (FY) 2013, up from an estimated 4.9 million people with clearances in FY 2012.¹ The costs of security clearance investigations vary significantly, depending on clearance levels. In FY 2012 the minimum cost for a top-secret clearance investigation was \$4,005 while the minimum cost of a secret clearance was \$260.²
- Only about 60 percent of the 5.1 million clearance-holders actually access classified information, meaning the Federal Government has spent at least \$400 million annually to process security clearance investigations for 2 million employees who do not ever access classified information.³
- The cost of maintaining the security classification system across the Federal Government was estimated at \$11.63 billion for FY 2013. Within that amount, the estimate for the cost of protecting and maintaining Federal classified information was \$4.4 billion, which is 9 percent more than it cost to safeguard classified information in FY 2012. During the same period, the Federal government was projected to have spent about \$1.52 billion to investigate and monitor security clearance holders, an increase of \$139 million, or 10 percent.⁴
- While there is no official government figure for how much material is in the security classification system, estimates put it between 7.5 billion and 1 trillion pages.⁵ One report estimates that a single intelligence agency produces 1 petabyte of classified records every 1.5 years, which is comparable to “approximately 20 million four-drawer filing cabinets filled with text, or about 13.3 years of High-Definition video.”⁶

¹ See “Suitability and Security Process Review Report To The President,” Office of Management and Budget, February 2014.

² See “Security Clearances: Agencies Need Clearly Defined Policy for Determining Civilian Position Requirements,” Government Accountability Office (GAO-12-800), July 2012.

³ See “Suitability and Security Process Review Report To The President,” Office of Management and Budget, February 2014, pp. 3.

⁴ See “Classified National Security Information, Information Security Oversight Office’s (ISOO) Report for Fiscal Year 2013,” as required by Executive Order 13526, June 2014.

⁵ Peter Galison “Removing Knowledge,” *Critical Inquiry* 31 (Autumn 2004): pp. 230-231.

⁶ See “Transforming the Security Classification System” Report to the President from the Public Interest Declassification Board, November 2012, pp. 17.

- With respect to the costs of security clearance background investigations, a key element of the security classification system, the Comptroller General found that between FY 2005 and 2011, the Office of Personnel Management (OPM) reported a 79 percent increase in costs associated with conducting security clearance background investigations.⁷
- Federal departments and agencies can utilize OPM or private firms for security clearance background investigations. In January 2014, the Department of Justice (DOJ) brought legal action against a firm that provided security clearance background investigations for nearly half of Federal hires, U.S. Investigations Services, Inc. (USIS)⁸ for “dumping” or “flushing” security clearance background investigation case files. The civil complaint alleges that in 2008 the company began falsely representing incomplete or inaccurate case files as complete and ready for adjudication in an effort to maximize the company’s revenues and profits. In this civil action, DOJ alleges that roughly 40 percent of USIS’ submissions for more than 100 Federal Departments and agencies—or 665,000 background investigations—were knowingly incomplete or inaccurate.⁹
- In 2012, the Comptroller General found that, in the absence of Government-wide guidance, determinations about security clearance requirements by Federal Departments and agencies were made at an inconsistent or improper level, thereby potentially creating security risks and excessive and unnecessary Federal expenditures.¹⁰
- In addition to the high costs incurred by the Federal government to investigate an unnecessarily large number of individuals for positions requiring security clearances, over-designations have undoubtedly resulted in the Federal government recruiting, hiring, and paying individuals at rates that are higher than necessary and not hiring individuals who otherwise have the required knowledge and skills.

Clearance and Over-Classification Reform and Reduction Act

The “Clearance and Over-Classification Reform and Reduction Act” or “CORRECT Act” recognizes that the massive proliferation of original and derivative classified material and the exponential growth in the number of individuals with security clearances present significant homeland security and national security challenges that warrant timely action.

The CORRECT Act addresses these challenges in a comprehensive manner by, among other things:

- Amending the *Reducing Over-Classification Act* by requiring:

⁷ See “Background Investigations: Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings,” Government Accountability Office (GAO-12-197), March 2012.

⁸ USIS is the background investigation service provider responsible for vetting Aaron Alexis, the perpetrator of a fatal mass shooting at the Navy Yard in Washington, DC, in September 2013. See “Justice Department Says USIS Submitted 665,000 Incomplete Background Checks,” *The Washington Post*, January 2014.

⁹ See “United States *ex rel.* Blake Percival v. U.S. Investigations Services, Inc., Middle District of Alabama – Northern Division,” filed January 2014.

¹⁰ See “Security Clearances: Agencies Need Clearly Defined Policy for Determining Civilian Position Requirements,” Government Accountability Office (GAO-12-800), July 2012.

- The President to establish a goal for the reduction of classified information by **not less than 10 percent within five years** through improved declassification and improved original and derivative classification decision-making;
 - **Standardized sampling techniques** to be established for use by Federal departments and agencies conducting self-inspections to assess their progress at improving classification decision-making within their organizations;
 - The provision of **annual training** to each employee with original classification authority; and
 - The Inspector General of each department or agency to report on the progress of each respective department or agency with respect to implementation of the *Reducing Over-Classification Act* as well as the President's 10 percent classified information reduction goal.
- **Bolstering the Public Interest Declassification Board (PIDB)** by reauthorizing the Board through 2019 and expanding the Board's responsibilities, staffing, and resources. Specifically, the PIDB will be required to review, on an ongoing basis, the classification guidance instructions currently in use and assess the (1) validity of the national security basis for each instruction; (2) the clarity of each instruction; and (3) the feasibility of narrowing or eliminating classification guidance deemed to be unnecessary or obsolete. Additionally, the Board will monitor the progress, within the Executive Branch, toward achieving the President's 10 percent classified information reduction goal.
 - Stating a sense of Congress that **a position should only be designated as requiring a security clearance when it requires access to classified information**, presents a risk of a material, adverse effect on the national security, or is a position of public trust for any agency that has the authority to issue security clearances.
 - Requiring OPM to establish and require the utilization of **a uniform markings process for security clearance files** in order to identify the investigation service provider that originated and recorded each piece of information in a security clearance investigation file.
 - Establishing, for the first time, **the rules of the road for any continuous evaluation or insider threat program** that a Federal department or agency has established or is pursuing, including program requirements, certification requirements, piloting requirements, reporting requirements, and employee protections.

Specifically, the bill requires:

- **The Privacy and Civil Liberties Oversight Board to establish standards for any continuous evaluation or insider threat program** established by a Federal agency to protect national security and promote fairness, transparency, and employee protections, including safeguards to preserve the rights and confidentiality of Federal whistleblowers in any continuous evaluation or insider threat programs established by a Federal agency;
- **A pilot prior to implementation** by any department or agency that plans to establish a continuous evaluation or insider threat program subsequent to enactment of this Act;

- Certification of compliance with Privacy and Civil Liberties Oversight Board standards by any department or agency that has a program at enactment of this Act; and
 - The President to update adjudicative guidelines to ensure access to mitigation for a person subject to adverse decision as a result of a continuous evaluation program and establish adjudicative guidelines for an individual subject to an adverse decision as a result of an insider threat program.
- Prohibiting the rendering of an adjudication decision by an automated, electronic, or computer system or a non-Federal employee.
 - Granting authority to the Merit System Protection Board (MSPB) for cases where there has been a final determination of ineligibility for a security clearance.
 - Increasing by a year the maximum prison term for falsifying information in a security clearance background investigative file (by amending section 1001(a) of title 18, United State Code).
 - Directing the head of each component of the Intelligence Community to report on the implementation of the Office of the Director of National Intelligence policy directives regarding personnel contacts with news media.
 - Requiring the Comptroller General to report on the impacts of the *Intelligence Reform and Terrorism Prevention Act of 2004* reforms to the security clearance process, including the 60-day average period requirement for adjudication of a completed investigative file and the inter-agency reciprocity provision.

Additionally, the CORRECT Act sets forth specific reforms for the Department of Homeland Security (DHS) to make it a leader among Federal agencies with respect to security clearance practices. The reforms at DHS are targeted at the designation, investigation, adjudication, denial, suspension, revocation, and appeals processes. In particular, to increase transparency and improve performance among investigation service providers, including OPM, it requires the DHS Secretary to publish on the Department's website an annual Department-wide satisfaction survey. If a pattern of performance problems with a particular investigation service provider emerges, the DHS Chief Security Officer is required to make a recommendation to the Secretary regarding corrective action, including suspension or cancelation of services.