

AMERICAN ASTRONOMICAL SOCIETY

Ms. Lori Garver
Deputy Administrator
NASA Headquarters
Suite 9F44
Washington, DC 20546-0001

Dear Ms. Garver:

We are writing to you in our capacities as President of the American Astronomical Society (AAS) and Vice-Chairman of its largest division, the Division for Planetary Sciences (DPS) on the issue of background investigations of members of NASA's Jet Propulsion Laboratory staff, many of whom are AAS-DPS members. The Supreme Court has ruled that background investigations of federal contract employees like those at JPL are permissible where appropriate, but the nature and breadth of the background investigations remain at the discretion of the individual agency (Case #09-530). The decision regarding how NASA proceeds is in the hands of you and Administrator Bolden.

We hope that you might consider our suggestions as you deliberate this question. We have worked with many of the plaintiffs and submitted an Amicus Curiae brief to the Supreme Court (the first in the 112-year history of the AAS) in connection with this case. We understand that while the case was motivated by matters of unlimited investigation of personal privacy, we are also strongly concerned that an intrusive background investigation policy will detract from NASA's ability to draw the highest level of technical talent for the Agency's mission. Our view is summarized in the wording of the AAS Amicus Curiae, which said, in part, *"Yet, a significant number of US astronomers would be or are unwilling to work in an environment where they are subject to the intrusive, open-ended background investigations at issue here. Their loss will impact the entire professional community - even those individuals that agree to undergo the background investigations."*

Our JPL colleagues have no objection to reasonable background checks that are limited in scope to job-related issues. Their concern is with the investigation authorization waiver that JPL requires them to sign at the end of Standard Form 85. The authorization permits unconstrained and unlimited investigations into the most intimate details of the private lives of employees and their associates. In particular, it reads, *"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 schools, residential*

management agents, employers, criminal justice 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, and criminal history record information.” Such authority in the hands of background investigators, without appropriate checks and balances, can be subject to abuse. This kind of abuse has happened in NASA under the previous administration (we refer you to the case of George Carlton Deutsch III).

Please consider the following:


- 1) Homeland Security Presidential Directive #12 (HSPD12) requires only that a uniform identification badge be established for all employees and contractors at federal facilities. Background investigations are never mentioned in the directive. (http://www.dhs.gov/xabout/laws/gc_1217616624097.shtm)
- 2) Some agencies such as the National Science Foundation did not issue new credentials to employees at facilities under their cognizance. At Department of Energy-administered FFRDCs where little or no classified work is done (e.g., Fermilab), HSPD12 procedures were not imposed on workers who did not do classified work. As Dr. William Jeffrey, the Director of the National Institute of Standards and Technology, wrote to Congressman Rush Holt (NJ) on this matter, “Individual agencies are responsible for establishing the sensitivity level for each job and for requiring appropriate background checks for employees who are in ‘public trust’ positions.”

We suggest that an approach modeled on the DOE and NSF implementations would lead to a reasonable closure of the HSPD12 matter. It is a solution that respects the security concerns of the government, the privacy concerns of JPL employees, and maintains the broadest reasonable access for the astronomical community to participate fully in exciting work that brings us all to NASA.

Yours sincerely,



Debra M. Elmegreen, President
American Astronomical Society



Daniel Britt, Vice-Chairman
AAS Division for Planetary Sciences