





1 years. He holds the rank of a Principal Scientist, the highest research classification at  
2 JPL, and currently leads NASA's New Millennium Program which tests or validates all  
3 new technology that NASA will use in space. Dr. Nelson is also a member of the nine  
4 person Senior Research Scientist Council at JPL, which represents the interests of the  
5 research community at JPL to the JPL Chief Scientist and to the Director of JPL. Dr.  
6 Nelson is a resident of Los Angeles County. Dr. Nelson brings this suit on behalf of  
7 himself and all other similarly situated non-sensitive personnel employed by Caltech at  
8 JPL.

9 4. Dr. William Bruce Banerdt is currently employed as a Principal Scientist at  
10 NASA's Jet Propulsion Laboratory, where he has worked since 1983. He serves as  
11 Project Scientist for the Mars Exploration Rovers Project, which involves both  
12 coordinating the scientists working on the mission, helping to develop and achieve the  
13 scientific goals for the mission, representing the needs of the mission scientists to project  
14 management and NASA and representing the project to the public. He has held various  
15 management positions at JPL, including Group Supervisor for Geophysics and Planetary  
16 Dynamics Group; Lead Scientist and Discipline Program Manager. Dr. Banerdt brings  
17 this suit on behalf of himself and all others similarly situated non-sensitive personnel  
18 employed by Caltech at JPL.

19 5. Dr. Julia Bell is currently employed by Caltech as a Senior Engineer in the  
20 Systems Engineering Section of the Systems and Software Division at NASA's Jet  
21 Propulsion Lab and has been employed there for the past 11 years. She has served as a  
22 member of the navigation team for the Mars Odyssey mission and the Mars Exploration  
23 Rover project, as well as a systems engineer on several other missions, including the  
24 Phoenix mission. Dr. Bell brings this suit on behalf of herself and all other similarly  
25 situated non-sensitive personnel employed by Caltech at JPL.

26 6. Dr. Josette Bellan is currently employed by Caltech as a Senior Research  
27 Scientist at JPL, where she has been employed since 1980. Dr. Bellan also holds a  
28 teaching position in Caltech in the Division of Engineering and Applied Sciences. For

1 the past three years she has served as a member of the nine person Senior Research  
2 Scientist Council at JPL, which represents the interests of the research community at JPL  
3 to the JPL Chief Scientist and to the Director of JPL. Dr. Bellan brings this suit on  
4 behalf of herself and all other similarly situated non-sensitive personnel employed by  
5 Caltech at JPL.

6 7. Dennis Byrnes is currently employed by Caltech as a Chief Engineer for Flight  
7 Dynamics at JPL, where he has worked for the past 30 years. This is the highest  
8 technical classification at JPL in the engineering field. He was one of the lead trajectory  
9 designers for numerous missions including the Galileo Project and the Apollo moon  
10 landings. Mr. Byrnes brings this suit on behalf of himself and all other similarly situated  
11 non-sensitive personnel employed by Caltech at JPL.

12 8. George Carlisle is currently employed by Caltech as a Senior Member  
13 Technical Staff, Mission Design Section, at NASA's Jet Propulsion Laboratory, where  
14 he has worked since 1974. As a member of the Mission Design Section at JPL, he works  
15 with a team of scientists and engineers to determine what trajectory a spacecraft should  
16 travel to accomplish the goals set for it by mission scientists. Mr. Carlisle brings this  
17 suit on behalf of himself and all other similarly situated non-sensitive personnel  
18 employed by Caltech at JPL.

19 9. Kent Crossin is currently employed as an Associate Engineer by Caltech at  
20 NASA's Jet Propulsion Laboratory, where he has worked since 2006. He performs  
21 hardware testing on the Multi-Mission System Architecture Platform, and provides  
22 support to the Mars Science Laboratory, a flagship mission scheduled to launch in 2009.  
23 Mr. Crossin brings this suit on behalf of himself and all other similarly situated non-  
24 sensitive personnel employed by Caltech at JPL.

25 10. Dr. Larry D'Addario is currently employed by Caltech as a Principal Engineer  
26 at NASA's Jet Propulsion Laboratory. He is an engineer in the Tracking Systems and  
27 Applications System, where his work focuses on designing new technologies for the  
28 Deep Space Network. Dr. D'Addario brings this suit on behalf of himself and all other

1 similarly situated non-sensitive personnel employed by Caltech at JPL.

2 11. Riley Duren is currently employed by Caltech at NASA's Jet Propulsion  
3 Laboratory as a Principal Systems Engineer, one of the highest rankings for engineers at  
4 JPL, where he has worked since 1996. He has served as Avionics Manager for the  
5 Champollion Comet Lander mission; and Chief Engineer for the Attitude and Orbit  
6 Determination Avionics subsystem on the Shuttle Radar Topography Mission, which  
7 generated a near-global map of the earth's surface to 10 meter vertical accuracy in a  
8 single 11 day flight. He has also served as the Project System Engineer for the Kepler  
9 space observatory, which will launch in 2009, where he leads a team of twenty senior  
10 engineers and scientists at JPL and other institutions. Mr. Duren brings this suit on  
11 behalf of himself and all other similarly situated non-sensitive personnel employed by  
12 Caltech at JPL.

13 12. Peter Eisenhardt is currently employed by Caltech as a Principal Scientist at  
14 NASA's Jet Propulsion Laboratory, where he has worked since 1990. He is one of the  
15 principal scientists working on a mission known as Wide-Field Infrared Survey Explorer,  
16 which will carry out an infrared survey of the entire sky and is planned for launch in  
17 2009. Dr. Eisenhardt brings this suit on behalf of himself and all other similarly situated  
18 non-sensitive personnel employed by Caltech at JPL.

19 13. Susan D.J. Foster is currently employed by Caltech as a Senior Technical  
20 Writer Specialist at NASA's Jet Propulsion Laboratory, where she has worked since  
21 1968. Since 1978, she has served as technical editor and technical writer in JPL's  
22 Technical Information Section. Ms. Foster brings this suit on behalf of herself and all  
23 other similarly situated non-sensitive personnel employed by Caltech at JPL.

24 14. Dr. Matthew Golombek is currently employed by Caltech as a Senior Research  
25 Scientist and Principal Scientist at NASA's Jet Propulsion Laboratory, where he has  
26 worked since 1983. Since 1983, he has been a continuously funded Principal  
27 Investigator in NASA's Planetary Geology and Geophysics and/or Mars Data Analysis  
28 programs; his work focuses on Mars geology and the prediction of surface characteristics

1 from orbital remotely sensed data. Dr. Golombek is also a member of the nine person  
2 Senior Research Scientist Council at JPL, which represents the interests of the research  
3 community at JPL to the JPL Chief Scientist and to the Director of JPL. Dr. Golombek  
4 brings this suit on behalf of himself and all other similarly situated non-sensitive  
5 personnel employed by Caltech at JPL.

6 15. Dr. Varoujan Gorjian is currently employed by Caltech as a research  
7 astronomer working primarily on the Spitzer Space Telescope at NASA's Jet Propulsion  
8 Laboratory, where he has worked since 2000. His research focuses on the study of black  
9 holes and the star formation history of the universe. Dr. Gorjian brings this suit on behalf  
10 of himself and all other similarly situated non-sensitive personnel employed by Caltech  
11 at JPL.

12 16. Zareh Gorjian is currently employed by Caltech as a Senior Programmer at  
13 NASA's Jet Propulsion Laboratory, where he has worked since 1990. He works in JPL's  
14 Digital Image Animation Laboratory, creating graphics for teams who are writing  
15 mission proposals, preparing mission visualizations for the public and creating  
16 visualizations of actual movements and activities of spacecraft in flight or at their  
17 destination. Mr. Gorjian brings this suit on behalf of himself and all other similarly  
18 situated non-sensitive personnel employed by Caltech at JPL.

19 17. Dr. Amy Snyder Hale is currently employed by Caltech as a Technical Staff  
20 member at NASA's Jet Propulsion Laboratory, where she has worked since 2000. She  
21 has worked as an engineer on the Mars Global Surveyor mission, among other Mars  
22 missions, and has focused her scientific research on Mars atmospheric studies and Mars  
23 polar studies. Dr. Hale brings this suit on behalf of herself and all other similarly  
24 situated non-sensitive personnel employed by Caltech at JPL.

25 18. Robert Haw is currently employed by Caltech as an engineer at NASA's Jet  
26 Propulsion Laboratory, where he has worked since 1987. While at JPL, he has  
27 participated in the navigation engineering team for the Magellan and Galileo Projects, as  
28 well as various new pre-launch mission design teams. Mr. Haw brings this suit on behalf

1 of himself and all other similarly situated non-sensitive personnel employed by Caltech  
2 at JPL.

3 19. Dr. James Kulleck is currently employed by Caltech as a senior member of the  
4 technical staff at NASA's Jet Propulsion Laboratory, where he has worked for more than  
5 15 years. Dr. Kulleck provides materials analysis support for all of JPL's flight projects.  
6 Dr. Kulleck brings this suit on behalf of himself and all other similarly situated non-  
7 sensitive personnel employed by Caltech at JPL.

8 20. Dr. Sharon Laubach is currently employed by Caltech as a Project Manager at  
9 NASA's Jet Propulsion Laboratory, where she has been employed since 1999. Since  
10 2005, she has been the Mars Exploration Rover (MER) Integrated Sequencing Team  
11 Chief (Project Manager I), leading a team of 40 engineers who design, validate and  
12 compile all the command sequences used to operate the Mars rovers. Dr. Laubach brings  
13 this suit on behalf of herself and all other similarly situated non-sensitive personnel  
14 employed by Caltech at JPL.

15 21. Dr. Christian Lindensmith is currently employed by Caltech as a Senior-A  
16 Member of the Technical Staff at NASA's Jet Propulsion Laboratory, where he has  
17 worked since 1996. His work at JPL focuses on the development of missions and  
18 instruments for the detection and characterization of Earth-like planets orbiting other  
19 stars, including leading the design of the Terrestrial Planet Finder mission. Dr.  
20 Lindensmith brings this suit on behalf of himself and all other similarly situated non-  
21 sensitive personnel employed by Caltech at JPL.

22 22. Dr. Amanda Mainzer is currently employed by Caltech as a Research Scientist  
23 at NASA's Jet Propulsion Laboratory, where she has worked since 2003. She currently  
24 serves as the Deputy Project Scientist for the Wide Field Infrared Survey Explorer  
25 (WISE) mission, a NASA space telescope that will launch in 2009. Dr. Mainzer brings  
26 this suit on behalf of herself and all other similarly situated non-sensitive personnel  
27 employed by Caltech at JPL.

28 23. Scott Maxwell is currently employed by Caltech as a Senior Member of the

1 Technical Staff at NASA's Jet Propulsion Laboratory, where he has worked for the past  
2 13 years. For the past five years, he has worked on the Multi Mission Ground Data  
3 System, an extensive collection of software that provides data analysis and spacecraft  
4 commanding capabilities for most JPL projects. Mr. Maxwell brings this suit on behalf  
5 of himself and all other similarly situated non-sensitive personnel employed by Caltech  
6 at JPL.

7 24. Timothy McElrath is currently employed by Caltech as Technical Group  
8 Supervisor and Principal Engineer at NASA's Jet Propulsion Laboratory, where he has  
9 been employed since 1988. His work at JPL has primarily consisted of orbit  
10 determination analysis on numerous spacecraft, including Galileo and the Mars  
11 Exploration Rovers. Mr. McElrath brings this suit on behalf of himself and all other  
12 similarly situated non-sensitive personnel employed by Caltech at JPL.

13 25. Susan Paradise is currently employed by Caltech at NASA's Jet Propulsion  
14 Laboratory, where she has been employed for over 22 years. After many years as the lead  
15 software developer for the MISR (Multi-angle Imaging Spectro-Radiometer) Project, she  
16 was promoted to Project Element Manager in 2001 for the Tropospheric Emission  
17 Spectrometer Project, where she managed the design, development and testing of ground  
18 data system software for five years. In April 2006, she returned to the MISR to continue  
19 to manage the Level 2 Aerosol/Surface Team and in April 2007, joined the Aerosol  
20 Measurement Processing System as a scientific programmer and analyst. Ms. Paradise  
21 brings this suit on behalf of herself and all other similarly situated non-sensitive  
22 personnel employed by Caltech at JPL.

23 26. Dr. Konstantin Penanen is currently employed by Caltech as a scientist at  
24 NASA's Jet Propulsion Laboratory, where he has worked since 2004. He is the JPL Co-  
25 Principal Investigator on a project studying the fundamental properties of quantum fluids  
26 at low temperatures and is working to develop a light-weight, low power MRI with  
27 potential spin-off uses in mobile hospitals. Dr. Penanen brings this suit on behalf of  
28 himself and all other similarly situated non-sensitive personnel employed by Caltech at

1 JPL.

2 27. Celeste Satter is currently employed by Caltech as a Senior Engineer in the  
3 Mission Systems Concepts Section at NASA's Jet Propulsion Laboratory, where she has  
4 worked since 1987. She currently is working on JPL's Single-Aperture Far-Infrared  
5 Observatory Concept Study, in a mission and program architecture role and on the Small  
6 Explorer mission proposal which is in the development stages. Ms. Satter brings this  
7 suit on behalf of herself and all other similarly situated non-sensitive personnel  
8 employed by Caltech at JPL.

9 28. Peter Shames is currently employed by Caltech as a Manager of the Data  
10 Systems Standards Program at NASA's Jet Propulsion Laboratory, where he has worked  
11 since 1991. At JPL he has held a variety of senior system architect and management  
12 positions, including group supervisor the Infrared Processing and Analysis Center  
13 (IPAC), system architect during the Multi-mission Image Processing Lab (MIPL) re-  
14 design, system architect for the Multi-mission Ground Systems Office (MGSO), and  
15 mission service technology program manager in the Telecommunications and Mission  
16 Operations Directorate (TMOD). In his current role of manager of the JPL Data Systems  
17 Standard Program he leads an international program of work to develop space  
18 communications and navigation standards for interoperability. Dr. Shames brings this  
19 suit on behalf of himself and all other similarly situated non-sensitive personnel  
20 employed by Caltech at JPL.

21 29. John Walker is currently employed by Caltech as a Senior Engineer at NASA's  
22 Jet Propulsion Laboratory, where he has worked since 1990. During his tenure at JPL,  
23 Mr. Walker has served as Lead Control System Engineer on two major JPL spacecraft  
24 projects: the Cassini Mission to Saturn and the Space Interferometry Mission. Mr.  
25 Walker brings this suit on behalf of himself and all other similarly situated non-sensitive  
26 personnel employed by Caltech at JPL.

27 30. Dr. Paul Weissman is currently employed by Caltech as a Senior Research  
28 Scientist at NASA's Jet Propulsion Laboratory, where he has worked for the past 33

1 years specializing in the study of physics and dynamics of small bodies in the solar  
2 system, in particular comets and asteroids. He served as Deputy Project Scientist for the  
3 Comet Rendezvous and Asteroid Flyby mission, and assisted on the Galileo and other  
4 missions. Dr. Weissman brings this suit on behalf of himself and all other similarly  
5 situated non-sensitive personnel employed by Caltech at JPL.

6 **B. The Defendants**

7 31. Defendant National Aeronautics and Space Administration ("NASA") is a  
8 federal agency which was created by the National Aeronautics and Space Act of 1958, as  
9 a purely civilian agency. Pub. L. 85-568, § 102, 72 Stat. 433.

10 32. Defendant Michael Griffin is the director of NASA and is sued in his official  
11 capacity only.

12 33. Defendant California Institute of Technology ("Caltech") is a non-profit  
13 educational institution and one of the premier research institutes in the world. Caltech is  
14 located in Los Angeles County. The Jet Propulsion Laboratory is an operating division  
15 of Caltech, staffed entirely by Caltech employees whose compensation and benefit  
16 policies are established by Caltech.

17 34. Defendant Department of Commerce is a department of the Federal  
18 Government.

19 35. Defendant Carlos M. Gutierrez is Secretary of Commerce and is sued in his  
20 official capacity only.

21 36. Plaintiffs are ignorant of the true names and capacities of defendants sued  
22 herein as DOES 1-100, inclusive, and therefore sue these defendants by such fictitious  
23 names and capacities. Plaintiffs will amend this complaint to allege their true names and  
24 capacities when ascertained. Plaintiffs are informed and believe and on that basis allege,  
25 that each fictitiously named defendant is responsible in some manner for the occurrence  
26 herein alleged and that the injuries to plaintiffs herein alleged were proximately caused  
27 by the conduct of such defendants.

28 ///

#### IV. FACTUAL ALLEGATIONS

1  
2 37. Since 1959, Caltech has operated JPL pursuant to a written contract as a  
3 NASA Federally Funded Research and Development Center (FFRDC) "to meet certain  
4 Government research and development needs which could not be met effectively by  
5 existing Government resources or normal contractor relationships." The laboratories'  
6 actual physical facilities are owned by NASA.

7 38. Plaintiffs are long-term employees of Caltech, many of whom have worked at  
8 the JPL facilities in Pasadena on NASA-related scientific research and engineering  
9 projects for more than twenty years. None of them have security clearances nor do they  
10 work with classified material of any kind. Many of the plaintiffs, only agreed to work  
11 for NASA with the understanding that they would not have to work on classified  
12 materials or to undergo any type of security clearance. For all of the plaintiffs who  
13 conduct research, their research data (collected from NASA missions and instruments) is  
14 part of the public domain and their findings are freely shared with the scientific  
15 community and the public. Indeed, many of the plaintiffs have elected to work only on  
16 non-classified work expressly so their research can be subject to peer review, they can  
17 collaborate with the best scientists worldwide and publish their results. Because of this  
18 policy of non-classified work and public distribution of scientific data and findings,  
19 NASA attracts many of the world's top scientists who want to do research in a  
20 completely open environment.

21 39. On August 27, 2004, the President signed Homeland Security Presidential  
22 Directive 12 (HSPD-12), entitled "Policy for a Common Identification Standard for  
23 Federal Employees and Contractors," applicable to all Executive Branch departments  
24 and agencies. The express purpose of HSPD-12 is to ensure that "secure and reliable  
25 forms of identification" are used by government employees and contractors. HSPD-12  
26 directed that the Secretary of Commerce promulgate a Federal standard for "secure and  
27 reliable forms of identification" within six months of the directive. HSPD-12 defined  
28 "secure and reliable forms of identification" to mean identification that is (a) "issued

1 based on sound criteria for verifying an individual employee's identity;" (b) "strongly  
2 resistant to identity fraud, tampering, counterfeiting and terrorist exploitation;"(c) "can  
3 be rapidly authenticated electronically;" and (d) "is issued only by providers whose  
4 reliability has been established by an official accreditation process."

5 40. Nowhere does HSPD-12 authorize or require implementation of a background  
6 investigation process for current or new federal employees or contractors, nor does it  
7 authorize or contemplate any requirement that applicants for the new federal  
8 identification standard waive any of their privacy rights. Indeed, HSPD-12 expressly  
9 states that it "shall be implemented in a manner consistent with the Constitution and  
10 applicable laws, including the Privacy Act (5 U.S.C. 552a) and other statutes protecting  
11 the rights of Americans."

12 41. In response to HSPD-12, in March 2006, the U.S. Department of Commerce  
13 published the Federal Information Processing Standard Publication (FIPS PUB 201-1),  
14 entitled "Personal Identify Verification (PIV) of Federal Employees and Contractors"  
15 hereafter ("PIV Standard"). The PIV Standard explained that it was issued in response to  
16 HSPD-12 and that its sole authority was based on that presidential directive. While  
17 stating that the Standard sought to meet the four criteria set forth in HSPD -12, the  
18 Commerce Department proceeded to impose a background investigation requirement on  
19 all employees or contractors seeking to obtain the new form of identification. Despite  
20 the absence of any such directive in HSPD-12, the PIV Standard mandates that "only an  
21 individual with a background investigation on record is issued a credential." The PIV  
22 Standard further specifies that the background investigation required will be a "National  
23 Agency Check *with Inquiries*," or its equivalent, for which each applicant will be  
24 required to complete Standard Form (SF) 85, "OPM Questionnaire for Non-Sensitive  
25 Positions," or its equivalent.

26 42. Working separately to respond to HSPD-12, in 2006 NASA had instituted an  
27 identification badge system which required JPL (and other NASA employees) to obtain  
28 new badges, which could be used throughout NASA facilities. To obtain one of these

1 new identification badges, JPL employees were required to complete four forms,  
2 requiring that they provide basic information such as current address, date and place of  
3 birth, social security number, height and weight and former names, submit two forms of  
4 approved identification (one of which had to be a state or federal issued identification)  
5 and submit to fingerprinting. None of the forms required that JPL employees provide  
6 detailed information about their work, residential or personal history, provide names of  
7 references for interviews about their suitability, or waive their privacy rights in anyway.  
8 As a group, Plaintiffs had no objection to this rebadging process, which fully met the  
9 objectives of HSPD-12 and posed no significant invasion of their privacy rights.

10 43. Despite its implementation of the OneNASA badge, on or about May 24, 2007,  
11 NASA issued NASA Interim Directive (NPR 1600.1), establishing a new "Agency-wide  
12 policy for the creation and issuance of federal credentials at NASA." The Directive  
13 stated that it was being implemented in compliance with HSPD-12 and the Federal  
14 Information Processing Standards Publication Number 201-1 (FIPS 201). The directive  
15 required that all individuals who require physical access to NASA resources for a period  
16 of greater than 179 days obtain a new identification badge, known as the PIV or PIV II.  
17 All JPL personnel were informed that to receive the newly required PIV badge they  
18 would have to submit to a background investigation, the extent of which would be  
19 determined by their position's risk level.

20 44. As part of the implementation of the new PIV system, NASA and JPL jointly  
21 established the risk level for each position at JPL based on "the position's impact on  
22 NASA operations." Each position was designated as "high, moderate or low risk," based  
23 on the "overall responsibility of the position" and "any possible adverse impact the  
24 position could have in terms of integrity and efficiency of NASA assets/operations." All  
25 employees determined to be low risk level were required to complete Standard Form SF  
26 85 and submit to a background check known as a "National Agency Check with  
27 Inquiries" ("NACI"). Low risk positions are those positions which "have little affect on  
28 the efficiency of the agency's programs and operations" and would include all "non-

1 sensitive positions and all other positions involving IT systems whose misuse has limited  
2 potential for adverse impact.” Moderate and high risk employees were required to  
3 complete Standard Form SF 85 P and submit to a more extensive background  
4 investigation.

5 45. All of the plaintiffs in this case have been notified that they have been deemed  
6 “non-sensitive personnel” by NASA and JPL and therefore required to complete Form  
7 SF 85.

8 46. Approximately 97% of JPL personnel have been designated as “non-sensitive  
9 personnel” by JPL and NASA.

10 47. Standard Form SF 85 requires that plaintiffs provide various types of  
11 background information to which there is no objection, e.g. name, date of birth, place of  
12 birth, social security number, etc. The form also requires that they provide information  
13 about their employment and residential history for the last five years, as well as their  
14 education starting with highschool; provide the names of three individuals with whom  
15 they associate who know them well; and state whether they have used illegal drugs in the  
16 past year, none of which information is mentioned or contemplated by HSPD-12. (A  
17 true and correct copy of Form 85 is attached hereto as Exhibit 1.)

18 48. As an essential part of Form 85, employees are required to sign an  
19 “Authorization for Release of Information,” which authorizes “any investigator, special  
20 agent or other duly accredited representative of the authorized Federal agency  
21 conducting my background investigation to obtain *any information relating to my*  
22 *activities from schools, residential management agents, employers, criminal justice*  
23 *agencies, retail business establishments, or other sources of information.* This  
24 information may include, but is not limited to, my academic, residential, achievement,  
25 performance, attendance, disciplinary, employment history and criminal record  
26 information. . . . I authorize custodians of records and sources of information pertaining  
27 to me to release such information upon request of the investigator, special agent, or other  
28 duly accredited representative. . . regardless of any previous agreement to the contrary.”

1 49. All JPL employees have been informed that they must sign the authorization  
2 “without any modification or alteration.”

3 50. The background investigation required of JPL personnel in non-sensitive  
4 positions is known as an NACI, or National Agency Check with Inquiries. None of the  
5 plaintiffs have previously undergone a NACI background investigation, nor have they  
6 ever been informed that in order to work at JPL that they would have to waive any of  
7 their privacy rights or be subjected to a background investigation. Many of the plaintiffs  
8 had been required to submit to the more basic National Agency Check (“NAC”), which  
9 merely required that they provide their name, social security number and current address,  
10 but did not require any inquiries to be made of former employers, neighbors, or  
11 references, nor did it include any privacy waiver.

12 51. As part of the newly instituted background investigation, JPL employees are  
13 required to provide the names of three references, as well as their past employers and  
14 landlords for the past 5 years. Those individuals are then sent an Investigative Request  
15 for Personal Information (Form No. 42), which asks that they report any adverse  
16 information they have on the plaintiff with respect to “abuse of alcohol or drugs,”  
17 “financial integrity,” “mental or emotional stability,” “general behavior or conduct,” and  
18 “other matters.” (A true and correct copy of Form No. 42 is attached hereto as Exhibit 2.)

19 52. NASA’s Interim Directive regarding the implementation of the background  
20 investigation states that if the Badge issuance process yields any “derogatory or  
21 unfavorable information,” it will be forwarded to the Human Relations Officer for JPL  
22 who will determine “employment suitability.” In public meetings regarding the  
23 implementation process, JPL employees have been informed that the adjudication of  
24 their suitability, based on the background check, will instead be performed by a “federal  
25 employee,” not shared with JPL and a negative outcome “would prevent [the] individual  
26 from access to a federal facility.”

27 53. JPL has posted on its internal website a chart, setting forth all of the grounds  
28 for which an employee could be determined to be unsuitable for access to the JPL

1 facilities. That chart includes “infrequent, irregular but deliberate delinquency in  
2 meeting financial obligations,” “pattern of irresponsibility as reflected in . . . credit  
3 history,” “sexual misconduct with impact on job,” “sodomy,” “attitude,” “personality  
4 conflict,” “absenteeism or attendance problem,” “homosexuality,” “judgment, reliability  
5 and dependability issues,” “physical health issues,” “mental, emotional, psychological or  
6 psychiatric issues,” “issues . . . that relate to an associate of the person under  
7 investigation,” and “issues . . . that relate to a relative of the person under investigation.”  
8 (A true and correct copy of the Suitability Chart is attached hereto as Exhibit 3.)

9 54. JPL employees have been informed by JPL senior management that no  
10 employee will be admitted to JPL facilities without a new PIV badge after October 27,  
11 2007. Further, they have been informed that if they do not complete all of the paperwork  
12 (Form 85 and waiver) by September 28, 2007, JPL will be unable to process their  
13 requests by October 27, 2007 and they will be barred from the premises on that date.

14 55. All of the plaintiffs have been informed at public meetings that if they do not  
15 have their PIV badge by October 27, 2007, that they will not only be barred from the  
16 premises but will be deemed to have terminated their employment with JPL.

17 56. All of the plaintiffs will suffer irreparable harm if they are denied access to  
18 JPL and deemed to have voluntarily resigned from employment with Caltech as they will  
19 lose their livelihood and medical benefits. For several of the plaintiffs, who are over 60,  
20 it may be difficult to find replacement jobs. For all of the plaintiffs, loss of their position  
21 at JPL will deprive them of a unique and irreplaceable job, which will imperil their  
22 ability to continue their research and to remain active in space exploration. Indeed, for  
23 all of the plaintiffs there is no comparable job in the world, as JPL is the premier  
24 institution for exploration of space.

25 57. Of equal if not greater significance, JPL, NASA and Caltech will suffer  
26 irreparable harm if they lose these key employees, many of whom play indispensable  
27 roles on current space exploration missions and are irreplaceable because of their  
28 knowledge, experience, and intimate involvement with these missions over the past

1 years, including key personnel on the Mars Exploration Rover mission and other critical  
2 programs.

3 58. In addition, NASA will be deprived of talented scientists and engineers who  
4 will be deterred from applying to work at JPL because of the newly-required background  
5 investigation and waiver of privacy rights, both of which are antithetical to the type of  
6 autonomy and academic freedom needed to maintain JPL's status as the preeminent  
7 research institution for space exploration. Some employees have already announced  
8 their resignation or retirement over this issue; others are already seeking work outside of  
9 JPL. JPL is already experiencing a shortage of experience in Mars science and has  
10 experienced difficulties recruiting senior talented scientists in this area, which will be  
11 compounded by the departure of these key scientists and engineers.

## 12 V. CLASS ACTION ALLEGATIONS

13 59. Plaintiffs incorporate by reference paragraphs 1 - 57 of this Complaint as if set  
14 forth herein.

15 60. Plaintiffs bring this action individually and on behalf of a class of JPL  
16 employees in non-sensitive positions. There are approximately 5000 employees of  
17 Caltech at JPL, approximately 97% of which have been designated by NASA as non-  
18 sensitive personnel.

19 61. The class members identified are so numerous that joinder of all members is  
20 impracticable. Plaintiffs believe that there are thousands of members in the class.

21 62. There are questions of law and facts common to the class. Such common  
22 questions include but are not limited to, the following:

- 23 a. Whether and to what extent Plaintiffs' constitutionally protected privacy  
24 rights are being violated by the requirement that they complete Form 85, sign  
25 the waiver that is part of that form, and submit to a NACI background  
26 investigation.
- 27 b. Whether and to what extent Plaintiffs' constitutionally protected rights to be  
28 free from unlawful searches and seizures are violated by the requirement that

1 they complete Form 85, sign the waiver that is part of that form, and submit  
2 to a NACI background investigation.

3 c. Whether the Secretary of Commerce and Commerce Department violated the  
4 Administrative Procedure Act, 5 U.S.C. § 706(2)(c), by imposing a  
5 background investigation on employees of government contractors which  
6 has no basis in HSPD-12, or in any other executive order or statute.

7 d. Whether Defendants' policy directly violates several sections of the Privacy  
8 Act of 1974, codified at 5 U.S.C. §§ 552a(a)-(q), which requires departments  
9 and agencies of the executive branch to observe certain rules in the  
10 computerization, collection, management, use, and disclosure of personal  
11 information about individuals.

12 63. Plaintiffs' claims are typical of the claims of the class. Plaintiffs seek redress  
13 for the same conduct that has affected all Proposed Class Members and press legal claims  
14 which are the same for all Proposed Class Members.

15 64. Plaintiffs are all members of the class they seek to represent and will fairly and  
16 adequately represent the class. Plaintiffs do not have conflicts of interest with members  
17 of the class and have retained counsel who are experienced in complex litigation,  
18 including class actions and constitutional litigation, who will vigorously prosecute this  
19 action.

20 65. A class action is the superior method for adjudication of this controversy. In  
21 the absence of a class action, courts will be unnecessarily burdened with multiple,  
22 duplicative individual actions. Moreover, this action is properly maintainable as a class  
23 action because Defendants have acted and/or refused to act on grounds generally  
24 applicable to the Proposed Class, thereby making equitable relief appropriate to the  
25 Proposed Class as a whole. Questions of law and fact common to the class also  
26 predominate over any questions affecting only individual members.

27 ///

28 ///

1 **VI. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **VIOLATION OF U.S. CONSTITUTION, FOURTH AMENDMENT**  
4 **(UNREASONABLE SEARCH AND SEIZURE)**

5 **On Behalf of all Plaintiffs**

6 **and Proposed Class Members against all defendants**

7 66. Plaintiffs incorporate by reference paragraphs 1 - 65 of this Complaint as if set  
8 forth herein.

9 67. In perpetrating the above described acts and omissions, defendants, and each  
10 of them, have violated, or threatened to violate, the rights of plaintiffs and the class which  
11 they seek to represent to be free from unreasonable searches and seizures, as protected by  
12 the Fourth Amendment of the United States Constitution.

13 68. Unless and until defendants' unlawful policies and practices as alleged herein  
14 are enjoined and restrained by order of this court, defendants will continue to cause great  
15 and irreparable injury to plaintiffs. Plaintiffs have no plain, speedy, or adequate remedy  
16 at law, in that it is difficult to measure the amount of monetary damages that would  
17 compensate them for the wrongful acts of defendants and, in any event, pecuniary  
18 compensation alone would not afford them adequate and complete relief.

19 **SECOND CAUSE OF ACTION**

20 **VIOLATION OF U.S. CONSTITUTION, FOURTEENTH AMENDMENT**  
21 **(INVASION OF RIGHT TO PRIVACY)**

22 **On Behalf of all Plaintiffs**

23 **and Proposed Class Members against all defendants**

24 69. Plaintiffs incorporate by reference paragraphs 1 - 68 of this Complaint as if set  
25 forth herein.

26 70. In perpetrating the above described acts and omissions, defendants, and each  
27 of them, have violated, or threatened to violate, the privacy rights of plaintiffs and the  
28 class which they seek to represent, as protected by the Fourteenth Amendment of the

1 United States Constitution.

2 71. Unless and until defendants' unlawful policies and practices as alleged herein  
3 are enjoined and restrained by order of this court, defendants will continue to cause great  
4 and irreparable injury to plaintiffs. Plaintiffs have no plain, speedy, or adequate remedy  
5 at law, in that it is difficult to measure the amount of monetary damages that would  
6 compensate them for the wrongful acts of defendants and, in any event, pecuniary  
7 compensation alone would not afford them adequate and complete relief.

8 **THIRD CAUSE OF ACTION**

9 **VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT,**

10 **5 U.S.C. § 706(2)(c)**

11 **On Behalf of all Plaintiffs and all Class Members Against Secretary Gutierrez,**  
12 **Department of Commerce, and Does 1-100**

13 72. Plaintiffs incorporate by reference paragraphs 1 - 69 of this Complaint as if set  
14 forth herein.

15 73. In perpetrating the above described acts and omissions, defendants Department  
16 of Commerce and Carlos M. Gutierrez, Secretary of Commerce, and each of them, have  
17 violated and continue to violate the Administrative Procedure Act, 5 U.S.C. § 706(2)(c),  
18 by imposing a background investigation on employees of government contractors which  
19 has no basis in HSPD-12, or in any other executive order or statute.

20 74. Unless and until defendants' unlawful policies and practices as alleged herein  
21 are enjoined and restrained by order of this court, defendants will continue to cause great  
22 and irreparable injury to plaintiffs. Plaintiffs have no plain, speedy, or adequate remedy  
23 at law, in that it is difficult to measure the amount of monetary damages that would  
24 compensate them for the wrongful acts of defendants and, in any event, pecuniary  
25 compensation alone would not afford them adequate and complete relief.

26 ///

27 ///

28 ///

1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF PRIVACY ACT, 5 U.S.C. § 552a**

3 **On Behalf of all Plaintiffs and all Class Members Against all Defendants**

4 75. Plaintiffs incorporate by reference paragraphs 1 - 74 of this Complaint as if set  
5 forth herein.

6 76. In perpetrating the above described acts and omissions, defendants, and each  
7 of them, have violated and continue to violate the Privacy Act, 5 U.S.C. § 552a, by  
8 imposing a background investigation on employees of government contractors in  
9 violation of that Act. Specifically, the defendants' conduct violates:

10 a. Section 552a(e)(1) of the Act, which requires that a federal agency  
11 "maintain in its records only such information about an individual as is relevant and  
12 necessary to accomplish a purpose of the agency required to be accomplished by statute  
13 or by executive order of the President;" and

14 b. Section (e)(7) of the Privacy Act, which prohibits a government agency  
15 from maintaining records that describing "how any individual exercises rights guaranteed  
16 by the First Amendment" unless expressly authorized by statute; by the individual in  
17 question; or unless "pertinent to and within the scope of an authorized law enforcement  
18 activity."

19 c. Section (b) of the Privacy Act, which provides that no "agency may  
20 disclose any record which is contained in a system of records . . . except pursuant to a  
21 written request by, or with the prior written consent of, the individual to whom the record  
22 pertains," in that plaintiffs have been informed that the information collected will be  
23 shared with Caltech and potentially other government agencies.

24 77. Unless and until defendants' unlawful policies and practices as alleged herein  
25 are enjoined and restrained by order of this court, defendants will continue to cause great  
26 and irreparable injury to plaintiffs. Plaintiffs have no plain, speedy, or adequate remedy  
27 at law, in that it is difficult to measure the amount of monetary damages that would  
28 compensate them for the wrongful acts of defendants and, in any event, pecuniary

1 compensation alone would not afford them adequate and complete relief.

2 **FIFTH CAUSE OF ACTION**

3 **VIOLATION OF RIGHTS UNDER THE CALIFORNIA CONSTITUTION**

4 **On Behalf of all Plaintiffs and all Class Members Against all Defendants**

5 78. Plaintiffs refer to paragraphs 1 through 77 of this complaint and incorporate  
6 those paragraphs here, as though set forth in full.

7  
8 79. In perpetrating the above described acts and omissions, defendants, and each  
9 of them, have violated provisions of the California Constitution, depriving plaintiffs of  
10 their rights thereunder. These include, the right to be free from unreasonable searches  
11 and seizures as protected under Article I, § 13 of the California Constitution, and the right  
12 to be free from invasions of one's privacy, as protected under Article I, §1 of the  
13 California Constitution.

14 80. Unless and until defendants' unlawful policies and practices as alleged herein  
15 are enjoined and restrained by order of this court, defendants will continue to cause great  
16 and irreparable injury to plaintiffs. Plaintiffs have no plain, speedy, or adequate remedy  
17 at law, in that it is difficult to measure the amount of monetary damages that would  
18 compensate them for the wrongful acts of defendants and, in any event, pecuniary  
19 compensation alone would not afford them adequate and complete relief.

20 **SIXTH CAUSE OF ACTION**

21 **INJUNCTIVE AND DECLARATORY RELIEF**

22 **On behalf of all Plaintiffs and all Class Members**

23 **Against All Defendants**

24 81. The allegations set forth in paragraphs 1 through 77 of this complaint are  
25 realleged and incorporated by reference as if fully set forth herein.

26 82. As a result of defendants' conduct, plaintiffs and all others similarly situated  
27 have been injured, and in the absence of injunctive relief, will be irreparably harmed.  
28 Plaintiffs and all others similarly situated have no adequate remedy at law. Plaintiffs

1 therefore seek injunctive relief under the laws of equity to remedy their injuries and  
2 prevent any future injury to their persons, or to all those similarly situated.

3 80. There is an actual controversy between all plaintiffs and the defendants, and  
4 plaintiffs seek a declaration of their rights to be free of coercion by the defendants, and  
5 each of them.

6 **VII. PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs respectfully request the Court to:

- 8 (a) enter judgment in favor of Plaintiffs on all counts of the Complaint;  
9 (b) award Plaintiffs injunctive relief;  
10 (c) award Plaintiffs the costs of suit including reasonable attorneys' fees; and  
11 (d) award Plaintiffs such other and further relief as the Court deems just under  
12 the circumstances.

13  
14 DATED: August 29, 2007

Respectfully Submitted,

HADSELL & STORMER, INC.

15  
16  
17 By  \_\_\_\_\_

18 Virginia Keeny, Esq.

19 Attorneys for Plaintiffs

20 Robert M. Nelson, William Bruce Banerdt, et al.  
21  
22  
23  
24  
25  
26  
27  
28

**INDEX OF EXHIBITS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

<b>Exhibit</b>	<b>Name of Document</b>
1.	Standard Form SF 85
2.	Investigative Request for Personal Information (Form No. 42)
3.	Suitability Chart



# Questionnaire for Non-Sensitive Positions

Follow instructions fully or we cannot process your form. Be sure to sign and date the certification statement on Page 5 and the release on Page 6. If you have any questions, call the office that gave you the form.

## Purpose of this Form

The U.S. Government conducts background investigations to establish that applicants or incumbents either employed by the Government or working for the Government under contract, are suitable for the job. Information from this form is used primarily as the basis for this investigation. Complete this form only after a conditional offer of employment has been made.

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 employment prospects.

## Authority to Request this Information

The U.S. Government is authorized to ask for this information under Executive Order 10577, sections 3301 and 3302 of title 5, U.S. Code; and parts 5, 731, 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 are conducted using your responses on this form and on your Declaration for Federal Employment (OF 306) to develop information to show whether you are reliable, trustworthy, and of good conduct and character. 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.

## Instructions for Completing this Form

1. 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.

2. 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.

3. 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."

4. 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.

5. 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.

6. 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.

7. All telephone numbers must include area codes.

8. 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 10, 1978, should be shown as 6/10/78.

9. 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.

10. If you need additional space to list your residences or employments/self-employments/unemployment 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.**

024

**Final Determination on Your Eligibility**

Final determination on your eligibility for a position is the responsibility of the Office of Personnel Management or 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, or disqualify individuals who have materially and deliberately falsified these forms, and this remains a part of the permanent record for future placements. Your trustworthiness is a very important consideration in deciding your suitability. Your prospects of placement 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 determining your suitability for Federal employment; 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**

- 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.
- 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.
- Except as noted in Question 14, 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- To the National Archives and Records Administration for records management inspections conducted under 44 USC 2904 and 2906.
- 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	District of Columbia	DC	Guam	GU	Northern Marianas	CM	Puerto Rico	PR
Trust Territory	TT	Virgin Islands	VI						

**PUBLIC BURDEN INFORMATION**

Public reporting burden for this collection of information is estimated to average 30 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.

**QUESTIONNAIRE FOR  
 NON-SENSITIVE POSITIONS**

OPM  
 USE  
 ONLY

Codes

Case Number

**Agency Use Only (Complete items A through K using instructions provided by USOPM)**

<b>A</b> Type of Investigation	<b>B</b> Extra Coverage	<b>C</b> Nature of Action Code	<b>D</b> Date of Action	Month	Day	Year
<b>E</b> Geographic Location	<b>F</b> Position Title		<b>G</b> SON	<b>H</b> SOI		
<b>I</b> OPAC-ALC Number	<b>J</b> Accounting Data and/or Agency Case Number					
<b>K</b> Requesting Official	Name and Title	Signature	Telephone Number	Date		

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

**1 FULL NAME** • If you have only initials in your name, use them and state (IO). - If you are a "Jr.," "Sr.," "II," etc., enter this in the box after your middle name. **2 DATE OF BIRTH**

Last Name First Name Middle Name Jr., II, etc. Month Day Year

**3 PLACE OF BIRTH** - Use the two letter code for the State. **4 SOCIAL SECURITY**

City County State Country (if not in the United States)

**5 OTHER NAMES USED**  
 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.

Name #1	Month/Year To	Month/Year	Name #3	Month/Year To	Month/Year
Name #2	Month/Year To	Month/Year	Name #4	Month/Year To	Month/Year

**6 SEX (Mark one box)** Female  Male

**7 CITIZENSHIP**

**a** Mark the box at the right that reflects your current citizenship status, and follow its instructions.

I am a U.S. citizen or national by birth in the U.S. or U.S. territory/possession. (Answer items b and d)

I am a U.S. citizen, but I was NOT born in the U.S. (Answer items b, c and d)

I am not a U.S. citizen. (Answer items b and e)

**b** Your Mother's Maiden Name

**c UNITED STATES CITIZENSHIP** 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

**d DUAL CITIZENSHIP** 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

**e ALIEN** 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
--------------------------------------	------	-------	---	---------------------------	-----------------------------

006

**8 WHERE YOU HAVE LIVED**

List the places where you have lived, beginning with the most recent (#1) and working back 5 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 3 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 3-year period, and do not list your spouse, former spouses, or other relatives).

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
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
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
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
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

**9 WHERE YOU WENT TO SCHOOL**

List the schools you have attended, beyond Junior High School, beginning with the most recent (#1) and working back 5 years. List all College or University degrees and the dates they were received. If all of your education occurred more than 5 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 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

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

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

Enter your Social Security Number before going to the next page

**10 YOUR EMPLOYMENT ACTIVITIES**

List your employment activities, beginning with the present (#1) and working back 5 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 5-year period must be accounted for without breaks, but you need not list employments before your 16th birthday.

● **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 ( )
<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 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 #4)</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>#5</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 #5)</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>#6</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 #6)</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		

**11 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 5 years. Do not list your spouse, former spouses, or other relatives, and try not to list anyone who is listed elsewhere on this form.

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

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

**12 YOUR SELECTIVE SERVICE RECORD**

	Yes	No
<b>a</b> Are you a male born after December 31, 1959? If "No," go to 13. If "Yes," go to b.	<input type="checkbox"/>	<input type="checkbox"/>
<b>b</b> Have you registered with the Selective Service System? If "Yes," provide your registration number. If "No," show the reason for your legal exemption below.	<input type="checkbox"/>	<input type="checkbox"/>
Registration Number _____	Legal Exemption Explanation _____	

**13 YOUR MILITARY HISTORY**

	Yes	No
<b>a</b> Have you served in the United States military?	<input type="checkbox"/>	<input type="checkbox"/>
<b>b</b> Have you served in the United States Merchant Marine?	<input type="checkbox"/>	<input type="checkbox"/>

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		Inactive Reserve	National Guard (State)
To				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
To				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

**14 ILLEGAL DRUGS**

	Yes	No
In the last year, have you used, possessed, supplied, or manufactured illegal drugs? When used without a prescription, illegal drugs include marijuana, cocaine, hashish, narcotics (opium, morphine, codeine, heroin, etc.), stimulants (cocaine, amphetamines, etc.), depressants (barbiturates, methaqualone, tranquilizers, etc.), hallucinogenics (LSD, PCP, etc.). (NOTE: Neither your truthful response nor information derived from your response will be used as evidence against you in any subsequent criminal proceeding.)	<input type="checkbox"/>	<input type="checkbox"/>

If you answered "Yes," provide information relating to the types of substance(s), the nature of the activity, and any other details relating to your involvement with illegal drugs. Include any treatment or counseling received.

Month/Year	Month/Year	Type of Substance	Explanation
To			
To			
To			

**Continuation Space**

Use the continuation sheet(s) (SF86A) for additional answers to items 8, 9, and 10. Use the space below to continue answers to all other items and any information you would like to add. If more space is needed than is provided below, use a blank sheet(s) of paper. Start each sheet with your name and Social Security number. Before each answer, identify the number of the item.

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

After completing this form you should review your answers to all questions to make sure the form is complete and accurate, and then sign and date the following certification and sign and date the release on Page 6.

**Certification That My Answers Are True**

My statements on this form, and any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both. (See section 1001 of title 18, United States Code).

Signature (Sign in ink) _____	Date _____
-------------------------------	------------

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

030

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

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

**I Understand** that, for some sources of information, a separate specific release will be needed, and I may be contacted for such a release at a later date.

**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 85, and 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 two (2) years from the date signed.

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> (     )



REDACTED

F  
R  
O  
M

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT  
FEDERAL INVESTIGATIONS PROCESSING CENTER  
PO BOX 618  
BOYERS, PA 16018-0618

~~DUE TO AUTOMATION PROCESSING, DUPLICATE INQUIRIES MAY BE RECEIVED.~~

T  
O

SUSAN FOSTER  
4800 OAK GROVE DR.  
PASADENA , CA 91109



**INSTRUCTIONS:** Your name has been provided by the person identified below to assist in completing a background investigation to help us determine this person's suitability for employment or security clearance. To help us make this determination, we ask that you complete all items on the back of this form and return the form in the enclosed envelope. You were listed as:

**A REFERENCE**

**PRIVACY ACT INFORMATION:** This investigative inquiry is in full compliance with the Privacy Act of 1974 and other laws protecting the civil rights of the person we are investigating. The information you provide, including your identity, will be disclosed to the person being investigated and other federal agencies, at this person's request.

**CERTIFICATION:** The person we are investigating has given written consent for this investigative inquiry. We keep that consent on file. If a copy is required in order to complete this form, or you would like to keep your identity confidential, please indicate this requirement in writing on the reverse.

**Completion of this investigation as soon as possible will help this person and the agency perform their duties in a more timely and efficient manner.**

CASE NUMBER: 07K37387      CASE TYPE: 02      ITEM NUMBER: 007

FULL NAME (LAST, FIRST, MIDDLE)
(NMN)
OTHER NAMES USED
POSITION FOR WHICH INVESTIGATED
DOCUMENTATION SERVICES
THIS PERSON CLAIMED THE FOLLOWING
YEARS KNOWN: 00
CURRENT ADDRESS:

032

**MARKING  
INSTRUCTIONS**

**CORRECT MARK:**

- USE A NO. 2 PENCIL OR BLUE OR BLACK INK PEN ONLY.
- DO NOT USE PENS WITH INK THAT SOAKS THROUGH THE PAPER.
- DO NOT MAKE ANY STRAY MARKS ON THIS SHEET.

**INCORRECT MARKS:**



**PLEASE COMPLETE THE ITEMS SHOWN BELOW**

**1 HOW LONG HAVE YOU KNOWN THIS PERSON?**  
 a  \_\_\_\_\_ YEARS \_\_\_\_\_ MONTHS      b  I DON'T KNOW THIS PERSON (DON'T COMPLETE OTHER ITEMS)

**2 MY ASSOCIATION WITH THIS PERSON IS/WAS AS A:**  
 a  COWORKER      c  FRIEND      e  FORMER SPOUSE      g  RELATIVE  
 b  NEIGHBOR      d  SPOUSE      f  INSTRUCTOR      h  OTHER (PLEASE EXPLAIN IN ITEM 8)

**3 ON THE AVERAGE, I ASSOCIATE(D) WITH THIS PERSON:**  
 a  DAILY      c  MONTHLY      e  ONCE EVERY YEAR OR 2  
 b  WEEKLY      d  TWICE A YEAR      f  ONCE IN 3 OR MORE YEARS

**4 I LAST ASSOCIATED WITH THIS PERSON:**  
 a  0 TO 3 MONTHS AGO      c  1 TO 3 YEARS AGO      e  MORE THAN 5 YEARS AGO  
 b  3 TO 12 MONTHS AGO      d  3 TO 5 YEARS AGO

**5 DOES THE INFORMATION ON THE FRONT OF THIS FORM CONCERNING THIS PERSON APPEAR TO BE CORRECT?**  
 a  YES      b  NO—IT APPEARS TO BE INCORRECT OR INCOMPLETE (SHOW CORRECT OR ADDITIONAL DATA IN ITEM 8)

**6 DO YOU HAVE ANY REASON TO QUESTION THIS PERSON'S HONESTY OR TRUSTWORTHINESS?**  
 a  NO      c  I DO NOT KNOW THIS PERSON WELL ENOUGH TO RESPOND  
 b  YES (PLEASE EXPLAIN IN ITEM 8)      d  I WISH TO DISCUSS THE ADVERSE INFORMATION I HAVE

**7 DO YOU HAVE ANY ADVERSE INFORMATION ABOUT THIS PERSON'S EMPLOYMENT, RESIDENCE OR ACTIVITIES CONCERNING:**

YES NO	YES NO	YES NO
a <input type="radio"/> <input type="radio"/> VIOLATIONS OF THE LAW	c <input type="radio"/> <input type="radio"/> ABUSE OF ALCOHOL AND/OR DRUGS	e <input type="radio"/> <input type="radio"/> GENERAL BEHAVIOR OR CONDUCT
b <input type="radio"/> <input type="radio"/> FINANCIAL INTEGRITY	d <input type="radio"/> <input type="radio"/> MENTAL OR EMOTIONAL STABILITY	f <input type="radio"/> <input type="radio"/> OTHER MATTERS

(IF YES, PLEASE EXPLAIN IN ITEM 8)

I WISH TO DISCUSS THE ADVERSE INFORMATION I HAVE

**8**  IF ADDITIONAL INFORMATION IS PROVIDED BELOW, YOU MUST FILL IN THIS MARK.  
 ADDITIONAL INFORMATION WHICH YOU FEEL MAY HAVE A BEARING ON THIS PERSON'S SUITABILITY FOR GOVERNMENT EMPLOYMENT OR A SECURITY CLEARANCE. THIS SPACE MAY BE USED FOR DEROGATORY AS WELL AS POSITIVE INFORMATION.

**9 DO YOU RECOMMEND THIS PERSON FOR GOVERNMENT SECURITY CLEARANCE OR EMPLOYMENT?**  
 a  YES      c  I DON'T KNOW THIS PERSON WELL ENOUGH TO MAKE A RECOMMENDATION  
 b  NO (PLEASE EXPLAIN IN ITEM 8)

PRINT NAME \_\_\_\_\_

PLEASE PRINT HERE \_\_\_\_\_ DATE \_\_\_\_\_

DAYTIME TELEPHONE NUMBER \_\_\_\_\_  
 (INCLUDE AREA CODE)

**FOR OPM USE ONLY**

RESULTS	ISSUES/CHARACTERIZATION
1. ACCEPTABLE	9. 0 A B C D E N
2. SOMETIMELY ACCEPTABLE	10. 0 A B C D E N
3. COMPLETELY ACCEPTABLE	11. 0 A B C D E N
4. NO PERTINENT INFORMATION	12. 0 A B C D E N
5. NO RECORD	13. 0 A B C D E N
6. NO CONTACT	14. 0 A B C D E N
7. NO RECORD	
8. ISSUES	
9. CONFIDENTIAL/ISSUES	
10. RECORD INCONCLUSIVE	
11. FEE REQUIRED	
12. RELEASE REQUIRED	
13. SUBJECT UNKNOWN	
14. NOT AVAILABLE	
15. DISCREPANT	

USS



## Issue Characterization Chart

<b>1. <u>Intoxicants</u></b>			
<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Drunk Drunk and disorderly Liquor law violation (use or possession by minor)	Drinking and driving Driving under influence Driving while intoxicated	Illegal manufacturing Illegal sale	Pattern of excessive use as reflected in: - convictions - job performance - employment gaps - inability to function responsibly - medical treatment or poor health
<b>2. <u>Drug Use</u></b>			
<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Infrequent use or possession of marijuana Possession of marijuana paraphernalia Arrested or charged with possession of marijuana	Regular use or possession of marijuana Infrequent use or possession of other controlled substances Possession of drug paraphernalia Cultivating marijuana for personal use	Transfer of controlled substance Possession for sale or resale Prescription fraud or forgery Sale of controlled substance Unlawful dispensing of prescription drugs Smuggling contraband drugs Into prison Regular use of controlled substances other than marijuana	Pattern of use or excessive use as reflected in 1D above.  manufacturing addiction importing trafficking cultivating for sale
<b>3. <u>Financial Responsibility</u></b>			
<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Bad check Infrequent, irregular, but deliberate delinquency in meeting financial obligations	Non-support Judgement, tax lien or other default with no attempt at restitution Illegal gambling Eviction	Pattern of irresponsibility as reflected in... - credit history - disregard for debts - abuse of fiduciary trust	Pattern of irresponsibility in 3C, plus... - continuing, major, valid liabilities
<b>4. <u>Criminal and Immoral Conduct</u></b>			
<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
	Indecent exposure Solicitation Voyeurism, peeping tom Mailing, selling, or displaying obscene material Obscene phone call Indecent proposal	Carnal knowledge Sodomy Prostitution Bigamy or polygamy Pimping or pandering Keeping house of ill repute Contributing to delinquency of or corrupting morals or minor Sexual harassment Other sexual misconduct with impact on job	Pattern of misconduct as reflected in conviction records Child molestation Sexual assault Statutory rape Incest Bestiality
<b>5. <u>Honesty</u></b>			
<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Non-material, intentional false statement or deception or fraud in examination or appointment	Altering Breaking & entering Forgery Fraud Possession of stolen property Black market activities (non-profit)	Bribery Embezzlement Grand larceny Grand theft Mail theft Burglary Robbery (unarmed)	Pattern of dishonesty as reflected in... - disregard for truth - conviction records - abuse of trust. or - employment records Blackmail

Petty larceny  
 Minor stealing or petty theft  
 Shoplifting  
 Abuse of property  
 False statement  
 Filing false instrument  
 Failure to file income tax return

Perjury  
 False impersonation  
 (e.g., impersonating a law enforcement officer)  
 Interstate transportation of stolen goods  
 Black market activities (with intent to profit)  
 Income tax evasion  
 Receiving stolen property

Counterfeiting  
 Extortion  
 Armed robbery  
 Material, intentional false statement or deception or fraud in examination or appointment\*  
 Deliberate misrepresentation, falsification, or omission of material fact\*\*

\* 731.202 (b)(3) applies - Use solely for falsification in the competitive examination/appointment process

\*\* 731.202 (b)(2) applies - Use for falsification outside the competitive examining process

**6. Disruptive or Violent Behavior**

<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Disorderly conduct Disturbing the peace Making a threat Resisting arrest Abusive language Unlawful assembly	Assault Damaging property Destroying property Hit & run Vandalism Criminal or malicious mischief Harassment Cruelty to animals Hindering prosecution Eluding police	Assault & battery Battery Manslaughter (involuntary)	Pattern of violence as reflected in... - conviction records - disregard for life or property - civil actions - employment records, or - medical records Aggravated assault Assault with deadly weapon Assault with intent to commit rape Kidnapping or abduction Murder Rape Arson Threat or assault upon public official Manslaughter (voluntary) Child abuse

**7. Employment Misconduct, Negligence\***

<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Attitude Personality Conflict	Insubordination Absenteeism or attendance problem Rules or regulation violation		Pattern of unemployability Based on misconduct or negligence as reflected in employment history

\* Other issues (use or possession of intoxicants, controlled substances and marijuana, financial responsibility, criminal immoral conduct, honesty, disruptive or violent behavior, etc.) which lead to termination or forced resignation are raised one level for adjudication purposes. For example, petty theft, a "B" issue by itself, becomes a "C" issue if it is determined to be the reason for termination or forced resignation from employment.

**8. Firearms and Weapons**

<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Possession of an unregistered firearm	Possession of a prohibited weapon Possession of illegal ammunition Carrying deadly weapon Unlawful Discharge of firearms	Carrying concealed weapon or firearm Brandishing firearm Possession of firearm by felon Possession of loaded firearm Possession of explosives	Improper or illegal sale or transportation of firearms or explosives Illegal manufacture of firearms or explosives

## 9. Miscellaneous

<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Vagrancy Loitering Trespassing Minor traffic violation (traffic violations not required to be admitted on OF306 or other application material/QSP will not be considered issues)	Traffic violations greater than "A", but less than "C" Contempt of court Driving motor vehicle without owner's consent Possession of instrument of crime	Vehicular homicide Refusal to furnish testimony by 5 CFR 5.4 Tampering with a witness Harboring a fugitive	Hatch Act violation Mutilation or destruction of public records Engaging in riots or civil disorders Striking against the Government Desertion

### NOTE:

For conduct not listed in this chart, attempt to find a like or related issue, and use the characterization of the listed issue. If unlisted conduct does not equate with a listed issue, but seems to relate more appropriately to a level where no issues are identified (such as level A for issue 4), identify the issue at the level. Criminal offenses shown as "attempted" or "accessory to" are characterized by the base charge (e.g., Attempted Burglary equals Burglary). Characterize the seriousness of the issue by the conduct it self rather than its outcome (e.g., "assault" may warrant actual characterization as a "D" issue rather than a "B" if the details show serious injury inflicted on the victim, etc). Any uncertainty about an issue should be resolved by an experienced Adjudicator.

The ranking of probation/parole violations is determined by the nature of the issue leading to the violation. For example, a probation/parole violation for driving while intoxicated is adjudicated at level "B" while a violation for assault with a deadly weapon is adjudicated at level "D."

## 10. Statutory Debarment

The following issues require *AUTOMATIC* debarment from Federal employment for the period specified below. The legal authority for debarment must be consulted prior to taking debarment action.

<u>Issue</u>	<u>Debarment Period</u>	<u>Legal Authority</u>
Illegally receiving, seeking, promising or offering compensation for services in matters affecting the Government	Indefinite	18 U.S.C. 203
Current, habitual use of intoxicating beverages to excess	NTE 3 years	5 U.S.C. 7352
Evidence of disloyalty: advocates or is a knowing member of an organization that advocates the overthrow of our constitutional form of government	Indefinite	5 U.S.C. 7311; 18 U.S.C. 1918
Participation in a strike against the Government	Indefinite	5 U.S.C. 7311; 18 U.S.C. 1918
Willful and unlawful concealment, removal, mutilation or destruction (or attempts) of public records and materials	Indefinite	18 U.S.C. 2071 (b)
Inciting, organizing, promoting, encouraging, engaging or aiding others to engage in riots or civil disorders	5 years from the date the conviction becomes final	5 U.S.C. 7313
Interference by an officer or member of the armed forces with elections	Indefinite	5 U.S.C. 593
Unlawful approval of bond or sureties by a postmaster	Indefinite (from employment as postmaster only)	18 U.S.C. 1732
Theft or unlawful concealment of money or other property of value from a bank or safe in, or adjacent to, a bank which is a Federal Reserve member or is insured by the Federal Deposit Insurance Corporation (FDIC)	Indefinite (from positions of national bank examiner only)	18 U.S.C. 655

Unlawful trading in public property by collections or disbursing officer	Indefinite	18 U.S.C. 1901
Unauthorized disclosure of information by a farm credit examiner	Indefinite (from employment as a farm credit examiner only)	18 U.S.C. 1907
Unauthorized disclosure of information by a National Agricultural Credit Corporation (NACC) examiner	Indefinite (from employment as an NACC examiner only)	18 U.S.C. 1908
Committing treason against the United States	Indefinite	18 U.S.C. 2381
Inciting, assisting or participating in any rebellion or insurrection against the United States	Indefinite	18 U.S.C. 2383
Knowingly and willfully advocating, abetting, advising or teaching the overthrow of the United States Government or any political subdivision of the United States	5 years from the date of the conviction	18 U.S.C. 2385
Activities intended to impair the loyalty, morale and discipline of the United States Armed Forces	5 years from the date of the conviction	18 U.S.C. 2387
Conviction for misdemeanor crime (under Federal or State law) of domestic violence (use or attempted use of physical force, or the threatened use of a deadly weapon, committed by current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting or who has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim).	Indefinite from any positions requiring the individual to ship, transport, possess, or receive firearms or ammunition	PL 104-208 Omnibus Consolidated Appropriations Act of 1997 (amended the Gun Control Act of 1968)
Any individual who has been found guilty of, or has entered a plea of nolo contendere or guilty to any offense under Federal, State, or tribal law involving crimes of violence, sexual assault, molestation, exploitation, contact or prostitution; or crimes against persons.	Indefinite from any position involving regular contact with, or control over, Indian children	PL 101-630, Indian Child Protection and Family Violence Act, dated November 28, 1990, contains minimum standards. Refer also to Department of Interior or Health and Human Services agency regulations, as appropriate.
Knowing and willful failure to register under Section 3 of the Military Selective Service Act (50 U.S.C. App. 453)	Indefinite (only from positions in executive agencies)	5 U.S.C. 3328
<ul style="list-style-type: none"> <li>• Applies to men born after December 31, 1959, who are or were required to register and who are not registered, or did not register before the requirement terminated or became inapplicable to the individual. Processing guidance can be found at 5 CFR 300.</li> </ul>		

## Issue Characterization Chart

<b>1. Intoxicants</b>			
<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Drunk Drunk and disorderly Liquor law violation (use or possession by minor)	Drinking and driving Driving under influence Driving while intoxicated	Illegal manufacturing Illegal sale	Pattern of excessive use as reflected in: - convictions - job performance - employment gaps - inability to function responsibly - medical treatment or poor health
<b>2. Drug Use</b>			
<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Infrequent use or possession of marijuana Possession of marijuana paraphernalia Arrested or charged with possession of marijuana	Regular use or possession of marijuana Infrequent use or possession of other controlled substances Possession of drug paraphernalia Cultivating marijuana for personal use	Transfer of controlled substance Possession for sale or resale Prescription fraud or forgery Sale of controlled substance Unlawful dispensing of prescription drugs Smuggling contraband drugs Into prison Regular use of controlled substances other than marijuana	Pattern of use or excessive use as reflected in 1D above.  manufacturing addiction importing trafficking cultivating for sale
<b>3. Financial Responsibility</b>			
<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Bad check Infrequent, irregular, but deliberate delinquency in meeting financial obligations	Non-support Judgement, tax lien or other default with no attempt at restitution Illegal gambling Eviction	Pattern of irresponsibility as reflected in... - credit history - disregard for debts - abuse of fiduciary trust	Pattern of irresponsibility in 3C, plus... - continuing, major, valid liabilities
<b>4. Criminal and Immoral Conduct</b>			
<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
	Indecent exposure Solicitation Voyeurism, peeping tom Mailing, selling, or displaying obscene material Obscene phone call Indecent proposal	Carnal knowledge Sodomy Prostitution Bigamy or polygamy Pimping or pandering Keeping house of ill repute Contributing to delinquency of or corrupting morals or minor Sexual harassment Other sexual misconduct with impact on job	Pattern of misconduct as reflected in conviction records Child molestation Sexual assault Statutory rape Incest Bestiality
<b>5. Honesty</b>			
<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Non-material, intentional false statement or deception or fraud in examination or appointment	Altering Breaking & entering Forgery Fraud Possession of stolen property Black market activities (non-profit)	Bribery Embezzlement Grand larceny Grand theft Mail theft Burglary Robbery (unarmed)	Pattern of dishonesty as reflected in... - disregard for truth - conviction records - abuse of trust, or - employment records Blackmail

Petty larceny  
 Minor stealing or petty theft  
 Shoplifting  
 Abuse of property  
 False statement  
 Filing false instrument  
 Failure to file income tax return

Perjury  
 False impersonation  
 (e.g., impersonating a law enforcement officer)  
 Interstate transportation of stolen goods  
 Black market activities (with intent to profit)  
 Income tax evasion  
 Receiving stolen property

Counterfeiting  
 Extortion  
 Armed robbery  
 Material, intentional false statement or deception or fraud in examination or appointment\*  
 Deliberate misrepresentation, falsification, or omission of material fact\*\*

\* 731.202 (b)(3) applies - Use solely for falsification in the competitive examination/appointment process  
 \*\* 731.202 (b)(2) applies - Use for falsification outside the competitive examining process

**6. Disruptive or Violent Behavior**

A  
 Disorderly conduct  
 Disturbing the peace  
 Making a threat  
 Resisting arrest  
 Abusive language  
 Unlawful assembly

B  
 Assault  
 Damaging property  
 Destroying property  
 Hit & run  
 Vandalism  
 Criminal or malicious mischief  
 Harassment  
 Cruelty to animals  
 Hindering prosecution  
 Eluding police

C  
 Assault & battery  
 Battery  
 Manslaughter (involuntary)

D  
 Pattern of violence as reflected in...  
 - conviction records  
 - disregard for life or property  
 - civil actions  
 - employment records, or  
 - medical records  
 Aggravated assault  
 Assault with deadly weapon  
 Assault with intent to commit rape  
 Kidnapping or abduction  
 Murder  
 Rape  
 Arson  
 Threat or assault upon public official  
 Manslaughter (voluntary)  
 Child abuse

**7. Employment Misconduct, Negligence\***

A  
 Attitude  
 Personality Conflict

B  
 Insubordination  
 Absenteeism or attendance problem  
 Rules or regulation violation

C

D  
 Pattern of unemployability  
 Based on misconduct or negligence as reflected in employment history

\* Other issues (use or possession of intoxicants, controlled substances and marijuana, financial responsibility, criminal immoral conduct, honesty, disruptive or violent behavior, etc.) which lead to termination or forced resignation are raised one level for adjudication purposes. For example, petty theft, a "B" issue by itself, becomes a "C" issue if it is determined to be the reason for termination or forced resignation from employment.

**8. Firearms and Weapons**

A  
 Possession of an unregistered firearm

B  
 Possession of a prohibited weapon  
 Possession of illegal ammunition  
 Carrying deadly weapon  
 Unlawful Discharge of firearms

C  
 Carrying concealed weapon or firearm  
 Brandishing firearm  
 Possession of firearm by felon  
 Possession of loaded firearm  
 Possession of explosives

D  
 Improper or illegal sale or transportation of firearms or explosives  
 Illegal manufacture of firearms or explosives

## 9. Miscellaneous

<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Vagrancy Loitering Trespassing Minor traffic violation (traffic violations not required to be admitted on OF306 or other application material/QSP will not be considered issues)	Traffic violations greater than "A", but less than "C" Contempt of court Driving motor vehicle without owner's consent Possession of instrument of crime	Vehicular homicide Refusal to furnish testimony by 5 CFR 5.4 Tampering with a witness Harboring a fugitive	Hatch Act violation Mutilation or destruction of public records Engaging in riots or civil disorders Striking against the Government Desertion

### NOTE:

For conduct not listed in this chart, attempt to find a like or related issue, and use the characterization of the listed issue. If unlisted conduct does not equate with a listed issue, but seems to relate more appropriately to a level where no issues are identified (such as level A for issue 4), identify the issue at the level. Criminal offenses shown as "attempted" or "accessory to" are characterized by the base charge (e.g., Attempted Burglary equals Burglary). Characterize the seriousness of the issue by the conduct it self rather than its outcome (e.g., "assault" may warrant actual characterization as a "D" issue rather than a "B" if the details show serious injury inflicted on the victim, etc). Any uncertainty about an issue should be resolved by an experienced Adjudicator.

The ranking of probation/parole violations is determined by the nature of the issue leading to the violation. For example, a probation/parole violation for driving while intoxicated is adjudicated at level "B" while a violation for assault with a deadly weapon is adjudicated at level "D."

## 10. Statutory Debarment

The following issues require AUTOMATIC debarment from Federal employment for the period specified below. The legal authority for debarment must be consulted prior to taking debarment action.

<u>Issue</u>	<u>Debarment Period</u>	<u>Legal Authority</u>
Illegally receiving, seeking, promising or offering compensation for services in matters affecting the Government	Indefinite	18 U.S.C. 203
Current, habitual use of intoxicating beverages to excess	NTE 3 years	5 U.S.C. 7352
Evidence of disloyalty: advocates or is a knowing member of an organization that advocates the overthrow of our constitutional form of government	Indefinite	5 U.S.C. 7311; 18 U.S.C. 1918
Participation in a strike against the Government	Indefinite	5 U.S.C. 7311; 18 U.S.C. 1918
Willful and unlawful concealment, removal, mutilation or destruction (or attempts) of public records and materials	Indefinite	18 U.S.C. 2071 (b)
Inciting, organizing, promoting, encouraging, engaging or aiding others to engage in riots or civil disorders	5 years from the date the conviction becomes final	5 U.S.C. 7313
Interference by an officer or member of the armed forces with elections	Indefinite	5 U.S.C. 593
Unlawful approval of bond or sureties by a postmaster	Indefinite (from employment as postmaster only)	18 U.S.C. 1732
Theft or unlawful concealment of money or other property of value from a bank or safe in, or adjacent to, a bank which is a Federal Reserve member or is insured by the Federal Deposit Insurance Corporation (FDIC)	Indefinite (from positions of national bank examiner only)	18 U.S.C. 655

Unlawful trading in public property by collections or disbursing officer	Indefinite	18 U.S.C. 1901
Unauthorized disclosure of information by a farm credit examiner	Indefinite (from employment as a farm credit examiner only)	18 U.S.C. 1907
Unauthorized disclosure of information by a National Agricultural Credit Corporation (NACC) examiner	Indefinite (from employment as an NACC examiner only)	18 U.S.C. 1908
Committing treason against the United States	Indefinite	18 U.S.C. 2381
Inciting, assisting or participating in any rebellion or insurrection against the United States	Indefinite	18 U.S.C. 2383
Knowingly and willfully advocating, abetting, advising or teaching the overthrow of the United States Government or any political subdivision of the United States	5 years from the date of the conviction	18 U.S.C. 2385
Activities intended to impair the loyalty, morale and discipline of the United States Armed Forces	5 years from the date of the conviction	18 U.S.C. 2387
Conviction for misdemeanor crime (under Federal or State law) of domestic violence (use or attempted use of physical force, or the threatened use of a deadly weapon, committed by current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting or who has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim).	Indefinite from any positions requiring the individual to ship, transport, possess, or receive firearms or ammunition	PL 104-208 Omnibus Consolidated Appropriations Act of 1997 (amended the Gun Control Act of 1968)
Any individual who has been found guilty of, or has entered a plea of nolo contendere or guilty to any offense under Federal, State, or tribal law involving crimes of violence, sexual assault, molestation, exploitation, contact or prostitution; or crimes against persons.	Indefinite from any position involving regular contact with, or control over, Indian children	PL 101-630, Indian Child Protection and Family Violence Act, dated November 28, 1990, contains minimum standards. Refer also to Department of Interior or Health and Human Services agency regulations, as appropriate.
Knowing and willful failure to register under Section 3 of the Military Selective Service Act (50 U.S.C. App. 453)	Indefinite (only from positions in executive agencies)	5 U.S.C. 3328
<ul style="list-style-type: none"> <li>Applies to men born after December 31, 1959, who are or were required to register and who are not registered, or did not register before the requirement terminated or became inapplicable to the individual. Processing guidance can be found at 5 CFR 300.</li> </ul>		

### 11. Loyalty and Security

- Any SUITABILITY issue indicating evidence of disloyalty or terrorism that does NOT require statutory debarment will be adjudicated at level D.
- Homosexuality, in and of itself, while not a suitability issue, may be a security issue and must be addressed completely, when indications are present of possible susceptibility to coercion or blackmail.
- Cohabitation, adultery, illegitimate children, etc. are rarely suitability issues but, in certain circumstances, may be security issues.
- Previous instances of security violations, clearance denials or revocations are included.
- Any other issue not listed elsewhere may be a suitability issue considered in security adjudication. (Examples are judgment, reliability, and dependability issues)

### 12. Qualifications (including health)

- Lack of required knowledge, skills, and abilities
- Inability to perform or poor performance which is not due to negligence or misconduct
- Physical health issues; and
- Mental, emotional, psychological, or psychiatric issues which do not include other issues listed in this Appendix.

### 13. Issues Relating to Associates

- Issues listed in this chart that relate to an associate of the person under investigation.

### 14. Issues Relating to Relatives

- Issues listed in this chart that relate to a relative of the person under investigation.
- Use issue codes 13 or 14 only when the issue has a bearing on the suitability or security determination of the person under investigation.

Bribery of public officials and witnesses, and graft in connection with public service matters may also serve as a basis for debarment. Some misconduct requires removal from Federal employment, but no automatic debarment. (See 5 CFR 735)

- **SUITABILITY UPGRADE** – considers that multiple issues raise more serious questions about suitability

FREQUENCY	UPGRADE ACTION
2 ISSUES IN 0-36 MONTHS	RAISE BOTH ISSUES ONCE (e.g., "A" to "B")
3 OR MORE ISSUES IN 0-36 MONTHS	RAISE ALL ISSUES TWICE (e.g., "A" to "C")

- **DOWNGRADE (CONVERSION) OF ISSUES** - considers issues over 36 months old to be less serious

ISSUE		PERIOD IN WHICH ISSUE OCCURRED		
		0-36 MO	37-72 MO	73-108 MO
B	CONVERTS TO	B	A	NON-ISSUE
C		C	B	A
D		D	C	B

Note: Any issues over 108 months are considered to be non-issues.

- **DEBARMENT ACTION** (only OPM may impose the maximum 3 year period of debarment. Agencies may impose up to one year and may use the chart to determine if referral to OPM for a longer bar is warranted)

ISSUE	RECENCY		
	0-12 MO	13-24 MO	25-36 MO
C	24 MO DEBAR	18 MO DEBAR	12 MO DEBAR*
D	36 MO DEBAR	24 MO DEBAR	18 MO DEBAR*

\* OPM would rarely take action on a case in which less than a 24 month bar remains. Debarment action will only be taken on C issue cases when careful assessment of the job-relatedness of the specific issue(s) involved warrants such action. The disqualifying nature of the conduct in D issue cases usually warrants debarment action.

The debarment period begins on the date of the final decision letter or 120 days after the control date, whichever is closer to the control date. **IN REMOVAL DECISION,**

**CONSIDER IMPOSING MAXIMUM DEBARMENT RATHER THAN RELYING ON THE DEBARMENT PERIODS STATED IN THE CHART.**

- **DETERMINING RECENCY OF ISSUES(S)** – The following control dates by type of case are used in determining the recency of issue(s) for issue conversion or upgrade purposes:

TYPE OF CASE	CONTROL DATE
Civil Service Register or Outside Register Applicant Filing Directly with Agency	Date document (i.e., OF 306, etc.) containing conduct information was first considered by Personnel Office. (If referred to OPM-FIPC-SAS, use the date of referral or objection/passover)
Investigated Applicant	Date subject signed investigative data form.
Appointee or Employee	Date subject signed investigative date form. (However, if falsification/fraud of a material fact is discovered, use date conduct first identified as an issue. In addition, when determining debarment length at the final decision stage, consider imposing the maximum debarment rather than relying on the debarment periods calculated with the control date.)

When new actionable issues arise subsequent to the original control date, the control date becomes the date of occurrence of the most recent actionable conduct.

The control date for cases involving an applicant whose previous application was canceled because of pending charges is the date of referral of the current or most recent application. If two or more applications are received for suitability determination, the control date for the case is the earliest referral date.