

CORD

Contracting Out Security Clearance Investigations: The Role of USIS and Allegations of Systemic Fraud

Item Type	House Minority Staff Report
Download date	2025-04-20 16:58:33
Link to Item	https://hdl.handle.net/20.500.14300/1028

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
REP. ELIJAH E. CUMMINGS, RANKING MEMBER**



**CONTRACTING OUT SECURITY CLEARANCE INVESTIGATIONS:
THE ROLE OF USIS AND ALLEGATIONS OF SYSTEMIC FRAUD**

**DEMOCRATIC STAFF REPORT
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
113TH CONGRESS
FEBRUARY 11, 2014**

TABLE OF CONTENTS

INTRODUCTION 2

I. CONTRACTING OUT AND THE RISE OF USIS 3

II. ALLEGATIONS OF SYSTEMIC FRAUD BY USIS 5

A. USIS Employee Allegations of Illegal “Dumping” 5

B. Justice Department False Claims Act Case 6

C. Committee Investigation 7

1. Withholding of Information from OPM 7

2. Misuse of Contract to Conceal Fraudulent Activity 8

3. Financial Rewards to USIS and Its Executives 9

4. Exodus of Two Dozen USIS Officials 11

III. LEGISLATIVE PROPOSALS 12

A. Preventing Contractor Conflicts of Interest 12

B. Improving Local Law Enforcement Cooperation 12

C. Implementing Continuous Evaluation 13

INTRODUCTION

On September 16, 2013, Aaron Alexis killed twelve people and injured several others at the Washington Navy Yard. Alexis entered the facility with a shotgun using his credentials as an employee of a federal subcontractor that performed computer software updates for the Navy. Alexis qualified for this position because he had received a Secret level security clearance in 2008 when he served in the Navy Reserve.

Last fall, the Committee initiated a bipartisan investigation to examine the circumstances by which Alexis received and retained his security clearance, particularly given subsequent revelations about his multiple arrests involving firearms.

This week, the Republican staff of the Committee issued a report focusing primarily on the role of the Office of Personnel Management (OPM) in overseeing its contractors that conduct background investigations.

This Republican staff report was incomplete because it did not present the full findings of the Committee's investigation into the role of U.S. Investigations Services, Inc. (USIS)—the company that conducted Alexis' background investigation and that conducts more background investigations than any other federal contractor.

For these reasons, the Committee's Ranking Member, Rep. Elijah E. Cummings, asked Democratic staff to set forth additional information regarding USIS, including new allegations of a massive fraud committed by the company's top executives over 4½ years that may have endangered national security.

In the wake of these devastating allegations, USIS experienced an exodus of senior officials. Twenty-four executives have resigned, retired, or been terminated, including the company's Chief Executive Officer and Chief Financial Officer. In addition, Committee staff learned that the President of its Investigations Services Division also resigned suddenly just last week.

The Committee's investigation, which has included a review of tens of thousands of pages of documents and interviews with multiple government officials, raises serious concerns about the massive scale of this alleged fraud and the sophisticated means by which it evaded detection for so long.

Despite these revelations, however, the Committee has not conducted any transcribed interviews of USIS officials to date. Although the record before the Committee answers many questions about how Alexis obtained a security clearance, the Committee must do much more to answer and address the much broader and systemic concerns involving USIS.

I. CONTRACTING OUT AND THE RISE OF USIS

Throughout the 1990s and early 2000s, background investigations for security clearances were overseen by the Department of Defense (DOD), and its stewardship was criticized for excessive delays and large backlogs.

In 1999, the former General Accounting Office (GAO) reviewed a sample of 530 investigations conducted by DOD and found that the vast majority did not comply with federal investigative standards. GAO also reported that half of the 530 investigations it reviewed took 204 or more days to complete, missing the 90-day deadline requested by its customers. In addition, less than one percent of the 530 investigations met the 90-day timeframe. GAO also found a backlog of 600,000 cases pending reinvestigation.¹ Hundreds of thousands of applicants, federal employees, and contractors were waiting an average of 200 days for background investigations to be completed. As a result of these backlogs and delays, GAO placed DOD's security clearance process on its high risk list.²

In 2004, Congress passed the Intelligence Reform and Terrorism Prevention Act, which set tighter deadlines for completing background investigations.³ In addition, President George W. Bush's fiscal year 2004 budget proposal transferred DOD's investigation services to OPM.⁴

Today, OPM's Federal Investigative Services oversees 90% of security clearance background investigations and performs more than 2 million background investigations annually. OPM conducts investigations through more than 2,500 federal investigators and 6,700 contractor investigators. OPM contracts primarily with three firms: USIS, CACI Premier Technology, and KeyPoint Government Solutions.⁵

USIS started as an Employee Stock Ownership Plan in 1996 when the federal Office of Investigations, a division of OPM, was outsourced during a wave of privatizations of federal

¹ General Accounting Office, *DOD Personnel Clearances: Preliminary Observations Related to Backlogs and Delays in Determining Security Clearance Eligibility for Industry Personnel* (May 6, 2004) (GAO-04-202T); General Accounting Office, *DOD Personnel: Inadequate Personnel Security Investigations Pose National Security Risks* (Oct. 1999) (GAO/NSIAD-00-12).

² *Backlogs in Security Clearance Program Reduced After GAO Raises Concerns*, Washington Post (Feb. 21, 2011); *Expect Security Clearance Delays: NSA Leak Could Mean Less Info-Sharing, More Polygraphs*, Federal Times (June 24, 2013).

³ Pub. L. No. 108-458 (2004).

⁴ *Defense Background Check Authority May Transfer to OPM*, Government Executive (Feb. 5, 2003).

⁵ Government Accountability Office, *Decision in the Matter of OMNIPLEX World Services Corporation* (Mar. 14, 2012) (online at www.gao.gov/assets/590/589781.pdf).

government services.⁶ At the time, the Office of Investigations' largest customers for background investigations were the U.S. Postal Service, Energy Department, and Immigration and Naturalization Service.⁷

The employee-owned U.S. Investigations Services soon became the focus of private equity investors. In 1999, the Carlyle Group invested \$50 million, and it later invested an additional \$25 million for a 25% total stake.⁸ In 2003, the private equity firm Welsh, Carson, Anderson & Stowe invested \$545 million and became the company's majority owner.⁹ U.S. Investigations Services explained its buy-out by the private equity firm as important to "continue to grow our capabilities in order to address the increased demand for our services from various homeland security initiatives."¹⁰

In 2005, U.S. Investigations Services paid a \$185 million dividend to its owners.¹¹

In 2006, the company was rebranded as USIS to reflect "the much wider scope of security-related screening and background solutions provided by the company to government and commercial clients."¹²

In 2007, the private equity firm Providence Equity Partners, Inc. purchased USIS for \$1.5 billion from Welsh, Carson, Anderson & Stowe and the Carlyle Group.¹³ At the time, Randy Dobbs, then-CEO of USIS, stated:

This acquisition represents an opportunity for USIS to grow our current businesses and look for potential opportunities that broaden our services in other areas of the overall screening and security markets.¹⁴

In 2011, OPM awarded USIS a five-year contract for fieldwork investigations worth \$2.46 billion.¹⁵ The same year, it also awarded USIS a five-year support services contract worth

⁶ *OPM, in a First, Acts to Convert an Operation Into Private Firm*, Washington Post (Apr. 14, 1996).

⁷ *Id.*

⁸ *Welsh to Score in Dividend*, Daily Deal (Sept. 26, 2005).

⁹ *US Investigations Services, Inc. Announces Completion of Recapitalization*, Business Wire (Jan. 10, 2003) (LexisNexis 2014).

¹⁰ *Id.*

¹¹ *Welsh to Score in Dividend*, Daily Deal (Sept. 26, 2005).

¹² *USIS, Fact Sheet* (online at usis.com/Fact-Sheet.aspx) (accessed Feb. 8, 2014).

¹³ *Providence Buying USIS for \$1.5B*, Daily Deal (May 14, 2007).

¹⁴ *Id.*

¹⁵ Office of Personnel Management, *Fieldwork Contract with U.S. Investigations Services* (Dec. 1, 2011) (Contract No. OPM 15-11-C-0015).

up to \$288 million.¹⁶ According to its website, USIS today holds 100 federal contracts.¹⁷ Seventy percent of background investigations are performed by contractors, and USIS performs almost half of the investigations assigned to federal contractors.¹⁸ As a private company, USIS does not publicly report its revenues.

II. ALLEGATIONS OF SYSTEMIC FRAUD BY USIS

USIS has been accused by one of its own long-time employees of a massive, multi-year contracting fraud scheme. In addition, the Department of Justice has joined a False Claims Act lawsuit against the company seeking over a \$1 billion on behalf of the American taxpayers. Twenty-four of the company's officials, including the former Chief Executive Officer and Chief Financial Officer, have now resigned, retired, or been terminated, and the OPM Inspector General has warned that "USIS's fraud may have caused serious damage to national security."¹⁹

A. USIS Employee Allegations of Illegal "Dumping"

On October 30, 2013, a federal court lifted the seal on a *qui tam* lawsuit filed by Blake Percival, a former USIS employee, alleging a multi-year effort by the company to defraud U.S. taxpayers. Mr. Percival had spent a decade at USIS, rising to become the Director of Fieldwork Services, where he oversaw the work of 350 employees. In this position, Mr. Percival met with subordinates who directly managed USIS employees responsible for performing quality reviews on investigative reports performed for the federal government.

USIS held indefinite-delivery, indefinite-quantity contracts with OPM that required the company to perform two major functions: (1) conduct fieldwork for background investigations; and (2) conduct a quality review of each case before submitting it to OPM.²⁰ When USIS sent a completed case to OPM, it received 90% of its contract payment for that type of case. The remaining 10% was paid when the case was formally closed. The more cases USIS submitted to OPM, the more revenues it generated.

¹⁶ Office of Personnel Management, *Support Services Contract with U.S. Investigations Services* (June 30, 2011) (Contract No. OPM 15-11-C-0004).

¹⁷ USIS, *Fact Sheet* (online at usis.com/Fact-Sheet.aspx) (accessed Feb. 8, 2014).

¹⁸ Congressional Research Services, *Security Clearance Process: Answers to Frequently Asked Questions* (Sept. 9, 2013) (R43216).

¹⁹ House Committee on Oversight and Government Reform, Testimony of Patrick McFarland, Inspector General, Office of Personnel Management, *Hearing on D.C. Navy Yard Shooting: Fixing the Security Clearance Process* (Feb. 11, 2014).

²⁰ Office of Personnel Management, *Fieldwork Contract with U.S. Investigations Services* (July 7, 2006) (Contract No. OPM 04-06-00013); Office of Personnel Management, *Fieldwork Contract with U.S. Investigations Services* (Dec. 1, 2011) (Contract No. OPM 15-11-C-0015).

According to Mr. Percival, USIS managers informed him that the company had been “dumping” cases on OPM for which it had conducted fieldwork, but not the required quality reviews. His complaint explained:

Dumping is the releasing of Cases to OPM that were represented as Field Finished that were not reviewed by a [Quality] Reviewer and/or had not been investigated at all.²¹

According to Mr. Percival, although USIS failed to conduct quality reviews required by its contracts, the company sought and obtained payment nonetheless. He stated that he was directed to continue the practice of dumping by Robert Calamia, the Vice President of Field Operations, in order to “collect full compensation on the contract for February 2011.”²²

Mr. Percival asserted that he refused to dump cases, “causing USIS to miss receiving its maximum profits.”²³ Mr. Percival was fired from USIS in June 2011 “as a result of his refusing to dump Cases to OPM that were not field finished.”²⁴

B. Justice Department False Claims Act Case

On January, 21, 2014, the Justice Department filed a civil complaint against USIS for violating the False Claims Act and alleged that top USIS management devised a scheme of “dumping” incomplete background investigation reports to OPM without performing quality reviews required by its contracts. The Department filed its complaint after determining that Mr. Percival’s case against USIS had merit and should proceed with the intervention and support of the federal government. According to the Justice Department’s investigation:

Beginning in at least March 2008 and continuing through at least September 2012, USIS management devised and executed a scheme to deliberately circumvent contractually required quality reviews of completed background investigations in order to increase the company’s revenues and profits.²⁵

According to the Department, high-level USIS executives, including the former President and CEO, devised this scheme to meet internal revenue goals:

USIS Senior Management was fully aware of and, in fact, directed the dumping practices. Beginning in at least March 2008, USIS’s President/CEO established the internal revenue

²¹ Qui Tam Complaint, ¶ 29 (July 1, 2011), *United States of America, ex rel., Blake Percival v. U.S. Investigative Services, LLC.*, M.D. Ala. (No. 2:11-CV-527-WKW).

²² *Id.* at ¶ 39.

²³ *Id.* at ¶ 44.

²⁴ *Id.* at ¶ 47.

²⁵ United States’ Complaint, ¶ 42 (Jan. 22, 2014), *United States of America ex rel. Blake Percival v. U.S. Investigations Services, Inc.*, M. D. Ala. (No. 11-CV-527-WKW).

goals for USIS. USIS's Chief Financial Officer determined how many cases needed to be reviewed or dumped to meet those goals.²⁶

The Department explained how senior USIS executives communicated these decisions to lower-level USIS employees:

The number of cases needed to be reviewed or dumped to meet revenue goals was conveyed to USIS's Vice President of Field Operations and USIS's President of Investigative Service Division, who in turn communicated this information to other members of USIS management, including USIS's Production Support Senior Manager. The Production Support Senior Manager and others, in turn, would convey those goals to other USIS employees, namely USIS's Director of National Quality Assurance and the Quality Control Manager in Western Pennsylvania, and would provide instructions to those employees on when and how many cases needed to be reviewed or dumped to meet USIS's goals.²⁷

According to the Department, "Internal USIS documents confirm that USIS Senior Management was aware of and directed the dumping practices," including directives to "clear out our shelves in order to hit revenue."²⁸ This alleged fraud was enormous and persistent. According to the Department, USIS "dumped" at least 665,000 background investigations, comprising about 40% of the total number of investigations conducted by the company during this 4½ year period.²⁹

C. Committee Investigation

The Committee's investigation identified a number of facets of the alleged fraud not previously reported. Documents obtained by the Committee indicate that USIS withheld information about its fraudulent activities when confronted by OPM and instead claimed that OPM was to blame for the problem. In addition, witnesses interviewed by Committee investigators revealed how USIS allegedly misused a secondary contract it held to obtain information about OPM's oversight efforts and evade detection of its alleged fraudulent activities for more than four years. The Committee's investigation also identified bonuses received by USIS executives, noting a sharp increase when the alleged fraud began. The Committee's investigation raised numerous questions that have yet to be answered, including the extent to which officials at USISs' parent company, Altegrity, knew about the alleged fraud.

1. Withholding of Information from OPM

On April 4, 2011, after conducting an internal analysis, OPM sent a Problem Notification Letter to Robert Calamia, Vice President of Field Operations at USIS, expressing concern after

²⁶ *Id.* at ¶ 51.

²⁷ *Id.* at ¶ 52.

²⁸ *Id.* at ¶ 53.

²⁹ *Id.* at ¶ 57.

discovering that only four USIS employees had released thousands of reports to OPM, apparently without ever conducting the required quality reviews. The letter stated:

The analysis also revealed that 4 USIS SIDS were responsible for the release of 13,113 ROI's [Reports on Investigation] over the course of the same 1 week timeframe representing an average of 3,278 ROI's per person.³⁰

In light of these concerns, OPM requested that:

USIS provide a response to this concern insuring that all ROI's are being reviewed by qualified reviewers and clarification of any automated systems or mechanism being use [sic] to complete or assist in the processing of ROI's including details of how the process is being utilized.³¹

On April 19, 2011, Mr. Calamia sent a response letter suggesting that cases were being “erroneously submitted” not because of any fraudulent activities by USIS, but rather due to a “gap” with OPM systems. He proposed that OPM provide USIS with greater control over when cases could be submitted—which would also trigger OPM payments to USIS—and he described his proposal as “the best opportunity to create contractor ownership.”³²

At no point did Mr. Calamia acknowledge that the reason OPM had found anomalously high numbers of reports released by very few quality reviewers was that USIS was dumping cases to maximize revenues.

2. Misuse of Secondary Contract to Conceal Fraudulent Activity

Under a secondary contract, USIS performed administrative functions to support the processing of cases submitted by contractors and prepare them for release to customer agencies. On January 8, 2014, Committee staff conducted a transcribed interview with Merton Miller, the Associate Director of Federal Investigative Services at OPM. Mr. Miller suggested to Committee investigators that USIS used information obtained through this support services contract to avoid detection of the company's fraudulent dumping. Mr. Miller told Committee investigators:

[T]hey circumvented OPM's oversight of their performance of their quality review. I'm not splitting hairs, but they knew how we were auditing. They knew what kind of reports we generated to oversee that they were actually performing the activities they were

³⁰ Letter from [redacted], Branch Chief, Field Investigations Oversight Branch, Office of Personnel Management, to Robert Calamia, Vice President of Field Operations, USIS (Apr. 4, 2011).

³¹ *Id.*

³² Letter from Robert Calamia, Vice President of Field Operations, USIS, to [redacted], Branch Chief, Field Investigations Oversight Branch, Office of Personnel Management (Apr. 19, 2011).

within PIPS. ... so they circumvented our oversight process, and they falsified records to help do that.³³

When Mr. Miller was asked if USIS was able to use the support services to help dump cases without OPM detection, he replied:

I don't know for a fact. However, there was certainly the opportunity for USIS members on the support contract to help notify the field work contract folks what activities OPM might be taking relative to our audits. So, there is certainly that potential. I haven't seen any—again, I haven't seen any investigative report, whether they've identified anybody who was colluding, I guess would be the word, you know, with—between the two contracts that help circumvent our oversight process.³⁴

After Mr. Miller's interview with Committee staff, the Department of Justice reported collusion between the fieldwork contract and the support services contract:

USIS employees responsible for the review of background investigations under the Fieldwork Contracts would determine which categories or types of cases FIS was likely to be targeting for review by the federal staff. ... The Workload Leader ... and other designated personnel would then avoid dumping those types of cases.³⁵

3. Financial Rewards to USIS and Its Executives

In 2007, USIS was purchased for \$1.5 billion by Providence Equity Partners, a private equity firm that owns or has owned brands such as Metro-Goldwyn-Mayer, Warner Music Group, Univision and Whitepages.³⁶ Providence Equity Partners formed a holding company known as Altegrity to house two background investigation businesses, including USIS and another company known as HireRight.³⁷ Altegrity has grown in recent years to include two additional entities: Kroll Advisory Solutions and Kroll On-Track.

Soon after it was acquired in 2007, USIS announced a new compensation incentive policy. In April 2008, USIS reported that it was “piloting variable compensation incentives to

³³ House Committee on Oversight and Government Reform, Interview of Merton Miller (Jan. 8, 2014).

³⁴ *Id.*

³⁵ United States' Complaint, ¶ 71 (Jan. 22, 2014), *U.S. ex rel. Percival v. U.S. Investigations Services, Inc.*, M.D. Ala. (No. 11-CV-527-WKW).

³⁶ Providence Equity Partners, *Portfolio* (online at www.provequity.com/Portfolio/All-Regions) (accessed on Feb. 9, 2014).

³⁷ Altegrity, *Fact Sheet* (online at www.altegrity.com/fact-sheet.aspx) (accessed on Feb. 9, 2014).

drive quality and production, reward performance.”³⁸ Following this announcement, the company reported increasingly surprising progress:

- By October 2008, USIS reported that it had reduced the number of cases that were 180 days old from 21,000 to 50 in the prior quarter. The company reported that its productivity was at an all-time high, that it decreased its inventory by 51%, and that it could take on more background investigations work.³⁹
- By May 2009, USIS represented that it achieved a 96% reduction in cases more than 90 days old during a one year period.⁴⁰ USIS also reported that it set a 30 day goal for completing background checks, allocating 23 days for the field investigations and 7 days for quality reviews.⁴¹
- By January 2011, USIS reported submitting 99% of all cases to OPM before the assigned Completion Date and that the company’s timeliness for background investigations was the best in USIS history.⁴²

The alleged dumping of cases appears to have greatly reduced backlogs and resulted in significant financial rewards under the company’s contract with OPM. OPM awarded USIS the following annual incentive awards under its contract:

Fiscal year 2008:	\$2.4 million
Fiscal year 2009:	\$3.5 million
Fiscal year 2010:	\$5.8 million
Fiscal year 2011:	\$4.3 million
Total	\$16 million ⁴³

Senior USIS executives also benefitted financially since at least 75% of their personal bonuses were dependent on the company’s meeting earnings and revenue targets.⁴⁴ For example, over the course of the alleged fraud:

- Bill Mixon, the former President and CEO who set internal corporate revenue goals, obtained bonuses and stock totaling more than \$1 million.

³⁸ USIS, *PMR Fieldwork Services Q2 FY 2008* (Apr. 21, 2008).

³⁹ USIS, *PMR Fieldwork Services Q4 FY 2008* (Oct. 22, 2008).

⁴⁰ USIS, *PMR Fieldwork Services Q2 FY 2009* (May 28, 2009).

⁴¹ *Id.*

⁴² USIS, *PMR Fieldwork Services, Q1 FY 2011* (Jan. 26, 2011).

⁴³ Office of Personnel Management, *Annual Incentive Awards to USIS, CACI, KeyPoint*.

⁴⁴ USIS, *FY 2009 Annual Incentive Plan*; Altegrity, *FY 2010 Annual Incentive Plan*; Altegrity, *FY 2011 Annual Incentive Plan*; Altegrity, *FY 2012 Annual Incentive Plan*.

- The former Chief Financial Officer, who allegedly calculated the number of cases that needed to be reviewed and dumped to meet corporate goals, was awarded about \$470,000 in bonuses.
- The former President of the Investigative Services Division, who allegedly instructed his employees to flush cases, obtained over \$375,000 in bonuses.⁴⁵

The bonus payments received by USIS executives raise questions about the extent of potential knowledge or complicity in the alleged fraud by executives at USIS's parent holding company, Altegrity, which is a privately held firm.

During the four years of the alleged fraud, Altegrity's subsidiaries received over \$2.7 billion in federal contracts, performing investigative and cyber-security functions for a dozen federal agencies, including the Departments of Defense, State, Justice, and Homeland Security. Altegrity's board of directors consists exclusively of officials at Providence Equity Partners and the CEO of Altegrity.⁴⁶

The bonus formula for USIS executives reserved 20-25% for personal performance during the period of the alleged fraud.⁴⁷ The Committee has not determined who at Altegrity evaluated the former USIS CEO's personal performance to determine his bonuses. The Committee also did not determine whether Altegrity officials had knowledge of the alleged fraud at any time, or what steps they may or may not have taken to address it.

4. Exodus of Two Dozen USIS Officials

In the wake of revelations about USIS misconduct under its contracts with OPM, 24 USIS employees have resigned, retired, or been terminated. According to a company spokesperson, "We have put in place new leadership, enhanced oversight procedures, and improved protocols that have been shared with OPM."⁴⁸

These officials include Bill Mixon, the former President and Chief Executive Officer, as well as the former Chief Financial Officer, the former President of the Investigations Services Division, and the former Vice President of Field Operations.

In addition, just yesterday, USIS informed Committee staff that the company's most recent President of its Investigations Services Division of USIS resigned last week. From

⁴⁵ USIS, *Bonus Payment Recipients for FY 2008-2012*.

⁴⁶ Altegrity, *Board of Directors* (online at www.altegrity.com/BoardofDirectors.aspx) (accessed on Feb. 9, 2014).

⁴⁷ USIS, *FY 2009 Annual Incentive Plan*; Altegrity, *FY 2010 Annual Incentive Plan*; Altegrity, *FY 2011 Annual Incentive Plan*.

⁴⁸ *Justice Joins Whistleblower Suit Against USIS*, Wall Street Journal Washington Wire Blog (Oct. 30, 2013) (online at <http://blogs.wsj.com/washwire/2013/10/30/justice-joins-whistleblower-suit-against-usis/>).

January 2011 to December 2012, this official served as Vice President of Support Operations, “where he was responsible for quality, training, mobile technology, and communications.”⁴⁹ He was promoted to his most recent position in December 2012 and had been “the primary point of contact for USIS’s current five-year Background Investigations Fieldwork Services contract.”⁵⁰

As part of its investigation, the Committee determined that this official had been copied on the April 4, 2011 Problem Notification Letter in which OPM first expressed concerns that USIS had been releasing thousands of cases to OPM without conducting quality reviews required under its contract with OPM. (See Section II.C.1, above.)

III. LEGISLATIVE PROPOSALS

A. Preventing Contractor Conflicts of Interest

According to FIS Associate Director Merton Miller and DOJ, USIS’s alleged fraud evaded detection for as long as it did in part because USIS misused a support services contract it held at the same time it was performing background investigations for OPM. Under that second contract, USIS employees reportedly were able to learn in advance about OPM’s oversight auditing efforts and schedules, communicate that information to USIS management, and then adjusted their dumping efforts to avoid detection.

The conflict of interest posed by USIS holding these two contracts undermined OPM’s oversight of the USIS fieldwork contract. Although OPM requires contractors like USIS to report conflicts of interest, that requirement was inadequate. Congress should prohibit a single contractor from simultaneously holding a background investigative fieldwork contract and an investigative support services contract.

OPM Director Archuleta announced last week that as of February 24, 2014, only federal employees will perform final reviews of background investigations and the 50 USIS workers currently performing this function under a secondary support services contract will no longer be conducting those reviews.⁵¹

Congress also should reconsider the extent to which outsourcing critical investigative functions may impact national security, such as the performance of Top Secret level investigations, subject interviews, and final quality reviews of investigations.

B. Improving Local Law Enforcement Agency Cooperation

Several subsequent investigations found that Alexis had a history of gun violence and anti-social behavior. These investigations determined that critical information about Alexis’ past

⁴⁹ USIS, *Management Team* (online at www.usis.com) (accessed Feb. 7, 2014).

⁵⁰ *Id.*

⁵¹ *U.S. Scales Back USIS’s Role in Security Clearances*, Wall Street Journal (Feb. 7, 2014).

use of a gun and violent outbursts were not fully identified or understood by background investigators whose research informed Navy adjudicators' decision to award a security clearance to Alexis.

A significant challenge in the Alexis case was non-cooperation by the Seattle Police Department, which had a reputation for not responding to requests for information from background investigators. Section 9101 of Title 5 requires local law enforcement agencies to cooperate with federal background investigators, but OPM has determined that about 450 law enforcement agencies do not fully comply with this requirement.

Current law provides no means to encourage compliance or punish non-compliance with Section 9101. Congress should consider ways of incentivizing compliance by local law enforcement agencies. Congress should also clarify in statute the scope of reporting that is required.

C. Implementing Continuous Evaluation

The Committee's investigation found that Alexis' behavior grew increasingly erratic after he was granted a security clearance in 2008. In addition to his arrest in 2004, Alexis was arrested in Georgia in 2008 for disorderly conduct and in Texas in 2010 after firing his gun through the ceiling of his downstairs neighbor. A month before the Navy Yard incident, Rhode Island police were called to the hotel at which Mr. Alexis was staying, where he complained that he was hearing voices that were keeping him awake.⁵²

Under current background investigations procedures, individuals possessing security clearances receive periodic reevaluations. Secret clearance holders are reevaluated every 10 years. Top Secret clearance holders are reevaluated every 5 years.⁵³

Until periodic reevaluation, cleared individuals are required to self-report information, including derogatory information, to their employing agency. Federal contracting employers must also report potentially derogatory information to the federal agencies for which they provide contract services. But this system of reporting was clearly insufficient in the case of Aaron Alexis.

Congress should consider the creation of a system providing for continuous evaluation or monitoring of federal personnel holding security clearances through which federal agencies will have real-time access to critical information relevant to background check investigations, including arrest records, court records, financial credit history, currency transactions, foreign travel, social media, and terrorist and criminal watch lists.

⁵² *Navy Yard Gunman Had History of Mental Illness, Checkered Military Career, Official Say*, Washington Post (Sept. 17, 2013); *Alleged Navy Yard Shooter Got Clearances Despite Troubled Past*, NPR (Sept. 17, 2013).

⁵³ Congressional Research Services, *Security Clearance Process: Answers to Frequently Asked Questions* (Sept. 9, 2013) (R43216).