

October 26, 1999

The Honorable Bill Richardson  
Secretary of Energy, United States of America  
Forrestal Building  
Independence Avenue  
Washington, DC.                   By FAX: 202-586-4403

Dear Secretary Richardson:

In September of this year, the Department of Energy held a series of public Hearings on the Proposed Rule for Polygraph Examination Regulation [10 CFR Parts 709, 710, and 711]. During the Hearings, Gen. Eugene Habiger, USAF Ret. and his staff were presented with a detailed set of questions and comments at each of the National Laboratories. The General promised answers to these questions, but to date no satisfactory answers have been forthcoming from the Department. Yet, the Department plans on issuing a final Rule on 1 November 1999. We believe that such action is in violation of Title V of the US Code which states:

"Notice of any proposed rule, regulation or order ... shall be given by publication of such proposed rule, regulation or order in the Federal Register. Such publication shall be accompanied by a statement of the research, analysis, and other available information in support of, the need for, and the probable effect of any such proposed rule, regulation or order."

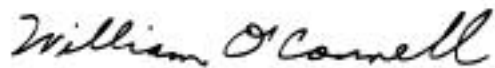
The Department presented no research or literature to justify its plan to administer polygraphy in a screening mode to identify potential security risks among personnel in the DOE laboratories or headquarters. Indeed, when Dr. Andrew Ryan of the DOD Polygraph Institute (DOD-PI) responded to questions raised on technical characteristics of polygraphy, his literature references strongly detracted from the utility of this test (see attached correspondence). Further, this same literature was not relevant to the Department's proposed Rule as it addresses polygraphs used as part of a criminal proceeding, not wide-spread screening. Finally, the Department did not consider the potential for adverse effects of the Rule.

Staff at the DOE National Laboratories are cognizant of the need for a robust security program at all DOE sites, and are strongly supportive of all productive means to realize this goal -- including background searches, random routine survey of all electronic media on computers and personal data assistants, and periodic auditing of staff on security procedures. However, based on a review of the published literature and presentations of DOE polygraphers at several technical briefings, we conclude that screening polygraphy of National Laboratory employees actually *threatens* national security because its flaws will undermine the recruiting and retention of talented engineering and science professionals necessary to guarantee the

safety and reliability of the nuclear stockpile and make the Laboratories attractive institutions to work for development of new technologies to address the Nation's future challenges in securing energy supplies, addressing counter-proliferation and terrorism and other priorities set by the President.

We urge rejection of the current Rule, and recommend in the strongest terms another set of Hearings to answer the unanswered questions before a final determination is made on implementation of a polygraphy screening program at the National Laboratories.


Respectfully,



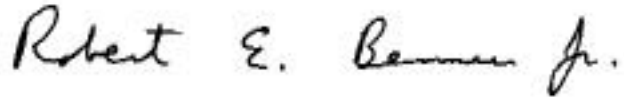
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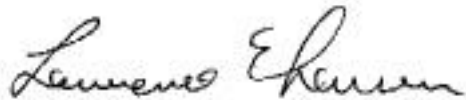
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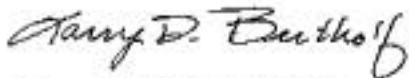
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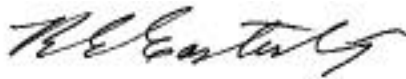
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