

National News

GAO report finds no denial of security clearances

by Lou Chibbaro Jr.

Eight federal agencies that issue 95 percent of the nation's security clearances no longer deny clearances on the basis of a person's sexual orientation, according to a draft report prepared by the U.S. General Accounting office.

The report, a copy of which has been obtained by the *Washington Blade*, says GAO investigators conducted a review of the eight agencies and could find no evidence that the agencies withheld or revoked security clearances, since October 1992, solely because an applicant or an employee was Gay.

The report says that, based on interviews with Gay civil rights groups and attorneys familiar with security clearance issues, the GAO was unable to find recent instances where any government agency denied a clearance because of anti-Gay bias.

"Our work disclosed no evidence that sexual orientation is used as a criterion in the security clearance process for federal civilian and contractor employees," the draft report states. "Information we received from homosexuals, Gay and Lesbian groups, and attorneys who have experience with the security clearance process confirms that clearances are not being denied because of sexual orientation...."

But three agencies that were not reviewed by the GAO investigation — the Central Intelligence Agency (CIA), the Defense Intelligence Agency (DIA), and the National Security Agency (NSA) — are considered among the most sensitive and secretive of the nation's security agencies. Gay activists familiar with government security issues say these three agencies in the past have routinely denied clearances for Gays.

However, D.C. Gay activist Frank Kameny, who is considered an expert on Gay security clearance issues, and Gay civil rights attorney Evan Wolfson, of the Lambda Legal Defense and Education Fund, said they are not aware of anti-Gay

actions by the CIA, DIA, or NSA during the past year or two.

D.C. attorney Harvey Friedman, who also specializes in security clearance law, said he, too, is unaware of recent cases where agencies have denied clearances to Gays.

The GAO serves as an investigatory arm of Congress. Reps. Don Edwards, Ron Dellums, and George Brown, all Democrats from California, initiated the GAO report in July 1993 when they asked the GAO to review the issue of how sexual orientation is treated in the security clearance process. Sources familiar with the report said GAO began its research in July 1993. The sources said the report is tentatively scheduled to be released to the public sometime next month.

Since the time the GAO began its inquiries, President Clinton directed federal agencies and departments to put into place policies that ban sexual orientation discrimination in the area of employment and security clearances.

Rep. Barney Frank (D-Mass.), who has reviewed the draft GAO report, credited the Clinton administration with taking steps to end discrimination against Gays in the security clearance process.

"This report is outdated by the changes made by the president," said Frank. "It will help us defend the new policies, but the important development is not this report. It's the changes that President Clinton has put into effect."

The GAO draft report states that 206,000 civilian federal employees and employees with private contractors now hold security clearances from 52 federal agencies or departments. The report says the GAO reviewed the sexual orientation-related actions and policies of eight agencies that it claims account for 98 percent of the clearances. The report identifies the eight agencies as the Departments of Defense (DOD), Energy (DOE), State; the Office of Personnel Management (OPM); the U.S. Informa-



by Doug Hinckle

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tion Agency (USIA); Federal Bureau of Investigation (FBI); U.S. Secret Service; and U.S. Customs Service.

One source familiar with the report, who spoke on condition of anonymity, said GAO failed to mention in the report that its review did not include the CIA, DIA, and NSA because those agencies refused to provide information to GAO investigators. According to the source, the three agencies are exempt from public review for security reasons, and the three members of Congress who requested the GAO review chose not to ask the House and Senate select committees on intelligence to assist the GAO in conducting its inquiries.

Under long-standing Congressional procedures, oversight of various U.S. intelligence agencies is limited to the two select intelligence committees.

Britt Snyder, general counsel to the Senate Select Committee on Intelligence,

said the GAO did not approach the committee for assistance in conducting its report. Snyder said that although any member of Congress can review information gathered by the select intelligence committees, that information must remain classified and thus would be of little use for GAO reports, which are normally released to the public.

A CIA spokesperson said the CIA never publicly discloses details of its operation, including the number of employees who work at the agency and the size of its budget.

Kameny and Wolfson, who have represented Gay clients in security related cases, said they have noticed a gradual decline in recent years of instances where Gays have encountered problems obtaining clearances.

"My cases have virtually stopped coming," said Kameny, who has served as a paralegal counsel to Gay federal workers and contract employees.

Friedman said he, too, has noticed a drop in cases where Gays seek legal help to challenge a decision denying them a clearance.

Friedman said government officials have and continue to exert a greater degree of scrutiny in determining whether Gays should receive clearances. According to Friedman, security officials routinely ask Gay applicants to disclose the number of partners they have had over their lifetime, and the age at which they determined they are Gay. Up until recently, security investigators have asked Gays to describe, in detail, the type of sexual acts they and their partners perform on each other.

"They never ask the same type of questions to heterosexuals," said Friedman.

Nevertheless, Friedman and others familiar with Gay security cases said they are pleased that officials appear to have ended past practices of denying clearances solely on the basis of a person's sexual orientation. ▽