(4) *Allegations of criminal activity.* Any allegations of conduct of a nature indicating possible criminal conduct, including any arising during the course of a personnel security investigation, shall be referred to the appropriate DoD, military department or civilian criminal investigative agency. Military department investigative agencies have primary investigative jurisdiction in cases where there is probable cause to believe that the alleged conduct will be the basis for prosecution under the Uniform Code of Military Justice.

(d) *Hostage situations*—(1) *General.* A hostage situation exists when a member of an individual's immediate family or such other person to whom the individual is bound by obligation or affection resides in a country whose interests are inimical to the interests of the United States. The rationale underlying this category of investigation is based on the possibility that an individual in such a situation might be coerced, influenced, or pressured to act contrary to the best interests of national security.

(2) *DIS jurisdiction.* In the absence of evidence of any coercion, influence or pressure, hostage investigations are exclusively a personnel security matter, rather than counterintelligence, and all such investigations shall be conducted by DIS.

(3) *Military Department and/or FBI jurisdiction.* Should indications be developed that hostile intelligence is taking any action specifically directed against the individual concerned—or should there exist any other evidence that the individual is actually being coerced, influenced, or pressured by an element inimical to the interests of national security—then the case becomes a counterintelligence matter (outside of investigative jurisdiction of DIS) to be referred to the appropriate military department or the FBI for investigation.

(e) *Overseas personnel security investigations.* Personnel security investigations requiring investigation overseas shall be conducted under the direction and control of DIS by the appropriate military department investigative organization. Only postadjudication investigations involving an overseas subject may be referred by the requester directly to the military department investigative organization having investigative responsibility in the overseas area concerned (see Appendix I) with a copy of the investigative request sent to DIS. In such cases, the military department investigative agency will complete the investigation, forward the completed report of investigation directly to DIS, with a copy to the requester.

§ 154.10 Limitations and restrictions.

(a) *Authorized requesters and personnel security determination authorities.* Personnel security investigations may be requested and personnel security clearances (including Special Access authorizations as indicated) granted only by those authorities designated in § 154.31 and Appendix E.

(b) *Limit investigations and access.* The number of persons cleared for access to classified information shall be kept to a minimum, consistent with the requirements of operations. Special attention shall be given to eliminating unnecessary clearances and requests for personnel security investigations.

(c) *Collection of investigative data.* To the greatest extent practicable, personal information relevant to security determinations shall be obtained directly from the subject of a personnel security investigation. Such additional information required to make the necessary personnel security determination shall be obtained as appropriate from knowledgeable personal sources, particularly the subject's peers, and through checks of relevant records including school, employment, credit, medical, and law enforcement records.

(d) *Privacy Act notification.* Whenever personal information is solicited from an individual preparatory to the initiation of a personnel security investigation, the individual must be informed of—

(1) The authority (statute or Executive order that authorized solicitation);

(2) The principal purpose or purposes for which the information is to be used;

(3) The routine uses to be made of the information;

(4) Whether furnishing such information is mandatory or voluntary;

(5) The effect on the individual, if any, of not providing the information and

(6) That subsequent use of the data may be employed as part of an aperiodic, random process to screen and evaluate continued eligibility for access to classified information.

(e) *Restrictions on investigators.* Investigation shall be carried out insofar as possible to collect only as much information as is relevant and necessary for a proper personnel security determination. Questions concerning personal and domestic affairs, national origin, financial matters, and the status of physical health thus should be avoided unless the question is relevant to the criteria of §154.7. Similarly, the probing of a person's thoughts or beliefs and questions about conduct that have no personnel security implications are unwarranted. When conducting investigations under the provisions of this part, investigators shall:

(1) Investigate only cases or persons assigned within their official duties.

(2) Interview sources only where the interview can take place in reasonably private surroundings.

(3) Always present credentials and inform sources of the reasons for the investigation. Inform sources of the subject's accessibility to the information to be provided and to the identity of the sources providing the information. Restrictions on investigators relating to Privacy Act advisements to subjects of personnel security investigations are outlined in paragraph (d) of this section.

(4) Furnish only necessary identity data to a source, and refrain from asking questions in such a manner as to indicate that the investigator is in possession of derogatory information concerning the subject of the investigation.

(5) Refrain from using, under any circumstances, covert or surreptitious investigative methods, devices, or techniques including mail covers, physical or photographic surveillance, voice analyzers, inspection of trash, paid informants, wiretap, or eavesdropping devices.

(6) Refrain from accepting any case in which the investigator knows of circumstances that might adversely affect his fairness, impartiality, or objectivity.

(7) Refrain, under any circumstances, from conducting physical searches of the subject or his property.

(8) Refrain from attempting to evaluate material contained in medical files. Medical files shall be evaluated for personnel security program purposes only by such personnel as are designated by DoD medical authorities. However, review and collection of medical record information may be accomplished by authorized investigative personnel.

(f) *Polygraph restrictions.* The polygraph may be used as a personnel security screening measure only in those limited instances authorized by the Secretary of Defense in DoD Directive 5210.48.[1]

Subpart C—Personnel Security Investigative Requirements

§154.13 Sensitive positions.

(a) *Designation of sensitive positions.* Certain civilian positions within the Department of Defense entail duties of such a sensitive nature, including access to classified information, that the misconduct, malfeasance, or nonfeasance of an incumbent in any such position could result in an unacceptably adverse impact upon the national security. These positions are referred to in this part as sensitive positions. It is vital to the national security that great care be exercised in the selection of individuals to fill such positions. Similarly, it is important that only positions which truly meet one or more of the criteria set forth in paragraph (b) of this section be designated as sensitive.

(b) *Criteria for security designation of positions.* Each civilian position within the Department of Defense shall be categorized, with respect to security sensitivity, as either nonsensitive, noncritical-sensitive, or critical-sensitive.

(1) The criteria to be applied in designating a position as sensitive are:

(i) Critical-sensitive.

(A) Access to Top Secret information.

(B) Development or approval of plans, policies, or programs that affect the overall operations of the Department of Defense or of a DoD Component.

[1] See footnote 1 to §154.2(c).