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Prepared By:
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To: The Honorable Samuel Wright Bodman
Secretary, Department of Energy
1000 Independence Avenue, SW
Room 7A-257
Washington, DC 20585-1000

Subject: PHYSICAL FITNESS STANDARD HISTORY TIME LINE

Dear Secretary Bodman

I am writing this summary to you so you can have a better understanding on how the history evolved on the Defensive/Offensive Combative Standard that was established by the Department of Energy (DOE) through a Union's prospective. DOE maintains that each nuclear facility shall be afforded a high degree of physical security. The medical and physical fitness of the protective force personnel at these facilities are essential to the facility's security operations, because these personnel are the first line of human defense against assaults or other adverse activities. Therefore, the protective force personnel, especially the Security Police Officers (SPO), shall be in good medical and physical condition to withstand terrorist or other adversary activities.

The whole physical fitness program first started in 1978 where all the Union's under the umbrella of the International Guards Union of America (IGUA) fought to keep the standard out. The Department of Energy (DOE) then conceded to the running standard until further studies of the program could be accomplished. In the early 1980s DOE conducted a validation study by Telfair on the mile run and fixed their report to show congress that the running program would help detour and fight terrorism. The Telfair validation was not a true and accurate test as DOE stated as I will establish further down on this summary. However the one true proven study has been the Twenty plus years SPOs from all over the DOE sites that have performed during their annual physical fitness test. In those Twenty plus years it has been demonstrated, where a number of SPOs who have died and had career ending injuries due to the implementation of the Defensive/Offensive Combative Standard.

All of the deaths and injuries were from contributing factors while performing the Defensive/Offensive standard. Now that DOE has decided to ante-up the standard and do away with the “Grandfather Clause” by implementing the more stringent offensive combative standard the number of deaths, career ending injuries, loss of females employees and senior SPO veterans will sky rocket. This wheel placed in motion will create a great loss of personnel to each site and will take at least ten years to recover the loss of essential personnel. This would have a devastating effect to our nations National Weapons Program and assets. These sensitive assets that we protect and defend will be put in harms way, and would bring an unnecessary heavy tax burden to the tax payer.

- On January 31, 1978, DOE issued an Interim Management Directive, IMD No. 6102, establishing standards of physical fitness qualification for security personnel. Such standards were to become effective ninety (90) days after January 31, 1978. On March 8, 1978 the Albuquerque Operations Office of DOE directed all sites to proceed with plans for implementation of IMP No. 6102.
- On July 31, 1978, the Albuquerque Operations Office issued a further Directive, providing in part as follows: “—With respect to physical standards, implement as stated for applicants; however, if any one is disqualified because of failure to pass the physical test, the contractor should document and retain the action. For incumbents, the standards may be implemented for purposes of training, but no adverse action should be taken against any incumbent until further guidance is received....”
- The whole physical fitness program was then based on the DOE’s Physical Standards Validation Study, Contract No. DE-ACOI-80-DP-30226 on August 8, 1980, by William Telfair, Hemming Atterborn and Peggy Blackwell. The prime contractor was Professional Management Associates, INC., 8830 Cameron Street, No. 602, Silver Spring, MD 20910. The project management was Criterion Referenced Consultants, Inc., 5600 Gibson SE, No.468, Albuquerque, NM 87108. The validation of this program is still questionable. Participants in the study were paid “premium pay” for volunteering to participate and out of the ten (10) females initially recruited; only four (4) completed the program. Since the drop out rate for the program was so high, the research team used “non Security Guard” personnel to complete the study! Engineers, technicians and administers, (many of which were runners by choice.) that were able to make a little extra money by participating in Telfair study. DOE paid a large sum of money for this study. We can understand the reluctance to admit it was not done properly and that it has not provided the expected results.
- DOE in early 1982 was going to implement a new physical fitness program (1 mile run) for all DOE sites.

- November of 1982 there was a meeting in Washington DC with DOE and the Union's leadership representing their union councils over the implementation of the new physical fitness standard.
- In early 1983 the International Guards Union of America, who represented all the unions during that time filed an injunction to stop the implementation of the new physical fitness standard because DOE did not give them notification when the Rulemaking would occur and when and where public comments would be addressed.
 - June of 1983 a temporary injunction was granted to stop the physical fitness standard. This was granted due to DOE not following the Administrative Procedure Act by not complying with the rule-making process.
- Also in 1983 the validation on the physical fitness standard was completed. The test it self was not fair because the participant volunteers were not security inspectors.
 - On June 5, 1984 a Public Comment Hearing regarding Department of Energy proposed rule regarding medical and physical fitness standards for Protective Force was conducted. This hearing was held at the Federal Building, 517 Gold Street Southwest, Albuquerque, New Mexico 87102 Time: 9:10 a.m. This public comment hearing was held for two days.
- On November 23, 1984 the Federal Register was published with the 10 CFR 1046 outlining Defensive Combative Standard one-half (0.5) mile run with a maximum qualifying time of four (4) minutes forty (40) seconds and a forty (40) yard to prone- to-running dash with a maximum qualifying time of eight (8.5) seconds. Offensive Combative Standard must be met by all security inspectors assigned to response force duties. The standard is one (1) mile run with a maximum qualifying time of eight (8) minutes thirty (30) seconds and a forty (40) yard prone-to-running dash with a maximum qualifying time of eight (8.5) seconds
- There was an amendment to 10 CFR 46 [49 Fr 46101, Nov. 23, 1984, as amended at 51 FR 7248, March 3, 1986].
- On February 9, 1988 10 CFR part 1046 and DOE Order 5632.7 outlining Security Inspector must meet the medical and physical fitness standards at Class A and Class B facilities. By order of the Secretary of Energy Assistant Secretary Lawrence F. Davenport. This was to implement the Management of Protective Forces Manual.

- On February 13, 1995 a directive change to 5632.7 to read as DOE O 5632.7A Chg 1 would now apply to all DOE Protective Force Sites. This change would include in changing the guards title from Security Inspector to Security Police Officer I or II and Special Response Team to Security Police Officer III. Offensive/Defensive Combatants physical fitness standard, as identified in Title 10 CFR 1046, shall be determined by the site-specific job analysis for the individual duty assignment.

- On June 30, 2000 the new DOE O 473.2 would cancel the DOE 5632.7A Protective Force Program, dated February 13, 1995. The change would occur by order of the Secretary of Energy and signed by T.J. Glauthier Deputy Secretary. In the DOE M 473.2-1 it explained Note: Six months after the publication of this Manual, all SPO II new hire personnel will be required to meet the SPO-II physical fitness standard in paragraph 2.a(2)(b). Incumbent SPO-II personnel will be grand fathered regarding this requirement and will continue to maintain the physical fitness standard in paragraph 2.a (1) (b). After the above six month time period, those SPO-I personnel that voluntarily change status to SPO-II status must meet the physical fitness standard in paragraph 2.a (2) (b).

Note: Outlines Grand father Clause.

- On December 2000 there was a Memorandum for (Czar) Eugene E. Habiger, General, USAF (Retired) Director, Office of Security and Emergency Operations, thru Joseph S. Mahaley, Director Office of Security Affairs, from Owen B. Johnson, Director Office of Safeguards and Security. Subject Protective Force Grandfather Clarification. Note: This is a follow up to your discussions at the Director's Conference in Rocky Flats on August 10, 2000, regarding grand fathering protective force personnel. Attached is a copy of page II-3, DOE M 473.2-2 Protective Force Manual which provides the policy for grandfathering the protective force. To provide additional clarification, as of the effective date of this Manual, (June 30, 2000) the following grandfather provisions are in effect: (1) all sites with armed Security Police Officers (SPO) will be required to review their current SPO positions to determine if their current SPO-II are filling "defensive" or "offensive" positions. Those positions designated as defensive will be categorized as SPO-I and those positions designated as offensive will be categorized as an SPO-II; (2) all incumbent and designated SPO-I's will be required to meet the ½ mile run standard; (3) incumbent SPO-II, are grandfathered and are only required to meet the ½ mile standard. As of June 30, 2000, any new hire SPO-II will be required to meet the 1 mile standard and will not be grandfathered; (4) incumbent SPO-III personnel must continue to meet the 1 mile run standard, but if they revert back to an SPO-II, they will only be required to meet the ½ mile standard; (5) if an incumbent SPO-II voluntarily moves up to an SPO-III, they will be required to meet the 1 mile standard, but may be grandfathered to the ½ mile standard if they revert back to the SPO-II category. This would require SPO IIs hired after December 30, 2000 to qualify on the 1 mile offensive standard. **Note: Outlines Grandfather Clause.**

- On November 20, 2001 Francis S. Blake the Deputy Secretary of Energy issued a Memorandum for Distribution, Subject: Security Police Officer II Physical Fitness Standards. Note: On June 30, 2000, the then Deputy Secretary of Energy approved Department of Energy (DOE) Manual (M) 473.2-2. Protective Force Program Manual, requiring all new hire security police officer (SPO)-II personnel to meet the physical fitness standard of a 1-mile run in 8 minutes and 30 seconds and a 40-yard prone-to- running dash in 8 seconds, effective December 30, 2000.

The Manual states that incumbent SPO-II personnel are to be grandfather regarding this requirement and are to continue to maintain the physical fitness standard of a one-half-mile run in 4 minutes and 40 seconds are based upon the current physical fitness requirements in Subpart F. (1) and (2) of Appendix A to Subpart B to Part 1046 of Title 10 of the Code of Federal Regulations CFR). The Department continues to receive questions regarding the implementation of the new physical fitness standards for SPO-II personnel. In order to ensure that a clear and uniform physical fitness policy exists, I am directing that the implementation of the new physical fitness standards for SPO-II personnel as set forth in DOE Manual (M) 473.2 be suspended. The Department will undertake to promulgate new standards by rulemaking with public notice and comment. In the interim, department sites employing SPO-II's will reinstate the SPO-II post designators in effect prior to June 30, 2000, consistent with 10 CFR Part 1046. In addition, any new posts established after June 30, 2000, will be designated as being offensive or defensive in accordance with 10 CFR Part 1046. Accordingly, I am directing that you take immediate action to ensure that Contractors responsible for providing security police officers for the sites or Facilities under your cognizance implement this interim standard. **Note: Outlines Grandfather Clause.**

- On February 23, 2005 a Memorandum for Douglas S. MacKinlay, Security Director, at Kansas City Site Office from William Desmond Acting Associate Administrator for Defense Nuclear Security. The Subject: Protective Force Fitness Qualification. Reference: Your memorandum dated January 12, 2005, subject: "Request for Formal Interpretation of the Requirements of DOE 473.2-2 Protective Force Manual". Note: In the referenced correspondence you requested clarification on the current physical fitness qualification requirements applicable to Security Police Officers (SPO), specifically in terms of the criteria in effect for the 40-yard dash and middle distance runs. The following clarification is applicable to all protective force personnel assigned duties as SPOs at NNSA sites. Current policy is based on 10 CFR 1046, which requires "offensive combatants" to qualify under the one-mile run and 40-yard prone-to-running standards of 8 minutes, 30 seconds and 8.0 seconds, respectively. "Defensive combatants" must qualify by completing a ½ -mile run within 4 minutes, 40 seconds and a 40-yard dash within 8.5 seconds.

The “offensive” standard applies to Special Response Team (SRT) personnel and any post or assignment which, in response to or preparation for an anticipated or ongoing hostile event requires the SPO to move from the immediate area of a fixed post duty assignment, or respond from a roving patrol assignment. All other posts or assignments can be considered “defensive.” The July, 2001 memorandum from Deputy Secretary Francis Blake attempted to address concerns that resulted from the promulgation of DOE Manual 473.2-2, Protective Force Program Manual, dated June 30, 2000. This directive defines all SPO-II personnel as offensive combatants, which is not consistent with some existing NNSA site-specific job task analyses for purported SPO-II positions. The Blake memorandum “held in abeyance” the requirement for all newly hired SPO-II personnel to qualify under the offensive standard, and remains in effect. The Office of Security has confirmed that no subsequent policy or guidance has been issued to cancel the Blake memorandum. NNSA policy on this matter is consistent with Federal law, DOE directives and the Blake memorandum. Sites must designate each SPO post and patrol as either offensive or defensive, and the personnel assigned to those posts must meet the applicable fitness qualification standards as summarized in the 2nd paragraph above (see also 10 CFR 1046 and DOE M 473.2-2, II, 2.a. (1)(b)&(2)(b)). In accordance with the provisions of the Blake memorandum, Sites may choose to qualify newly hired SPOs during Basic Security Police Officer Training under the defensive combatant standard; however, these individuals must meet offensive combatant standards before being assigned to a designated “offensive” post. Any individual hired after December 30, 2000, who works both offensive and defensive posts/patrols, must meet the offensive standard. The “grandfather clause” that is noted under DOE Manual 473.2-2, II, 2.a. (2) (b) is still applicable to incumbent SPO-I and –II personnel hired and continuously employed as protective force members on or before December 30, 2000. These individuals may be permitted to qualify under the defensive physical fitness standard, regardless of hired date or tenure, must qualify at a minimum under the offensive standard. I hope this provides the clarification you seeking. If you have any questions, please contact me at (202) 586-8900 or Steve Wanzer at (202) 586-8454. **Note: Grandfather Clause still exists.**

- On August 26, 2005 the new DOE M 470.4-3 Series were introduced and cancelled DOE M 473.2 Protective Force Manual issued June 30, 2000. This change would occur by Order of the Secretary of Energy and approved by Clay Sell Deputy Secretary. The new orders were supposed to be implemented six months after approved. SPO-II would now be categorized as Defensive/Offensive combatants. Physical fitness standard of a 1-mile run in 8 minutes and 30 seconds and a 40-yard prone-to-running dash in 8 seconds for SPO-IIs assigned as offensive combative personnel. Physical fitness standard of a 0.5-mile run in 4 minutes and 40 seconds and a 40-yard prone-to-running dash in 8.5 seconds for those SPO-IIs assigned as defensive combative personnel.

While the site determination of post requirements for OCS or DCS qualified personnel remained, the grandfather clause was dropped in the Manual. In as much as NNSA was in concurrence with the revised directive, unless subsequent policy clarification from them exists, DOE M 470.4-3 is the current policy applicable to DOE and NNSA. **Note: Grandfather Clause still exists.**

- On September 29, 2005 a Memo to Mr. Daniel Glenn, Area Manager, Pantex Site Office from Steve McWilliams then Pantex Guards Union Business Agent, Reference: SPO II Offensive positions. Note: Mr. Glenn on September 28, 2005, I was notified by B.W.X.T. Security Management that all SPO II positions would be designated offensive. During the 2002 contract negotiations, it was agreed the offensive combative standard would not be required and all reference to the SPO II offensive positions was removed. With the revised 470 series orders, the offensive designation conflicts with our Collective Bargaining Agreement. We were not notified that a conflict would exist (Appendix C of the CBA) nor were we given the opportunity to discuss and negotiate the changes. B.W.X.T Security Management referred to your directive as reason for these changes, I am asking you to reconsider implementation until such time that the Pantex Guards Union may have an opportunity to address these epic changes and bargain accordingly.
- On October 11, 2005 a Memorandum for Steve McWilliams, Business Agent, Pantex Guards Union from Daniel E. Glenn, Manager, PXSO, Subject: Security Police Officer (SPO) II Offensive Positions. Note: Thank you for your letter concerning SPO-II Offensive Positions. In February of this year the Acting Associate Administrator Defense Nuclear Security issued a clarification concerning the requirements of DOE 473.2-2, Protective Force Manual. Additionally, 10 CFR 1046 requires “offensive combatants “to qualify under the one-mile run and 40-yard prone-to-running standards of 8 minutes, 30 seconds and 8 seconds, respectively. National Nuclear Security Administration (NNSA) policy is that sites must designate each SPO post and patrol as either offensive or defensive. BWXT Pantex designated those positions in correspondence received by the Pantex Site Office in May of this year. In that designation, BWXT Pantex stressed that it does not have any defensive positions. To fill these positions individuals must meet offensive combatant standards before being assigned to a designated “offensive” post or patrol. NNSA policy also provides for a “grandfather clause.” An individual hired after December 30, 2000, who works offensive and defensive posts/patrols, must meet the offensive standard. The grandfather clause contained in DOE Manual 473.2-2 is applicable to incumbent SPO-II personnel hired and continuously employed as protective force members on or before December 30, 2000. These individuals may be permitted to qualify under the defensive physical fitness standard, regardless of the post or patrols to which they will be assigned. All SPO-III personnel, regardless of hire date or tenure must qualify under the offensive standard. I encourage you to work with BWXT Pantex to implement this existing Federal Law, DOE directive and NNSA policy clarification.

Should you require additional information or clarification please do not hesitate to contact me at (806) 477-3180. Mr. Glenn's clarification memorandum essentially verifies that the previous NNSA clarification from Mr. Desmond applies at Pantex under the requirements of DOE M 473.2-2. However, it is important to recognize that Mr. Glenn's memorandum addresses DOE M 473.2-2, not its successor, DOE M 470-3 which is current DOE policy. It is also important to recognize that BWXT Pantex has gone on record indicating that they had no current defensive post under the M 473.2-2 requirements. **Note: Grandfather Clause still exists.**

- On March 7, 2006 there was a change to DOE M 470.4-3 to DOE M 470.4-3 Chg 1 by Order of the Secretary of Energy approved and signed Clay Sell Deputy Secretary. The new language would define Active Defense (Offensive Combatant SPO II & III) and Static Defense (Defensive Combatant SPO I). The posts or patrols which are positioned on, or in proximity to, each target are envisioned as being able staffed Defensive Combatant Standard qualified (SPO I) personnel. Physical fitness standard of a 0.5-mile in 4 minutes and 40 seconds and a 40 yard-prone-to-running dash in 8.5 seconds. The units assigned as mobile response and using fire and maneuver techniques must be Offensive Combatant Standard qualified (SPO II or III at a minimum) personnel. Physical fitness standard of a 1-mile run in 8 minutes and 30 seconds and a 40-yard prone-to-running dash in 8 seconds. **There is no mention of the "grandfather clause" in this change.**
- At this time May 25, 2006 DOE is rewriting DOE M 470.4.3 Chg 1 to DOE M 470.4.3 Annex. These are the Position Standards all PF personnel employed in the positions below must meet the training, qualification, and medical requirements. [10 CFR Part 1046, Subpart B, "Protective Force Personnel"]
 1. SO. SOs are categorized as Response Support positions and therefore are exempt from physical fitness standards. SOs must meet all other medical and training requirements identified for the position.
 2. SPO I. SPO Is are categorized as Static Defense positions and must meet the Defensive Combative Standard (DCS) physical fitness standard of a 0.5-mile run in 4 minutes and 40 seconds and a 40 yard prone-to-running dash in 8.5 seconds. SPO Is must complete DOE standardized SPO I training and site specific training as identified by the site-specific JA.
 3. SPO II. SPO IIs are categorized as Active Defense positions and must meet the Offensive Combative Standard (OCS) physical fitness standard of a 1-mile run in 8 minutes and 30 seconds and a 40-yard prone-to-running dash in 8 seconds. SPO IIs must complete DOE standardized SPO I and SPO II training and site specific training as identified by the site-specific JA.

4. SPO III. SPO IIIs are categorized as Active Defense positions and must meet the Offensive Combative Standard (OCS) physical fitness standard of a 1-mile run in 8 minutes and 30 seconds and a 40-yard prone-torunning dash in 8 seconds. SPO IIIs must complete DOE standardized SPO I, SPO II and SPO III training and site specific training as identified by the site-specific JA. **Note: Grandfather Clause has been deleted.**

In closing this summary, I would like to express a deep concern on the epic proposed changes that DOE is posturing to implement. First is the Proposed New Policy (351.1) for Contractor Benefit Reimbursements, Second Proposed Protective Force Strategies at the DOE Sites, Third the 470 Annex Concerning Continuity of Operations on Work Stoppage. First, the proposed changes to the contractor benefit reimbursements with regards to the defined benefit retirement plans, fails to address several major items of concern. The defined benefit retirement plan is the financial cornerstone for the vast majority of retirees. As this new policy dictates the contractor is left to offer only defined contribution retirement plans (401K type plans) which are not necessarily less costly than defined benefit retirement plans. Retirement security is fast becoming a financial goal that is beyond the reach of most protective force members at DOE Sites. The Department of Energy should sustain and promote secure and reliable pensions for its contractor employees who have dedicated their lives to support the mission at all DOE Sites. The second troubling issue at the affected DOE Sites is one of equal importance as it vitally affects the career of every member in those protective forces. The promise of a long and prosperous career as a protective force member at the DOE Sites is filled with volumes of uncertainty due to the proposed implementation of the new DOE 470 series orders and the deletion of the Grandfather Clause in 473.2-2 requiring all protective force members to meet the offensive combative standard (OCS). Additionally, due to the removal of the Grandfather Clause some or all members of the protective forces at the affected DOE Sites will be held to the offensive combative standard. This will severely impact the number of protective force members, especially among the female and senior SPO ranks. Finally the Work Stoppage language in the Continuity of Operations the Department of Energy policy change makes a detrimental and misguided attempt where the policy opposes federal law designed to protect the Private Sector Labor Unions right to strike. Under the NLRB Sec. 165: Right to strike preserved [Sec.13] states “Nothing in this subchapter, except as specifically provided for herein, shall be construed so as either to interfere with or impede or diminish in any way the right to strike, or to affect the limitations or qualifications on that right.” The Union’s believe that DOE will over step its legal bound if it tries to implement the work stoppage language in the “Continuity Operations”. The financial impact caused by these momentous changes during a time of budgetary constraints is also an unwarranted and unnecessary expense. The American Tax Payer has paid a tremendous price to recruit, train and have these employees participate in the clearance process. The Union’s who represent approximately 2200 DOE Security Force personnel throughout the Complex desires to have the very best security force possible, but whole heartedly believes that our members who have dedicated their lives to the mission at the DOE sites deserve more than being thrown to the side.

Mr. Podonsky comments in a letter stated that “ A very important consideration in the development of DOE’s new tactical doctrine and the associated career progression plan was to make it possible to not only ensure the protection of the Department’s assets, but also to provide paths for the continued service of some of our move senior protective force officers. We recognize that the experience of those who have provided lengthy service to DOE means a great deal, and we believe that their retention strengthens our security program”. Were those words stated by Mr. Podonsky just words or will DOE do the right thing and honor its commitment to the SPOs by protecting them on Career Longevity?

The enormous complex task of protecting our nation’s most valuable assets now more than ever requires the stability that can only be brought forth by a stable and proven workforce. Given the process in which events have thus transpired to date, that stability is uncertain. Mr. Bodman could you respond to the three concerns outlined above on pension/medical benefits, grandfather clause, and work stoppage at your earliest convenience. Once again thank you for your time on this crucial and urgent matter.

**Sincerely,
Leo T. Salazar
PGU Business Agent**

Electronically Distributed:

**Cc: Mr. Jeffrey Clay Sell, Deputy Secretary of Energy
Cc: Mr. William J. Desmond, Assoc Adm for Def Nuclear Security and Chief
Cc: Mr. Glenn S. Podonsky, Director, Office of Security and Safety
Cc: Mr. Daniel Glenn, PXS0 Plant Manager
Cc: Mr. Dan J. Swaim, BWXT General Plant Manager
Cc: Mr. Mark E. Bente, BWXT Division Manager Safeguards & Security
Cc: Mr. Mike E. Stumbo, NCSP President
Cc: Mr. Robert Lynch, PGU President**